



A Submission to the Standing Committee on Canadian Heritage Regarding Educational Publishing June 21, 2021

Background: Educational Publishing Industry in Canada

Education is commonly recognized as a source of competitive advantage for Canada. Academic publishers constitute a critical part of the education system and are key contributors to Canada's cultural identity and emerging innovation economy.

Educational publishing includes physical and digital content for students and educators in K-12, as well as Higher Education (HE) and reference and professional materials. The industry is undergoing profound structural change, with innovations across product design, supply chain management, pricing models and publisher-education provider relationships.

Impact of the 2012 Copyright Modernization Act and the Fair Dealing Guidelines

Prior to 2012, a well-established collective licencing regime was in place to licence and administer permissions to copy books and other textual works for educational uses, both in K-12 and Higher Education in Canada. This system generated an ROI based on licencing revenues for authors and publishers which enabled them to generate new content, written by Canadians for Canadian learners.

In 2012, Canada enacted its Copyright Modernization Act. The law- and particularly the implementation of the Fair Dealing Guidelines adopted by the Ministers of Education (CMEC), the Association of Colleges and Universities (AUCC), and Colleges and Institutions (CICan), which applies to K-12 and HE in all regions except for Quebec- has had a profound negative impact on the entire educational publishing industry in Canada. That impact has been particularly acute and negative for Pearson – Canada's largest educational publisher.

Specific industry and Pearson examples include:

- Acute negative impact on the market due to substantial decrease in license income and accelerated decline in sales revenue. Pearson licensing income at the end of 2020 was almost nil. Pearson is the largest publisher of K12 content in Canada servicing the English and French markets. Pearson's K12 revenues have declined 40% since 2012;
- Small and medium sized publishers like Emond Publishing, Oxford University Press and McGraw Hill have already exited the K12 market in search of more profitable publishing areas, decreasing diversity of content, lowering competition and increasing price.
- Pearson has significantly reduced investment in K12, and now only focuses new Canadian content development in a few core areas (Math, Religion and early Literacy). Due to prolific photocopying of materials and difficulties attracting author talent because of matters of copyright, we have made a tough decision recently to wind down/exit investment in Social Studies and Core French. This has made it particularly challenging to justify investment in producing high-quality materials to support Truth & Reconciliation. Along with this move, we've reduced our workforce in our K12 total workforce by 30% over the last 3 years.
- In Higher Education, Pearson rationalized the development of its new higher education materials to focus only on a few market segments with high enrolment. 85% of the new Canadian programs that we've released this year are digital only and by 2023 we will be fully digital. We intend to completely exit print publishing in Canada in favor of producing a select number of immersive digital programs that have the potential to scale globally. Regrettably, we are seeing digital assets being used in LMS environments across Canada without any royalties being paid to our creators. Canadian writers, authors, and illustrators are seeing lower income or lack of demand for their services as a result of these moves.
- Fair Dealing is making education less affordable and accessible – in stark contrast to its intended purpose. We continue to see higher ed institutions created coursepacks developed using Pearson content being sold to students for prices often equivalent to 5 times what the cost of a (per student) collective license would be. This is infuriating to our content creators and to publishers who are working so very hard to make education more affordable.
- Canada's international reputation is completely compromised, making it extremely difficult for the leaders of the Canadian subsidiaries (like myself) who report into the US or UK to justify investment in the development of new Canadian content.

The Office of the United States Trade Representative (USTR) released the 2020 Special 301 Report, which analyzes the legal and enforcement frameworks of U.S. trading partners as to whether they provide “adequate and effective IPR protection” and fair market access.

In addition to citing concerns about piracy in China and copyright policies in India, the report down-grades Canada from the U.S. Watch List to the Priority Watch List (!), and states the following about the overbroad application of fair dealing and decline of legitimate licensing schemes:

“The United States also remains deeply troubled by the ambiguous education-related exception to copyright that has significantly damaged the market for educational publishers and authors.”

- On a personal note, my daughter is just completing 6th grade at a school in Toronto District School Board. Throughout her entire her elementary programming, she has never once been presented an option through the school to study from a textbook– it’s been all handouts and photocopies.

Request for Changes to Current Legislation

- Pearson appreciates that the Ministry of Heritage recognizes that the current law and the Fair Dealing Guidelines have negatively affected the publishing industry and particularly the educational publishing sector. I ask that the Ministry continue to advocate to amend the law to restore the appropriate balance under which academic publishers and authors are once again fairly compensated for their works- ensuring a viable, healthy domestic marketplace for commercially published education materials.

Submitted on behalf of Pearson Canada and The Canadian Publishers’ Council (CPC)

Sincerely,

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