

THE WRITERS' UNION OF CANADA

Brief to the Standing Committee on Canadian Heritage on the state of the book industry

Presented by Christopher Moore, Chair of The Writers' Union of Canada

On behalf of the over 1350 professional writers of books who belong to the Writers' Union, we wish to thank the Chair and Members of the Standing Committee on Canadian Heritage for inviting us to address the Committee during its important fact-finding study on the book industry.

Below we have attempted to respond to all the questions set out by the Committee, although not necessarily in the order posed.

As a result of the concentration in Canadian book retailing and distribution the two most significant challenges facing writers are reduced financial return from their work and increasing difficulties in having their work published.

Financial challenges

We will deal with the financial challenge first because it is the most insidious and most keenly felt by many writers. When a writer enters into a contract with a publisher, the contract usually states two methods by which the author's royalties will be calculated:

- First as a percentage of the **list price** or suggested retail price for sales into the general book retail trade; and
- Secondly as a percentage of the **net** amount the publisher receives from special sales, referred to as "deep discount" sales usually reserved for special sales outside the normal book trade.

Prior to the emergence of Pegasus, Chapters distribution company, a writer could expect to get paid royalties based on the list price of their book for virtually all sales made in the general book trade where the industry standard publisher's discount was 40%. Unfortunately, this is no longer the case. Publishers are being pressured into offering deeper and deeper discounts to ensure their titles are present in an increasingly concentrated retail book trade. These discounts are in some cases activating deep discount clauses in the authors' contracts which were designed for special one-time sales outside the book trade. The consequences of this phenomena are substantially reduced royalties for the affected authors.

To demonstrate, we have taken the liberty of providing details from an actual case: An author signs a contract with a small publisher providing the author with a royalty rate of 10% of the publisher's suggested list price on the first 5,000 copies sold and 12.5% thereafter. For those books sold at a discount of 50% or greater the author receives a royalty rate of 10% of net (i.e. 10% of the amount received by the publisher).

The publisher has listed the book at \$25. The author is informed that that book has sold more than 10,000 copies. To the best of the author's knowledge, virtually all the copies were sold to the retail book trade and the author is delighted with the prospect of receiving an amount in the range of \$28,000. When the author's royalty statement arrives the author is devastated to learn that the royalty being paid on the list price is for less than 1,000 copies. The remaining 9,000 copies were sold at a 50% discount (the discount demanded by Pegasus) and the royalties amounted to less than \$14,000. (See Appendix I)

From a direct sale to Chapters on a book listed at \$25 the publisher would normally receive \$15, from that the author would normally receive \$2.50. From a book sold to Pegasus the publisher would normally receive \$12.50 and, as in the case described above, the author receives only \$1.25. By Chapters insisting that it will only purchase books through Pegasus, the publisher is faced with a 10% loss in revenue, but the loss to the author is 50%. This is just one example, but it graphically illustrates the level of subsidy authors are expected to absorb if they want their books to be sold in Chapters.

In the Canadian market a novel that sells 5,000 copies is considered a best-seller, especially for a small Canadian-owned publisher. Such a publisher has little room to manoeuvre in a marketplace that is currently experiencing such concentration of buying power. When a single retailer, or its distributing arm, is the major account for any publisher, that publisher has little option but to accept the terms demanded. The author who has no say over the amount at which his or her book is discounted, is the ultimate subsidizer of the distributor, the retailer, the reader and the library system.

The Union has started an educational campaign for its members on how they may attempt to ameliorate “deep discount” clauses being triggered by sales into the retail book trade and to non-traditional outlets such as Costco, PriceClub, and Wal-Mart. However, much more will have to be done if Canada hopes to have a vibrant literary culture down the road.

Getting published

The challenge for an author to find a publisher has always existed, but with the unprecedented concentration in book retailing many authors are having greater difficulty finding a publisher. As an increasing number of independent book retailers are forced out of business, publishers are less willing to publish books that giant retailers are unlikely to purchase. If this trend continues, we envisage a day when publishers will present proposed titles to the giant retailers and only those titles acceptable to them will actually be published. Big-box retailers, who are mainly interested in best-sellers that can be marketed in the tens of thousands, will decide which Canadian books will be published. For such marketers, economies of scale are far more important than diversity of voices.

Eighty percent of Canadian authors are published by Canadian-owned publishing houses. The authors and small publishers are not adversaries in this situation, but rather allies in attempting to ensure that Canadians have access to a rich diversity of voices and literary heritage. It is essential that freedom of expression remains a reality in Canada rather than a hollow slogan.

Relationship with booksellers

There are still many independent booksellers deeply committed to presenting a wide range of Canadian voices to their customers. They are invariably the ones that present authors to their readers in a manner conducive to encouraging and enhancing the literary experience.

The Union has received innumerable complaints from writers who have been invited to sign books or give readings in the big-box retailers. Complaints range from the merely annoying, such as attempting to read while competing with the hissing cappuccino machine, to the truly insulting. One author was invited to give a reading, and upon arriving found that the store had none of her titles in stock. The author was told that they expected her to bring her books with her! This particular author has more than 25 books to her credit. While the big-box stores are willing to exploit authors for their own means, in this case to indicate to the community that they are providing children’s programs, they appear to be unwilling to make the minimum effort to ensure such visits are worthwhile experiences for all concerned.

Have the experiences with the big-box retailers been entirely negative? No, if you are one of the authors whose books sell in the many, many thousands. Those books are being marketed to an unprecedented number of people. This is very good for those authors and we are pleased that more people seem to be purchasing books. But, at what cost? Even the most widely sold Canadian author would agree that sustaining diversity in the literary market is absolutely vital to the health and maintenance of a vibrant literary culture. And, for those authors who are published by the smaller presses, the cost of subsidizing these big-box retailers and their distributors is far too high.

Fortunately, there will always be people interested in sampling a wide diversity of voices. But, to ensure those diverse voices actually reach an audience and have the opportunity to increase the audience will require a cultural commitment from governments. Today we are seeing even larger publishers, who once would have regularly published poetry, indicating that they can no longer afford to do so.

Government's role

There is a desperate need for all Government departments to recognize that cultural market places are like no other. The Competition Bureau states that dominance alone in a marketplace does not necessarily require intervention, but in a cultural marketplace there has to be a measure beyond fiscal concern.

In the book industry, there has to be a commitment to a marketplace that provides access for a diverse number of voices. A diverse and vital literature can only be sustained if authors and publishers of *all* sizes can realize a reasonable financial return from their investment of talent and time. This can be more easily accomplished if there is a healthy and diverse retailing marketplace.

The Committee has already recognized that creators are in need of enhanced grants in its recent report "A Sense of Place, A Sense of Being: The Evolving Role of the Federal Government in Support of Culture in Canada." Writers' creative works fuel a multi-billion dollar industry, but due to the increasing concentration in the retailing sector they are seeing less and less return from their work.

The Government has recognized that it has a role to play in sustaining the book industry, but to date the level of commitment is substantially less than that received by other non-cultural industries. In addition to increasing its direct support to publishers, the Government could:

- Provide a tax deduction for writers for income related to copyright, as does the government of Quebec;
- Introduce a Public Lending Right Act and increase funding to the PLR Commission so that it can adequately compensate writers for the public use of their works;
- Increase the base funding for the Canada Council for the Arts;
- Make the Copyright Act the sole responsibility of the Department of Canadian Heritage; and
- Produce a "cultural component" for the Competition Bureau to ensure that diversity is protected in any cultural market place.

The Writers' Union of Canada hopes that the above comments are useful to the Committee in its investigation of the book industry and that it will consider the needs of writers when it finalizes its findings.

March 14, 2000

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APPENDIX I

Calculation of royalties on a book listed in publisher's catalogue at \$25.

Royalty rate (traditionally applied to all sales to the retail book trade):

10% of **list** price on the first 5,000 copies
12.5% of **list** price on all copies thereafter

For copies sold at a discount of 50% or greater (traditionally reserved for special sales outside the retail book trade):

10% of the **net** amount received by the publisher.

Number of copies sold: 10,000

Expected royalties for books sold at the traditional discount rate of 40%:

| Copies sold | Discount rate | Royalty rate | Royalties Due |
|--------------|---------------|----------------|-----------------|
| 5,000 | 40% | 10% = \$2.50 | \$12,500 |
| 5,000 | 40% | 12.5% = \$3.12 | <u>\$15,600</u> |
| Total | | | \$28,100 |

Royalties received:

| Copies sold | Discount rate | Royalty rate | Royalties due |
|---------------|---------------|--------------|-----------------|
| 980 | 40% | \$2.50 | \$ 2,450 |
| 9020 | 50% | \$1.25 | <u>\$11,275</u> |
| Total: | | | \$13,725 |

The above figures are related to a specific case, contract terms vary from publisher to publisher and from author to author.