The Conventions and Regulation of Book Culture

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T HE PRODUCTION, RECEPTION AND CONSUMPTION OF BOOKS ARE SHAPED BY COMPLEX systems of policy, conventions and traditions. These range from formally consecrated legislation and official industry and organisational codes of conduct, through to those conventions that govern literary merit, genres, questions of 'taste', and the value placed on the book as a cultural object. This special section of the *Australian Humanities Review* explores the ways—both tacit and explicit—in which book culture is regulated, with a particular focus on contemporary Australian book publishing. The essays engage with the laws of book culture, identifying these formal and informal rules, and exploring how they influence the workings of the field.

Government policy has long shaped the production, circulation and consumption of literary texts in Australia. Copyright legislation, importation regulations and the public funding of authors, events and prizes are integral parts of the fabric of Australian publishing, influencing author careers, book production, bookselling and national literary tastes. In his articulation of contemporary cultural policy, David Throsby (*Economics* 26; 'Commerce') observes the ways in which government support for arts and culture, through public funding and legislative regulation, is motivated by a desire for growth within the cultural sectors. The publishing industry, structured as it is by both cultural and commercial imperatives, shares common goals with cultural policy, leading to the development of a mutually beneficial and often commercially generative relationship between the two. The production of books in Australia exists within

a policy framework that, often through regulatory mechanisms, is economically supportive. The result of this framework has profound radiating effects (Australian Society of Authors; Donoughue; Glover; Shapcott). Authors, who are supported financially to produce literary texts; literary events, that celebrate authors and the public life of literature; publications and small publishers, that curate and disseminate literary works; and structures of bookselling in Australia: each of these individuals and institutions operates explicitly within a system of policy decisions.

An example of the relationship between policy and literary culture is the funding of the literary arts through both the Australia Council's Literature Board and through State-based arts departments (Glover). Both of these have long existed to support writing careers and promote Australian literature locally and internationally through competitive grant programs, festivals and prizes, and industry bodies (Shapcott). What attracts government funding, or recognition from government-supported prizes or events, significantly influences the national literary character and the notions of literary merit that define cultural tastes. Funding decisions, therefore, influence not only what is published but also literary convention and the structures of power that define the industry. However, beyond funding, the continual deregulation of the industry has similarly influenced publishing structures and the circulation of literary texts. In the early-to-mid twentieth century, the Australian publishing and bookselling sector was insulated from the whims of the open market by policies such as: the Traditional Market Agreement, which protected long-standing colonial ties with the British publishing industry; Statement of Terms regulations that fixed retail book prices; and strict obscenity laws that saw the censorship of books like James Joyce's *Ulysses* (Glover; Coleman). And while parallel importation regulations remain a contested aspect of Australian bookselling practice, it could be argued that deregulation around which books are published and sold, and the price that they are sold for, has made the Australian publishing industry a viable book market within the Anglophone literary sphere, and has influenced the reading tastes of the nation.

The laws of publishing, however, are not confined to legislation, policy and government regulation. The laws of taste, reputation and power that underpin the production, reception and consumption of books often do so in ways that are only implicitly understood. These laws are generative and self-fulfilling, and rely on the explicit endorsement of powerful actors and institutions (Dane). The 'rules of art', as articulated by Pierre Bourdieu, offer both a metaphoric and a literal description of the ways in which the exchange of capital structures the publishing field and the circulation of literary texts. This structure is central to not only the ways in which systems of taste are established, but also how legislation and policy are enacted and understood in the contemporary Australian literary field. Bourdieu calls the

system of taste production the 'power of consecration', wherein the power to define the parameters of artistic and symbolic value are vested in the individuals and institutions that have garnered the support for and belief in their authority to do so by their peers. For example, agents operating in the contemporary Australian publishing industry look towards consecratory institutions like the literary prize as 'mechanisms by which the literary field establishes notions of literary value' (Stinson), thereby confirming the power of literary prizes as institutions with the authority to do so. This implicitly understood operating structure flows into how governments seek to support and celebrate Australian literary activity, bolstering the introduction of State Premiers' and Prime Minister's Literary Awards to the point where they are now chief among the methods by which governments fund authors and writing institutions.

In a post-digital publishing paradigm, where methods of publication and national literary borders continue to flatten, the laws of publishing continue to exist within both explicit policy and implicit cultural contexts. Taking our lead from publishing studies scholars like Mark Davis (Davis), we import this term 'post-digital' from media studies to describe the pervasive commingling of print, digital and live media and modes of engagement: the 'messy and paradoxical condition of art and media after digital technology revolutions' (Andersen, Cox and Papadopolous). In such an environment, practices of publishing, reading, and discussing books increasingly take place online. These practices occur on websites and platforms that are variously commercial, literary, cultural, or not bookish at all, ranging from Amazon or Goodreads reviews, to online book clubs and writing groups, to sub-threads on forum sites like Reddit, and Facebook pages and groups.

This shift has multiple consequences for the regulation of literary culture. Firstly, the practices and products that make up literary culture—the act of publishing or reading a book, the ways that people come together to talk about books, the book objects themselves—are changing. This has obvious implications for many regulatory practices. The application of existing regulatory principles that are key to literary culture, like copyright for example, is radically challenged by a post-digital context: 'Courts, legislatures and market players have struggled to determine the extent to which a digital copy is like or unlike a physical copy of a creative work', with the copying of digital materials challenging existing copyright legislation because of both the high level of fidelity of the copies created, and the ease of operating at scale (Lipton).

Secondly, state and federal policy continue to support and shape literary culture. But the upshot of these changes is that the conceptual containers we place around literary culture—the communities, institutions, and for-profit companies that set the terms of interaction, production, and consumption—no longer sit within geographical boundaries. Consequently, neither the practices that constitute

literary culture, nor the spaces in which those practices take place, are necessarily subject to the same regulations that, pre-digital, may have controlled them.

Again, recent copyright disputes—specifically the court cases brought against Google Books—provide a pertinent example. Tracing progression of these cases illustrates the uneasy relationship between geographically specific regulation and the day-to-day operation of a digitally globalised literary marketplace. Tully Barnett has described how:

> When the project appeared in 2011, Google was embroiled in an enduring legal case over copyright regarding their vision for all the world's books stored in one place, a vision that had stemmed from the earliest days of the company. Larry Page and Sergey Brin had caused a stir by announcing the project, then called Google Print, at the Frankfurt Book Fair in 2004, beginning with partnerships with a number of libraries, mostly university libraries, in the US as well as the British Library. It wasn't long before the Authors Guild responded to the project in the strongest possible terms—commencing legal action in 2005 that was not resolved until the courts found in favour of Google in 2013 and again on appeal in 2015. (307)

The eventual finding in Google's favour relied on US copyright legislation, and specifically the flexibility in-built into the 'fair use' provision. Indeed, as legal scholars in Australia have observed, this kind of mass digitisation endeavour would be impossible under Australia's Copyright Act, which more closely prescribes the activities permitted as 'fair dealing' (Pappalardo). Throughout the case, memoranda were filed against Google by a wide range of non-American parties, including several European governments. In what book historian Robert Darnton, writing for the *New York Review of Books*, described as an 'odd spectacle', this legal action saw 'foreign governments defending a European notion of culture against the capitalistic inroads of an American company, and submitting their case to Judge Denny Chin of the Southern District Court of New York'.

Thirdly, not only do new products and practices challenge old regulatory structures; likewise, new digital technologies have given rise to new modes of regulation. Power in the digital realm is increasingly in the hands of the websites and platforms where bookish practices take place. As Burgess et al. note, different platforms have their own 'rules and norms for engagement' as well as 'material rules' which comprise 'their algorithms, their APIs, the analytics they provide'. Like the paratext of a book, these rules operate as 'thresholds of interpretation' (Genette) in that they set the terms of actions and interactions that take place on these platforms.

For industry giant Amazon (cf. Murray,) and its derivatives like Goodreads, formal rules of engagement take the form of comprehensive and legally complex conditions of use. Because the core business of these sites has at least historically been closely related to their bookishness, the literary content and literary engagement that gets posted to and happens on these sites—things like reviewing and discussing books—tend to be discussed and regulated by these same high-level, comprehensive documents. Similarly, writing and self-publishing sites Wattpad and Fanfiction.net, both of whose business models are primarily based on content-related advertising revenue, have comprehensive conditions of use and privacy policies, as well as detailed guidelines on community behaviour and content. Wattpad's guidelines are mostly about prohibiting pornography; fanfiction.net similarly defines and bans explicit content—and also provides a list of authors for whose work they will not accept fan fiction, based on those authors' requests.

Writing groups and book forums are also frequently nested on more generalised social media sites, with sites likes Facebook, for example, hosting many 'groups' that function as book clubs or writing support groups. These groups are subject to multiple layers of rules: some legal, some general, and some specifically related to literary content. The top layer consists of site-wide privacy policies and terms of use, and tends to comprise fairly comprehensive legal documents—the kinds of terms and conditions that users click to accept when creating a social media account. The second layer, site-wide content policies, includes documents like Facebook's contentious 'community standards' policy, which contains stipulations relating to criminal content, user safety, objectionable content, integrity and authenticity, intellectual property, and user information. The third layer of regulation comprises rules tied to the specific forum or group, which outline the kinds of conversations that are encouraged and discouraged. Generally completely separate from the broader community standards, these rules tend to be negotiated by the members of the forum or group. Within these bigger social media sites, it is these rules that are content-specific to book discussion.

On the contrary, sites which have minimal commercial stakes in the publishing industry are regulated quite differently. Public domain distribution sites Project Gutenberg and Librivox are effectively defined by their eschewing of intellectual property. These sites are both content repositories and communities. As repositories, they maintain detailed licenses that set out how volunteers and visitors can access and use their books and audiobooks. And, as community spaces, they also have—minimal—rules of engagement, which operate as collaborative, bottom-up 'wiki' spaces. Other minimally commercial sites, such as independent 'book talk' forums and book reviewing sites, have extremely scant legal documentation, such as short privacy statements—and varying levels of content-specific guidelines.

The increasingly post-digital nature of contemporary literary culture and this attendant formalising of previously tacit rules of participation also raise interesting definitional questions about publishing itself. As we noted above, the legal and economic realms of contemporary literary culture have, to an extent, always been rule-governed. Literal laws relating to workplace practices and intellectual property were, after all, designed to regulate economic capital. But while the cultural and social exchanges that take place in the literary field have likewise been shaped by established conventions, these have not tended to be explicit. Social media posts, however, have a legal status approaching that of published material, which effectively blurs the line between informal social processes and formal cultural interventions. Likewise, the monetisation of user data, like that derived from reviews or profile-driven social media, represents an encroaching of economic interests on social spaces. Whether or not this directly changes the way that individuals interact on these platforms, its effect can be seen in the proprietary control exerted over the content posted on these sites.

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Convention, law, regulation and cultural practice are the ties that bind this special section. The notion of conventional wisdom in cultural practice is a common theme in the first three essays. In 'Monstering the Midlist: Implications for Author Income and Publishing Sustainability', Brigid Magner and Tracy O'Shaughnessy explore the distinction that has emerged between the conventions that have long structured book publishing practice in Australia, and the contemporary realities of the book buying marketplace through a study of the commercial viability of midlist publishing and the rise of the commercial bestseller. This study challenges conventional publishing wisdom and offers new insights into contemporary publishing practice. Emmett Stinson scrutinises the unwritten laws of cultural production in his essay, 'Short Story Collections, Cultural Value, and the Australian Market for Books'. In this work Stinson examines the way that non-economic cultural values influence the regulation of contemporary Australian publishing practice through the recent publication of short-story collections, using this analysis to question the severity of decline of Australian literary publishing. In 'An Intricate Web: Unweaving Strands of Convention in Children's Fantasy Series by Australians', Caylee Tierney considers the conventions that shape the fantasy genre and the ways that national and international publishing contexts intersect with traditional practice.

This collection also addresses the constantly evolving nature of the contemporary publishing environment. Mark Davis' essay 'Five Processes in the Platformisation of Cultural Production: Amazon and its Publishing Ecosystem' considers the structures of the contemporary publishing industry in light of the realities of

platform capitalism, exploring the ways in which Amazon increasingly influences production in the post-digital literary sphere. Katherine Day's essay 'Fair's Fair (Except When It Isn't): The Effectiveness of Fair Dealing in the Australian Publishing Industry' considers the Fair Use doctrine in light of the evolving field that Davis describes, examining the changes to Fair Dealing in Australia and the effect of these changes on authors and the broader publishing sector. Finally, this special section finishes with an essay that examines the rules and guidelines that govern literary prize eligibility. In 'Eligibility, Access and the Laws of Literary Prizes', Alexandra Dane argues that the eligibility criteria that govern which authors and which titles are considered eligible for some of the Anglophone literary field's most influential prizes have a radiating and lasting effect on the structures of power in the contemporary publishing industry.

The contributors to this special section explore multiple specific instances of the ways in which regulation and convention govern participation in contemporary book culture. The collection is interdisciplinary and polyvocal, bringing together a number of disciplinary strands to investigate, explore and answer questions that define the study of contemporary book publishing in Australia and internationally. This diversity in choices of methodology, conceptual framework, and specific subject matter speaks to the interdisciplinary strength of publishing studies research. Drawing on book history, media studies, cultural studies, and literary studies, research into contemporary publishing cultures is positioned to leverage the wealth of investigations of both old and new media in each of these respective disciplines, in order to analyse the structures of value and power that shape how information is created and circulates today (Murray, 'Publishing Studies'; Noorda and Marsden; Weber and Mannion). At the same time, in other words, as a unilaterally agreed approach to the study of contemporary publishing is lacking, it is this unconventional nature of publishing studies that opens up space for pragmatic and critically nuanced study of the conventions and regulation of book culture.

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