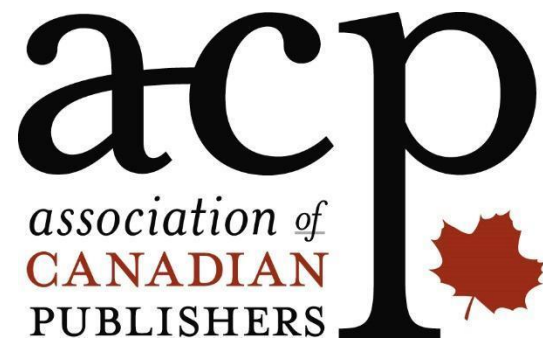


Written Submission for the Standing Committee on Finance's Pre-Budget Consultations in
Advance of the 2023 Budget

Submitted by:
the Association of Canadian Publishers

October 2022



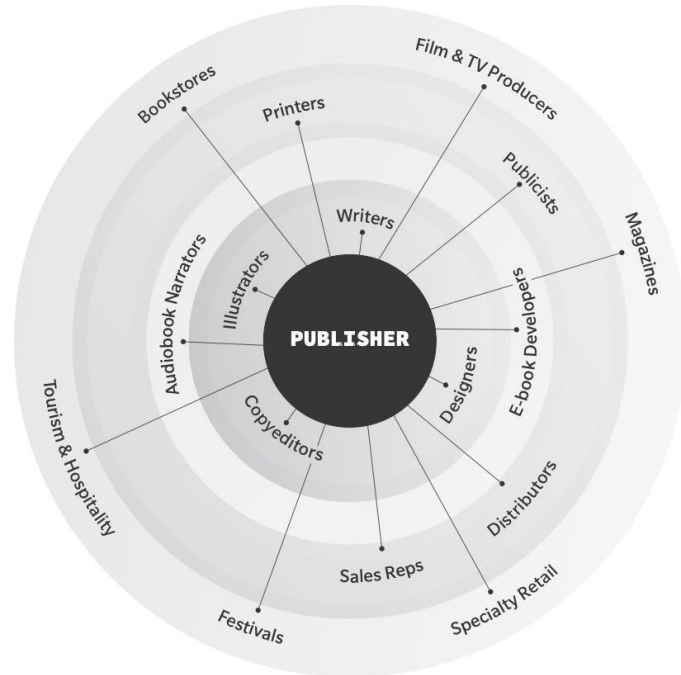
Summary of Recommendations

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.
2. Implement market-based solutions that encourage fair remuneration of rights-holders for use of copyright protected work through reform of the *Copyright Act*. As committed in Budget 2022, ensure that the *Act* protects all creators and copyright holders and that the educational publishing industry is sustainable.
3. Enforce the *Revised Foreign Investment Policy in Book Publishing and Distribution*, with more meaningful assessment of “net benefit to Canada.” 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 \$1.5 billion industry.¹

Publishers are the hub of the book supply chain and contribute to local economies. We have direct business relationships with authors, illustrators, printers, distributors, bookstores, libraries, and the K-12 and post-secondary education sectors. 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 in universal pandemic relief programs and complementary Canadian Heritage initiatives, independent publishers have weathered the pandemic storm, but challenges on the road to recovery remain. Though the retail market for books has rebounded, marketplace disruption has been felt more acutely by the small- and medium-sized companies represented by ACP. Longstanding challenges that were exacerbated by the pandemic persist:

- 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 would control more than 40% of the Canadian market,⁴ further exacerbating publishing consolidation in Canada.
- Paper shortages, competition for press time, and ongoing supply chain disruptions have put unprecedented pressure on independent publishers' financial and human resources. Many report that printing costs have increased upwards of 40% over the last three years, alongside significant increases to packaging and shipping. These

¹ Statistics Canada, [The Daily - Book Publishing Industry](#), 2020.

² Nordicity, [The Canadian English-Language Book Publishing Industry Profile](#), 2018, p. 4.

³ Nordicity, p. 10.

⁴ BookNet Canada, [2021 Canadian Book Market](#), 2022, p. 14.

global challenges are felt more acutely by small- and medium-sized companies, which operate on slimmer margins than their multinational competitors.

- Demand for digital products increased through the pandemic, but revenue generated by these sales does not compensate for lost print sales. The return on publishers' investment in numerous digital formats 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 models, but pricing these books competitively is challenging in the light of rising costs.
- A broken copyright framework has removed \$200M+ in licensing revenue from the Canadian publishing industry, destroying the educational market in Canada and limiting investment in new educational titles. 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 publishers to confront. In combination, they threaten our long-term competitiveness and viability.

The long-term repercussions of the pandemic on our sector are becoming better understood. Response to uncertainty in traditional revenue streams, vulnerable supply chains, and myriad sales and marketing challenges require resilience, agility, and innovation to confront. 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 can thrive.

B. Recommendations

Canadian publishers are playing an important role in pandemic recovery. We are investing in new authors reflective of Canada's diversity, experimenting with innovative and inclusive marketing strategies, and reimagining the way we 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 address current marketplace realities, and in some cases actively undermines the sector, leaving independent Canadian publishers at a disadvantage in our 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 (CBF), the Canada Council for the Arts and the Public Lending Right program.

In summer 2021, the Liberal Party of Canada committed to increasing the CBF's budget by 50%, starting in 2022-23.⁵ The Prime Minister affirmed this commitment in December 2021 when he directed the Minister of Canadian Heritage to increase key writing and publishing programs, including the CBF.⁶ Though this commitment has not yet been realized, we are encouraged that an increase to the CBF is included in Canadian Heritage's 2022-23 Departmental Plan⁷ and urge the Government to **implement this commitment in Budget 2023 or earlier.**

The budget of the CBF's permanent programs has **not increased since 2001**, resulting in the **erosion of its real value by more than 55%** during a time that has been characterized by disruption and change. The need for an increase to the CBF was widely acknowledged by government and industry before COVID-19; the pandemic shifted this longstanding need from overdue to critical.

ACP and l'Association nationale des éditeurs de livres are aligned in calling for increased 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). **Book publishers can no longer be left behind.**

The CBF works. Its objectives are rooted in increasing the sale of Canadian-authored and -published books, and it serves as essential infrastructure for the industry. Increased investment in its core programs is needed to strengthen the foundation on which other strategic initiatives rely for success.

Increased investment in the CBF will contribute to:

Promoting long-term competitiveness and growth, through:

- The **creation of new jobs**;⁸
- Investment in new book projects and **advances paid to Canadian writers**;
- Investment in **local printing and distribution**, bringing offshore work back to Canada.

Engaging new audiences through:

- Experimentation with **innovative and inclusive sales and marketing strategies** to improve the discoverability of Canadian books in the marketplace;
- Enhanced **investment in digital formats**, including ebooks, audiobooks, and accessible formats for readers with print disabilities;
- Increased **export activity**, to bring Canadian writing to the world and revenue back to Canada.

⁵ The permanent annual budget of the CBF is currently \$38.4M, making a 50% increase \$19.2M.

⁶ [Mandate letter from Prime Minister Justin Trudeau to Minister of Canadian Heritage Pablo Rodriguez](#), December 16, 2021.

⁷ Canadian Heritage, "[Departmental Plan 2022-23](#)," March 3, 2022.

⁸ 44% of respondents to a February 2021 ACP survey indicated they would hire more staff if their CBF grant were to increase.

Contributing to reconciliation with Indigenous peoples, combatting climate change, and building a more inclusive society through:

- Publication of **books by writers from diverse communities**, including Indigenous and racialized peoples.
- Recruitment of **staff from racialized communities that are under-represented** in the industry.
- 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 rights-holders for use of copyright protected work through reform of the *Copyright Act*. As committed in Budget 2022, ensure that the *Act* protects all creators and copyright holders and that the educational publishing industry is sustainable.

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 \$200M 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, but instead has emboldened user groups to push the limits of fair dealing. **Legislative reform is essential** to creating the conditions that encourage investment in future Canadian-specific learning resources.

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 firms in our market creates barriers for Canadian-owned publishers. A small handful of companies, owned by global media conglomerates, dominates the market. 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 Canada 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 has grown ineffective in achieving its stated goal, 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 economic and cultural returns remain in Canada.

ACP notes that the effectiveness of the *Investment Canada Act* is being considered by the Government as it relates to other industries, as demonstrated in the Minister of Innovation, Science and Industry's mandate letter.⁹ We encourage the government to also consider cultural industries in this examination, and welcome the opportunity to engage with government on mechanisms to strengthen our industry.

C. Conclusion

Canadian book publishers have risen to the challenges of the pandemic and are poised to apply this experience to our businesses in the years ahead. We are grateful for the longstanding support of the Government 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:

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⁹ [Mandate letter from Prime Minister Justin Trudeau to Minister of Innovation, Science and Industry François-Philippe Champagne](#), December 16, 2021.