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## **SUBMISSION TO BOOK INDUSTRY STRATEGY GROUP**

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### **Introduction**

The purpose of this submission from the ASA is to identify how effectively the authors' sector of Australia's book industry is currently operating, how it would like to evolve, and the critical issues in our sector for the BISG to consider and take to government.

The ASA sets out here a list of key issues presently confronting authors or anticipated over the next period. These are: (a) Rights, (b) Remuneration, (c) Australian Content, and (d) the Supply Chain/ Efficiencies. This paper presents an elucidation of these, makes recommendations and proposes research or other initiatives to assist BISG policy development and eventual project planning.

### **RIGHTS**

In this area, the key rights issues for authors in the digital era are identified to be in copyright control and the prevention of piracy.

### **Copyright control**

#### **Territoriality and the Australian Copyright Act**

Territoriality remains critical to the effective functioning of the Australian and international copyright regimes. Although advocates of the 'information wants to be free' position have been vocal and actively encouraged attacks on copyright first principles over recent years – the negative

effects of which were most obviously seen in the film, television and music industries in the rise of unauthorised file-sharing and piracy – territoriality has generally ‘held’ for books, authors, publishers and rights licensing/payment systems.

However, the ever-growing use of e-book technology holds promise as well as threats for the authorised control of material by creators, owners and their licensees. The digital agenda reforms enshrined in the *Copyright Amendment (Digital Agenda) Act 2000* have already begun to date or are deemed insufficient to an environment where, within a few years, perhaps more than 50% of all books sold will be delivered online and cross-territorially.

### **Statutory licences and authors’ incomes**

The Australian Society of Authors does not believe all Australian-origin online matter with potential for remuneration has been identified, let alone categorised as liable for payment or otherwise at the present stage in the development of survey and licensing regimes.

With photocopying slowly scaling back as the chief means of copying in schools, authors will also look to draw income from the increasing use of digital copying that is occurring in its place. In relation to what is being copied, where we do not know for certain authors’ intentions regarding the matter they place on websites, attempts to assume or presume these intentions by other bodies, including school systems, remain ill-advised.

### **Copyright restrictions on online material to allow CAL to collect royalties on authors’ behalf**

Not all uses and remunerative possibilities for authors and other creators have already been discovered, or settled – either online or in educational environments. As the commercial space of the internet continues to evolve, it would be retrograde to alter the Copyright Act with piecemeal legislative amendments that have the effect of limiting the potential return to authors and rightsholders, particularly where downloading and use of their material occurs in schools.

However, the Copyright Act accepts the remunerative possibilities for creators – in Part VB and elsewhere – and clearly has a role in supporting those possibilities in electronic form. On that basis authors argue that Part VB is more than about compensation for sales lost due to photocopying or subscriptions.

Neither the present ‘fair use’ provisions of the Act nor ‘information wants to be free’ arguments relate perfectly to these conditions. There is obviously difficulty in defining terms for the new digital era, but authors are keen to see formal and agreed terms regarding which materials may or may not be downloaded for free, and which may or may not be downloaded for payment. In relation to downloads and use of incidental website material in schools, for example, authors believe that there is much that is currently accessible that could be paid for, and that should be paid for.

## **The Copyright Act: consulting with authors/what they want from the Act**

With the appearance of new models and means of authoring, publishing and marketing online, authors cannot be certain that the present Copyright Act sufficiently protects and extends their interests. Equally, authors are very concerned that piecemeal amendments to the Act may have the effect of further problematising authors' capacity to draw adequate remuneration in the future for their materials and works in the evolving digital environment.

What constitutes a 'publisher' online is very much a work in progress. The developing space of the internet now includes 'author-marketers' who may not desire to become 'publishers', along with authors who very much believe they can and should sell their creations directly, and who happily call themselves 'publishers' – and indeed are believed to be such by potential purchasers.

An author may market themselves by allowing samples and promotional material of theirs to be viewable on their website (their own, and sometimes others'). They make material accessible to seek reactions, count page-hits and draw interested queries. Some authors do this to assess whether there is any commercial potential and the chance of charging fees, others simply to engage in dialogue with interested parties.

While authors remain undecided as to their plans, and while internet practices continue to evolve, it is nevertheless unreasonable to assign any Copyright Act-sanctioned 'no expectation of remuneration' or similar label or formula to what they put online. Even where they may be clear about what they wish, it is also unreasonable to put this barrier in place unless their further intent is actively sought and recorded.

There should be no onus or pressure on authors to agree to formulas that have the potential to limit their ability to commercially exploit their material. Similarly, an author or copyright rightsholder who does not reserve their entitlements under an educational statutory license should not be seen as having provided carte blanche access and use to others.

## **Statutory recognition of an inalienable right to reproduction payments**

In the digital environment, authors are experiencing an increasing loss of control to publishers. Publishers exercise a strength that authors don't have. Government can offer some protection to authors by ensuring that their reproduction rights, such as Lending Rights, remain inalienable, so that creators are always certain of a share of these. It is not that publishers should not have some of them, but rather that they cannot take them all from authors.

## **Transparent contract terms and conditions in the publishing industry**

Lack of standardisation and transparency of contractual terms and conditions are an ongoing problem for authors. It is past time to establish open, transparent contracts that set out what a publisher proposes to do with and author's work and what the author will get for it. These, as for any other industry, should be standardised, measurable and clear. The Amazon and Google agreements, for instance, are relatively straightforward and clear – publishers must match such

transparency and clarity. If publishers argue that they can't pay the 70% royalties Amazon is paying, they must show their costs and their profit lines and demonstrate how their businesses have to spend so much to 'digitise' print product.

### ***Recommendations***

1. That the Commonwealth government establishes an authors' and rightsholders' forum/review of the Copyright Act that:

a. Includes the participation of authors and their representatives, and which has its prime focus on the interests of authors and rightsholders.

b. Takes into account the new and evolving conditions of internet commerce.

c. Allows for CAL to seek to secure additional remuneration for, and for more kinds of, author and rightsholder material accessed by schools.

d. Includes research into:

(i) the nature of those internet materials and works being digitally downloaded/copied in schools that are not currently captured for remuneration

(ii) the extent of this copying.

e. Prepares draft model mechanisms that will allow for the discovery of authors' and other rightsholders' intentions and that also:

(i) outline suitable notices covering for-fee access and use

(ii) provide suitable notices covering free-of-fee access and use.

f. Seeks additional means for strengthening territorial copyright in the interests of authors and rightsholders.

g. Takes into account trends in school and library use of authors' and rightsholders' digitised works and other digital materials.

2. In addition to a forum/review of the Copyright Act, that the Commonwealth establishes a review of the Public Lending Right Act and the Educational Lending Right Scheme, that:

(i). Considers a negotiated and agreed split (the present Lending Rights model of 25% to publishers and 75% to authors may be a good model) to be enshrined in legislation, to prevent the contracting of lending rights away from authors.

(ii). Updates ELR/PLR payment regulations to cover and recompense for the holding of digital download viewing/reading copies in libraries.

(iii). Articulates to a further forum where authors' reps. and other key stakeholders may discuss review and research outcomes and any PLR/ELR policy proposals arising, with the relevant Commonwealth departments and ministers.

3. That a review of commercial contract law governing publishing agreements be undertaken to assist in the establishment of transparent, standardised, measurable and clear statements and expositions of right, responsibilities, obligations and practices under law.

## **Piracy**

### **Educational material piracy**

Digital piracy of educational and professional books is a growing problem. Figures out of the US are sobering:

#### *U.S. Book Anti-Piracy Research Findings*

Attributor's Guardian™ service discovered that over 9 million pirated book copies were downloaded in a recent study of 1,000 books of various genres.

These free downloads represent potential losses of \$2.75-3 billion to the book publishing industry.

Online book piracy represents roughly 10% of total United States book sales.<sup>1,2</sup>

On average, nearly 10,000 copies of *every book published* are downloaded for free, led by titles in the *Business and Investing* genre, which average over 13,000 free downloads per title.

Titles within the Business and Investing, Professional and Technical and Science categories are potentially losing over \$1 million per title to online book piracy.

1 Association of American Publishers, *AAP Reports U.S. Book Sales Estimated at \$24.3 Billion in 2008*, March, 2009

2 As a point of comparison, the (offline and online piracy rate) for software is 41%, BSA and IDC, *Sixth Annual BSA-IDC Global Software Piracy Study*, May 2009, page 6.

### **Building on the Copyright Act with technical solutions**

Authors are concerned that the only measures currently available through their publishing agreements are measures that were designed to cover breaches of copyright in print-based work. Current publishing agreements afford authors few protections against digital piracy.

New forms of digital rights management will need to be developed and applied to guard against e-book piracy. Currently, most DRM locks are proprietary and applied by e-reader manufacturers and/or e-tailers, eg Apple, Amazon and Sony.

On the legislative side, protections could meanwhile include amendments to the Copyright Act that deem breaches of any authorised applied DRM measures to be also breaches of the Act with specific reference to authors and their licensees.

In licensing publishers to sell and control their work against illegal use, authors have a vital interest in Copyright Act provisions that give sufficient power to publishers and collection societies to be able to effectively defend and exploit their licensed work.

### ***Recommendations***

4. That Copyright Act provisions are proposed, as part of a broader review of the Act, to protect against unauthorised e-book DRM removal, as well as punitive sanctions on behalf of authors and rightsholders for actual breaches.

5. That the Commonwealth assists Australian publishers to institute additional publisher-owned anti-piracy technology to add to the DRM measures of e-tailers and e-reader providers.

6. That the Commonwealth encourages and supports relevant copyright bodies (eg Australian Copyright Council) to develop an industry-wide anti-piracy copyright education campaign, for schools, universities and local book e-tailers.

## **REMUNERATION**

Late August 2010 saw the release of the most recent research from Prof. David Throsby on artists' incomes in Australia. As anticipated, the remunerative situation for artists and authors has not improved, and in some areas is worse than it was when Throsby began his analysis of remuneration almost a decade ago. If the need to build authors' remuneration is critical, it is a need made more urgent by the appearance of e-books and the instability of returns to authors through this format.

Without authors, there is no book 'industry' to speak of. In the authors' view a first principle for a healthy book industry is the establishment of conditions that afford them the potential for reasonable reward. With the exception of perhaps a few dozen authors whose income is founded on high publishers' advances and royalty earnings, a supportive income base is clearly missing at present for the bulk of Australia's working authors.

It is well-established by now that support for creativity through agencies such as the Australia Council has fallen away over the past twenty years. In the past year direct grants provided to authors by the Australia Council's Literature Board amounted to \$1.65m p.a. This amount is insultingly low, indicating a dismissal of the significance of the need to support emerging and early career authors.

The book industry needs to explore different funding models and develop principles into structured ideas which can inform policy and create mechanisms that government and other funding bodies may apply. Different support models are already available and should be considered by government.

The question of tax on artists' incomes, as relevant to authors and authorship, needs further and proper attention. As does the possibility of tax incentives to assist authors in securing additional income.

### **Funding and financing**

At present, authors draw remuneration in broadly three ways: from advances and royalties that flow via book contracts, from schemes that support the creation of new work (eg grants tied to projects), and from funding models that directly support the authors themselves (eg, fellowships). Authors also draw income through fees for services such as judging competitions, speaking in schools, freelance writing etc.

More broadly across the arts sector, a 'Creative Industries' approach – part of the broader thrust of innovation policy – has been promoted as a means of improving remuneration. Resources have been allocated through programs with a business development or innovation focus, through the tertiary education sector, and also through funding arrangements with science and research organisations. These programs have also been undertaken at State government level with innovation, productivity or business development policies and initiatives which encourage business principles and attempt to build markets, eg, in popular music or fashion.

Creative industry approaches based on business principles include: investment models, diversification of product ranges, collaboration with other industry sectors, mentoring and skills development. An R&D approach that focuses on skills development and adopts an investment approach, it is argued, can convert the knowledge created through research and development into commercial outcomes (CHASS occasional paper 7 (2008) 'The Arts and Australia's National Innovation System' p. 26)

However, as a 'creative industry' business-style approach to their work has yet to gain significant traction among authors themselves, it is difficult to say what if any difference this has made to creative outputs, author remuneration, or commercial returns in the book industry. This may not be a problem inherent in the principles and philosophies, but more a function of lack of focus and application.

Meanwhile, if present funding bodies and schemes are under-resourced and/or comparatively risk averse for print publishing, they are only in the early stages of support for digital authoring. New, particularly short form digital-only texts challenge many assumptions regarding the 'carry-over' from print to electronic authoring.

General financing and funding models available to the arts in Australia include:

- a. Direct support programs
- b. Investment models
- c. Direct welfare and taxation models
- d. Copyright and royalty models

e. Social venture programs

f. Support programs

### **Direct support for authors and authorship**

Authors are generally able to draw on only some of the financing and funding listed above for support – mainly 1. and 4. The direct support model exists for authors primarily in the form of Australia Council grants and fellowships, and this represents at best a limited financial resource.

The Australia Council, the Commonwealth's arts funding and advisory organisation, appears to be struggling across a critical area of its responsibility. Arts funding is currently only one of five 'strategic priorities' for the Australia Council. In direct support of artists, the Council is presently either under-resourced or risk-averse or both.

An example: in 2009, the Literature Board allocated author grants and fellowships amounting to \$1.65M. But as long ago as the 1980s the Literature Board provided around \$2M of its total funds directly to authors – and that was a much higher proportion of its overall budget than current practice. In the dollar value of 25 years ago, an annual \$2M was of inestimable assistance in nurturing a host of Australia's most successful authors – Helen Garner, David Malouf and Tim Winton to name three. To develop a similar degree of output and talent in 2010 dollars would require at least \$5M going directly to practitioners to buy writing time.

However, the government funding of artists, and authors in particular, does not have to be seen as primarily an arts area responsibility. It could as well be considered an innovation and industry support matter and resourced accordingly and strongly. Unlike opera or ballet, the book industry and its constituent parts represent a multi-million dollar sector of the economy. This form of recognition and support would potentially bring many benefits, individual, cultural and economic.

### **Recommendations**

7. That the Commonwealth government re-resources present Australia Council programs /fellowships for literary creation.

8. That the Department of Innovation, Industry, Science and Research commissions a report on the potential for government funding of books, authors and authoring on an 'industry' *as well as* 'arts' basis.

9. That DIISR seeks and proposes means by which other government organisations and institutions – local, state and federal (including Treasury) – might be able to directly 'invest' in author and book projects.

## **Investment, direct welfare and taxation models**

Direct welfare, eg, a living wage for the author as per the French model, is unknown in Australia. Meanwhile, at a time when authors are struggling more than ever, investment and taxation measures have a minimal role in the support of our artists and authors. It is timely for government to consider serious reform of the tax system as it affects creators. If two pre-conditions for a 'clever' or 'smart' country are an education system that works and a culture that values creativity, an enabling tax system must be considered a third.

There are some blunt instruments that may be used to reduce the tax imposts on earnings that are already low, including income averaging. As well, some limited tax reform has been achieved over time. A campaign headed by the National Association for the Visual Arts (NAVA ) and involving the ASA was effective in prompting an Australian Tax Office (ATO) ruling, TR2005/1, in 2005, which defined the category of 'carrying on a business as a professional artist' ('artist' here includes authors) for income tax law purposes, and which acknowledged the 'validity of using a broad range of arts industry criteria rather than just profit making in determining artists' professional status' < <http://www.visualarts.net.au/campaigns/previous/artists-income-tax-public-ruling>>.

Many of the premises underpinning tax treatment of the creative classes are useless in dealing with the realities of contemporary cultural and artistic production. The ATO's current approach is founded on old-style binaries which are less and less relevant to working lives and definitions in the digital age; 'professional vs. amateur', 'business vs. hobby'... Fact is the author today is a multifaceted being. They may seek and deserve to earn income through their writing, but not necessarily want to be measured in terms of 'profit'. They certainly welcome tax amelioration. And yet our tax system misses something critical about authors: that they sacrifice or forego so as to make a valuable investment, and that investment is in themselves.

Other individuals, of course, can and do subsidise themselves, commonly for a period of training, say the time it takes to do a degree. During that time they accept less regular or lower pay so they can prepare themselves for their working futures. But an author's "development phase" continues through their working life. It is through this commitment to a personal investment and reinvestment that authors not only uphold cultural, intellectual and a host of other values, but also deliver particular benefits to the broader community.

Authors' efforts are generally rewarded after periods of research and preparation, the rewards typically reflected as 'spikes' in their earnings when they achieve publication. But the non-earning periods are, as we know too well, often very difficult to deal with. It does not help to think of these as 'loss' periods or periods of idleness.

It is past time that Australia paid attention and embarked on serious reform of the tax system as it affects authors and other artists. If two pre-conditions for a 'clever' or 'smart' country are an education system that works and a culture that values creativity, an enabling tax system must be considered a third. There are some immediate and useful steps that could be taken in tax, such as exempting literary awards, prizes and grants from taxation. The ASA has campaigned for this and

continues to do so. But greater benefits will come through a more imaginative approach to authors' and artists' earnings and taxation in Commonwealth tax policy.

There are some immediate and useful steps that could be taken in tax, such as exempting literary awards, prizes and grants from taxation. There is a local precedent for this in the Prime Minister's Literary Awards, in that the prizes attached are free from tax. The net effect on consolidated revenue of removing this impost across the range of book awards and prizes in Australia would hardly register.

### ***Recommendations***

10. That an approach to Treasury be made with a view to exempting book prizes and awards from taxation.

11. That Treasury explores tax-free, 'cultural investment'–based measures for the production of writing, eg, where author pays no tax on a designated, accepted project as a component part of their overall income, even where the project has drawn income by way of an advance, then later pays some minimal tax proportion if a publication advance is earned out.

### **Social venture programs**

There are various less-tried means by which authorship may be facilitated and paid for, including through social venture programs. It might be feasible, for example, to approach non-government organisations – say in health or welfare areas – and commence development an 'author employment' scheme, providing such organisations with subsidy or investment funding to allow analysis, research, production of texts and materials as needed for the area and resulting in a socially useful outcome for their clients and of course the author.

### ***Recommendation***

12. That DIISR explores and proposes industry initiatives that include incentives for the NGO and social venture sector to engage with the book industry, with the potential to expand remuneration for authors.

### **New work programs**

The report *Arts Plus: New Models New Money* outlines a number of possible financing models to support the creation of new work in the arts:

Available financing opportunities for new digital-oriented work include the Australia Council's 'Arts content for the digital era strategy', a means of promoting skills development that may also result in new work. The Australia Council's Digital Culture Fund also supports research and/or creative

development (with funding for individual projects of up to \$40K).

These efforts are complemented by the work of the Australian Network for Art and Technology (ANAT), which supports emerging artists in new media and hybrid forms, including sound and performance, collaborates with science and industry partners, and looks to find new means of distribution for such artists and their work. ANAT may be a model more broadly for new models of author support in that its funds come from a variety of government agencies.

However, as few of these have been tested or adopted to any significant degree in the authoring sector it may be opportune to trial the untried and expand the mix of funding models.

### ***Recommendation***

13. That DIISR, DSEWPC, and the Department of Prime Minister and Cabinet/Office of the Arts review the work of The Centre for Social Impact UNSW and Arts Queensland towards a 'Foundation for the Artist', and also independently scope the possibilities for a public/private/corporate-engineered foundation of benefit to authors. The role of an Authors Foundation could include:

- a. Provision of direct subsidy for the creation of new work within the funding for large organisations or events.
- b. Commissioning new work for festivals
- c. Developing financial investment models for individuals
- d. Locating intermediary organisations and matching authors for the purposes of developing new work
- e. Developing new work for the digital age

### **E-book royalties**

Of all the funding and financing structures listed, the copyright and royalty model is far and away the most financially significant means of author remuneration. The appearance of e-books may be seen as having the potential to 'add to the pot', but against this there are some serious questions or barriers.

The current royalty rate of 25 per cent of net receipts, as offered by most of the large trade publishers in Australia at the moment, is seen by most large trade publishers at present as some sort of reasonable 'standard'. In the view of the ASA it is insufficient and inequitable.

The Australian Society of Authors has calculated and argued ([www.asauthors.org](http://www.asauthors.org) 'Ebooks: Royalties and Contracts'), along with others such as Peter Donoghue ('Will the Book Publishing Industry survive the Digital Revolution?', <http://peterdonoghue.blogspot.com/2010/09/will-book-publishing-industry-survive.html>) that a figure of 35% is much closer to the 'correct' figure than any other currently in play. Donoghue reasons that:

A long established and fundamental principle governing the author/publisher commercial relationship is that both parties should equally share in the financial rewards that the project brings, after all their costs are deducted. The royalty should approximate the publisher's operating profit on each project... amounts will vary of course, depending on the project, but the general principle is important.

Securing steady and adequate author remuneration to authors for their books in e-book form is difficult at present due to the interplay of competing interests as well as competition factors. In the wake of Amazon's initial dominance, other e-tailers have had to work hard to gain market share. Recent months have seen a shift in publishers' sales arrangements away from the Amazon 'distribution model' to the 'agency model', as favoured and promoted by Apple and others.

Author remuneration is vitally influenced by whether a given e-book is made available to consumers under the agency model or the wholesale model. Retailers prefer a model where price is set by them, not by the publisher, which represents an upending of the typical print book sales model. Meanwhile there is debate as to whether the interplay between Australian and international laws could limit or prevent use of the agency model in Australia.

Current e-book sales models deliver differing rates of return to authors, depending on the deals struck between publishers and e-tailers (and over which authors have no control). Fluctuating online e-tailer prices, and the uncertainty of sales arrangements with e-tailers, have also had the effect of undermining authors' confidence in the ability of publishers to manage a steady return to them for their e-books.

As an example of how authors experience pricing issues, including the influence of overseas operators, here are the online prices to the consumer for an e-book of *The Memory of Tides* (Angelo Loukakis), at 25 November 2010:

Angus & Robertson: 'List' price (none shown, presume 'agency' sale basis), 'Buy' price \$13.04

Borders: 'List' price (none shown, presume 'agency' sale basis), 'Buy' price \$19.07

Amazon/Kindle: 'List' price \$15.62, 'Buy' price \$9.99

The competition on price evident in these figures is obviously of benefit to the potential purchaser. However, to add to the difficulty for authors, the base stability once provided by the 'standard', trade discount for print books does not exist for these online prices, which compounds the problems and makes the return to the author a moveable feast, to put it mildly.

In seeking ways forward, it may be useful to consider other countries' experience or approach to e-books. To take one example, recent developments in France may be instructive.

Although [e-books] at present represent a miniscule fraction of the market in France (some estimates put it as low as 0.01 percent) Hachette, France's biggest publisher (and possibly the world's) estimates that in 2010, its sales of e-books globally, went from 0.5 to 3 percent of its own sales, and everyone knows that you cannot be too complacent about these things, even if e-books turn out to be only a niche market.

In 2009, the Ministry of Culture commissioned a study to look into the whole issue. What they and the SGDL (Societe des Gens de Lettres) and the SNE (Societe National d'Edition, the publishers' association) absolutely wanted was to maintain the "prix unique", the fixed price which has made France's literary scene flourish, and to find a way of adapting it for the e-book, as well as protecting the rights of creators, especially copyright and royalty rates etc.

One of the first problems faced is that in French law a print book is classified as "an object", whilst an e-book is classified as "a service", and thus subject to different rates of TVA, or GST. Books incur a 5.5 percent GST; services 19.6 percent! (Obviously if e-books were to be a viable proposition, this would have to change).

It soon became obvious from the study that things couldn't just be adapted from past situations; new means would have to be found to protect authors' rights and the literary heritage of the country, as well as make e-books more accessible. But there were many issues and bones of contention - principally on the whole question of what would be author royalties on e-books.

The SGDL argued for the same royalty rate as on print books while publishers have been ducking and weaving on the issue. To date, there has not yet been an agreement on the matter, let alone fixing a price on e-books, and discussions are ongoing. But on one front there was a big development.

In May 2010, in joint consultation with the SGDL, the SNE and SOFIA (a new author-publisher-government body which administers such things as PLR), the Ministry of Culture decided to intervene directly in the e-book scene through Gallica, by tackling what is known as the "grey zone" - books for which a contract still exists (ie are still in print and rights not reverted) but which are hardly ever reprinted, which did not have any e-book clauses (this usually means prior to 1995), and which have never been digitised. Digital rights for these books will be established by the Government and Gallica [the digital program of the Bibliotheque de France, the national library] will digitise them - with permission of authors, commercial exploitation can remain with the publishers if they wish, or instead go to Gallica.

This is potentially a very big and important intervention as it could set the model for e-book commercialisation in France, set national formatting standards, and test the waters generally. At the time of speaking to the SGDL, it had not yet been implemented, but was expected to become law by the end of the year. Many other European countries are watching closely to see what the outcome will be. (Sophie Masson, <http://www.onlineopinion.com.au/view.asp?article=11226>)

Although Australian laws against resale price maintenance prohibit fixing prices in the French way, nevertheless, the active, government and industry-wide efforts of the French in the area of e-books is at least suggestive and may serve as a model for 'breaking out' of some of the Anglophone commercial habits and practices that many authors feel to be stifling local publishing and industry practices.

Interestingly, the French digitisation program has a counterpart in Australia in an initiative currently being developed by the Australian Society of Authors.

Meanwhile, structural impediments and the dominance of the multinational online e-tailers mean that Australian publishers and booksellers are struggling to be competitive with overseas operators on price, and this is affecting author remuneration. The issue of GST on online sales within Australia is also yet to be resolved in any way favourable to them.

### ***Recommendations***

14. That DIISR create a formal mechanism, including the Australian Society of Authors and the APA, to investigate the creation of an industry-wide digital retail/ wholesale facility for Australian publishers.

15. That DIISR host an industry-wide 'Roundtable' (authors, publishers, retailers) to debate and discuss alternative e-book author remuneration models.

16. That DIISR conducts research into the possible application and effects of GST on Australian-origin online book purchasing.

17. That DIISR consults with the Australian Society of Authors and review its proposed digitisation/e-book program for Australian OP and 'heritage' books as a potential DIISR or DSEWPC-supported initiative.

### **Support for self-publishing authors**

As more and more individuals learn or acquire the basic skills of authorship, especially via creative writing courses in universities and writers' centres, a bottleneck grows in the form of the limited number of traditional publishers prepared to take on and also provide the necessary 'make-ready' for their works.

Authors who encounter this kind of resistance are increasingly inclined to do it for themselves. They are also likely to go around the problem by connecting in new ways and more directly with consumer/readers through social networking, 'community' sites and other internet means. At the same time, the sorts of inputs authors need to make their work ready and acceptable are in theory now available to be purchased by them directly from freelancers operating independently from publishing companies.

Those authors who choose to self-publish online, via e-book and other formats, however soon confront the questions traditional publishers have in the past usually dealt with and managed on their behalf – financing, editorial input and quality control and marketing among them. To negotiate the digital environment well, at the same time as producing a viable, valuable product, means having to have an unusually wide knowledge and skills base.

Authors entering the digital world for the first time often lack the critical information and skills needed to make a success of their venture. For authors to self-publish online effectively and sustainably, they will be required to reinvent how they work, as well as come to terms with new delivery systems and their rights implications. They will also need to find or have made available to them new ways of financing their activity.

#### *Recommendations*

18. That DIISR proposes to Treasury a possible 'author investment/incentive scheme(s)', conceiving the author as individual, small business producer/publisher, possibly extending taxation incentives for investment in authors/books.

19. That DIISR establishes a cross-departmental dialogue to investigate possible book industry-supported linkages with Australia Council and ANAT for the skills development of self-publishing authors working with digital content.

20. That DIISR liaises with Australian Society of Authors and gauge interest for a digital retail/wholesale facility for Australian self-publishers.

## **AUSTRALIAN CONTENT**

### **Educational**

To the ASA it is an inconceivable anomaly, if not a failure of national will and imagination, that Australian stories are not being adopted fully within our education system.

From authors' perspective, the forthcoming National Curriculum is, particularly in English and History K-12, in danger of becoming an Australian author-free zone. ACARA (National Curriculum) draft documents produced to date suggest the old cargo-cult mentality still holds: that overseas material should make up the larger part of the histories, biographies, novels, stories, plays, poems and films to be studied in our schools.

Authors believe that the draft suggestions for text material should be thoroughly revised to take account of a single key fact: today more than 60% of books sold in Australia are of local origin. Our own story and stories, and their creators, should be given much wider and deeper attention in our schools and universities than what is being proposed by ACARA. In the project to educate our own children and future citizens, we should not see ourselves as the junior partner of other societies and cultures.

#### *Recommendations*

21. That the Minister for Industry, Science, Innovation & Research and DIISR commence a book industry-involved dialogue with the Minister for School Education regarding the National Curriculum strategy, to encourage or if possible mandate (a) an expansion in the number of suggested texts drawn from the Australian repertoire, and (b) a greater inclusiveness of 'non-mainstream' (non-Anglo) authored texts across the board K-12.

## **Trade publishing**

The ASA understands the need for and supports a strong local trade publishing industry. The gains of the last 20 to 30 years must not be lost but be built upon further. These gains include great strides in authoring and editorial skills. However, digital and technical skills need to be advanced and government could play a role in stimulating this through training incentives.

Both old and new publishing enterprises will be better able to serve their authors and book purchasers when technical, editorial and digital production skills are further enhanced.

The emergence of new publishing companies in Australia has generally flowed from one or other of three means: the merging of pre-existing, local smaller companies and their IP into a new entity; the establishment of a branch of an overseas publishing company bringing its own overseas-origin properties; or a local start-up seeking to secure and deliver new authors and books to market. For the very fact of their 'newness' and less-encumbered nature, the latter have the greater potential for a flexible and creative approach to publishing in the digital age.

'In publishing, small publishing houses (fewer than 20 staff) produce a far greater percentage of Australian literary works. They published the greatest number of Australian authors, 421 (65% of published literary authors), compared with 223 (35%) published by larger firms. Despite the fact that some of the very small publishers struggle financially, there was widespread recognition in the Australia Council's survey of publishers of the important role they play in the structure of the industry as a whole, and funding reflects this importance. Some of the larger publishers suggested that smaller firms have a role in publishing literary material that has merit but simply would not be published otherwise because it is too commercially "high risk".' (*Arts Plus: New Models New Money*, Janet Clayton, Mary Travers, 2009, p.26)

Support for light, quick and committed local publishers is vital to the continuing health of the Australian book industry and to its authors. But the further development of a healthy indigenous digital publishing scene, one with potential for eventual growth beyond local markets, would benefit from support of the creative and commercial risks taken by new digital publishers.

Structural impediments within the Australian book industry, such as the lack of digital infrastructure, need to be addressed if it is to fulfil its export potential. The Commonwealth could play a constructive part in the development of necessary infrastructure, such as a major online retailer and a digital wholesaler, without which Australia's capacity to realise these opportunities will be missing.

## **Recommendations**

22. A review of current government publishing support programs, eg Australia Council Literature Board subsidies, and which also tests potential for DIISR to contribute to expanded subsidies for publishers' digital and print-based offerings.

23. DIISR to undertake research into overseas experience of 'industry' -based author funding, testing also any broader Commonwealth interest in such a mechanism.

24. DIISR to scope and propose new industry tax incentive and investment schemes for recently established or start-up publishers, including digital-only publishers and print publishers who have a digital agenda.

25. DIISR to scope and research a 'digital editors/editing' industry project, possibly tertiary sector-delivered.

### **Educational publishing**

The efficient creation of Australian content-educational books is fundamental to national as well as educational purposes and for this fact alone (there are many others) should be supported and rewarded appropriately.

However, the ASA sees a serious problem in educational content increasingly being developed by teachers who are employed within the system on a salary and who are therefore not obliged to operate in a sufficiently professional manner. This creates a barrier to other, more professional authors in approaching educational publishers and seeking appropriate remuneration.

The traditional model for educational publishing has been that teachers set a textbook and students then purchased it. Educational publishers have focused all their marketing on teachers, which has given the latter a degree of power. They ask for materials—tests, resources, lesson plans and so on—to assist them teach from the set textbook and such material is supplied free by publishers. Publishers now provide much of this material in digital form. This has required significant investment, with no direct return...

In schools, increased investment in whiteboards and computers has meant teachers are becoming less and less reliant on the use of textbooks. Publishers have scrambled to provide digital resources that can be networked or made available on DVDs in place of print resources, but there have been difficulties in generating revenues from the marketplace equal to those of book sales... Consumers do not expect to pay the same or greater price for a digital book than for the print version. While educational publishers are making considerable investment in digital versions of their print product, neither the school nor higher education market yet reports significant revenues from online/digital products, as much of what they produce is given away or licensed. Revenue from indirect or direct licensing of content use (for example, signing a school or a university to an annual licence to use networked content) does not equal sales revenue from books, and there is a balancing act going on to build revenues from digital products as sales of print product decrease.

Many publishers now offer custom publishing options that, through a combination of digital production and print-on-demand technologies, will provide a textbook designed with input from a teacher. This may be a book of readings with notes from the teacher or a slimmed down text or some other combination. In 2007, custom titles were providing 2 per cent of sales for Australian higher education publishers; in contrast, sales of online/digital product declined from 4.4 per cent of sales in 2005 to 0.1 per cent in 2007. In Australia, demand for

McGraw-Hill's custom offerings has been growing steadily since 2003, and the company now offers its local textbooks in e-book form, with custom applications for these in development. (Jeremy Fisher, 'E-books and the Australian Publishing Industry', <http://meanland.com.au/articles/post/e-books-and-the-australian-publishing-industry/>)

For educational and commercial reasons, it is important that educational publishers stress and maintain the quality of their offerings. This is not so much an issue of 'gatekeeping' as one for maintaining their 'reason to be'. The employment of truly qualified authors is critical. The best teacher/author is obviously a teacher also skilled in authorship. The educational publishing sector will maintain its role and strength if, per other areas of publishing, it continues to add value (and be seen to be adding value) by accessing and using the best qualified people.

### ***Recommendation***

26. DIISR to consult with educational publishers and APA and scope an authors' skills incentive/training scheme, to better prepare teacher/authors in producing materials for the science, maths and general education areas.

### **Exporting books**

Almost all Australian trade publishers, especially those which are branches of multinational publishers, have secured growth in export sales as a percentage of their overall businesses since the 1980s. This has occurred across the board, from niche categories to the broader genres.

The ASA considers that the formation of a 'common' export program or mechanism among publishers would be more beneficial and impactful in overseas book markets than the more usual 'every publisher for themselves' approach.

While print books are projected to decline as a proportion of total book sales over time, it is vital to maintain the gains made through export of print books over the past two or more decades. The health of the print book dimension of the Australian book industry is dependent on seeking, securing and supplying new markets. Opportunities exist in 'traditional' markets, where the take-up of English language electronic books is limited and will remain limited due to resource and infrastructure shortcomings.

### ***Recommendation***

27. DIISR to engage with AusIndustry to propose a revision of export schemes and incentives for the book industry, aimed at enhancing opportunities for local publishers to secure additional overseas markets for their Australian authors' printed books.

## SUPPLY CHAIN EFFICIENCIES

The market for books derives from reader interest/desire to purchase the work of authors. Over the past hundred years, elements of the print book industry have developed means of production and distribution intended to satisfy the needs and wants of readers, and make a profit in the process. With the arrival of digital texts and online delivery, older forms of market intermediation have begun to corrode to the point where there is a real danger of collapse in some sectors – most evidently in printing and conventional bookselling.

Authors are as committed to the maintenance of the print form as most ‘traditional’ readers still are. For this a functioning and efficient bricks and mortar bookshops sector is vital, albeit that a conflict exists between their needs and interests and those of online suppliers.

Authors are also very cognisant of the ‘new reader’, who is already or soon will be keen to purchase text via the latest online digital technologies rather than through a bricks and mortar bookshop. Authors are therefore interested in any efficiencies that may lead this kind of reader to purchase their books.

### **Expanding availability**

When booksellers only stock front list titles, the notion of an efficient supply chain is severely challenged. Without greater efficiency of supply, authors and booksellers are in no position to meet diverse demand. Consequently consumers turn to overseas-based suppliers such as bookdepository.com and Amazon. What is required at the very least is a more efficient supply means for Australian-origin as well as foreign-origin titles through local online retailers.

Concerned that traditional print-based publishers who have begun to produce e-books may not be the best intermediaries to deliver their work to such readers, aware also that the rewards for e-books through such print-based publishers are already compromised, more and more authors seek to ‘do it themselves’.

At present, however, those authors who opt for digital authoring and self-publishing are likely to find their work ‘buried’ or invisible online. In the digital environment such authors will need further support to do the best job possible of producing their work to a high standard, and getting it in front of digitally attuned readers. Wile Nielsen Bookscan is not available to individual authors, authors-as-publishers need an alternative, cheap and accessible data-mining tool to guide them in research and planning their publications.

Getting in front of readers is not so much a question of technology any longer. The various digital platforms available to be accessed by book buyers in the Australian book supply chain include:

- digital files printed in small or even single numbers;
- pay-per-view files where a single item may be purchased;
- audiobooks;
- electronic books (ebooks): digital files that reproduce the layout and typographical characteristics of printed books); and
- ‘enhanced’ ebooks in which text is linked to video, sound and interactive elements.

However, among the ASA's concerns in this area is that, to date, only a limited number of new Australian titles have been made available as e-books through local online booksellers or the giant e-tailers, although that number is growing. The threat of only very limited electronic 'shelf' time is also very real for our authors (as much as, from a rights management point of view, the possibility of a 'never out of print' situation for some titles). Equally, the minimal conversion of and very minor emphasis placed on older or backlist titles is unhealthy. From authors' perspective, these practices do not add up to supply chain 'efficiency'.

Authors require new and effective means of making their titles available to a greater number of potential purchasers. The establishment of additional Australian-based online book retailers would likely be well received by local authors, especially if these were to have a strong marketing and sales focus on local authors' e-books.

The question of making additional backlist titles available, on the other hand, may not be as problematic digitally as it is with print books. With file conversions to e-book formats are becoming relatively easy, some form of capitalising on this through a centralised, dedicated digital service for older Australian books might be relatively easy to set up.

### ***Recommendations***

28. DIISR to research additional means of distributing printed books on behalf of Australian online and bricks and mortar retailers, possibly through revised Australia Post arrangements.

29. DIISR/AusIndustry to research means of strengthening current Australian-based book e-tailing.

30. DIISR/AusIndustry to test for investment interest (private, public, or mixed) in a local digital publishing services facility to provide relevant marketing and editorial expertise for authors proposing to self-publish online.

31. DIISR/AusIndustry to investigate means of establishing, (a) a 'public' or open access digital file conversion and warehouse facility, (b) a local commercial e-tailer start-up specifically for digital, self-publisher authors, (c) a forum for interested parties to pursue and establish digital supply means for reviving and selling Australian OP, 'heritage' and 'backlist' print titles (consider support/link with CAL digital proposal for 'Top 200' Australian Books).

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