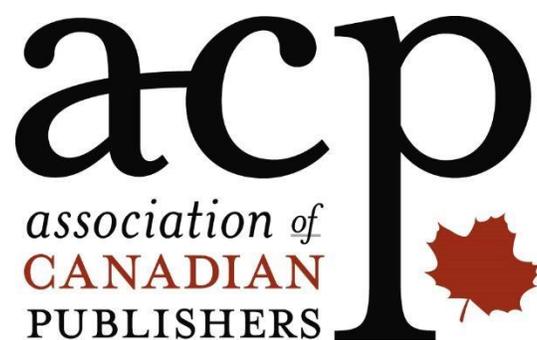


Written Submission for Finance Canada's Pre-Budget Consultations in
Advance of the 2022 Budget

Submitted by:
the Association of Canadian Publishers

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Summary of Recommendations

1. Implement the Minister of Canadian Heritage's mandate letter commitment to support Canadian authors and book publishers by increasing funding for the Canada Book Fund, the Canada Council for the Arts and the Public Lending Right Program, on a permanent basis starting in 2022-23.
2. Implement market-based solutions that encourage fair remuneration of rightsholders for use of copyright protected work through reform of the *Copyright Act*.
3. Keep our book industry Canadian and put Canadian-owned publishers first.

A. Introduction

The Association of Canadian Publishers (ACP) represents 115 book publishers, located in all ten provinces and Nunavut. Our members are independent businesses, owned and operated by Canadians. Along with our francophone counterparts, we are responsible for 80% of the new books written by Canadian authors each year and contribute to a \$1.7 billion industry.¹

Publishers are the hub of the book supply chain and have direct business relationships with authors, illustrators, printers, distributors, bookstores, libraries, and the K-12 and post-secondary education sectors. As small businesses, we contribute to local economies. Prior to the pandemic, independent English-language publishers alone generated an economic impact of \$454.9M,² supporting the employment of 5,940 FTEs across our sector and in related industries.³

Thanks to strategic government investment, Canada's book publishing industry is world-renowned. Our success was celebrated at the Frankfurt Book Fair in 2021, and we are grateful for the Government of Canada's commitment to this landmark project; however, a confluence of factors puts our industry's future sustainability at risk.

Though Budget 2021 included welcome support for book retail, publishing-specific challenges that were exacerbated by the pandemic remain:

- Closures of retail, schools, and libraries; disruption to local and international supply chains; declines in tourism; and widespread cancellation of in-person events have disproportionately affected independent publishers' revenues and created unprecedented market uncertainty. Though consumer book sales have rebounded, pandemic recovery has been slower for independent publishers, who compete with large, well-resourced multinational firms that benefit from economies of scale and investment from their parent companies.
- Paper shortages, competition for press time, and pandemic-related shipping and distribution disruptions have put unprecedented pressure on independent publishers' financial and human resources. Many report that printing costs have increased upwards of 25% over the last three years. Though global in nature, these challenges are felt more acutely by the small- and medium-sized companies represented by ACP, who operate on slimmer margins than their multinational competitors. As a result, they have fewer resources to reinvest in new Canadian books and authors, business development, and staffing.
- Demand for digital products has increased as a result of the pandemic, among both consumer and institutional customers, but revenue generated by these sales does not come close to compensating for the loss in print sales. Canadian publishers produce books in numerous digital formats; however, the return on investment in digital

¹ Statistics Canada, *The Daily – Book Publishing Industry*, 2018.

² Nordicity, *The Canadian English-Language Book Publishing Industry Profile*, 2018, p. 4.

³ Nordicity, p. 10.

production has been incremental. This is magnified by the perception that digital products should be made available for free or at very low prices, which does not take into account the cost of editorial development or production. Print sales remain central to publishers' business model, but pricing these books competitively is challenging as a result of supply chain issues described above.

- Global consolidation is intensifying, tilting an already uneven playing field further in the favour of the multinational companies that operate in Canada. These include Penguin Random House (PRH), whose German parent company, Bertelsmann, is purchasing a major competitor, Simon & Schuster (S&S). Pending regulatory approval, a combined PRH/S&S will control more than 40% of the Canadian market.
- A broken copyright framework has removed \$150M+ in licensing revenue from the Canadian industry, destroying the market for educational materials in Canada and limiting investment in new books for educators and students. Respect for copyright has eroded since the *Copyright Modernization Act* was implemented in 2012.

Any one of these factors would be a challenge for small- and medium-sized businesses to confront. In combination, they pose a threat to Canadian publishers' long-term competitiveness and viability.

Why should this matter to Canadians?

Independent publishers contribute to:

- **Canadian culture** through investment in new books by Canadian writers, particularly those early in their careers and those who write for local audiences. They provide the primary channel to market for the vast majority of Canadian writers, take risks on books that their multinational competitors won't, publish books of local interest, and are committed to making books accessible to the many Canadians with print disabilities.
- **Canada's economy** through investment in employment, local supply chains, manufacturing, and distribution. Revenue earned in Canada remains in Canada and is reinvested in communities across the country, creating a positive economic impact.
- **Canadian education** through development of learning resources for K-12 and post-secondary markets that reflect Canadian perspectives, measurement systems, language, and experience. This is particularly important at a time when national attention is placed on reconciliation with Indigenous peoples, anti-racism and equity, and climate action, which must be examined through a Canadian lens. The books students read today will shape our shared future.

The long-term repercussions of the pandemic on the Canadian-owned publishing sector are becoming better understood. Response to uncertainty in traditional revenue streams, vulnerable supply chains, and myriad sales and marketing challenges will require resilience, agility, and innovation. These characteristics are inherent to independent publishers, who are experienced

in adapting to challenging market conditions. However, given significant and intersecting challenges, a combination of government policy intervention and strategic investment in publisher-led initiatives is essential to protecting existing publishing infrastructure and stimulating sales, so that the industry not only survives, but thrives, in the years to come.

B. Recommendations

Canadian publishers are working actively to recover from the pandemic. They are investing in new authors reflective of Canada's diverse population, experimenting with innovative and inclusive marketing strategies, and reimagining the way they do business within Canada and internationally. This recovery effort is taking place in a context where federal investment in book publishing has not kept pace with the needs of an evolving industry, or with investment in other arts and culture sectors. Furthermore, the policy framework that underpins our sector does not adequately address current marketplace realities and leaves independent publishers at a disadvantage in their own market.

Recommendation #1: Implement the Minister of Canadian Heritage's mandate letter commitment to support Canadian authors and book publishers by increasing funding for the Canada Book Fund, the Canada Council for the Arts and the Public Lending Right program, on a permanent basis starting in 2022-23.

In addition to supports for bookselling and the Frankfurt Guest of Honour project, Budget 2021's Recovery Fund for Arts, Culture, Heritage and Sport Sectors will invest \$11.4M over two years in direct support to publishers. Canadian publishers are grateful for this investment, which responds, in part, to the recommendations made by the industry over the course of the pandemic.

The Liberal Party of Canada committed to increasing the Canada Book Fund's budget by 50% in its 2021 election platform, starting in 2022-23.⁴ The Prime Minister affirmed this commitment in December 2021 when he directed the Minister of Canadian Heritage to "support Canadian authors and book publishers by increasing funding for the Canada Book Fund, the Canada Council for the Arts and the Public Lending Right Program."⁵

Given the magnitude of the challenges publishers currently face, **this commitment must be included in Budget 2022.**

The need for an increase to the CBF was widely acknowledged by government and industry before COVID-19; the pandemic has shifted this longstanding need from overdue to critical. The budget of the CBF's permanent programs has not increased in 20 years, resulting in the erosion of its real value by more than 40% during a time that has been characterized by disruption and change.

⁴ The permanent annual budget of the CBF is currently \$38.4M, making a 50% increase \$19.2M.

⁵ Mandate letter from Prime Minister Justin Trudeau to Minister of Canadian Heritage Pablo Rodriguez, <https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-canadian-heritage-mandate-letter>, December 16, 2021.

ACP and l'Association nationale des éditeurs de livres (ANEL) are aligned in calling on government to increase investment in the CBF's permanent programs, which would be consistent with other Heritage programs that have recently been evaluated and enhanced (e.g. Canada Music Fund, Canada Arts Presentation Fund, Canada Cultural Spaces Fund).

The Canada Book Fund works. Its objectives are rooted in increasing the sale of Canadian-authored and -published books, which will contribute to the recovery of our sector from the pandemic. As essential infrastructure for the industry, increased investment in the CBF's core programs is needed to strengthen the foundation on which other strategic initiatives rely for success.

Increased investment in the Canada Book Fund will result in:

- **Creation of new jobs**, which is cited by publishers most often as an anticipated outcome of new investment in the CBF, including **recruitment of staff from racialized communities that are currently under-represented in the industry**; 44% of survey respondents indicated they would hire more staff if their CBF grant were to increase.⁶
- Investment in new book projects and **advances paid to Canadian writers**.
- Investment in **local printing and distribution**, bringing offshore work back to Canada.
- Investment in **innovative and inclusive sales and marketing strategies** to reach new audiences and rebuild sales revenue.
- Enhanced investment in **digital formats**, including ebooks and audiobooks.
- Improved inventory management and supply chain initiatives, contributing to a **reduction in the industry's environmental footprint**.

Recommendation #2: Implement market-based solutions that encourage fair remuneration of rightsholders for use of copyright protected work through reform of the *Copyright Act*.

ACP's position on the need for copyright reform is well-established. The education sector's arbitrary interpretations of fair dealing since 2012 have resulted in significant market damage. **More than \$150M in licensing revenue alone, exacerbated by an unknown loss of primary book sales, has been removed from the Canadian publishing sector during this time.**

COVID-19 has further exposed longstanding weaknesses in the *Copyright Act*. The legal framework that should underpin our industry does not encourage publishers to invest in the digital content and infrastructure today's education system demands. A decision from the Supreme Court of Canada in the appeal of *Access Copyright v. York University* has not brought clarity to the Act's fair dealing provisions. Legislative reform is essential to creating the conditions that encourage investment in future Canadian-specific learning resources.

⁶ ACP membership survey, February 2021.

ACP joins colleague associations in recommending that:

- Fair dealing for education should only apply when a work is not commercially available under licence by the owner or a collective.
- The *Copyright Act* be amended to clarify that tariffs approved by the Copyright Board are enforceable against infringers of copyright protected works subject to a tariff.
- Adequate statutory damages must be available to all copyright collectives.

Recommendation #3: Enforce the *Revised Foreign Investment Policy in Book Publishing and Distribution*, with more meaningful assessments of “net benefit to Canada.” Keep our book industry Canadian and put Canadian-owned publishers first.

Just as the foreign-owned “web giants” pose a threat to domestic film and television producers, the presence of multinational publishing companies in our market creates barriers for Canadian-owned publishers. A small handful of companies, owned by global media conglomerates, dominates the trade, library, and educational markets. They compete with independent publishers for manuscripts, staff, promotional opportunities, bookstore shelf space, and library budgets. They do so with the financial backing of their parent companies, and revenue earned in Canada from the distribution of imported books. They assume little risk in publishing the few Canadian-authored books they do publish, focusing on the most likely bestsellers or books by those who have already established a track-record, often with an independent publisher.

These companies’ presence in the Canadian market has been regulated for decades by the *Revised Foreign Investment Policy in Book Publishing and Distribution (1992)*, but as consolidation has taken hold, the existing policy framework has grown ineffective in achieving its stated policy goals, that is, to ensure that foreign investment in the book publishing and distribution sectors be compatible with national cultural policies and be of net benefit to Canada and to the Canadian-controlled sector. Canadian ownership across the creative industries must form the foundation of our cultural policy, to ensure that Canadian control of intellectual property and its returns—both economic and cultural—remain in Canada.

ACP notes that the effectiveness of the *Investment Canada Act* is being considered by the Government of Canada as it relates to other industries, as demonstrated in the Prime Minister’s mandate letter to the Minister of Innovation, Science and Industry.⁷ We encourage the government to consider cultural industries in its examination of foreign investment, and

⁷ Mandate letter from Prime Minister Justin Trudeau to Minister of Innovation, Science and Industry François-Philippe Champagne, <https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-innovation-science-and-industry-mandate-letter, December 16, 2021>.

welcome the opportunity to engage with government on mechanisms to strengthen the Canadian book industry using this policy tool.

C. Conclusion

Canadian book publishers have risen to the challenges stemming from the pandemic and are poised to apply the experience gained over the past year to our businesses in the years ahead. We are grateful for the longstanding support of the Government of Canada for the Canadian-owned book publishing industry and look forward to working in partnership with you and others across the book supply chain to contribute to Canada's recovery.

For more information:

Kate Edwards, Executive Director
416-487-6116 x2340 | kate_edwards@canbook.org