

Public Lending Right International Conference London, UK, September 25-27, 2019

John Degen
Executive Director, The Writers' Union of Canada
Chair, International Authors Forum

Between September 25th and 27th, thanks to a grant from the Access Copyright Foundation, I attended the 14th Public Lending Right International Conference at the British Library in London, UK. The PLR International conference attracts writing, publishing and arts administration professionals from over 40 countries either currently working with a PLR system or trying to establish one in their own territory. The conference provides a valuable opportunity for professional skills and information exchange.

Also from Canada at this conference were Genni Gunn, Public Lending Right Commission Chair (and TWUC member), and Peter Schneider, the PLRC's Executive Secretary, who gave a presentation on the Canadian system.

Because I was present, and because I continue to serve as Chair of the International Authors Forum (headquartered in the UK), I was asked to give the final presentation of the conference, summing up the learnings from the three days. That presentation informs this report. I would like to thank Genni Gunn for sharing her excellent notes with me as well, and for three days of insightful conversation about this essential program for Canada's authors.

Wednesday, September 25

The 2019 PLR International conference began with a welcome reception at the British Library during which I was able to meet and network with writer and PLR representatives from around the world. The evening was capped by an on-stage interview between Barbara Hayes, Chair of PLR International and Maureen Duffy, Honorary Chair of the Authors Licensing and Collecting Society.

Duffy is a British novelist and poet who was instrumental in advocacy efforts during the 1970s that led to the establishment of British PLR. She was also one of the UK's first openly LGBTQ authors, and a great champion of LGBTQ rights in Britain. I recommend her wonderful novel *Londoners* as a touching and all too familiarly funny portrait of the life of a struggling writer in 1980's London.

She described the focused efforts of a group of authors affiliated with the British Writers Guild and the Society of Authors. The group was comprised of about 100 working authors and was called the Writers Action Group, or WAG. They would meet regularly at the Queen's Elm pub in London (now long-gone) to share progress reports and strategize their lobbying. Duffy stressed the importance of working closely with libraries as allies, and insisting to government that the money for Public Lending Right not come from library budgets, but rather as a special dispensation from government. This point became a running theme throughout the conference as representatives from various countries recounted their efforts to establish and/or improve upon their own domestic PLR systems.

Thursday, September 26

The day began with a welcome message from Damian Collins, MP & Chair of the UK's Digital Culture Media and Sport Select Committee. Collins spoke on the importance of libraries, and on understanding author's incomes, and the importance of PLR in supporting authors.

He noted that the British library system recorded 42 million loans in 2018 and distributed approximately £6 million through PLR. He noted as well that the UK system is loans-based and that authors are compensated according to how many times their books are borrowed from the library system. E-books were added to the British PLR in 2018.

Considering the larger population of authors in the UK, and their reciprocal agreements to provide PLR payments to other countries, the figures for British PLR reflect a much smaller PLR program than we currently enjoy in Canada. As well, the loans-based nature of their system means that fewer authors (only those recording a minimum number of library loans per registered title) are compensated for the use of their books by the UK library system. On the other hand, British PLR is enshrined in legislation, which gives it a much firmer footing than the Canadian system, which is essentially a cultural support vulnerable to the budget machinations of government.

Panels:

1. From Maureen Duffy; and Kate Ebdon, Head of PLR Operations at the British Library: a history of the UK Public Lending Right.

Maureen Duffy stressed again how working with libraries is key, and that working on the principle of "no use without payment" was key to establishing the British system. She noted as well that because the UK has a loans-based system, British authors get a printout with their payment reporting on which books were borrowed in libraries and how often. She noted that this report acts as encouragement to writers to keep writing.

Kate Ebdon presented a sketch history of UK PLR developments:

1979 – PLR Act passed after 30-year lobbying campaign

1982 – scheme commenced

1984 – first payments 1.5 M to 6000 authors, illustrators, etc.

2012 – UK PLR took over administration of Irish PLR

2013 – changed from being an independent non-departmental public body to a department in the British Library

2014 – audio books brought into scheme payments

2018 – amendment to bring ebooks into scheme. First payments 2020

For the time being, eligibility in UK PLR is extended to authors in the European Economic zone, and payments are made to other countries. This may, of course, change depending on the outcome of Brexit.

The UK scheme has recently also been extended to include a broader range of contributors – including audiobook narrators. Total budget for distribution is £6.6 million, and the system has paid out over £175 million since inception.

As British PLR is written into the copyright law of the land, it continues for 70 years after the death of the author. In other words, payments for books continue to an author's estate. As well, authors can assign their PLR rights to others.

Loans data is obtained from a sample of UK public libraries – 700 sample points in total, up from the original 16 sampling points.

The calculated amount per loan must go to Parliament each year for formal approval. There is a threshold of £6,600 per author and a minimum payment of £1. 2200 authors were paid through British PLR in 2017-18 and 200 received the maximum.

Compare these numbers to 17,500 authors paid in Canada, from a budget of approximately \$12.5 million.

2. From Brendan Teeling, Deputy City Librarian, Dublin, Ireland: a profile of the Irish public libraries system.

Irish authors had for years been receiving transfer payments of PLR amounts from the UK system, and for a long time that seemed to be enough. In the early 2000s, the EU directives encouraging domestic PLR led to Ireland wanting their own system, which was established in 2008. Again, libraries were worried about their budgets being required to pay PLR. They were assured that was not the plan.

The Irish system was established in 2008 and payments began in 2009. The British PLR agreed to administer the distributions and sampling for the Irish system as Ireland did not have the capacity. Today just over €200,000 is distributed to just over 6000 authors. It is a loans based system as well, which results in many registered authors receiving no payment at all.

3. From Kate Ebdon; Nicola Solomon, Chief Executive of the Society of Authors; Emma House, Deputy Chief Executive of the Publishers Association; & Carol Boswarthack, Head of Barbican and Community Libraries, City of London: a look at PLR for e-books and the rise of e-lending in the UK.

The EU lending directive determined that e-books should be incorporated into PLR schemes. Britain set to work. Libraries have long pressed for more access to e-books because of the relative ease of such holdings and the seamless process of lending them. Publishers have had to be careful to adjust their pricing models so that e-book lending would not cannibalize the e-book market.

This has led to a great deal of tension between libraries and publishers on the issue of e-book pricing and lending rules. It has also opened up a philosophical question about the continued role of libraries in an e-book environment, since libraries do not actually keep physical holding of e-books in their collections. They simply use an aggregator

like Overdrive, and broker access for their library members to the aggregator's catalogue.

Despite the popularity of e-books, they still only represent about 2% of library loans in Britain and are being quickly out-paced by e-audio-book loans, which are on a dramatic rise.

4. Karyn Temple, US Register of Copyrights: the likelihood of a US PLR system being created.

Temple's presentation made it clear the US will not be developing a PLR system anytime soon. She stressed the US First Sale doctrine and the legal concept of exhaustion (copyright ownership of a specific copy of a work is exhausted after the first sale of that specific copy), which in combination give US libraries a claim of ownership over the physical books in their collection and a right to lend and copy these works as they see fit (within certain restrictions).

The "right" of libraries to lend and copy is provided by a specific library exception in US copyright law, and libraries therefore resist the notion of payment to authors in relation to lending. They see it is an infringement on their own lending right.

Temple noted that the digital age and the rise of e-books has illustrated a need to re-address lending rights in the US, but did not see this leading to a strong movement for PLR in the US.

5. From Peter Schneider, Executive Secretary, Canadian PLR; Kim Brunono, Australian PLR; and Jeong-Yeou Chiu, Taiwan PLR project: the latest on PLR systems outside of Europe.

Schneider detailed the recent changes to Canadian PLR, including the increase to the PLRC budget, the growth in sampling, and the growth in registrations to the program. He also noted the restrictions to the program instituted by PLRC in an attempt to keep payments relevant as the number of registrants continues to grow – the sliding scale of hit rates as titles age within the program, and the new 25 year limit to title registration.

Brunono detailed the Australian system which pays out approximately \$22 million to 16,400 authors. Australia, like Canada, does not calculate payments based on loans, but rather based on the holding of books in library collections. Australia has recently incorporated e-books and digital holdings into PLR as well.

Jeong-Yeou Chiu detailed the work being done in Taiwan to establish a PLR system. In particular, he noted the strong resistance to PLR from Taiwan's library community, who feared budgetary impact. When Parliament proposed amendments to the Libraries Act, libraries protested vigorously. The concept of PLR was then moved from the Libraries Act into domestic legislation related to culture rather than education (where libraries are situated) and the program design continued. A pilot project of PLR testing and payments will be run in 2020.

6. From Carola Streul, Secretary General of European Visual Artists: how visual artists are included in PLR systems around the world.

European Visual Artists (EVA) represents 28 European collective management organizations for fine arts, photography, illustrators, design, street-art and other visual works. They produced a survey of European countries to determine where PLR is shared with visual artists.

Visual artists are given “shares” of PLR payments for books in which their work appears in many European countries. Shares vary by country. In the Netherlands, for instance, visual artists receive a 12% share of book payments, and a 30% share of magazine payments. In Belgium visual artists receive 21%.

7. From Kim Brunono, Australian PLR; Ann Salomaa, Finnish PLR; and Geoffrey Pelletier, French PLR: a growing movement toward Educational PLR.

In Australia, school libraries are the largest library network, therefore it seemed logical to be sampling in these libraries. Children’s authors appear in school libraries more than in public libraries in Australia, so it is not just educational writers who benefit from Educational PLR. The introduction of educational library testing has provided impetus for asking for more money for the overall budget.

There is similar movement on this front in Finland, where the PLR budget was only €3 million Euros. With the introduction of educational library testing, they were able to increase the budget to €13 million Euros.

In France, contributions to the PLR budget come from different sources. Approximately €10 million directly from government and €6 million from book suppliers (wholesalers). Adding educational libraries increased the government contribution by about €1 million. Educational libraries represent 16% of total amount of lending rights in France.

8. Angela Dimcheva, Bulgarian Writers Union; Rodica Guiu, Copyright Romania; and George Zannos, Greece: the fine art of lobbying for PLR.

Angela Dimcheva detailed the four year struggle in Bulgaria to establish a PLR system. There are 9000 libraries in Bulgaria and only 750 writers in the Bulgarian Writers Union. The library collections suffer from a lack of digital tracking, making testing of library collection difficult for PLR. Using a coalition of arts and writing groups, the BWG submitted a formal request to Parliament for the creation of PLR. In February 2019 they signed a formal agreement on PLR procedures, so the scheme is underway.

Rodica Guiu discussed the ongoing difficulty of trying to establish Romanian PLR. Again, resistance from the library community who fear budgetary impact. As in the US, domestic law specifically exempts public libraries from having to pay authors for lending. Romania is looking to the EU directives to establish authority for creating a PLR that would be government funded separate from library budgets.

In Greece, before the financial crisis of 2010, the public library system was not very popular or well used, and therefore Greek authors had little interest in exercising their lending rights. After 2010 this all changed. Library use exploded in Greece, and many more libraries were opened. After much resistance from the library community, Greece has managed to establish a lending right, though the program is only budgeted at €250,000

9. **Finally, from Rosario Kamanga, Copyright Malawi, Monica Seeber, South Africa, and Mtumwa Ameir, Zanzibar** we were updated on the hoped for future of PLR in Africa.

In Malawi, the government imposed a levy on all digital storage devices, which raised approximately \$500,000 earmarked for PLR. There are 8000 rightsholders currently in Malawi eligible for some compensation for lending.

In South Africa a large gap between rich and poor has meant libraries are very important. But, there is no PLR in place. South Africa has just come through a disastrous copyright review which has expanded exceptions and weakened authors' rights. There is now even more impetus for the creation of some lending right program.

PLR, the right itself, was recently introduced in Zanzibar in the Reproduction Right Regulations of 2019 that gives the office of the Copyright Society legitimacy to ask for compensation from public libraries and educational lending institution for authors and publishers. Enacting legislation has been prepared. One problem for Zanzibar is that libraries will have to do hand searches for books under their system as digitization of catalogues is not complete.