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THE POWER BALANCE REVISITED: AUTHORS, PUBLISHERS AND COPYRIGHT IN THE DIGITAL SPHERE

Abstract

The evolving digital publishing environment has irrevocably changed the copyright expectations of authors. Historically, copyright has adapted to technology, making it necessary to constantly re-examine existing publishing models and copyright implications for authors. At this pivotal point in history, authors find themselves between the old and the new; grappling with the realities of traditional expectations and digital advances in publishing. The transition of the printed word to digital product is arguably the most significant event in the history of publishing since the invention of the printing press, presenting authors with unexpected challenges. This article deals with the Australian author's place in an ever expanding digital sphere, copyright and publishing implications, and digital copyright challenges presented by this transitional environment. It also examines the views of Australian authors on the subject and addresses the shifting power balance in publishing. The role of the author in the public sphere will be addressed, followed by three examples of how authors have asserted or alternatively failed to assert themselves in the expanded publishing environment. In particular, the article considers the interrelation between the 'author sphere', the 'publisher sphere', and the digital public sphere. The evolving copyright landscape brought about by the internet provides an appropriate environment in which to investigate authors' perceptions of this legal concept that impacts so intrinsically upon their creative rewards.

Keywords: Authors, publishers, copyright, digital publishing, digital sphere

I Introduction

The unequivocal changes brought about by the digital publishing environment have had far-reaching effects for authors. On the one hand authors have to contend with increased challenges to their copyright, such as online piracy and initiatives by Google and other online disseminators who have engaged in the unauthorised copying of books; on the other hand there are increased opportunities for publishing and international exposure on the internet through various online publishers and social media channels.

Copyright considerations are no longer confined to territorial borders. For example, the issue of what constitutes 'fair dealing' in Australian copyright is no longer an issue confined to Australian courts. In 2011, following a number of Google initiatives, and in response to the contemporaneous involvement of American research libraries in the unauthorised book scanning projects by Google and the HathiTrust (a partnership of 50 American research libraries), a number of Australian authors together with the Australian Society of Authors (ASA) joined a lawsuit against HathiTrust and five of the American universities involved in these book scanning projects (*Authors Guild Inc v HathiTrust*, No.11). However, in a landmark decision Judge Baer ruled in October 2012 that the HathiTrust's actions were protected under the USA 'fair use' legislation (Baer 2012: 15), and the ASA and fellow Plaintiffs have filed an appeal, which is pending.

Some academics have argued that the changes produced by digital publishing are, on the whole, not as ground breaking as the radical changes effected by the invention of the printing press in the fifteenth century, and no different from the inevitable changing business models that were adopted from time to time over the centuries in response to new technology (Alexander 2010: 2). Others recognise that flexibility of legal interpretation of property rights is necessary to 'accommodate cultural and technological developments and support new trends over the longer term' (Bowrey 2011: 189). Whilst it is true that the emergence of print literature precipitated the basis for current copyright law, it is indisputable that the development of a digital environment has materially impacted on copyright considerations for Australian authors. This article deals with the author's place in an ever

expanding digital public sphere, copyright and publishing implications for authors, and digital copyright challenges presented by this transitional environment. It also incorporates the 'grassroots' viewpoints of Australian authors on these issues (Cantatore 2011). First, the subject of the author in the public sphere will be addressed, followed by three examples of how authors have asserted, or alternatively, failed to assert themselves in the expanded publishing environment.

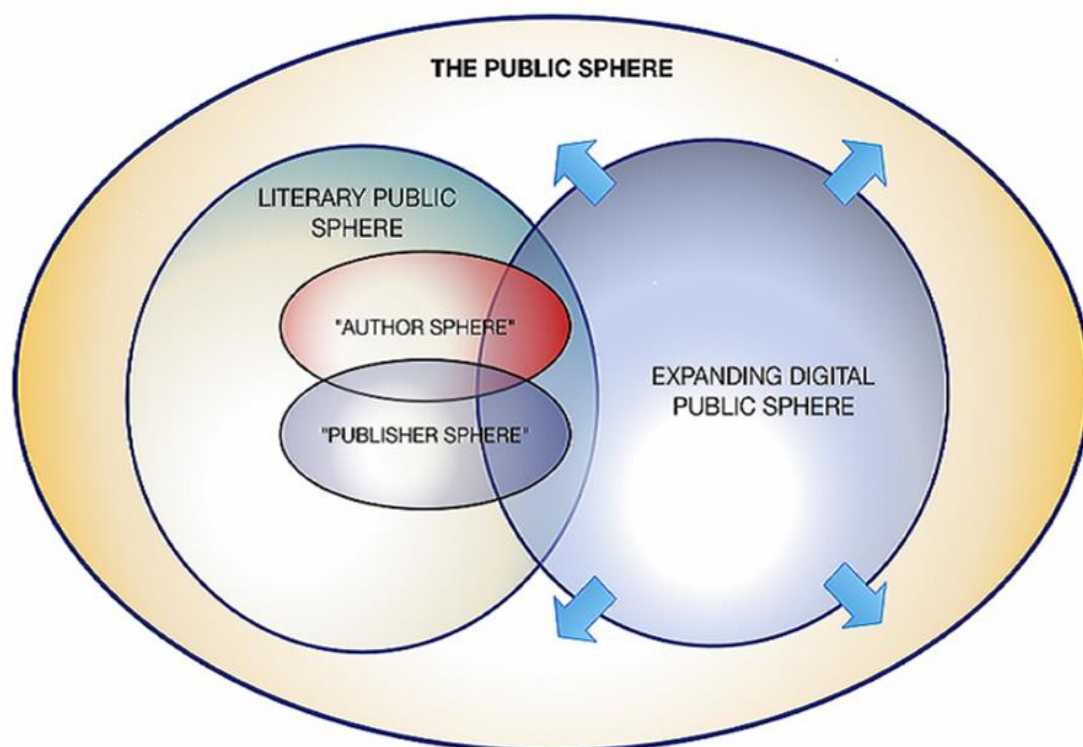
The first example focuses on the power exerted by the author group in the parallel import debate of 2009, which impacted on the Australian Government's decision not to change existing legislation dealing with parallel import restrictions on books. The second example gives an opposing view of authors' lack of power as a group to adequately exploit copyright in their creative work, a trend which is manifested in their lack of economic power and low earnings. The third sets out the relationship between authors ('the author group') and publishers ('the publisher group'), which gives rise to concerns about authors' ability to assert themselves in the publishing environment. Finally, the article will focus on some of the copyright challenges faced by authors in the digital sphere.

II Authors in the Public Sphere

Literature and the publishing industry have historically been influenced by the socio political and legal frameworks within which they flourish. Thus, the concept of the public sphere, which is central to the theories of Jurgen Habermas (Habermas 1974), and which focuses on the connective area between civil society and the state and postulates the emergence of a 'public sphere' provides a worthwhile backdrop to any discussion of the changing environment of authorship and copyright laws. It has been stated that such a sphere is capable of different incarnations depending on the population of the sphere, (Fraser 1992: 131) and it is suggested here that authors operate in one such sphere, within the realms of the wider public sphere. It is argued that this characterisation is justified by a shared interest of authors in creativity, their ability to rely on copyright protections and a need to be rewarded for their creative efforts. However, it is also necessary to acknowledge the

impediments and inconsistencies that exist within the author group, conversely calling its coherence into question. This article thus seeks to identify authors not only as members of the 'literary sphere', but also in an even more defined context as a member of the subaltern sphere of 'authors'; one of the 'private spheres' referred to by Fraser as 'competing counterpublics' (Fraser 1992: 131). This contextualisation is central to a discussion of how authors function as a group in relation to other groups such as publishers, and their perceptions of copyright. It also allows for an examination of the strengths and weaknesses of such a group and how they are affected by copyright, particularly in relation to digital copyright challenges. An illustration of the interrelationship between the 'author sphere' and 'publisher sphere' within the 'literary public sphere', and their intersection with the digital sphere, is depicted below as *Figure 1*.

Figure 1 The Public Sphere



Within the public realm, the concept of the 'literary public sphere' has been regarded as 'exceedingly fruitful for sociological investigations of literature and criticism' (Cantatore

2011: 42). It allows the investigation of literary and related developments such as copyright, within the social framework of a collective public opinion. Fraser refers to Habermas's conception of the public sphere as 'a theatre in modern societies in which political participation is enacted through the medium of talk' and 'the space in which citizens deliberate about their common affairs, hence an institutionalised arena of discursive interaction' (Fraser 1992: 110).

In this way, the public sphere has been credited with the development of a new literary and political consciousness which reflects the public view on issues ranging from common political activity to public welfare concerns. Habermas situates the emergence of this concept in the eighteenth century, identifying it as the time when the distinction of "opinion" from "opinion publique" and "public opinion" came about (Habermas 1974: 50). He points out that literary and political opinions were debated in the coffee houses of the seventeenth and eighteenth centuries, which were regarded as centres of literary and political criticism (Habermas 1989: 30, 32). Habermas further describes the literary sphere as a means of fostering a process of 'self-clarification' which enables a community of private individuals to recognise themselves as a public. This sphere is seen to include practices such as subjective letter writing and the fictional novel; however, he sees print culture as only one aspect of social relations (Habermas 1989: 28-9, 49-50). In the twenty first century discussion forums are significantly altered and extended due to technological advances but unfortunately, as discussed later in this article, this may have contributed to a disintegration of the collective voice of authors.

The influence of writers and poets in the public sphere has long since been acknowledged by commentators such as Percy Bysshe Shelley, who stated in 1821: 'Poets are the unacknowledged legislators of the world' (Hitchens 2003: i). Hitchens argues that 'often, when all parties in the state were agreed on a matter, it was individual peers which created the moral space for a true argument' (Hitchens 2003: xiii). This viewpoint supports the emergence of a 'literary public sphere', which influenced public issues and public policy in the past and arguably continues to do so.

Habermas's theory has been criticised for its limited application by Fraser, who questions his analysis of the public sphere as failing to examine other competing public spheres, as well as the assumption that a single public sphere is preferable to multiple spheres (Fraser 1992: 115). Fraser proposes a plurality of competing publics rather than a single public sphere and regards the emergence of 'private spheres' as often fixing the boundaries of the public sphere to the disadvantage of subordinate groups in the social structure. She further points out that the bourgeois public sphere was not the only public sphere in existence in the eighteenth century and proposes that there were many competing 'subaltern counter-publics', including 'nationalist publics, popular peasant publics, elite women's publics and working-class publics' (Fraser 1992: 131). Such a perception supports the notion of the existence of subaltern spheres such as a 'literary sphere' within the public sphere, which may host further subaltern spheres inhabited by authors and publishers respectively.

Social historians such as Geoff Eley supported Fraser's criticism of Habermas's definition of the public sphere and recognised that the public sphere was always characterised by conflict. Eley stated, for example, that 'the emergence of a bourgeois public was never defined solely by the struggle against absolutism and traditional authority, but necessarily addressed the problem of popular containment as well' (Eley 1994: 309). It follows that conflict will continue to arise not only between competing publics but also between popular publics and the state authorities. Two issues of interest emerge from these writings: firstly, the issue of private rights of authors as opposed to public rights and secondly, the concept of a subaltern sphere of creators, populated by authors.

Electronic media have revolutionised the public sphere by changing the models of public discourse. Carpignano et al have regarded the mass media as the new public sphere, stating that public life has been transformed by a massive process of commodification of culture and of political culture (Carpignano et al 1993: 103). In a discussion of Habermas's discursive public sphere model, Gerhards and Schafer support the idea that the mass media

constitute a third forum in the public sphere (along with the 'encounter public sphere' and 'public events') and recognise the significant impact of the mass media and specifically the internet, on society. After comparing the 'old' and 'new media' in the US and Germany and posing the question: 'Is the internet a better public sphere?', they conclude that internet communication does not differ significantly from debates in the print media (Gerhards and Schafer 2009: 2-3). However, the impact of technology on authors is evident in the emergence of a range of reading devices which allow for multimedia applications, extending the function of the printed book significantly.

The media, and more recently the internet, have thus inevitably expanded the ambits of the public sphere within which the author creates, influenced by global perspectives instead of the limited public arenas of the eighteenth, nineteenth and most of the twentieth century. To fully appreciate the context within which the author finds him- or herself in the digital technology, cognisance must also be taken of the surrounding influences of web media such as blogging sites and virtual discussion forums where authors may receive feedback and commentary on their work. Nunberg noted its cyclic function as follows:

One of the most pervasive features of these media is how closely they seem to reproduce the conditions of discourse of the late seventeenth and eighteenth centuries, when the sense of the public was mediated through a series of transitive personal relationships – the friends of one's friends, and so on – and anchored in the immediate connections of clubs, coffee-houses, salons, and the rest (Nunberg 1996: 130).

In this sense, it may be suggested that the internet resembles a new public sphere forum ('the digital sphere') within which the participants share experiences, communicate and - as it is a visual medium - publish their viewpoints. This expanded reality and move away from the printed word has thus also caused reader-response to take on a more active role.

Papacharissi questions the validity of the 'virtual sphere' as a public sphere, stating: A virtual sphere does exist in the tradition of, but radically different from, the public sphere. This virtual sphere is dominated by bourgeois computer holders, much like

the one traced by Habermas consisting of bourgeois property holders. In this virtual sphere, several special interest publics coexist and flaunt their collective identities of dissent, thus reflecting the social dynamics of the real world, as Fraser (1992) noted (Papacharissi 2002: 21).

She concludes that 'the virtual sphere consists of several culturally fragmented cyberspheres that occupy a common virtual public space' but does not acknowledge a 'public, virtual sphere' (Papacharissi 2002: 2). This view is confirmed in a later chapter where she argues that the internet does not comprise a 'virtual sphere' modelled on the public sphere, due, inter alia, to competing interests of participants (Papacharissi 2008: 230).

It is not argued here that the virtual sphere can be seen to usurp the role of the public sphere in public and political discourse, rather, this article suggests the existence of a digital public sphere within the greater public sphere, where competing interests overlap, as illustrated in *Figure 1* above.

Authors have to navigate the changing landscape of technological advancement in this constantly evolving public sphere in which the author's role (and even the concept of authorship) is not always clearly defined. Inevitably, authors' copyright has been affected by these technological advances and the increased participation of readers, who may also regard themselves as 'authors' and often freely engage in the transformative use of creative work.

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Landow points out that hypertext (electronic linking) had fundamentally changed the way we read and write. In his essay 'Twenty minutes into the future' he states:

By permitting readers to choose their ways through a particular set of lexias, hypertext in essence shifts some of the author's power to readers. Hypertext, which demands new forms of reading and writing, has the promise radically to reconceive our perceptions of text, author, intellectual property, and a host of other issues ranging from the nature of the self to education (1996, p.225).

Simone also acknowledges that anyone can add to or change a text on the internet, causing the text to gradually lose its authorship and the perception that it is the product of an author to 'dwindle in the general consciousness'. 'Writing a book is quite another thing from commenting, copying or annotating it. However, in the near future it will be increasingly difficult – even impossible – to say who is the author of a text', he says (1996, pp. 249-51).

Furthermore, in the twenty-first century, the author has entered a decentralised literary public sphere where copyright issues, amongst other issues, have undergone a transformation. Copyright enforcement has become more onerous, with authors struggling to hold on to their ostensible moral rights in the face of political and economic motivations. It may be observed that the shifting of public debate from a national to a global forum has made the enforcement of personal rights by creators more difficult due to a number of factors, for example, anti-copyright actions by Google and the difficulties associated with copyright enforcement on the internet, as will be discussed further on.

Additionally, the sub-group or counter-public (of which the author is a member) has to compete not only with other stake-holder groups, but also with a new breed of inhabitants of the digital sphere within which it exists, such as competing online 'authors'. This dilemma raises questions about the balance of power between authors and other subaltern groups, which this article seeks to address.

III Manifestations of the 'Author Group' Power

These global considerations of authorship and copyright in the digital sphere have had a significant impact in Australia, where the parallel import debate sparked a proactive involvement by authors and raised concerns about copyright protection. These issues were also central to authors' concerns in a national online survey conducted with a group of published Australian authors (Cantatore 2011). In particular, this article highlights copyright challenges experienced by Australian authors and the perception of a shifting power balance in publishing in the digital arena.

The Parallel Import Debate

In Australia, current parallel importation provisions allow a restriction on importation of printed copyright material into Australia, which provide Australian publishers with a 30-day window to distribute a local version of a book (and 90 days to resupply) before competing overseas publishers may distribute the same product in Australia (*Copyright Act 1968* (Cth) ss 102 and 112A).

These parallel import provisions were under review between 2006-2009, with lobbyists advocating the removal of these restrictive provisions in the legislation. The Australian Productivity Commission conducted an investigation into the nature, role and importance of intangibles, including intellectual property, to Australia's economic performance, as well as the effect of copyright restrictions on the parallel importation of books. Submissions were put forward by well-known Australian authors such as Frank Moorhouse, Nick Earls and Kate Grenville, forming part of the 268 author submissions to the Productivity Commission on the issue of parallel importing (Productivity Commission 2009).

In their submissions, many authors provided examples of how they felt the current parallel import restrictions (PIRs) had benefited them, or how the potential removal of the restrictions might affect them. Nick Earls argued that, allowing parallel imports would 'undermine authors' incomes', 'destroy the local market', and present 'a serious disincentive towards Australian publishers publishing new Australian books' (Earls 2008: 8-9). Garth Nix

pointed out that territorial copyright provided publishers with certainty, which encouraged them to invest in Australian authors and Australian books. Without that certainty there would be less incentive to invest in Australian books, and consequently the opportunities for Australian authors would be fewer (Nix 2008: 7). In addition, Thomas Keneally foresaw the gradual demise of the Australian publishing industry, cautioning: 'Both authors and literary agents, particularly those whose interest is explicitly Australian, would be facing shrinking resources and contracts' (Keneally 2008: 4-5). Many authors also stated that, in the absence of parallel import restrictions, they would lose control over the sales of their books. Once the rights to books were sold overseas, authors would no longer be able to control which edition of the book was sold in Australia, potentially impacting on their returns. Furthermore, some new or undiscovered authors could find it more difficult to gain attention in an open market (Productivity Commission Submissions 2008). Despite the 268 author submissions (in addition to those of publishers and booksellers), against the proposed abolition of the parallel import restrictions, the Productivity Commission recommended that the Government repeal Australia's parallel import restrictions for books (Productivity Commission 2009).

However, the final result of the investigation was that the Government, under pressure from authors and publishers, rejected the recommendations of the Productivity Commission to phase out parallel import restrictions, and retained the status quo. Whilst the brief euphoria in the midst of Australian publishers and authors was well founded, it is evident that these protective provisions would not protect authors and publishers from the evolution taking place in the digital sphere. It should be noted here that, in view of the provisions of Section 44F of the *Copyright Act 1968*(Cth), which provide that there are no restrictions on importation of electronic literary works - except that it must be a 'non-infringing copy', i.e. made lawfully in the country of origin - there are currently no parallel import restrictions on digital books in Australia.

The proactive involvement of authors in the parallel importing issue reflected an understanding that their livelihood would be directly affected by the proposed legislative

changes. Despite economic and public interest pressures advanced by supporters of the Productivity Commission's proposal, authors - in addition to publishers and other interest groups - were able to successfully harness their persuasive powers as a group in the public arena and achieve a political result. This outcome illustrates that authors, when united as a group within the broader public sphere, are capable of protecting their literary and creative interests. It further supports Fraser's acknowledgement of a plurality of competing 'subaltern counter-publics' (Fraser 1992: 131), which exist within the public sphere and may impact on the literary and political consciousness of the public view.

In light of the current copyright review by the Australian Law Reform Commission (ALRC) it is possible that authors will be required to once again harness their efforts to address future challenges to their copyright, through submissions and group representation by organisations such as the ASA. Relevantly, the Commission considers as one of its options for reform, the possible recognition of 'fair use' of copyright material in the *Copyright Act* (as opposed to the current closed list of permitted purposes for 'fair dealing'), which will allow for expanded transformative use (ALRC 2012: 24). Such an inclusion may have a significant impact on Australian authors' ability to enforce their copyright, aligning the Australian copyright approach with US provisions for 'fair use,' and moving away from European models, with which Australian fair dealing law is currently aligned.

Loukakis, on behalf of the ASA, has expressed the view that the increased exceptions proposed for the Act will be 'counter-productive' and partial, and further complicate the Act (Loukakis 2012). He suggests that, to be adequately informed in making recommendations, significant research and broad consultation with the Australian community and copyright creators are required (Loukakis 2012).

From these past and current developments, it appears that there is a continuing challenge for authors in asserting their rights in a public sphere of competing economic interests addressed by Government, and ensuring that their rights are balanced with those of the public interest.

Australian Authors' Earnings

A national online survey involving 156 published Australian authors, provided pertinent information in relation to authors, copyright and publishing in this transitional period of digitisation (Cantatore 2011). It also highlighted the diminished economic power of the author group in the public sphere. The online survey, conducted in 2011 through the ASA and writers' centres throughout Australia, formed part of a research project, in which various issues relating to authors and copyright were addressed, including authors' views on existing copyright and digital challenges to copyright (Cantatore 2011). This survey, together with qualitative in-depth face-to-face interviews with a group of twenty published authors formed the nucleus of the informing research.

The methodology utilised a strategy described by Patton as 'purposeful sampling' (Patton 2002: 40) and as 'purposive sampling' by Stake (Stake 2005: 451). Patton regarded such sampling as 'information rich and illuminative', offering insight about the phenomenon studied rather than empirical generalisation from a sample to a population (Patton 2002: 40). In comparing the differences between 'qualitative purposeful sampling' and 'statistical probability sampling', he described purposeful sampling as follows: 'Qualitative enquiry typically focuses on a relatively small sample... selected purposefully to permit enquiry into and understanding of a phenomenon in depth' (Patton 2002: 46). The research sought to achieve such an understanding of authors' views on copyright through the use of the survey and semi-structured supporting interviews. The anonymous survey questionnaire consisted of 42 questions over 7 pages, under the following headings: *Demographic information, Your views on copyright, The existing copyright framework, The publishing industry* and *Publishing on the internet*.

Demographically, the respondents represented all Australian states and territories. Approximately one-third of survey respondents were full-time authors, i.e. engaged in full-time writing activities. Part-time authors were engaged in other employment, apart from their

writing. The sample group with an average age of 45, included several fields of creative writers including; fiction, poets, nonfiction and academic authors. Approximately 54 per cent of the respondents described themselves as fiction writers, 14 per cent as poets, 23 per cent as non-fiction writers and 6 per cent as academic authors. Whilst the survey presented certain limitations (such as being limited to online access, and time and resource constraints), based on the purposeful sampling strategy with the inherent purpose of 'in-depth understanding' as identified by Patton (Patton 2002: 230), the results of the survey provided sufficient data for meaningful analysis and discussion of authors' views on copyright issues within the framework of the research.

The earnings disclosed by the surveyed authors, in particular those derived from their writing, reflected a disconcerting trend. Significantly, one-third of respondents - which equated to nearly 18 per cent of the full-time author group (some of whom were retirees, or received income from other sources, such as investments) and over 41 per cent of the part-time author contingent - only earned 'between \$1,000 - \$2,000' per annum from their writing. Over both groups, this income bracket represented by far the largest number of respondents, with the second largest group (just over 15 per cent) falling in the '\$5,000 - \$10,000' bracket.

Only two full-time authors declared an income in excess of \$150,000 per annum from their writing. The lowest recorded incomes for full-time authors fell in the '\$1,000 - \$2,000' category, whilst the lowest writing income recorded for part-time authors was 'nil'. The highest part-time income was 'between \$90,000 - \$95,000'. Significantly, nearly 62 per cent of all respondents earned less than \$10,000 per annum from writing and writing related activities.

Approximately 57 per cent of full-time and 92 per cent of part-time authors disclosed another income source in addition to their writing income. The professions and sources of income were varied and included 66 diverse descriptions, including:

'librarian', 'website designer', 'government position', 'actor', 'teacher', 'Centrelink', 'pension', 'self-employed', 'journalism', 'investments', 'part-time job at Foodland',

'university professor', 'freelance editor', 'freelance illustrator', 'theatre director', 'playwright', 'waitressing', 'arts administration', 'academic', 'chairman', 'public sector employee', 'retail', 'media work', 'academic teaching and research', 'partner/family support, grants', 'casual tutor', 'business consultant', 'marketing manager', 'freelance editing', 'consultant solicitor', 'town planner', 'part-time cab driver', 'research technician', 'expedition staff on ship tours, graphic design', 'share portfolio', 'software development', 'media training', 'retail business', 'business management consultant', 'administration', 'public servant', 'office work', 'gardening, cleaning, care work' and 'builder's labourer'.

These observations indicated that many Australian authors were earning even less than their counterparts (such as performing artists) in the arts industry, as previously reported by Cunningham and Higgs (Cunningham and Higgs 2010: 4), with authors reporting a higher incidence of multiple income sources. It was also evident from the list of job descriptions that many respondents were employed in capacities completely unrelated to writing and that many also relied on savings and investments. It is disturbing that the largest group of respondents fell in the category of earning only \$1000 - \$2000 per annum from their writing, including nearly one in five full-time authors.

The findings echoed the observations of Cunningham and Higgs 'that arts employment is characterised by high levels of part-time work (Cunningham and Higgs 2010: 5). In addition, it confirmed a study by Throsby and Zednik, funded by the Australia Council, entitled *Do you really expect to get paid: An economic study of professional artists in Australia* (2010). The study, an extensive research project - which focussed on the income of Australian artists and involved 120 occupations, including writers, dancers, musicians and visual artists - established that 69 per cent of writers had earned less than \$10,000 per annum from their creative work in the 2007/2008 financial year, while only 4 per cent earned more than \$50,000.00 (Throsby and Zednik 2010: 46). The findings from the 2011 online survey corroborated that this remained the case, with only slightly fewer of the surveyed authors earning less than \$10,000 per annum from writing and writing related activities. This indicated a trend that writers consistently are unable to earn a living from their writing.

In a wider context Hesmondhalgh and Baker found in their UK study of three cultural industries (music, television and magazines) that there is strong evidence that suggests workers in the creative industries will work for little or no income to 'get a foot in the door' (Hesmondhalgh and Baker 2011: 35). They also highlighted the difficulties associated with the working in the cultural industries, such as a lack of pension, a lack of income and the corresponding need to take on additional freelance work to supplement their income (Hesmondhalgh and Baker 2011: 36).

Why do authors earn so little? One underlying factor appears to be a lack of financial motivation. Significantly, just over half of survey respondents disagreed that they regarded copyright as an incentive to create. Nearly 90 per cent of full-time and more than 93 per cent of part-time authors stated that they were mostly motivated by personal satisfaction. Over 45 per cent of authors also rated 'achieving recognition' as an important motivating factor, indicating that there was some overlap in their purpose, with some respondents being equally motivated by personal satisfaction and achieving recognition.

Thus, this sample showed overwhelmingly that most respondents did not regard copyright as an incentive to create (or a financial incentive) and were focused instead on personal satisfaction and achieving recognition for their efforts. Most authors, and first time authors in particular, did not concern themselves with copyright during the creative process. Instead, they generally only became concerned about copyright at the publishing stage and saw the value of writing resting in 'the doing of it' rather than financial reward.

Considering the low income levels obtained from writing, it may be observed that these authors do not appear to be 'rational maximisers' in the economic sense but largely create for the love of writing. This viewpoint indicates a failure on the part of the authors to fully appreciate and exploit the connection between their copyright and economic reward for their creative work. The fact that most of the authors surveyed were reliant on other sources of income and unable to sustain themselves on their writing income alone, support the contention that many authors are not adequately rewarded for their efforts. These findings

also explain, to a large degree, why the authors in question continued creating despite low financial rewards.

These findings also demonstrate that, at this critical juncture in publishing and migration of printed work to the digital media, Australian authors appear to lack cohesion as a group and do not actively promote their own interests. Not only do they engage in a variety of unrelated professions and fields of writing, but the solitary nature of the writing profession adds to their isolation. Apart from the ASA, there is no industry body - such as the Media and Entertainment Arts Alliance (MEAA) - to lobby for and protect the rights of authors. This lack of unity translates into an inability to improve their economic power as a group, and questions whether these problems collectively may prove an irreparable obstacle in authors' ability to assert a united subaltern sphere of authors.

Hesmondhalgh and Baker also recognise these difficulties experienced by workers in the creative industries and note that:

'The great 'army' of freelancers sustaining the cultural industries have little access to the financial and psychological benefits accruing from strong union representation.' (Hesmondhalgh and Baker 2011: 36).

When viewed in a philosophical context, authors' lack of economic power further indicates a significant weakness, even a disability, in the inherent structure of the author group. Such problems and disabilities can only be addressed by authors becoming more active in asserting their financial interests when publishing, and raising Government awareness and recognition of the needs of authors, as they did in the case of the parallel import debate.

Authors and Publishers: Revisiting the Power Balance

Traditionally, the author-publisher relationship has reflected a perceived lack of power in the author group. Authors' comments in the Australian online survey acknowledged that the challenge of finding a willing publisher was a significant obstacle for authors, especially

emerging authors (Cantatore 2011:193). It was noted in the research, for example, that publishers received thousands of unsolicited manuscripts each year, of which very few were being published, as few as five in the case of HarperCollins (Allen & Unwin 2012). Publisher Allen & Unwin published approximately 250 titles a year out of approximately 1000 submissions (Allen & Unwin 2012). A clear dynamic emerges from these observations, identifying the author group as distinctly weaker, when viewed in the context of Fraser's competing counter-publics (Fraser 1992: 131).

Publishing difficulties were also reflected in the findings, which showed that authors who secured publishing contracts typically regarded themselves as fortunate and were loathe to jeopardise their good fortune by appearing too demanding when offered a contract. These observations are consistent with the finding that many authors express either a timidity of publishers, or an excitement at being published, that cancels out any inclination to question standard contracts, or both. It was found that first time authors are generally perceived as having little or no negotiating power with a general disposition of gratitude at being published. This perception was also borne out by the fact that 90 per cent of respondents acknowledged the difficulties faced by first time authors in getting published.

In their study Hesmondhalgh and Baker acknowledge this entry-level problem that workers in the creative industries face -with reference to the music, television and magazine industry - by indicating how entry is contingent upon certain 'gate keepers' of the industry:

workers expressed concern about their 'replaceability' – recognising, from their own experiences of job searching 'between' contracts, the sheer volume of young freelancers competing for the same pool of positions (Hesmondhalgh and Baker 2008).

It was further apparent that, although some Australian authors regard the standard publishing contract as negotiable to a certain extent, the degree of negotiability would largely depend on the author's standing and proven sales figures. It was commonly acknowledged that high profile authors such as Tim Winton or Bryce Courtenay would have substantially more negotiating power than a relatively unknown author. It was also noted that publishers'

promises were sometimes reminiscent of election promises, the 'before' and 'after' signing of the contract. The important observation that film and merchandising rights should not automatically be part of the contract, unless the publisher could demonstrate the ability and intention to pursue such rights on behalf of the author, emerged from these findings. Significantly, it was found that in the important area of publishing contracts, authors have not made any cohesive efforts to protect their publishing interests. The survey findings showed that almost two-thirds of authors dealt directly with their publishers and were generally not inclined to assert themselves, whereas only approximately one in five used an agent.

A number of discrepancies were apparent in a comparison of a current standard mainstream Australian publisher contract (SPC) with an ASA 'model contract' for authors (ASAC) (Loukakis 2010b). Whilst it could be expected that both author and publisher groups would wish to include provisions favourable to themselves, the discrepancies were considerable. The SPC was skewed significantly in favour of the publisher, and the ASA expectations remained a 'wish list' in many respects. Disparities existed in relation to provisions such as indemnity clauses, remainder clauses, title changes, the calculation of royalties - 'net receipts' as opposed to 'recommended retail price' ('RRP') - and royalties on ebooks, which all favoured the publisher.

For example, in respect of royalties, the ASA cautioned against including a provision for royalties to be paid on the 'publisher's net receipts' (the RRP less the publisher's discount to booksellers), stating that royalties should be payable on the RRP instead. However, the publisher's SPC based royalties on 'net receipts (being the actual sum received by the Publisher)', and not on the RRP. This discrepancy means that, although both contracts make provision for royalties of 10 per cent to be paid on the first 4000 copies sold, the financial outcome to the author would be substantially lower in terms of the SPC than the recommended ASAC.

Furthermore, the SPC determined that a royalty of '10% of the publisher's net receipts will be payable on all electronic sales', whereas the ASAC included a provision that a royalty of '25% of the RRP be paid on all electronic sales (ebooks)'. This appears to be a

significant difference, and it is submitted that the ASAC provision is more equitable, considering the reduced printing costs to the publisher, and the royalties paid by online publishers. Lulu pays authors approximately 56 per cent in royalties, whilst online publisher Smashwords, offers authors royalties of up to 85 per cent. These percentages are considerably higher than the percentages offered by mainstream publishers, however it is conceded that for the most part, these authors do not have the support and exposure provided by traditional print publishers.

It is significant that several of the clauses, such as the method of calculating royalties and the price of the book, appeared to be financially biased in favour of the publisher. In fact, in comparing the contracts it is submitted here that there is strong evidence to suggest that the expectations of authors are seldom, if ever, met, and that the standard publisher's contract favours the publisher in most, if not all respects. This trend suggested a lack of power on the part of authors vis-à-vis publishers.

These discrepancies may be due to authors not having an agent and a range of other factors, including inertia or a lack of interest on the part of authors. The fact that only approximately 17 per cent of respondents in the survey stated that their publishing contracts were satisfactory, suggests that authors tend to accept the terms of publishing agreements offered to them even though they may be less than satisfactory. The findings therefore show a distinct need for author education on the issue of publishing contracts, especially in relation to digital rights, as discussed further on.

These results also tie in with the acknowledgement – as early as 1999 – in the Australian Copyright Council report, *Copyright in the New Communications Environment: Balancing Protection and Access*, that the protection afforded to copyright creators and owners under Australian copyright was being altered by developing digital communications technologies (McDonald 1999).

With regard to overseas publications, some of the interviewees felt that it was more beneficial for authors to negotiate directly - or through their agents - with overseas publishers, rather than with local publishers. For example, a bestselling author commented that authors

would be well-advised securing contracts directly with international publishers to avoid paying a domestic publisher 'middleman costs', which often included paying a foreign agent a part of the royalties. An example of an Australian author who has done this successfully is crime author Peter Temple, who published his award winning book *The broken shore* with British publishing house Quercus in 2006, and sold close to 100,000 copies in paperback.

On a broader level, the current publishing situation is reflective of the limitations imposed on the author in the 'author sphere' within which they operate, vis-à-vis the financially more powerful 'publisher's sphere', both of which are contained within the 'literary public sphere, which is part of the larger public sphere illustrated in *Figure1* above. It can be observed that the principle of supply and demand is manifested in this seemingly inequitable power balance, with writers clamouring for publication opportunities and publishers being able to dictate the terms of their offerings.

Furthermore, authors have to adapt to changing copyright considerations as a result of a changed literary public sphere, which has been recast within the digital environment. In this regard, Vaidhayanathan's comments regarding the connection between copyright and the public sphere are relevant - 'copyright's subsequent transformations coincide with the general structural transformation of the public sphere' (Vaidhayanathan 2001: 6). The findings suggest that authors are neither sufficiently empowered to deal with existing copyright challenges posed by publishing contracts, nor are they able to successfully negotiate the changing demands of the digital sphere.

However, online publishers such as Mark Coker, founder of Smashwords, believe that the digital era heralds a new era for writers in the publishing world. In his article '*Do authors still need publishers?*' he predicts that the power centre in publishing will shift from publisher to author, and the traditional line between the two will continue to blur, causing authors to become their own publishers and commercial publishers to become service providers (Coker 2009). However, this online survey showed that this was not yet the case, with only approximately 17 per cent of the online survey authors self-publishing online and 46 per cent relying on their publishers to do so. Nevertheless, if one considers the wide

range of publishing options on offer by online publishers such as Amazon, Smashwords, Scribd and Lulu, it can be argued – in spite of the associated challenges - that the opportunities offered by digital publishing, present the catalyst first time authors have been waiting for but have yet to fully realise. This transitional phase clearly evidences a need for the author group to integrate and interact more effectively with the digital sphere to harness the significant possibilities it offers.

The recent conviction of Apple in the case of *United States of America et al v Apple Inc et al* (2013) for anti-trust collusion with five large publishers to increase the price of e-books, will also have repercussions for authors and traditional publishers. Whilst regarded as a victory for the consumer, the lawsuit illustrates the power wielded by large online publishers to control ebook prices and ebook libraries of readers. Apple has indicated it will appeal the decision (Quain 2013), raising further concerns for authors about the control exerted over their ebook sales by online publishers. This is not an issue confined to the United States. In 2012, Apple settled a separate ebook price-fixing case with the European Commission, without admitting wrongdoing (Flood 2012).

American authors have joined in the challenge in a related issue, to ensure availability of e-books in libraries (Authors for library e-books 2013). However, author involvement has been limited and at present, publishers are charging libraries as much as five times the normal price for e-books, e.g. an e-book selling to consumers at \$10, could cost the library \$50 (Doctorow 2013). Authors want to be read, and these practices by large publishers have a negative effect, not only on libraries that may not be able to afford such purchases, but also on readers and authors.

IV Digital Copyright Challenges

Although some authors have already benefited from new publishing opportunities in the decentralised literary public sphere of the internet, copyright enforcement has become more onerous as a result. The Australian survey findings showed that almost four-fifths of all respondents were concerned about their digital copyright (Cantatore 2011: 210). Most of the

author comments related to theft of work on electronic media or 'online piracy'. Some authors cited instances of copyright breaches on their internet publications without any apparent solutions.

It is significant that, although they acknowledged that illegal online copying was a real concern for them as the current copyright structure did not seem to address the problem adequately, over half admitted to doing nothing to protect their copyright online. Several survey respondents specifically cited a lack of knowledge on ebook copyright as a problem and voiced concerns about a lack of time and funds to pursue copyright breaches on the internet. Whilst these concerns were common amongst authors, equally prevalent was the lack of any action taken with regard to copyright breaches. In addition, publishers did not provide a shield for authors against online copyright infringement, with most authors and publishers accepting the inevitability of copyright infringements on the internet.

Those authors who took protective steps employed different measures to protect and regulate the use of their online copyright material. Significantly, less than one-fifth of survey respondents used digital rights management (DRM) to prevent the copying of their work. Some expressed reservations about the use of DRM and described it as 'a barrier' to readers buying their books. Whilst most respondents stated that it was impossible to protect their copyright online, just under a tenth favoured flexible licensing models - such as the Creative Commons - which recognise the author's moral rights and provides licensing options pursuant to the provisions of section 189 of the *Copyright Act 1968* (Cth).

Although the Creative Commons has been in operation for 10 years, less than half of survey respondents admitted that they were not familiar with the concept, while approximately 36 per cent expressed support for the Creative Commons. Considering the nature of the respondents (published authors) one may have expected a greater awareness of this licensing option. It is noted however, that interviewees who supported the Creative Commons were generally also bloggers, who had more internet knowledge than others who had not previously published work online. It appears that this provides an opportunity for the Creative Commons concept to be better marketed to this group of professionals who would

be a logical stakeholder group. However, a significant drawback of the Creative Commons licensing scheme is that it does not prescribe licensing fees or financial remuneration for participants due to its voluntary character.

As an alternative protective measure, nearly 36 per cent of the survey respondents stated that they posted warnings on their websites or on the creative work itself, and 13 per cent used 'other means' of copyright protection such as relying on their publishers and taking note of daily Google alerts advising of illegal file sharing sites. Although Loukakis has warned ASA members against piracy (Loukakis 2011: 29), many authors lack the knowledge and means to take protective action.

Significantly, as some authors pointed out, the problem with protecting online copyright was that it was usually not commercially viable to pursue offenders in the case of a breach. It was noted that international copyright was a grey area and that legal advice would not necessarily help to resolve practical issues. The findings showed that the prohibitive costs of protecting their copyright and litigating overseas was a stumbling block for most Australian authors, which was evidenced by the absence of Australian copyright litigation on books.

An issue of specific concern to authors was how the internet impacted on their existing territorial copyright, the dilution of which seemed inevitable. It was suggested by some authors that it would be short-sighted for countries to attempt territorial changes - such as the suggested lifting of parallel import restrictions - when publishing agreements were already being impacted by digital technologies. Others saw no reason for dividing territories up geographically where digital rights were concerned, arguing that consumers would expect to have access to digital contents worldwide, irrespective of where they lived. The findings also showed that the possibility of self-publication had effectively removed traditional territorial barriers for authors.

It is evident that most publishers have already come to the realisation that they need to acquire worldwide digital rights when they purchase a book and that authors and organisations such as the ASA are becoming acutely aware of the importance of world

digital rights (Loukakis 2011: 29). Relevantly, at if:book Australia authors are advised to question publishers on their intentions with the world rights on their book, to ascertain whether it will be worthwhile to sell them to a particular publisher (if:book Australia 2013).

These comments support the argument that the internet has expanded the boundaries of copyright protection and that current legislative structures may not offer authors the necessary protection. Several authors mentioned the need for new copyright solutions, although the findings showed divergent views on the subject. While some suggested that authors should be more proactive in their approach to copyright, others were of the view that the existing copyright structure was insufficiently suited to copyright use in the digital domain. Most authors showed an awareness of the challenges facing their profession in the expanding literary sphere in the digital domain but - perhaps not surprisingly - not many solutions were being offered. Authors who were most optimistic about the future of online publishing acknowledged the limitations of DRM technology, yet there appeared to be few other viable income producing copyright options available.

The apparent inertia on the part of authors in this regard is reflective of a lack of cohesive thinking on copyright issues. As noted above, the altered literary discussion forums also fail to provide a 'public voice' for the author group within the broader public sphere and to promote their collective power as a group.

In their recent report, the Book Industry Strategy Group (BISG) recognised the problems associated with protection of digital copyright and the necessity for reform (BISG 2011). They recommended that the ALRC should 'consult directly with the book industry through its author and publishers associations when it next reviews copyright issues' (BISG 2011: 68). Furthermore, they suggested that the Government (through the Attorney-General's department) should work with internet industries, to adopt a binding industry code on copyright infringement by internet service providers, to protect online copyright. These recommendations are commendable, but would require not only a focused intention by the ALRC and Government to alleviate current digital copyright concerns, but also practical and enforceable measures, such as the punitive sanctions and anti-piracy copyright education

campaign proposed by the ASA (Loukakis 2011: 6). The current review by the ALRC addresses digital copyright reforms, but the emphasis of the Issues Paper envisages the introduction of public interest benefits (such as the extension of 'fair dealing' to 'fair use' exceptions) (ALRC 2012: 24), rather than protective measures for creators. In this, it falls short of dealing with these vital concerns facing authors in the digital sphere.

There also exist increased problems regarding the collection of royalties internationally. A number of authors voiced the concern that copyright measures and royalty schemes based in Australia did not sufficiently address the issue of loss of revenue from overseas sources, such as sales on the internet and copyright infringements which occurred overseas. This concern is being fuelled by the blurring of territorial copyright zones as a result of new media structures and the expanding use of electronic devices. It is evident that these problems can only exacerbate as online publishing becomes more prevalent and territorial borders become less defined.

Surprisingly, the findings revealed that many authors did not favour a hard line enforcement of electronic copyright. There were those who saw the internet as a marketing opportunity and employed 'soft' licensing practices such as the Creative Commons, and others who were happy to provide their creative work not only DRM free, but also free of charge. The findings also showed an increased awareness of the necessity for changing business models and a need to embrace the digital market, as proprietary branded electronic readers become more widespread.

Although the Productivity Commission study on parallel importing (Productivity Commission 2009) raised authors' awareness of the dilemma of territorial copyright - which relies on the enforcement of copyright law as a national prerogative - the digital sphere has made it increasingly difficult to cling to existing copyright models. Territorial copyright protection is in a state of flux, as is evidenced by the inevitable encroachment of online booksellers, such as Amazon, on these rights by selling books across international borders. Significantly, section 44F of the *Copyright Act 1968* provides that there are no restrictions on importation of electronic literary works, except that it must be a 'non-infringing copy' (i.e.

made lawfully in the country of origin), thus significantly affording no parallel import protection on digital books.

However, in Australia - as in the case of the UK and USA - territorial rights remain in existence. Although the ASA has cautioned authors to ensure that these rights remain protected in the digital domain (Loukakis 2010a: 9) it is clear that authors will find this advice more and more difficult to implement, considering the global reach of the online book market, which has made it unlikely for any publisher to accept a book without securing the world rights. This trend points to a dilution of the value of territorial rights, which supports Young's earlier contention that the industry requires a new copyright infrastructure (Young 2007: 158-9).

It has also become apparent that licensing terms and conditions are becoming paramount in the digital milieu, especially in relation to ebooks, such as Kindle sales. This trend reflects the observations of John and Reid (2011), that owners' and users' copying rights are now being determined more by individual licenses and less by provisions in copyright law than in the past. It also supports Young's contention (Young 2007: 158-9), that copyright requires a re-assessment in the digital environment. At the very least, Australian publishers and authors must apply close scrutiny to the terms and conditions of international electronic licensing agreements such as Google and Kindle agreements, to avoid the power of the individual –both author and localised publisher—sliding backward as global publishing giants advance forward.

The Google Initiatives

A pertinent issue of consideration for authors in the future, is the extent of Google's innovations on the internet. Google's unauthorised scanning of books constituted a breach of existing copyright law, as evidenced in *The Authors Guild et al v Google, Inc* (2011) yet nevertheless some authors saw merit in their actions. Despite some authors expressing unequivocal criticism for Google's disregard for traditional copyright considerations and the

proposed 'opt out' model, the possibility of making previously out of print works available online, was seen by others as a significant benefit for authors and readers. It was surprising that just over a third of the survey respondents admitted to being unfamiliar with the highly publicised Google Settlement, considering the inroads such a settlement would have made on authors' copyright globally. It was also evident that, although most authors were aware of the Google Settlement, they lacked in-depth knowledge of the ramifications for them as authors. Whilst some authors were of the view that 'the end justifies the means', others were highly critical of Google's high-handed approach, whilst a third group had a 'wait and see' approach.

The conflicting viewpoints in the survey findings are consistent with Strowel's observations that Google would have created opportunities for authors to benefit from previously out of print publications, which would benefit the public as a whole; and his converse criticism that Google's actions were transgressing accepted copyright norms, due to the proposed opt-out provisions (Strowel 2009: 7, 18). Strowel's further concern about the possibility of Google acquiring a highly dominant position for the future delivery of new digital books, and exerting too much control over existing books was also supported in the findings (Strowel 2009: 15). More than two-thirds of respondents were uncertain about whether they would be prepared to license their work to Google in the future. These results showed a distinct lack of understanding and/or trust on the part of authors in relation to the Google initiatives. It was thus evident that the authors had quite disparate views on the Google issue. The divergent viewpoints reflected the reality that, in some respects, the 'author group' is not homogenous and may differ in their approach to digital innovations. Author Nick Earls commented pragmatically on the Google initiatives:

I think it would be great if new technologies improved access in the range of ways that they can, but not at the expense of the author, and in a way that acknowledges the author as the creator of that product. The author needs to receive some compensation for the use or sale of his work (Cantatore 2011: 215).

Although Google did not succeed in obtaining Court approval for its proposed Amended Google Settlement, the lead-up to the case signified a major shift in the application of copyright law. It is however evident that the proposed model would have to be revised substantially to have any prospect of gaining acceptance by the Court. Judge Chin of the New York District Court condemned Google's actions as being in breach of existing copyright laws, being predicated upon an 'opt out' instead of 'opt in' model. The case is on-going and set to proceed to trial.

Additionally, the related 2011 *Authors Guild v HathiTrust* case against USA libraries and the HathiTrust for the scanning and digitising of library data bases, provided a further dimension in the book scanning dispute. The lawsuit, filed in September 2011 in the Southern District Court of New York by the Authors Guild (joined by the ASA and several authors), described the unlawful scanning and digitising of library databases as 'one of the largest copyright infringements in history' and sought an injunction against the defendants as well as an order impounding all unauthorised digital copies under their control (*Authors Guild* case 2011: 4, 22-3).

As noted above the Court held that the HathiTrust's actions were protected under the USA 'fair use' legislation, providing a stark reflection of the impact of digitisation on the rights of copyright holders worldwide, and the Plaintiffs have filed an appeal. This is a landmark case in the dilution of authors' copyright in the digital environment, unlike the 1975 Australian *University of NSW v Moorhouse* case which resulted in protective measures for Australian authors in relation to unauthorised copying of their printed work.

Apart from the Google Settlement, it is evident that Google has already successfully implemented certain licensing agreements in relation to its Google Books store, where, pursuant to Partner Program Agreements (Google Books Partner Program 2012), with publishers, it is able to display portions of books online, varying in content depending on their agreement with publishers. The survey findings included examples where these publisher agreements had been concluded with Google without the author's knowledge. For example, one author reported that she had seen her book on a Google Books search and

had been disturbed by the amount of content displayed for viewing, without the publisher notifying or consulting with her. Such occurrences raise concerns about the consideration given to authors' interests by publishers in the online publishing process, emphasizing the need for closer collaboration between authors and their publishers.

V Conclusion

These issues are indicative of the changing copyright expectations in the digital sphere during a critical time of transition. Copyright has historically had a reactive, rather than proactive, function towards changing technology. Decherney, in examining the development of copyright in the film industry, has argued that the film and television industries "have struggled to influence and adapt to copyright law throughout their history", and further that the Hollywood film industry has responded to copyright skirmishes by self-regulation (Decherney 2012: 2). The publishing industry, and authors in particular, face similar challenges and are required to respond to technological changes in a timely and effective manner.

Copyright laws have traditionally adapted to changing technology to meet the needs of copyright users, as was evidenced by the *Sony Corporation of America v Universal City Studios* case in 1984. That was the purpose when the English Crown started to regulate Caxton's revolutionary printing press technology (Goldstein 2001: 5), and it remains a focus of copyright legislation today. How authors cope with this transition depends on how they deal with the challenges to their copyright and utilise the opportunities that arise as a result of technological change.

This article shows a need for authors to strengthen their position as a creative group in the literary sphere, not only with regard to their copyright protection but also in relation to publishing relationships. The various developments – Google and HathiTrust initiatives, territorial copyright issues and electronic rights – represent crucial issues for authors to stay abreast of. The dynamic, even chaotic nature of copyright in the contemporary environment is confusing for authors, rendering them paralysed in the face of irreparable change. Clearly,

the 'author group' requires a stronger and more proactive presence to benefit individual authors and the creative writing community as a whole.

The recent attempts by Apple at price-fixing and their ongoing defence in the anti-trust case also raise concerns for authors, who appear to have little or no control over their ebook pricing. This is also evident in the practice by large publishers to charge libraries exorbitant prices for the acquisition of ebooks (Doctorow 2013). Even more concerning is the trend whereby publishers are ceding ever-larger parts of their business to ebook vendors such as Apple, Google, and Amazon (Doctorow 2013), empowering the online giants further in their quest for control. These developments indicate an urgent need for authors to become more actively involved in the ebook pricing debate.

As the parallel importing dispute showed, when authors act collectively as a group they are able to achieve meaningful political and legislative objectives, but a common objective is needed. Their ability to respond to current proposed changes to the Australian *Copyright Act* may influence the outcome of the current ALRC review, which does not deal specifically with protective measures for authors' online copyright, taking instead an economic approach focussed on public benefit considerations (ALRC 2012). These proposed changes may directly impact on authors' ability to protect their copyright online.

It has been suggested here that authors may be seen to operate in a 'subaltern private sphere' of authors, an incarnation made possible due to the common characteristics of the population of the sphere, within the realms of the wider public sphere advocated by Habermas. It has been argued that this characterisation is justified by a shared interest of authors in creativity, their ability to rely on copyright and a need to be rewarded for their creative efforts. As a currently disempowered economic group within this public sphere arena, it is clear that they are faced with ongoing competition, not only from political and economic initiatives by Government but also from other subaltern groups, such as publishers.

Additionally, they face competition within the author group itself – especially in the realms of digital publishing - which amplifies their dilemma, and calls their coherence as a

group into question. Their lack of economic traction also emphasises the need for authors to collaborate and empower themselves in the digital forum.

Primarily, authors need to equip themselves to deal with the challenges of new media technology to ensure that they are adequately rewarded for their creative efforts, and to exert power as a significant stakeholder group in the digital environment. Shifting the power balance to a significant degree will thus require more integration between the 'author sphere' and the evolving 'digital sphere'. It will also necessitate an increased familiarity with electronic licensing agreements and copyright protection measures, knowledge of publishing options and a stronger awareness of royalty provisions and pricing structures. Finally, it compels authors to assert their rights as creators and to be consistently proactive in addressing future copyright challenges.

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