

Brief to the Standing Committee on Canadian Heritage– December 2018

Public Lending Right International

This brief is made on behalf of PLRI – Public Lending Right International. PLRI is an informal group of stakeholder representatives interested in facilitating the exchange of best practice around Public Lending Right (PLR) systems. It also provides advice and technical assistance to countries considering developing PLR systems for the first time.

This submission was prepared and approved by the PLRI Steering Committee, the governance body of PLRI. The Steering Committee is currently chaired by Ms Barbara Hayes. More information about PLRI can be found on <https://plrinternational.com/>

The Steering Committee notes that a number of submissions to Canada’s Statutory Review of the Copyright Act have referred to Canada’s Public Lending Right Program, often suggesting that it can be used to make up for the losses authors have experienced due to the reduction of income from payments for educational copying.

The purpose of this brief is to provide further information about PLR schemes around the world, and to show that PLR is a separate compensation mechanism for a unique use, and cannot be used to recoup losses elsewhere in the writing and publishing ecosystem.

Public lending right, a compensation for a specific use of works

Public lending right (PLR) is the legal right that authors have to receive payment from governments who compensate them for the free lending out of their books by public and other libraries. It is anchored in the Universal Declaration of Human Rights, by which authors are entitled to receive income from any exploitation of their work.

PLR makes an important contribution to linguistic and cultural diversity by providing vital support to authors writing in minority languages. By supporting authors, PLR also supports libraries and all they do for literacy by helping to ensure a continued supply of books. PLR is part of the essential financing that ensures the continuing creation and flow of professional literary content.

There are several ways of implementation of PLR: for example, it can be based on copyright law or as a part of cultural policies. Most commonly, PLR is distributed to authors in the form of payments related to how often their works have been lent by libraries. In Canada the method of calculation is based on titles published and how many libraries hold a copy of each title.

Compensating authors for other uses of their works

It is essential to remember that while public lending right is an important and due compensation to authors, and sometimes publishers, for the lending of their works, it is

not the only way by which rightholders are compensated when their works are used. Rather, it exists alongside other mechanisms that ensure proper remuneration for authors and publishers, for example the licensing systems administered by Collective Management Organisations (CMOs) for the copying of works in educational institutions, businesses or copy shops. These revenues combined – lending right and licensing – are necessary for authors and do not substitute for one another, as can be shown in these examples:

In the United Kingdom, the public lending right scheme is administered by the British Library. 6.6 million pounds are allocated¹ every year to be paid to authors for the lending of their works. This money is paid by the Department for Culture, Media and Sport. Separately, for the year 2017, the UK Collective Management Organisation, Copyright Licensing Agency (CLA), distributed 60 million pounds² to British and Irish authors and publishers, coming from licence fees paid by universities and other institutions who are using and re-using parts of copyright-protected works. These are two separate ways of remunerating authors and publishers for different types of uses of their works.

In France, the Collective Management Organisation in charge of distributing public lending right revenues, Sofia, distributed 12 million euros to authors and publishers in 2014 as public lending right revenues.³ Separately, more than 9 million euros were distributed that same year for the digital private copying of works, and authors and publishers were also compensated for the reproduction of works in schools, universities and businesses by licence fees collected by another Collective Management Organisation, le Centre français d'exploitation du droit de copie (CFC).⁴

In Australia, during the year 2017-2018 a total of 22.3 million Australian dollars were paid to authors and publishers as part of the public lending right and educational lending right schemes.⁵ That same year, Copyright Agency Limited (CAL), the CMO set up by Australian authors, visual artists and publishers to administer their rights, distributed 124 million Australian dollars in collective licensing fees.⁶

In the Netherlands, the Collective Management Organisation in charge of distributing public lending right revenues, Stichting Leenrecht, distribute yearly around 10 million euros to authors and publishers as public lending right revenues. Authors receive 70 % of the total revenues, distributed to individual writers, illustrators, photographers, journalists and fine artists. In parallel, the Collective Management Organisation in charge of distributing reprographic rights distributed 24 million euros to authors and publishers during the last financial year.

Conclusion

Recent studies have shown that authors' income in Canada is declining.⁷ Part of this trend is due to the uncompensated copying in educational settings, as those institutions

¹ <https://www.bl.uk/plr/our-organisation>

² <https://cla.co.uk/sites/default/files/ATR-2017.pdf>

³ <http://www.la-sofia.org/sofia/webdav/site/Sofia/shared/docs%20AG/SOFIA-RA-2016-BD.pdf>

⁴ <http://www.cfcopies.com/>

⁵ <https://www.arts.gov.au/funding-and-support/lending-rights>

⁶ <https://static-copyright-com-au.s3.amazonaws.com/uploads/2018/11/Adam-Suckling-CEOs-Message-2018.pdf>

⁷ <https://www.writersunion.ca/news/author-incomes-steep-decline>

chose to rely on a contested interpretation of fair dealing rather than remunerated licences.

PLRI submits that, as in other countries across the world that have implemented public lending right systems, each of PLR and collective licensing solutions have complementary roles, so that authors can receive a compensation for both (1) the lending of their works and (2) the copying of their works in educational institutions. These are different types of uses, that both affect the market for works, and each should be compensated.

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