Why income from secondary uses is indispensible to authors
Katie Webb

Libraries, archives and educational institutions may enjoy certain benefits – in the form of limitations and exceptions in their national laws - within the existing international copyright framework. Indeed, Professor Kenneth Crews’ recently updated study us that the vast majority of countries already do. 153 out of the 186 countries included in the study have implemented such provisions to some extent in their national law.¹ Yet, many countries face challenges which are affecting their creators, their creative industries, and the sustenance of their cultural heritage. These challenges are due, in particular, to the dominance of technology companies, changing business models and the way the internet has changed the way we access authors’ works. Authors share these challenges. My task, as a representative of the International Authors Forum, which, through its members on all continents, includes a network of over 260,000 writers and visual artists worldwide, is to give you the point of view of authors. Specifically, it is to tell you why the current international copyright framework, which can and in many cases does sustain individual livelihoods, however many challenges it may face, is so important to authors, and why we must all work together to make it work better, in all our interests.

As well as the challenges, we also share an appreciation of being able to watch, read, listen and respond to authors’ works by buying, borrowing or accessing them through these public institutions. Authors value this too. Take Carlos Wynter Melo, for example, who is a writer from Panama. In Panama in 2012, laws were passed to benefit libraries, archives and educational institutions, implemented under the current copyright framework. In Panama, these provisions do not yet apply – not many people know about them – but Carlos hopes they soon become used. Why? Well, to quote him, “although

Panama has signed the Berne Convention and respects several other trade treaties, it is a country with very lax institutions. There is no respect for copyright, we are lacking the most elementary principles of competition.” Carlos has received international recognition for his narratives and in 2012 was deemed one of the best kept literary secrets from Latin America at the 25th International Guadalajara Book Fair. Perhaps this lack of respect for copyright is why his work remains a secret when it could and should be enjoyed more widely. “With the lack of institutional support for copyright,” he says, it becomes difficult for our books to receive a fair trial and to be sold, introduced or promoted in schools in the best way.” It is not a question of not having the tools or the potential to create an environment in which Carlos can receive an income from his creativity, and give more people the opportunity to access his work. It’s a question of making those tools work better.

Here’s what can happen when the good work to make copyright work comes undone, told in the words of the prestigious author Margaret Atwood, who spoke publicly on the subject last week. Coming from Canada, she is an author who has been on the receiving end of the expansion of the educational copyright exception in Canada, which has been detrimental to authors’ secondary incomes. Margaret Atwood describes this expansion as “a badly written copyright law” which “means the university sector feels entitled to help itself to creators’ content.” She asked, “How many millions of dollars have been removed from authors through universities’ misuse of their copyright? It’s sort of like saying okay, we’ll teach you to be a doctor, but by the way you’ve got to doctor for us for nothing.” These losses – including 8 million Canadian dollars directly from the incomes of authors - have happened in Canada due to the expansion of copyright exceptions. They show us the unintended consequences of what Margaret Atwood rightly terms the “misuse” of copyright, and the indispensable value of secondary licensing income to creators. Canada and Panama may be worlds apart in terms of their culture, their creators, their level of development, but their problems are comparable.

Where copyright is not balanced between access and fair payment to authors, as set out in the Berne convention and other international treaties, authors
cannot make a living from the use of their works. Three-quarters of the members of the Writers Union of Canada who were surveyed in 2010 live below the official poverty line based on their earnings from writing. It becomes a matter of human rights, when authors cannot enjoy, under Article 25 of the Universal Declaration of Human Rights, “a standard of living adequate for the health and well-being of themselves and their families, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

South Korea has recently introduced an Artists Welfare Act. It was named after the writer, Go-eun Choi, who died in 2011 at the age of 32. She had chronic diseases in her thyroid and pancreas, but no money for medical care or nutritional supply. She was celebrated as a successful screenwriter. You can see her filmography online (filmography link slide). This was the first welfare law in Korea for a specific profession, and not for a socially underprivileged group. But in Korea, it has become a reality that the government must treat authors in the same way they would protect a socially underprivileged group, those who are prevented from working, for example, through disability or relatives in need of care. And yet being an author is a profession, which it takes time, skills and dedication to put into practice.

Being an author takes the kind of dedication which, for many, entails working two jobs, or sacrificing better paid work. Alyse Boaz, from New Zealand, is a writer of educational resources as well as a teacher. She says of her work, and the small amount of licence income she receives: “Creating educational resources takes hours and much dedication. I would earn 20 times what I earn in a year from writing textbooks if I concentrated on working longer hours rather than working as a part-time teacher and writer. I write because I have a passion. I also want to create material that will help students and teachers alike. I sometimes think I am mad but I am driven. The small royalty cheques I get help to make it worthwhile.”
What else does income from secondary uses mean to authors? For Harry Thurston, who has been a fulltime freelance writer since his late twenties, publishing two dozen books of poetry, natural history, journalism, and memoir since then, and who is the Chair of The Writers Union of Canada, he is “concerned for writers welfare at all stages of their careers: those starting out in an increasingly “free culture,” that is, freedom for consumers not to pay for cultural content…Payment for public use of a writers’ work – for mechanical and digital copying of works in the educational system and archives, and for holdings in libraries – are key to a writers economic security. In my own case these payments nearly equal my Canada Pension Plan accrued over a lifetime of writing.”

Income from secondary uses is a lifeline for authors, enabling them to continue being authors. The extent of global piracy from the misuse of both primary and secondary copyright testifies to this. Licensing systems, administered through collective management organisations, are the necessary and practical resolution. For example, the Authors' Licensing and Collecting Society in the UK pays writers in over 100 countries money earned by their secondary rights. The end of these licenses would deny income to some 65,000 authors working and contributing to society. Those payments, in financial terms, are in some cases significant, in others far from enough. But they enable authors to recognise that they are part of the creative industries and cultural heritage they are, after all, responsible for creating in the first place. This income serves as recognition that their work is being used and being valued, and encourages them to go on creating more, to meet this demand and meet it with the diverse expression we all enjoy, using their professional skills. It gives authors the opportunity and the choice, to be paid for their work. By being able to exercise their rights as individuals, authors can engage meaningfully in the significant task, undertaken by a huge, multi-skilled workforce, of getting their work from the page to as many people as possible, worldwide. It is important we recognise the input and value of authors in this and pay them for it accordingly.
Secondary licensing income sustains local livelihoods and local economies. By developing licensing networks, countries can sustain their own creators and foster their own creative industries for the benefit of their populations and to preserve their diverse cultures through diverse voices. Without valuing authors, this cultural diversity crucial to the identity of every country, is under serious threat. Elinor Sisulu, a Zimbabwean born South African writer who “has given away a lot of books for educational purposes and has spent a significant amount of time strategizing about how to get books to materially deprived and marginalised communities” thinks that further exceptions “will be an erosion of the little those writing in indigenous languages do earn and the consequence will be a decrease in locally produced content.”

Australian Visual Artist Mandy Martin concurs. She is “an artist for whom permissions, copyright and artists’ moral rights have been an on going concern, not only through her work with aboriginal people, but as a politically engaged artist.” Royalty payments appear in her account periodically, often during periods when there have been no primary sales, and are very welcome. “Even small amounts of funding generated from the acknowledgment of artists’ rights through copyright are important and help support artists who usually have very low incomes and, for many indigenous artists, live in parlous health and housing conditions in remote circumstances.”

Authors cannot afford to have the chance to make a living from their work, however slim that chance may be, taken away from them. We can improve those chances by working together, listening to each other, and ensuring a balance of all our needs, in working towards a common goal.

Licensing of secondary uses of copyright works means this goal is achievable, and is perhaps better expressed in human, rather than financial terms, and best of all in the words of an author. These are from Sophie Masson, an Australian author of over 60 books for children and young adults:
“As an author who has written over more than twenty years, I have often had the humbling and wonderful experience of young people who grew up with my books telling me how much those books meant to them – how they have made a difference to them by opening up new perspectives and enriching their imaginative life, riches which they have taken into their later lives as adults. If we truly believe in education being a right, then we should also believe in the right of children to an imaginative life, for the two go together closely. Impoverishing – and thus, perhaps silencing, the very people who add texture to that imaginative life will not empower young readers around the world. Far from it.”

Katie Webb
International Authors Forum
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katie.webb@internationalauthors.org