

## The Society of Authors

### Consultation on the Extension Public Lending Right to Rights Holders of Books in Non-print Formats

#### Introduction

The Society of Authors is an independent trade union with 9,000 members, most of whom are primarily book writers. For some years the Society, along with other writers' organisations, has been pressing for PLR to be broadened to include audio books and, more recently, e-books. It was therefore pleasing that the subject was covered in *Digital Britain* and the DCMS consultation paper has been warmly welcomed by writers.

#### Summary of authors' views

As intimated in our initial comments to DCMS in September, the response of the Society's Management Committee can be summarised as follows:

- The Government's commitment to extending PLR to non-print versions is firmly supported in principle. It is hoped that enabling legislation will be included in the Digital Economy Bill;
- Authors are pleased that the Government has recognized that additional funding will be required both initially and in the long run in order to sustain and preferably increase the rate per loan;
- PLR is a right that has been conferred on authors since 1979. They would like to maintain the principle of only rewarding creators, leaving performers and producers to exercise their lending rights under the CPDA 1988.
- If the Government is only willing to extend PLR to non-print versions with performers and producers included (in order to enable public libraries to be free to lend non-print versions without further ado) most authors will probably not be minded to object;
- For many years it has been widely accepted that PLR should only be conferred on individuals and not on corporate entities. Authors wish to see that practice continue;
- It has long been considered that audio books should be eligible for PLR. They are loaned by - and returned to - public libraries in much the same way as books. Record keeping is highly automated. We assume that it would be relatively

straightforward to add loans of hard copy audio books to the existing sampling system;

- While authors continue to support the general principle of e-books being covered by PLR, careful thought will need to be given as to how ‘loans’ of e-books can best be defined and circumscribed. Authors (and, one assumes, performers and producers) will not want to jeopardise any potential opportunities for the commercial exploitation of e-books, especially at a time when the digital market is changing so quickly and new forms of digital exploitation are still being developed. However, we consider that it would be wise to press ahead with enabling legislation, leaving matters of detail to be resolved when changes to the Scheme come to be considered at a later stage.

#### Questions raised in the Consultation Paper

**Q1. Do you agree that, on expansion of the PLR Scheme, the inclusion of non-print books is appropriate in terms of lending and creative production trends?**

Yes. As indicated above, we consider that in the light of the changing ways in which books are being made available by public libraries, the PLR Scheme needs to be expanded.

**Q2. We have made an assessment of the current and potential formats for non-print publications which could be made eligible – is the scope of this definition sufficiently broad? Do you have any concerns about any of the formats currently listed?**

The three formats mentioned (hard copy audio books, soft copy audio books and e-books) seem likely to cover non-print versions for the foreseeable future. However, it will be advisable for the enabling legislation to be drawn in sufficiently broad terms to allow the formats covered by the Scheme to be altered and expanded by changes to the Scheme.

**Q3. We have made an assessment of the methods of ‘lending’ non-print books – can you envisage any additional methods of lending which should be included, or do you have any concerns about those currently listed?**

The list seems comprehensive, but again it would seem sensible to allow for a degree of flexibility through Scheme changes.

**Q4. Are the additional categories of rights holder (i.e. performers and producers) in relation to non-print books an accurate description of rights holders in non-print works?**

As far as we are aware, the description is accurate.

**Q5 Do such rights holders licence / assign their lending rights in practice? If so, do such rights holders enforce their unwaivable right to equitable remuneration in practice?**

Our impression is that performers often assign all their rights to producers. In practice they seem unable to secure any equitable remuneration from their lending rights. However, other organisations will be able to answer this question more precisely.

**Q6. It is our understanding that lending rights are currently under-enforced and/or poorly protected in respect of audio and e-book loans through UK public libraries - is this correct?**

Yes, we are not aware of authors, performers or producers securing any income from the exercise of their lending rights except under the PLR Scheme.

**Q7. Where such contractual arrangements exist, how effective are these arrangements and do rights holders feel adequately protected / remunerated?**

There are a very few arrangements under which rights holders benefit from lending in public libraries other than under the PLR Scheme. It follows that rights holders do not feel adequately protected or remunerated at present.

**Q.8 Would the inclusion of such rights holders in the Scheme produce the certainty of payment and protection of rights described above?**

Yes.

**Q.9 Do you agree that the expansion of the PL Scheme, as opposed to maintaining the current contractual lending market, will benefit rights holders, libraries and the creative sector?**

We consider that if the Scheme is expanded carefully, with due consideration of the nature of e-book loans that are to be covered, both creators and public libraries will benefit.