

# SUBMISSION

## HOW TO MAINTAIN A WORLD-LEADING PUBLISHING SECTOR



The Society of Authors' submission to the APPG on Publishing's call for evidence on how to maintain a world-leading publishing sector

06 March 2018

**The Society of Authors exists to protect the rights and further the interests of authors. It has more than 10,000 members writing in all areas of the profession.**

### 1. Key submissions:

- 1.1. Authors and the publishing industry are vitally important to the UK, both in terms of revenues (internal and export) and cultural significance. That must be maintained.
- 1.2. The significance of intellectual property to the UK economy must be recognised and protected in future trade negotiations.
- 1.3. Economic uncertainty makes businesses more conservative and less likely to invest in new talent and ideas, leading to a reduction in cultural diversity. The Government must maintain free movement for creators and performers and free flow of digital information to protect our cultural heritage.
- 1.4. We must invest in funding for translation to maintain diversity and understanding of other cultures.
- 1.5. The UK has a well-functioning and balanced copyright system. Stability for application of existing EU Regulations and transposition of EU Directives which form part of our copyright law must be maintained.
- 1.6. The value of the fair dealing doctrine for application of copyright exceptions and limitations (as opposed to fair use) must be seen as part of creating clarity and transparency for application of copyright rules both during and after BREXIT.
- 1.7. EU recommendations for law protecting creators should be adopted and authors must receive a fair share of the publishing value chain.
- 1.8. VAT at zero rate should be extended to ebooks.
- 1.9. EU wide provisions for exhaustion of rights should be maintained.
- 1.10. Higher education and arts funding must be maintained and improved.
- 1.11. Literacy and reading for pleasure must be supported and encouraged.
- 1.12. The Government must increase public library funding.
- 1.13. School libraries and librarians should be compulsory.
- 1.14. Funding should be made available for author visits to schools.
- 1.15. Bookshops should have reduced business rates and be given support to thrive.

## 2. The APPG invites written evidence on the following issues:

2.1. Impact of Brexit: what impact is Brexit likely to have on the UK publishing industry? What can the Government do to ensure that the industry is prioritised in any trade negotiations with the EU or the rest of the world?

2.1.1. Economic Uncertainty: Publishing's export revenues were £1.42 billion in 2015 with a combination of education, academic and ELT (English Language Training) accounting for two-thirds. Over 35% of physical book exports were to Europe. British creativity and culture will remain in demand but economic uncertainty is damaging to investment in new projects and distribution opportunities. It also tends to make businesses more conservative and less likely to invest in new talent and ideas, leading to a reduction in cultural diversity. This is concerning, particularly if linked to a closing of our borders to vibrant talent from Europe.

2.1.2. Supporting publishing. The UK Government should support, promote and protect the interests of British publishers, producers, investors, creators and performers and protect their works and performances both in the context of the trade negotiations and in innovation and investment opportunities.

2.1.3. Live performances: . Performers and technical crews from the UK and mainland Europe can now travel freely within the Schengen area. Many authors (including spoken word artists, presenters, teachers and experts) obtain a significant part of their income from performing. We must avoid a visa/work permit system for anyone wishing to tour in Europe (and vice versa). This would inevitably increase the time, effort and cost involved in organising a tour and artistic decisions to employ/engage a person for a performance may be affected by the additional work load involved. Tax laws could also have an impact on touring if performers have to file tax returns in the countries in which they tour. Authors are not highly paid for appearances: tax formalities and visa difficulties can simply make such visits not worthwhile. This could have a knock-on negative effect on book sales and exports.

2.1.4. Inward effect. Difficulties in obtaining visas or tax, combined with the parochial impression of Brexit may make Britain a less attractive place for writers to visit or settle in. This is bad for diversity and our cultural heritage which has been shaped and enriched by visitors and settlers from many other cultures and lands.

2.1.5. DSM and Intellectual Property We stress the importance of stability for the copyright framework to maintain the UK's world leading position. The EU's Digital Single Market Strategy remains a significant initiative for UK right holders and must be transposed into UK legislation. Proposed amendments to EU copyright laws include enabling access to online content (for example, e-books, music, films) in all member states, regardless of where that content was obtained. The UK may now find itself excluded from discussions which determine the rules setting out distribution of royalties for rights holders and the harmonisation of "moral rights" (including the rights to be identified as author or to object to derogatory treatment).

2.1.6. UK Publishing is a major provider of content to global markets and relies largely on copyright licensing to service those markets. This is a system that has worked well. The UK's collective management organisations such as ALCS have been at the forefront of establishing high standards of transparency and good governance across Europe.

Through CMOs based within the UK, right holders benefit from revenues collected elsewhere in Europe. These revenues are, in the main, collected under agreements and contracts that do not depend on EU membership. However, benefits under some of those agreements may now be at risk on reviews of local distribution policies based upon reciprocal recognition of rights. We encourage UK Government to support the work of its CMO's and the maintenance of representation agreements already in place between CMOs within the current EU Member States.

- 2.1.7. Exhaustion. We must ensure that the doctrine of exhaustion is not widened to the whole world when we leave the EU.
- 2.1.8. Higher education. Leaving the EU will have a major impact on higher education with lost income from an anticipated fall in the numbers of EU nationals. Losing access to EU funding, such as Horizon 2020 grants (which account for a quarter of all public investment in UK research), could further tarnish the attractiveness of the UK as a place to study for other international students. Over half (53%) of academic publishers said that reduced funding for academic research and Higher Education Institutes was the main challenge they faced.
- 2.1.9. Translation grants. Much UK translation is supported by EU grants and prizes. Organisations benefiting from ACE grants have guaranteed funding only up to 2018. Translation is essential for understanding other cultures and the range and diversity of reading. Translated fiction is receiving increased interest. Research by Nielsen Book commissioned by Man Booker showed that sales of translated fiction have risen in the UK to £18.6m in 2015 from £8.9m in 2001. That must not be reversed due to lack of funding. It is likely that the gap cannot be filled by tax exemptions or private sponsorship- particularly as sponsors are likely to have less funds due to economic slowdown caused by Brexit. Creators will have to look to Government for additional funds to support the success of our publishing and allied industries and to enable authors to remain working creatively

2.2. **Export growth:** what are the biggest emerging markets in publishing and what does the industry need to grow those markets and develop new ones?

- 2.2.1. A strong copyright regime: see below
- 2.2.2. Collective Licensing: We need to build on the UK's excellent collective licensing initiatives. Current copyright exceptions for education strike a fine balance between access for teaching and learning and reward for those creating educational materials. The remuneration that authors and publishers receive from licensed educational use is essential in supporting the development of new works for the education sector., A study carried out in the UK in 2011 reported that for UK educational authors a 20% reduction in secondary licensing income would result in a 29% decline in output (which would mean 2,870 fewer new works being created annually).<sup>1</sup> The situation in Canada, where educational publishing is in danger of becoming unsustainable, demonstrates what can happen when the balance between permitted activities and remuneration is lost.<sup>2</sup>
- 2.2.3. Fair shares throughout the value chain: A 2013 ALCS study showed that professional author's typical annual income had fallen by 29% to £11,000. Over a similar period corporate publishing has become as much as a third more profitable. Even if we take

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<sup>1</sup> Page 99, Commission Staff Working Document, SWD(2016) 301 final

<sup>2</sup> <http://publishingperspectives.com/2016/06/canadian-textbook-publishers-copyright-law/#.WCRhjC2LSpp>

out journal revenue where authors are, shockingly, paid next to nothing for contributions, authors were receiving under 5% of publisher turnover in the same year that major publishers' profits were running at about 13%: so even after everyone in the publishing house was paid, including salaries, publishers' shareholders received three times the amounts paid to authors (who still had to pay their own expenses and agents). . Since 2012 UK publishing GVA has grown by 19%, faster than the growth of the UK economy as a whole (15%). The SoA supports a strong publishing industry and its growth but publishing's huge rise in GVA over a period when author incomes are falling suggests that publishers are not paying enough for their "raw materials and other inputs"- i.e. author contribution. Unless authors receive proper returns the supply of quality work will inevitably diminish: the decision to embark on a creative endeavour will often mean eschewing the security of employment. Innovators need to know, not only that their work is protected by intellectual property rights, but also that they will receive a fair reward if the work is ultimately successful. We are already seeing a drop in the number of full time authors.

- 2.2.4. We therefore support the provisions in relation to transparency and fairness (the so called "transparency triangle") announced in the DSM directive Articles 14 to 16 and urge that they be brought into both EU and domestic legislation at the earliest opportunity. The triangle consists of regular accounting, a contract adjustment mechanism (or "bestseller clause") allowing authors to claim additional remuneration reflecting the commercial success of their works when the agreed remuneration is disproportionately low compared to the revenues derived from the exploitation of the works and a dispute resolution mechanism.
- 2.2.5. Government should also grant authors and performers an unwaivable right to receive adequate remuneration specified in their contracts, (including through collectively managed rights) for each use of their works and the right to have rights reverted if they are not being utilised by the transferee.
- 2.2.6. Fair contracts: Contracts allow authors to license copyright and negotiate and defend their rights. But over recent years terms have significantly worsened. Authors tend to work alone yet must negotiate with large dominant players in highly specialised markets This disadvantages creators and discourages innovation because creators will not (and often cannot) take risks if they cannot fund their work - and the inequality of bargaining position leads to rights grabs which can prevent creators from further modifying, improving, exploiting or benefiting from their work. The Government should legislate for fairer creator contracts on the issues covered by the: [CREATOR campaign for fair contracts](#):
- C –Clearer contracts
- R – fair Remuneration. Equitable and unwaivable remuneration for all forms of exploitation, to include bestseller clauses so if a work does better than expected the creator shares in its success, even if copyright was assigned.
- E - an obligation of Exploitation. Also known as the 'use it or lose it' clause.
- A - fair, understandable Accounting terms.
- T - Term. limited contract terms and regular reviews.
- O - Ownership. Authors, including illustrators and translators, should be appropriately credited for all uses of their work and moral rights should be unwaivable. Being named as the creator can be as valuable as a licence fee as it allows others to find the author and use their work.

R - a general test of Reasonableness

2.2.7. Diversity: Data shows that whatever their level of income 7-8% of the population identify themselves as regularly engaged in creative writing. But 12% of the poets and novelists included in *Who's Who* attended one of the top 9 public schools in the country, half of them went to private schools and 44% went to Oxbridge. Kit De Waal says '*Publishers should consider new readers and new audiences. We don't know who doesn't buy books because they don't see themselves represented on the page. We need more voices, different voices to attract those new readers.*' Paying fairly and encouraging underrepresented voices to consider writing as a career will encourage new markets- both export and domestic.

2.2.8. **VAT on ebooks:** The UK should reduce VAT on ebooks to zero in line with printed books. At present a print book bears no added VAT (as it is zero rated) while 20% VAT is added to the same book sold electronically. Yet the arguments against VAT on ebooks are the same as the general arguments against tax on print books. It's a barrier to education and research, adult literacy and to book sales in general. It also complicates pricing when books are bundled together with downloads or you can access newspapers online as part of a print subscription.

2.3. **Copyright and IP Protection:** how can we best protect our content at home and abroad?

2.3.1. Stability. A strong intellectual property regime is essential to incentivise innovation, encourage investment and allow authors to protect and exploit their work. The last years have seen detailed and rigorous review of copyright legislation both domestically and in Europe. The result for the UK is a legislative framework that is balanced in respecting the rights of users and creators and well able to deal with the complexities of the 21st Century. We must maintain a strong copyright regime, harmonised with the rest of Europe, to ensure that we can still export to major markets- and the rights of creators must be supported so they can benefit from their creations and continue to produce innovative, informative and creative works that are in demand worldwide. The SoA urges the UK to continue to follow future EU copyright law. Stability of existing EU Regulations and transposition of EU Directives which form part of our copyright law must be maintained as part of the Great Repeal Bill.

2.3.2. Balance. The UK has established a clear balance between rights and exceptions and, that must be maintained. Any subsequent change to copyright legislation in the UK must be well considered, and evidence-based. We would be particularly concerned at any attempts to replace the UK's fair dealing with provisions with US style fair use or to weaken creators' moral rights.

2.4. **Education and research:** how can the sector continue to support the UK's position as a global leader in education and research?

2.4.1. UK published material, including our world renowned scientific journals and textbooks, is sought after globally. UK publishing sets a benchmark for quality – it promotes a culture of excellence amongst academic research and acts as an inspiration for others. By supporting publishing, there is great opportunity for the UK to lead and join together its world-leading content industries with its tech know-how. We have spoken elsewhere about the need for grant funding, a strong copyright and collective licensing scheme, freedom of movement and support for libraries.

2.5. **Piracy:** what are the latest developments in tackling piracy in the journal and book sector and what more can be done to deal with this ever-growing and evolving threat?

2.5.1. **See our comments on copyright and IP above**

2.5.2. ISPs: we should further address and clarify the responsibilities of internet search engines and internet service providers to proactively delist search results leading to illegal content, and remove illegal content.

2.5.3. Copyright education: The Government needs to continue initiatives to encourage young people, users and creators to understand and respect copyright. Children should be appreciate their creative potential, and intellectual property education should help children understand what they can do, and the benefits of copyright for society.

2.6. **Literacy and Accessibility:** what are the greatest challenges posed in improving literacy and accessibility to books? How can we best address these problems?

2.6.1. The Reading Agency points out

2.6.1.1. Low levels of literacy cost the UK an estimated £81 billion a year in lost earnings and increased welfare spending,

2.6.1.2. Per capita incomes are higher in countries where more adults reach highest levels of literacy proficiency

2.6.1.3. 16 year-olds who choose to read books for pleasure outside school are more likely to secure managerial or professional jobs in later life.

2.6.1.4. In England and Northern Ireland the median hourly wage of workers with highest levels of literacy is 94% higher than for workers at lowest levels

2.6.2. We need a thorough review of the UK's strategies for teaching literacy. We deplore over-emphasis on phonics and grammatical structure. Teachers must be allowed to give all children the chance to love language, play with words, be bold and creative, express themselves and to teach the rules of writing in the context of supporting expression and control, not giving primacy to those rules.

2.6.3. Literacy teaching should continue well beyond school including in community centres and prisons.

2.6.4. Reading for pleasure: is far more than just literacy. All children should be encouraged to read (and write) for pleasure- including non-fiction as well as fiction. Reading for pleasure develops empathy, curiosity and imagination The Book Trust says: *We know that reading for pleasure has a dramatic impact on life outcomes - and this is as much about confidence and wellbeing as it is about educational achievements. Quite simply, children who read for pleasure are happier, healthier and do better in life than those who don't....*

2.6.5. Imagination: Technological developments, robotics and digital solutions are changing workplaces in ways we cannot imagine. Many traditional jobs will not exist for the next generation. It is hard to predict what skills we will need but flexibility of mind, empathy, imagination and literacy, numeracy, digital and business skills are likely to serve our workforce better than fixed skills. The UK liberal arts education, rightly prized worldwide, should not be lightly dismissed. In particular we are against any education

system which separates arts and science students or which encourages one path at an early stage.

2.6.6. School Libraries: The Department of Education should make school libraries and librarians mandatory and pay for author visits.

2.6.7. Public Libraries are essential gateways to information, culture and imagination and we run them down at our peril. The American librarian, Katherine Sharp, said in 1898, a library is "*a laboratory, a workshop, a school, a university of the people, from which the students are never graduated.*" The Government must increase and ring-fence their funding

2.7. **Bookselling:** what challenges do booksellers face and how can we best sustain a healthy, diverse book sector?

2.7.1. High street bookshops underline the importance of books, culture and learning and should be supported.

2.7.2. The Government should initiate an inquiry into the online physical and e-book sectors in the UK. This would need to pay close attention to the impact on authors, publishers and booksellers (especially those in the independent sector) of the prevailing market conditions.

2.7.3. Business Rates must be reviewed and made more competitive so they are fairer to businesses across the UK and flexible enough to respond to the economic cycle.

2.7.4. We must support the development of our High Streets and Town Centres to retain them as attractive retail locations.

2.7.5. We need to invest in learning resources and encourage schools to maintain a minimum set percentage of expenditure on teaching and learning resources.

84 Drayton Gardens London SW10 9SB  
E [nsolomon@societyofauthors.org](mailto:nsolomon@societyofauthors.org)  
T 020 7373 6642  
[www.societyofauthors.org](http://www.societyofauthors.org)

President Philip Pullman CBE  
Chief Executive Nicola Solomon

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