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An Insight into the Copyright Piracy in Publishing

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Introduction

With the advent of globalization, the civilized world today has entered into an era of instant communication. A person sitting in the remotest corner of India can enjoy live performance taking place in the faraway places like America or Africa, thanks to electronic (parallel) media. The Internet age has added altogether a new dimension to today's communication process by making it more speedy, informative and economical. The ways through which different types of information can be communicated have also undergone a sea change. While all the growth and development has made communication among people more effective and efficient both in terms of time and cost, they pose the greatest threat to the copyright world. Modern communication channels, being intensively relying on a variety of copyrighted products, are liable to be pirated in large scale, if adequate precautions are not exercised.[2]

According to the WTO, intellectual property rights are "defined as the rights given to people over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time. Copyright and rights related to copyright is a part of rights granted to authors of literary and artistic works, and the rights of performers, producers of phonograms and broadcasting organizations. The main purpose of protection of copyright and related rights is to encourage and reward creative work."[3]

Copyright is the right given by law to the creators of literary, dramatic, musical and a variety of other works of mind. It ordinarily means the creator alone has the right to make copies of his or her works or alternatively, prevents all others from making such copies. The basic idea behind such protection is the premise that innovations require incentives. Copyright recognises this need and gives it a legal sanction. Moreover, commercial exploitation of copyright yields income to the creators and thus makes pecuniary rewards to individual's creativity.[4]

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[1] *The Author(s) are Students of Law at Gujarat National Law University, Gandhinagar.*

[2] *http://copyright.gov.in/Documents/STUDY%20ON%20COPYRIGHT%20PIRACY%20IN%20INDIA.pdf, last visited, 2nd September, 2011*

[3] *http://www.wto.org/english/tratop_e/trips_e/intel1_e.htm, last accessed on 2nd September,2011*

[4] *Supra 2*



Thus, the objective of copyright is twofold:

"To encourage a dynamic culture, while returning value to creators so that they can lead a dignified economic existence and to provide widespread, affordable access to content for the public."[5]

Piracy: A Brief Background

Copyright piracy is a phenomenon prevalent worldwide. Piracy means unauthorised reproduction, importing or distribution either of the whole or of a substantial part of works protected by copyright. The author of a copyrighted work, being the owner, enjoys certain exclusive rights with respect to his or her works. These include right to reproduce, to publish, to adopt, to translate and to perform in public. The owner can also sell, assign, license or bequeath the copyright to another party if he wishes so. If any person other than the copyright owner or his authorised party undertakes any of the above mentioned activities with respect to a copyrighted product, it amounts to infringement of the copyright. Copyright piracy is thus like any other theft which leads to loss to the owners of the property. Besides economic loss, piracy also adversely affects the creative potential of a society as it denies creative people such as authors and artists their legitimate dues.[6]

The practice of labelling the infringement of exclusive rights in creative works as "piracy" predates statutory copyright law. Prior to the Statute of Anne 1709, the Stationers' Company of London in 1557 received a Royal Charter giving the company a monopoly on publication and tasking it with enforcing the charter. Those who violated the charter were labelled pirates as early as 1603.[7] After the establishment of copyright law with the 1709 Statute of Anne in Britain, the term "piracy" has been used to refer to the unauthorized manufacturing and selling of works in copyright.[8] Article 12 of the 1886 Berne Convention for the Protection of Literary and Artistic Works uses the term "piracy" in relation to copyright infringement, stating "Pirated works may be seized on importation into those countries of the Union where the original work

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[5] *http://www.wipo.int/copyright/en/, last accessed on 4th September, 2011*

[6] *http://www.education.nic.in/cr_piracy_study/cpr2.asp, last accessed on 3rd September, 2011*

[7] *http://www.luminarium.org/renascence-editions/yeare.html, last accessed on 4th September, 2011*

[8] *http://portal.unesco.org/culture/en/files/28696/11513329261panethiere_en.pdf/panethiere_en.pdf, last accessed on 4th September, 2011*



enjoys legal protection."[9] Article 61 of the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) requires criminal procedures and penalties in cases of "wilful trademark counterfeiting or copyright piracy on a commercial scale".[10] Piracy traditionally refers to acts intentionally committed for financial gain, though more recently, copyright holders have described online copyright infringement, particularly in relation to peer-to-peer file sharing networks, as "piracy."[11]

The origin of copyright had a link with the invention of printing press by Gutenberg in the fifteenth century. With the easy multiplying facility made possible by the printing press, there was voluminous increase in the printing and distribution of books which, in turn, led to adoption of unfair practices such as unauthorised printing by competing printers.[12]

Though piracy was born by the end of the fifteenth century, it was only in 1710 the first law on copyright in the modern sense of the term came into existence in England. The law which was known as `Queen Anne's Statute' provided authors with the right to reprint their books for a certain number of years. The 1710 law was confined to the rights of authors of books only, and more particularly the right to reprint. It did not include other creative works such as paintings, drawings etc. which also by that time became targets of piracy, in addition to other aspects relating to books (e.g. translation, dramatisation etc.) To overcome this problem a new enactment namely `Engravers Act' came into existence in 1735. There followed a few more enactments in the subsequent periods and ultimately Copyright Act 1911 saw the light of the day.[13]

Developments in this regard also took place in many other advanced countries, notably among them being France, Germany and the USA. In France a copyright decree was adopted in 1791 which sanctioned the performing right and another decree of 1793 established author's exclusive right of reproduction. In Germany author's rights were recognised by a Saxon Order dated Feb 27, 1686. In America the first federal law on copyright, the Copyright Law 1790 provided protection to books, maps and charts.[14]

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[9] *Ibid*

[10] *Correa, Carlos Maria; Li, Xuan (2009), Intellectual property enforcement: International perspectives, Edward Elgar Publishing. pp. 208*

[11] *Supra 7*

[12] *Adrian Johns, Piracy: The Intellectual Property Wars from Gutenberg to Gates, ISBN: 9780226401195 Published April 2011*

[13] *Ibid*

[14] *Supra 5*



Copyright Piracy in Publishing: The Indian Perspective

Over the last two decades, book piracy, the illegal reproduction of books, has assumed menacing proportions. A survey by the Indian Human Resource Development Ministry indicates that three types of print piracy are prevalent in our country. The most common one is reprinting a book illegally. The second type involves publishing books using the name of famous authors, but actually authored by imitators. Producing translated versions of foreign-language books is the third type of piracy. The pirates do not have to pay taxes, and, of course, no royalty to the author.[15] Book piracy has been rendered easy by new technologies. To reprint a book illegally, all that a culprit needs is two copies of the original, a scanner, a computer with optical recognition programme and a small rotary press. With these common facilities, a pirated book can be produced in a few days in multiple copies. Ironically, pirated books also have the warning, "reproduction is forbidden!" The adoption of modern technology in piracy makes it difficult for anyone to identify the pirated book from the real one, even by the authors and publishers; not only is the text copied but also the design, the cover, the colour and the bar code.[16]

The English language publishing market in India is estimated to be about Rs 7,000 crores or US$1.4 billion with a growth rate of 10per cent per annum. Of this, it is estimated that book pirates impact nearly 30 per cent of the market. At times, with best sellers by Jeffrey Archer and Dan Brown, the pirated copies could even equal the amount of copies sold by the legitimate publisher.[17] So, the financial contribution of the rights department to the business of publishing for the firm and the author is not to be sneezed at as it is a significant revenue-generating stream, but it is tough to get figures as no one reveals them. It is possible to gauge the size of the rights market by the volume of business conducted at Frankfurt Book Fair-a trade fair that focuses on the buying and selling of rights. It is safe to say that the volume of business transacted is substantial and exceeds millions of dollars.[18]

Book piracy, in India, primarily depends on two factors, namely, the price of the book and its popularity. These two factors positively contribute to piracy. Piracy is generally confined to foreign and good indigenous books. Because these books are demanded in large quantities and

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[15] *http://www.hindu.com/thehindu/lr/2003/06/01/stories/2003060100490700.htm, last accessed on 5th September, 2011*

[16] *Ibid*

[17] *http://www.businessworld.in/businessworld/businessworld/content/Copyright-And-Publishing-Industry.html, last accessed on 5th September, 2011*

[18] *Ibid*



are also priced high. The types of books pirated mostly are medical, engineering and other professional books, encyclopaedia and popular fictions. The piracy is also wide spread with respect to books published by National Council of Educational Research & Training (NCERT), National Open School and Board(s) of Secondary Education. These books even if priced low are having large demand. The pirates first identify books to be pirated and then get the same printed in large numbers through unscrupulous printers. The pirated books are normally sold with other (legitimate) books by usual retailers identified by the pirates. The number of printers/sellers involved in piracy is generally less. The piracy is also seasonal in nature. The entire process of printing through selling gets over within a month or two.[19]

Reprography the method of obtaining photocopies is common in educational institutions all over the country. This is the main reason for the inability of the publishers to sell books in adequate numbers, especially textbooks. A whole book or many chapters are photocopied by students. The students, and even the teachers, are unaware of the infringement of copyright acts when they photocopy books. Under section 63 of the Copyright Act of India, selling and buying photocopied books is a criminal offence. The photocopying menace is rampant only in developing countries where students can ill-afford to buy books.[20]

Sometimes even some renowned publishers involve themselves in piracy by way of selling books beyond the contract period. This happens when an Indian publisher buys re-print rights from some foreign publishers and keeps on selling books even after the expiry of the period mentioned in the agreement. This is done in the pretext of clearing old stock. Thus an impression is created that books are printed during the contract period but in reality are sold beyond the contract period just to exhaust the old stock. If the work is published, then the publisher is bound by the contract signed, to give the author a royalty based upon the total sales. The author transfers or assigns an exclusive license to the publisher the copyright of the work for a fixed time period, which usually coincides with the duration of the publishing contract. This implies that the publisher is authorised to sell "rights" to the author's work, across "territories" and in all formats and they are able to do so with the explicit consent of the author. The copyright term in India is for the lifetime of the author plus sixty years. After the lapse of the copyright period, the work enters the public domain.[21]

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[19] *Supra 2*

[20] *http://www.ifrro.org/node/51, last accessed on 6th September, 2011*

[21] *Supra 15*



While it is believed that book piracy is high in India, it is very difficult to arrive at an estimate. Only information from secondary sources (e.g. publishers, police records etc.) can be gathered to form a rough idea on piracy. But that would reflect only the tip of the iceberg. In terms of percentage, it is believed that about 20-25 percent of books sold (in number) in the country are pirated. Actual monetary loss due to piracy is anybody's guess.

Anti piracy drive with respect to books is generally weak in India. The industry associations are not very active in this regard. Whatever action is taken is done by the respective publishers. The enforcement machineries (such as police) are also not very active in controlling piracy for a variety of reasons. The public awareness is also very poor.

Law Relating to Copyright Piracy in India

The copyright in India has travelled a long way since it was introduced during the British rule. The first law on copyright was enacted in the year 1847 by the then Governor General of India. When Copyright Act 1911 came into existence in England, it became automatically applicable to India, being India an integral part of British Raj. This act was in force in the country until after independence when a new copyright act (the Act of 1957) came into effect in 1958. Thereafter the Act has undergone many amendments. The latest in the series is the 1994 Amendment, which came into force in May 1995.[22]

The Indian Copyright Act confers copyright on (i) original literary, dramatic, musical and artistic works, (ii) cinematographic films and (iii) sound recordings. The word `original' means that it should not be copied from other works or alternatively it should be the outcome of independent efforts. The Act empowers copyright holder(s) to do or authorise doing a number of activities. The important among these are:

a. to reproduce the wk in material form

b. to publish the work

c. to perform the work in public or communicate it to the public

d. to produce, reproduce, perform or publish any translation of the work

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[22] *www.copyright.gov.in, last accessed on 7th September, 2011*



e. to make any cinematographic film or a record in respect of the work

f. to make any adaptation of the work

g. to do, in relation to a translation or an adaptation of the work, any of the acts specified to the work in sub clauses to (a) to (f).

The above mentioned rights are `exclusive' in the sense that the creator (or right holder) alone has the right to enjoy these to the exclusion of others. The author by virtue of his creation becomes the `owner' of the copyright in the work. However, there can be exceptions to this as in the following two cases:-

a. The creator may be employed by someone and having been employed to create a work, the rights belong to the employer - not the creator(s), and

b. The creator may transfer his copyright by a document in writing to another person. This is known as assignment.

The grant of copyright is a limited monopoly. It is limited in the `scope' of the rights granted and in terms of `time'. In India, copyright on a literary work is provided for the lifetime of the author plus sixty years after his death. In case of joint authorship, the sixty years period is calculated from the beginning of the calendar year following the year in which the last (surviving) author dies. Copyright with respect to photographs, cinematographic works and sound recordings spans for 60 years of its first publication. In order to strike a balance between the society's need for access to knowledge and the need to rewarding creators, limited uses of copyright protected works are permitted without authors consent. These are called `fair use' of copyright. Section 52 of Indian Copyright Act permits certain activities which do not amount to infringement. Important in this `exception list' are reproduction of literary, dramatic, musical or artistic works for educational purposes, e.g. research, review etc., and reporting in newspapers, magazines and periodicals etc.

The Copyright Act of India provides right holders dual legal machinery for enforcing their rights. The enforcement is possible through (1) the Copyright Board and (2) the courts. Legal remedies include imprisonment and/or monetary fines – depending upon the gravity of the crime. Sometimes remedies also include seizure, forfeiture and destruction of infringing copies and the plates used for making such copies. The 1984 amendment has made copyright infringement a cognizable non-bailable offence. Under the provisions of the Act any person who knowingly infringes or abets the infringement of copyright is considered as an offender and is punishable



with a minimum of six months imprisonment which may extend to three years and a fine between fifty thousand and two lakhs rupees. The 1994 Amendment has incorporated a special penal provision for knowingly using infringing computer software. The punishment provided for this act is imprisonment for a term of seven days to a maximum of three years and a fine between fifty thousand and two lakh rupees. In case the infringing copy of the computer software is used not for pecuniary gain or in the course of trade or business, the imprisonment can be relaxed and fine can be maximum of fifty thousand rupees.[23]

Besides amending the Copyright Act the Indian Government has taken few more steps in strengthening the enforcement in the country. A Copyright Enforcement Advisory Council has been set up for advising the Government on measures for improving the copyright enforcement. Training programmes and seminars are arranged for police personnel. Necessary legislation was made for bringing video shops, cable operators under regulation. State governments are encouraged to set up IPR cells for exclusively dealing with copyright and other IPR violations.[24]

The Future of Copyright in India

The copyright laws in India are set to be amended with the introduction of the provisions for anti-circumvention and Rights Management Information in the Indian copyright regime although India is under no obligation to introduce these changes as it is not a signatory to WCT or WPPT.

With the amendment of the Copyright Act in 1994, which came into force on 10 May 1995, the situation with regard to copyright enforcement in India has improved. According to Ramdas Bhatkal of Popular Prakashan, Bombay, "We had problems of piracy relating to medical textbooks before the law was amended. At that time we found that while the law may be on our side, it was necessary to get a court order for search and this meant that there was sufficient notice to the pirate to take defensive action before the court order could be implemented. Therefore we preferred to accept the situation and did nothing. Since the changes which make copyright violation a cognizable offence it has been possible to use the legal mechanism as a deterrent."[25]

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[23] *http://www.dsir.gov.in/pubs/itt/itt9702/copyright.htm, last accessed on 6th September, 2011*

[24] *Arvind Kumar, Problems of Copyright Enforcement in India, Journal of Intellectual Property Rights, Vol. 2, January 1997.*

[25] *Ibid*



Section 64 of the Indian Copyright Act 1957 provides that "Any police officer, not below the rank of a sub-inspector, may, if he is satisfied that an offence under Section 63 in respect of the infringement of copyright in any work has_been, is being, or is likely to be, committed, seize without warrant, all copies of the work, wherever found, and all copies and plates used for the purpose of making infringing copies of the work, wherever found, and all copies and plates so seized shall, as soon as practicable, be produced before a magistrate."

"The copyright does not protect the idea but it does protect the skill and the labour put in by the authors in producing the work. A person cannot be held liable for infringement of copyright if he has taken only the idea involved in the work and given expression to the idea in his own way. Two authors can produce two different works from a common source of information each of them arranging that information in his own way and using his own language**.** The arrangement of the information and the language used should not be copied from a work in which copyright subsists."

One way of discouraging book piracy is for the government to encourage book publishers by offering them tax concessions, lowering the sales tax, granting special reduction in income tax to publishing houses, subsidising the printing of university-level books with consequent reduction in book prices. Such a price reduction would encourage readers to buy more books, which in turn can catalyse increased production and profit for publishers.

Conclusion

Piracy of copyrighted products is a menace as old as the copyright itself. Only in recent years it has received prominence, especially in the academic and policy circles. In India, no official estimate is available to indicate the extent of piracy and associated economic loss. To meet the ever- increasing challenges, as posed by the changed circumstances and latest technology, the existing law can be so interpreted that all facets of copyright are adequately covered. Eliminating book piracy is not going to be easy; laws alone would be ineffective and inadequate. Publishers also should evolve strategies to reduce book prices; they should find ways to reduce book prices without endangering their economy.

The Leaky Cauldron of Indirect Taxes

Amarchand & Mangaldas & Suresh A Shroff & Co.

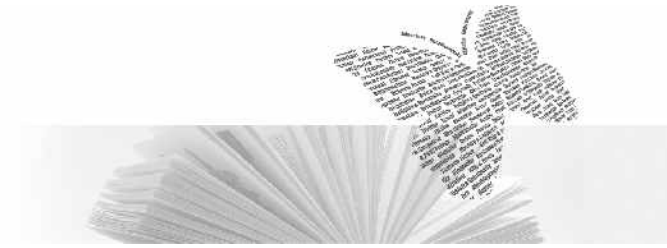
The printing industry by its definition includes not just the numerous business entities which are involved in the actual printing of works and hides an entire supply chain of professionals ranging from those who are involved in providing finishing services such as binding, cutting, trimming, laminating etc for their clients, to those in multimedia and graphic design, web page creation, brokers, independent sales persons, recruiting companies, suppliers, trade organisations, equipment vendors etc.

Needless to state the publishing industry is as much a leaky cauldron for the multitude of indirect taxes due to the lack of cross utilisation of credits between taxes which are levied at a Federal level and those at the State level and the exemptions available to the final output i.e. the printed material in most State jurisdictions.

The much awaited Goods and Services Tax (Hereinafter GST) promises to be a watershed in realigning and redefining the industry not just in terms of the functioning of the sector. GST is seen as India's biggest step in the direction of reforming and streamlining indirect taxes by subsuming Central excise duty, service tax and VAT into a single regime. GST is a tax on the supply of goods and services with comprehensive and continuous chain of set-off benefits from the producer's/service provider's point up to the retailer's level. The tax is attracted only on value additions at each stage and the ultimate consumer bears the tax.

The Central government and the Empowered Committee of State Finance Ministers (“EC”) constituted to evolve a GST model for India, have, in the course of their deliberations, agreed on a dual GST model. The dual model would be implemented through multiple statutes at the Federal and State levels. Central GST (“CGST”) and a State GST (“SGST”) would concurrently apply to all transactions. However, basic features of law such as chargeability, definition of taxable event, taxable persons, etc., would be uniform across all statutes, to the extent feasible.

The broad contours of the proposed levy were first made public with the release of the First Discussion Paper on November 10, 2009 by the EC. Subsequently, the Task Force appointed by the Thirteenth Finance Commission, had issued a report (“Report”) on December 15, 2009 providing its recommendations for the implementation of a 'flawless' GST. Both of the documents conveyed a strong economic logic for the introduction of the GST.



The points of variance between the two bodies are being successfully negotiated since then. The introduction of the Constitutional Amendment Bill in the Parliament earlier this year has definitely reaffirmed the commitment of the Government to bring about the proposed financial reform at the earliest.

Some of the key aspects of the proposed GST which are now finalised are discussed hereinbelow:

Taxes Subsumed

The guiding principle behind the GST is the amalgamation of various indirect taxes along the supply chain into a single levy, consequently eliminating tax distortions and creating a transparent tax pass-through till the end consumer.

CGST would subsume the following taxes:

- Central Excise Duty
- Additional Excise Duties
- Additional Duty of Customs levied in lieu of excise
- Additional Duty of Customs levied in lieu of sales tax/value added tax
- The Excise Duty levied under the Medicinal and Toiletries Preparation Act
- Service Tax
- Surcharges, and
- Cesses.

SGST would subsume the following State taxes and levies:

- VAT / Sales tax
- Entertainment tax (unless it is levied by local bodies)
- Luxury tax
- Taxes on lottery, betting and gambling.
- State Cesses and Surcharges in so far as they relate to supply of goods and services.
- Entry tax not in lieu of Octroi.



Rate Structure

The revenue neutral rate has been a much contested area between various stakeholders in the debate. The EC had recommended a multi-rate structure for taxation of goods and a single rate structure for services and retention of the exempted lists under the State VAT regimes to ease the transition into the new system without alluding to the actual rate of tax. The Task Force on the other hand, recommends the same uniform rate of taxation for both goods and services. The Report recommends a single revenue neutral rate of CGST at 5 % and SGST at 7%.

As a measure of compromise however the Finance Minister had suggested that a multi rate structure be adopted in the first two years of implementation of GST for goods would later be converged with the rate applicable for services which would remain constant from the date of introduction. The proposed rates are tabulated below for ease of reference

Year	Categories	Central GST	State GST	Total Tax Liability
2011 April	Goods at lower rate	6	6	12
	Goods at standard rate	10	10	20
	Services	8	8	16
2012 April	Goods at lower rate	6	6	12
	Goods at standard rate	9	9	18
	Services	8	8	16
2013 April	Goods at standard rate	8	8	16
	Services	8	8	16

However, discussions on the most appropriate rate of tax are still under consideration.

Inter-state Transactions and Input Tax Credit

The EC's proposal for a progressive and innovative mechanism for taxation of interstate supply of goods and provision of services would form the basis of the inter state transactions in the GST regime. In terms of the EC's proposal, all inter-State transactions of supply of goods and provision of services would be eligible to Integrated Goods and Service Tax (“IGST”) which would be the sum total of CGST and SGST.



IGST would to be a destination based consumption tax, unlike the existing sales tax regime which is origin based. Under this system, each state acts both as an exporter as well as an importer of goods and services. The settlement of accounts arising out of the cross utilization of credits between the Centre and the States would be handled by a Centralized Agency, which would act as a clearing house, verifying the claims and determining the net transfer of funds between the Centre and each of the States.

Place of Supply Rules would be implemented in due course, in order to determine taxing jurisdiction for transfer of intangibles and supply of services.

As regards the treatment which would be accorded to input credits; CGST and SGST are proposed to be treated as parallel regimes for the purposes of availing input tax credit in both the Reports. In order to ensure that there is no accumulation of the input credits and to maintain a seamless flow of credits throughout the supply chain, irrespective of the nature of the transaction, the credit of both CGST and SGST would be allowed in the case of inter-state transactions.

While the specifics of the fungibility of the various credit pools are yet to be notified, in principle, the intention appears to be to conclusively resolve the cascading effect of tax for an assessee who trades on an inter-state basis, while preserving the fundamentals of fiscal federalism in either of the two mechanisms which have been envisaged.

Treatment of Exports/Imports

In line with international best practices, the zero rating of exports of goods and services and the levy of GST on all imports of goods and services into India, under the reverse charge mechanism is proposed to be adopted. Complete setoff paid on import of goods and services into India would be available against GST payable on domestic transactions.

The principles to be adopted for levy of SGST on imports have not been elaborated upon. It is reasonable to expect that the tariff under the GST would be synchronized with the Harmonised System of Nomenclature (“HSN”).

Potential Impact of GST

The extensive remodeling which the indirect tax framework would undergo with the implementation of GST is bound to have an equally significant impact on the dynamics of the publishing world.



The seamless flow of credit proposed under the GST regime through subsumation of all taxes and allowing for fungibility of credits with respect to inter state transactions would also ensure a pass through of all the taxes and reduce the final cost to the consumers. In the current scenario, given the parallel streams of credit in the existing system, the service taxes/VAT/CST paid end up being the cost of the transaction. The advent of GST regime would ensure that there is adequate setoff to correct any such anomalies. In addition, as GST proposes to rationalize the exemptions available in the current context to those which are absolutely essential for the national interest. Further, warehousing at multiple locations may no longer be a necessity given the proposed uniformity of tax rates, basis and threshold limits.

Irrespective of the ultimate architecture of the GST legislation, it is important that industry becomes mindful that the levy of GST would bring about a great degree of change. Accordingly, it critical for entertainment and media companies to start mapping the indirect taxes which are presently applicable to their supply chains in the present regime vis-à-vis the proposed regime. This would not only help them assess the areas where the cascading effect of taxation would be eliminated but also enable them in identifying potential pitfalls, which may impact competitiveness by altering the pricing of their products and marketing strategy.

Most importantly, the industry as a whole also needs to make sure that the structural, compliance and implementation related changes proposed are analyzed well in advance and suggestions in this regard are communicated to the law makers for bringing about an inclusive process of reform of taxes.

The Digitization of Books and The Google Book Search Project: Lessons For The Future

Amarchand & Mangaldas & Suresh A Shroff & Co.

A study conducted by the Association of American Publishers[1] reveals that e-book sales in the United States were up 165 percent in 2010 from 2009. In 2010, e-book sales represented $49.5 million versus $11.7 billion for traditional books. These statistics, while limited to the United States, are indeed impressive. Even according to other sources, e-book sales are soaring worldwide and there seems to be a general consensus that digitization of books and documents has given a much needed fillip to the publishing industry, which had been languishing in the dark ages, as compared to the digitized and technologically savvy multimedia content industry. Even from a non-commercial perspective, the digitization of documents is important as it protects historical documents from the ravages of time, ensuring that they will remain available to future generations. These global trends are fast expected to reflect in the Indian landscape as well, especially since India is now a hot destination for new technologies such as tablets and smart phones, all of which require interesting content to make it valuable to its owners.

With this background, it becomes important to consider certain recent developments in the global environment relating to e-books, particularly the Google Book Search project and analyze whether the present landscape is conducive to e-book publishing and if so, are the existing legal protections strong and cohesive enough to protect the authors/publishers against unauthorized use of their works.

In 2004, Google entered into agreements with several American libraries[2], allowing it to copy the books in their collections. Subsequently, Google went ahead and copied over a few million books and made '*snippets*' (excerpts) of such books available online for users of the Google Search Engine. In about 2005, agitated by Google's failure to take permission from the copyright holders of the millions of books already scanned by Google, certain authors and publishers[3] sued Google for copyright infringement in a class action lawsuit in the New York District Court. While Google

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[1] *Available at http://www.publishers.org/bookstats/formats/.*

[2] *Harvard, Stanford, and Oxford Universities, the University of Michigan and the New York Public Library.*

[3] *"Authors Guild Sues Google, Citing Massive Copyright Infringement"; available at http://www.authorsguild.org/advocacy/articles/authorsguildsuesgooglecitingmassivecopyrightinfringement.html.*



defended its actions on the grounds of '*fair use*'[4], the parties in 2006 started settlement talks; and on October 28, 2008, jointly filed a Proposed Settlement Agreement ("**PSA**") in the matter. Due to the fact that it was a class action suit, the PSA was negotiated by only a few representatives' authors and publisher groups and Google, which came up with a proposal to bind the entire author and publisher community.

The PSA was applicable to everyone who had a '*U.S. copyright interest*' in a book. This was interesting because due to the interpretation of '*U.S. copyright interest*', virtually all authors/publishers who were from countries that had ratified the Berne Convention ended up being implicated under the PSA, including Indian authors and publishers. The PSA made a distinction between commercially and non-commercially available books, and for all books which were non-commercial (i.e out of print), Google gave itself wide rights of reproduction and distribution, in exchange for a license fee decided by Google, unless the copyright holder '*opted out*'[5] of the PSA. The PSA was therefore structured as an opt-out agreement, meaning that any copyright holder who did not want their work included in Google's repository had to opt-out of the project, and if they did nothing their works would continue to be scanned and used by Google. Opt-out agreements are founded on the premise that silence conveys acceptance.

Before delving further into the specifics of the objections taken against the PSA, it is important to understand certain basic fundamentals of copyright law. Copyright law provides the author of a work with certain exclusive rights, including the right to copy/reproduce his or her work, and any use of such work by a third party requires the consent of the copyright holder. Google's PSA, shifting the burden on the copyright holder to preemptively protect his/her work was a complete departure from established principles of copyright law, and justifiably caused serious concern among numerous interest groups.

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[4]Under the U.S Copyright law, one of the rights of the owner of copyright is the right to reproduce or to authorize others to reproduce the work in copies. This right is subject to certain limitations, one of these limitations being the doctrine of 'fair use', which is codified in Section 107 of the U.S Copyright law. Section 107 sets out four factors to be considered in determining whether or not a particular use is fair: (i)The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes; (ii) The nature of the copyrighted work ; (iii) The amount and substantiality of the portion used in relation to the copyrighted work as a whole and (iv) The effect of the use upon the potential market for, or value of, the copyrighted work.

[5]The copyright holder could opt out of the settlement either entirely, by requesting the removal of protected books, or partially, by modifying the default display rules.



Notice of the PSA led to a number of objections being filed in court against the PSA, including from Germany, France, the United States Department of Justice, the states of Connecticut, Missouri, Pennsylvania, Washington, Massachusetts and Texas as well as a number of companies, authors and publishers. In light of the objections filed against the PSA, the parties entered into further discussions to address some of the objections against the PSA, and on November 13, 2009 came up with a modified agreement. Notice of the Amended Settlement Agreement ("**ASA"**) once again led to a new round of objections being filed against it as most people felt that while the reach of the ASA was limited as compared to the PSA[6], it did not address any of the real concerns that were raised, and the ASA continued to follow an opt-out mechanism.

While a number of objections were centered on due process issues, such as lack of adequate notice to the affected parties as well as adequacy of class representation, there were three major substantive objections raised which revolved around copyright, anti-trust and privacy violations, briefly summarized as follows:

(i) Copyright: The ASA's opt-out provisions would grant Google the ability to exploit the rights of the copyright holders who never consented to such exploitation. Copyright law allows the holder of copyright to do nothing and enjoy his rights undisturbed by others exploiting his works without permission and under the ASA, if the holder does nothing, he loses his right.

(ii) Anti-trust: The ASA would give Google *de facto* monopoly over orphan works[7] raising anti-trust concerns because the seller of an incomplete database i.e one that does not include the orphan works will not be able to compete with seller of a comprehensive product. Furthermore the ASA would also give Google control over the search market.

(iii) Privacy: The digitization of books would allow Google to collect a large amount of information including information about the activities of users of its book search program and that the ASA fails to provide adequate safeguards for the users According to the Consumer Watchdog, one of the objectors, the ASA would give Google "*the ability to collect nearly unlimited data about the activities of users of its Book Search and other programs, including users' search queries, the identity of books a particular user reads, how long the reader spends on each book, and even what particular pages were read".*

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[6]While the PSA applied virtually to copyright holders in all countries, the ASA would only apply to foreign books published in Australia, Canada, or the United Kingdom, or registered with the United States Copyright Office as of January 5, 2009.

[7]An orphan work is a work under copyright protection for which the copyright owner cannot be contacted.



What is particularly interesting about the second round of objections is that a group of Indian authors and publishers[8] whose interests were affected by the ASA also filed objections with the court citing numerous concerns, including that the ASA was violating national and international copyright laws by illegally copying works under copyright protection without the express authorization of the copyright holder.

Finally, a number of years and twelve million books later, the circuit Judge, Judge Chin gave his judgement in the matter on March 22, 2011 concluding that the ASA was not "*fair, adequate and reasonable*". In response to objections raised by various parties, Judge Chin noted that the notion that a court approved settlement can release the copyright interests of individual rights owners who have not voluntarily consented to transfer is troubling and furthermore that it is incongruous with the purpose of copyright laws to place the onus on copyright owners to come forward to protect their rights when Google copied their works without first seeking their permission. Judge Chin also noted that the ASA would give Google a *de facto* monopoly over unclaimed works. The judge further recognized the anti-trust ramifications of the ASA as he noted that the rights to the orphan works under the ASA would give Google a dominant market position and that the ASA would also give Google control over the search market.

It is pertinent to mention that Judge Chin observed that digitization of books, particularly the books that have been out of print will be given a new lease of life and that the parties should attempt to work out a better settlement, and that concerns raised in the objections may be ameliorated if the ASA would follow the opt-in rather than the opt-out approach. While this seems to be a reasonable approach, news reports suggest that Google does not seem to be interested in following an opt-in mechanism. In latest news[9], certain author groups have filed a lawsuit against the libraries that were part of the Google Book Search project for copyright infringement. The future of the Google Book Search project, at this point, looks bleak.

There is no doubt however that the Google Book Search project is an important chapter in the history of the publishing industry and there are important lessons to be learnt here, for authors, publishers and the industry in general. The first is that while online availability of millions of books,

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[8] *'Indian Authors and Publishers File Objections against Google Book Settlement'; available at http://www.businesswireindia.com/PressRelease.asp?b2mid=21408.*

[9] *Available at http://www.nytimes.com/2011/09/13/business/media/authors-sue-to-remove-books-from-digital-archive.html?_r=1.*



in all languages would no doubt present enormous benefit to society[10], that kind of control and power in the hands of one company or entity is not the ideal solution. The second is the this kind of online library will have to be achieved within the existing legal regime particularly relating to copyright laws; which cannot be bypassed on the whims and fancies of anyone; to allow it would set a dangerous precedent where no content would be safe from misuse, and also market anomalies would be created leading to abusive and exclusionary conduct by the dominant players in the market.

Indian publishing Industry and authors would be wise to see the Google Book Search project as a cautionary tale and take the initiative to set up a dialogue on important issues and challenges surrounding the digitization of books in India and come up with solutions and standards that will make the digital book experience worthwhile for the Indian consumer.

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[10]See Courtney Nguyen, A Modern Library Class Action: The Google Book Settlement and the Future of Digital Books, 33 Hastings Comm. & Ent. L.J. 249 where he states that …."people who would otherwise never have been able to visit the Harvard University Library can have access to all of its titles right at their fingertips. The very notion of the elite, exclusive, and prestigious university library might become obsolete as access to those libraries becomes more equal, democratic, and universal".

Linking the author to the reader National Book Policy

The worth of a book is to be measured by what you can carry away from it.

Amarchand & Mangaldas & Suresh A Shroff & Co.

It is often said that books are a perennial source of information, knowledge, wisdom, pleasure and inspiration. They cover varied social, cultural and economic matters which are capable of being passed on from generations. For instance, the Sushruta Samhita and Charak Samhita are the two encyclopedias on Indian medicinal practice that form the magna carta of Ayurveda[1]. Books are responsible for inculcating ideas and creative vision that contribute to a information driven society and socio-economic progress.

The importance of books for a knowledge-based developing economy such as India has been well documented. The Government of India established the National Book Development Board in 1967. New Delhi was also the host to UNESCO's Regional Consultation for National Book Development Plan in 1986 and the South Asian Sub-regional Consultation on Book Policies[2]. The National Policy in Education incorporated an Indian Book Policy envisaging availability of books at low prices, easy accessibility of books to all segments of population, promoting the reading habit, encouragement to creative writing and to translation of foreign books, production of quality books for children (*including textbooks*) and library development[3].

With the reconstitution of the erstwhile National Book Development Council[4] as the National Book Promotion Council (NBPC), there is an increased focus on increasing accessibility to books and their quality content. The Union Ministry of Human Resource Development, Government of India (MHRD), constituted a task force under the NBPC to promote the culture of reading in India. The task force released the draft National Book Promotion Policy (NBP Policy) in the later part of 2010 and it is in the process of being finalized after incorporating comments from industry/academia/civil society.

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[1] *System of traditional medicine native to India and a form of alternative medicine.*

[2] *August 1993.*

[3] *Reported by Abul Hasan, Director, Afro-Asian Book Council*

[4] *Constituted in 1983.*



The aim of this article is to examine the need for a National Book Policy in India in light of the NBP Policy and review certain international practices in this respect.

National Book Policy

UNESCO refers to national book policy as a political commitment to consider books as part of a cultural economical strategic sector. It is important to underscore the joint use of the term '*cultural*' and '*economical*' in this definition.

There is a vast ecosystem to transform any manuscript as books in the reader's hands. Authors, publishers, printers, distributors, booksellers, copyright holders, librarians, schools and the like are the diverse disciplines that constitute the supply chain that gets the books to the readers. These very elements also reflect on the dual nature of the book as an economic product and a cultural item. Therefore, a successful book policy requires an integrated approach between the cultural aspects and economic values that constitute this sector. This means that any policy must address the needs of book 'industry' as well as the cultural and educational role that books play in our society.

The draft NBP Policy is an attempt to address the issues of the entire supply chain from the author to the reseller and reflects the shift in government thinking to treating books as a standalone sector with great cultural significance. Rolling out a national book policy entails harmonious development of all the elements of this sector through the enabling framework of a single document. We shall now briefly examine key areas of coverage for a national book policy for different actors within the supply network of books.

Authors

Being responsible for the quality of the content of the books, writers or authors are the very foundation of this sector. Unfortunately, this remains largely an unorganized activity in India and is one of the predominant reasons that Indian books/authors have not achieved parity with their foreign counter-parts even in the domestic markets. Most authors in the country do not have access to quality editors, translators or training for amplifying their writing skills. The NBP Policy envisages a plan to conduct workshops for writers on a National, State and District level to address these issues.



There is also a need to check the content of the books, especially those meant for children. The country today lacks a uniform forum or network which is responsible for oversight on the content of the books that are being published. Writer's guilds or associations could be tasked with the responsibility of imposing self-regulation within the author community on the lines of the role played by Advertising Standards Council of India in monitoring advertisements in print and electronic media. Such collective administration societies could also be utilized to host the skill development initiatives under the NBP Policy.

Another important aspect for any national book policy is the enforcement of author's rights and receipt of royalty payments. Today there is an apparent lack of awareness amongst the writer's as to their legal rights and royalty terms for their works. As a welcome move, the NBP Policy proposes to carry out advocacy amongst writer's regarding their legal rights. It is also imperative that the proposed obligation on publishers within the NBP Policy to report royalty and publishing figures to the writers are incorporated into a statutory framework for effective enforcement. The 'Guayaquil Model Law', a model book law adopted by regional specialists under the UNESCO-CERLALC programme can provide some guidance in respect of publishing agreement for writers[5]:

"*All publishing contracts (for printing, publication, joint publication, translation, distribution, literary representation, and so forth) must be awarded in writing, shall be binding on the parties and shall be registered with the Official Copyright Agency [or its equivalent], in default of which it shall have no force with regard to third parties.*"

Creation of transparency in the relationship of an author with a publisher alongwith proper advocacy to the author would have the potential to enable them and further incentivize production of quality books in the country.

India enjoys over 22 official languages[6]. The market for translated works is increasingly growing and it is also a useful tool to provide Indian works in local languages readership outside the country. There is an impending need to establish a framework that allows writers' access to translators at reasonable costs. The resources of National/State Universities and the National Book Trust of India could be utilized to deploy translation centres where authors could request for translation of their works in other languages. It is imperative that the NBP Policy facilitates the creation of a pool of translators for writers that can result in increased market avenues for their literary works, both within and outside India.

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[5] *Under Article 17, Chapter V.*

[6] *Under 8th Schedule to the Constitution of India, 1950.*



Publishers

A permanent solution to book scarcity is not mass importation of books but investment and encouragement of the publishing business.

- Yusuf Tanko

A publisher is the critical link in the book sector and represents the investment of time/money for a manuscript to become a book. Assuming the financial implications associated with the books he decides to publish, they are also the risk-bearers within the supply chain for books. The publishing industry in India is growing at the rate of 30% per annum[7]. In India, as many as 1500-2000 books are published every year for children alone[8]. With advent of NBP Policy, the domestic publishing industry is poised to play a greater role in dissemination of culturally and educationally relevant books.

Despite such positive indicators, there are certain impending issues within the publishing industry in India that need to be resolved in order to achieve the projected aims of the NBP Policy. These include *inter-alia*:

- Access to capital: Largely an unorganized sector, local publishing houses in India do not have access to institutional capital/credit. This has resulted in dwarfed expansion and dwindling sales with international competitors making an increasing foray in the Indian market. Measures such as recognizing publishing as a small scale sector or priority sector, as envisaged under the NBP Policy, would have a net positive impact on the domestic publishing industry.

- Government Procurement: Through its several initiatives, the Government of India and the respective state governments constitute one of single-largest buyer of books in the country. A review of the payment mechanisms, tender conditions and preferential allotment to domestic publishers would augment the Indian publishing industry.

- Export/Import: Award of preferential treatment in fiscal policies, particularly export-import regulations, would greatly allow for creation of a robust publishing industry in India. With export sales of over `1120 million worth of books and other printed material in 1995-96[9], the Indian publishing industry continues to promise huge growth. A favourable export policy would also enable access to greater markets abroad. In addition, there is a need to promote Indian publications in other countries through a comprehensive and focussed marketing strategy implemented with aid and assistance of the Government of India.

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[7] *Source: IndiaPRwire; www.indiaprwire.com.*

[8] *Source: IndiaPRwire; www.indiaprwire.com.*

[9] *Study on copyright piracy in India, MHRD, 1999.*



Distributors/Resellers

Distributors and booksellers represent the last-mile infrastructure that is responsible for the books reaching to the readers. In order to increase the penetration of quality books within the country, there is a need to create a robust distribution network. The NBP Policy may include incentives to open bookstores in rural areas and provide for extension of credit facilities in this respect.

The advent of information communications technology has had a net positive impact on the book sector as well. There are a variety of new distribution channels, such as:

- Internet bookshops: This includes providing books for sale via an internet catalogue and enabling doorstep delivery for the reader. Virtual book selling firms, such as Amazon and FlipKart, have been at the forefront of the development of the new digital economy and sometimes offer a range of titles that may be impossible to find in regular bookshops. With appropriate fiscal incentives on postal charges these internet bookshops have the ability to provide savings of upto 40% of the cover price to readers[10]. This may be utilized under the NBP Policy for domestic publications to encourage readership and book-reading culture of Indian works.

- Electronic books: E-books are a very effective means of dissemination of literary works over the internet. However, their ability to reach the market is dependent on internet-connectivity and availability of rich content. If aligned appropriately with the Government of India's digitization program, e-books could translate into millions of literary works being accessible to primary/secondary schools/ universities across rural India.

- Digital publishing on a print-on-demand basis: As these publications stay online until they are printed, they allow limited print runs at affordable prices. If effectively utilized, print-on-demand would allow for access to greater literary works across India and encourage publishers to take sign-on domestic writers. However, an effective framework with fiscal benefits for print-on-demand publishers/distributors would be required to encourage growth of such services in India.

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[10] *Policy Making: A European Policy for Electronic Publishing; Giuseppe Vitiello; Volume 6, Issue 3, March, 2001, Journal of electronic publishing.*



In view of the above, the NBP Policy should be forward-looking and specifically address the needs of as well as encourage establishment of technology-based distribution systems to leverage ICT for attaining the NBPC's goals.

Role of Libraries

An integral part of the book ecosystem is the libraries. In countries with lower per capita income such as India, libraries allow the reader access to large number of literary works that they are not able to procure individually. Although we have a large network of libraries across the country, there is an impending need to assess their current state and operating efficiencies. Initiatives such as the nation-wide library statistics program[11] allows the government to undertake appropriate stock taking and consequent planning for libraries. The NBP Policy should aim to make the library a pivot for encouraging book reading in India by carrying out a reform of the existing institutional framework and providing fiscal incentives for establishment of new libraries.

The NBP Policy deals with libraries and related issues under the aegis of a Library Mission. With respect to rural libraries, the proposal for financing under NBP Policy during the next grant period is promising. Currently, the NBP Policy also proposes that atleast 50% of the book grant to the rural libraries is earmarked for purchasing books by Indian authors. In addition to the said disbursal, it may be feasible to compulsorily allocate some of the book grant for titles in local languages for promoting cultural values and learning. This would also provide an impetus to authors of works in local languages and revive publication relating thereto.

The neighbourhood library programme as envisaged under the NBP Policy is a welcome step and have been proven to increase readership in other parts of the world as well. With appropriate fiscal incentives for establishment, neighbourhood library programs in other countries have showcased the ability to promote readership[12]. These libraries can also be used for promotional events such as book reading, competitions and shows based on local culture and heritage. Neighbourhood library programs such as the Balamuri Vigneswara & Balanjenaya Temple Seva Samithi[13] neighbourhood library is illustrative of the roles that these local centres can play in encouraging book reading and spreading cultural awareness.

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[11] Started by National Center for Education Statistics (NCES) in 1989.

[12] Houston Public Library (http://www.hpl.lib.tx.us); Georgetown Neighborhood Library (www.dclibrary.org/georgetown).

[13] Basaveshwara Nagar, Bangalore.



The digitization of existing libraries and establishment of a library network are also required to allow greater access to books for readers. The NBP Policy has recommended that an autonomous private organization is involved in the modernization of libraries in India. International experience has showed that inter-linking of libraries, whether public or private, can be a powerful towards enabling dissemination of information and effective deployment of national book policies/programs. The penetration of books and readership can be increased exponentially by equipping neighbourhood libraries with electronic distribution methods such as e-books and the state providing for a repository of latest e-books accessible by all libraries. Appropriate modifications and effective enforcement of Delivery of Books and Newspapers (Public Libraries) Act, 1954, with respect to both hard copy and electronic publications would be required to ensure that books are made accessible to National Libraries. The NBP Policy may also propose, after due consultation with the industry, that e-books made available under the said statute are uploaded onto a national library network with the payment of subsidized royalty to the publishers so that the content is made available in libraries across the country. Under the NBP Policy, the government will also have to deal with the controversial concept of fair use, i.e. the general practice of lawfully permitted copying or excerpting of copyrighted material in the course of education, scholarship, or commentary, or in order to advance learning; or for other societal goals. This would also require that limitations to the exclusive right on intellectual property should be made attractive to publishers and producers by setting up incentive-based policies that would partially refund to publishers and producers their potential losses. The NBP Policy should create an environment where publishers can favourably contribute to the library network without affecting their profits, in order to avoid difficulties on similar issues in other countries[14].

In order to address the needs of an inter-linked library network, it may be possible for the NBP Policy to propose establishment of collective-bargaining bodies in charge of negotiating collective agreements, licensing or other forms of contracts with rights holders[15]. This would ensure that the materials made available to the network of libraries are updated and relevant.

In sum, there is a need for a detailed evaluation and planning for reform of the library system in India. The Library Mission under the NBP Policy may be utilized to create a policy framework focussed on the utilization of libraries to provide greater access to books for all.

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[14]US: CONFU (Conference on Fair Use) framework; UK: PA/JISC Guidelines for Fair Dealing in an Electronic Environment.

[15]Policy Making: A European Policy for Electronic Publishing; Giuseppe Vitiello; Volume 6, Issue 3, March, 2001, Journal of electronic publishing.



Private Participation

Till now the focus of the Government and its schemes around book sector has been through the Government's direct participation or deployment of government resources. However, globally there is recognition of the fact that activities such as publication books or free distribution thereof by the state have limited impact and cannot be carried on indefinitely[16]. In order to attain goals highlighted under the NBP Policy, it is critical that adequate public-private or private initiatives are launched for promotion of book readership in the country.

Such public-private or private initiatives can take the form of neighbourhood libraries, book distribution events, local advisory boards and the like. For example, First Book[17] has developed First Book Marketplace – an online bookstore that offers educators and after school programs high-quality titled books at a discounted rate as a closed user community. Private advisory boards can assist the government by incentivizing creation of culturally relevant content by working with Indian publishing houses to highlight Indian authors, and illustrators. Such private boards can also negotiate on royalty and reproduction rights with publishers. The NBP Policy may incorporate a separate chapter dedicated to reforms through private participation and incentives relating thereto. The expansion of the list of activities that are eligible for tax exemption under the Income Tax Act, 1961, to include book banks, private advisory boards and online philanthropic distribution models would encourage NGO's and private organizations to deploy greater programs. Additionally, incentives can be given for private parties allowing for spaces for library/reading room in commercial complexes. As envisaged under the NBP Policy, private parties involved in the book sector ecosystem should be consulted at all stages of policy formulation to ensure an effective and inclusive framework.

Conclusion

Implementation of the NBP Policy or its remodelled avatar in India is going to be arduous yet necessary. A book policy should aim for educational and cultural stimulation through greater access to books. Such a policy should create an ecosystem in India that promotes the growth of the domestic publishing industry and the authors while encouraging self-regulation for moderating content quality, i.e. linking the author to the reader in the most effective manner.

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[16]National Book Policy, Guide for users in the field; Alvaro Garzon, UNESCO 1997.

[17]A non-profit organization based out of Washington D.C. that works towards getting new "age appropriate" books into the hands of children from low-income families.

A Script for the Future: An Enabling Legal Framework for the Print Media Industry

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1. Background

The Indian market for Print Media is the second largest in the world. As a part of the overall Indian Medial and Entertainment ("**M&E**") sector, the print media sector accounts for approximately 30% of the Indian M&E industry. The overall size of the industry is estimated to be INR 193 Billion. The readership base is estimated at over 350,000,000 and is expected to grow further in the coming years[1].

However, inspite of the robust outlook of projected growth, the print media industry is fragmented and charecterised by regional diversity. There are more than 107 million (one hundred and seven million) newspapers circulated daily, which accounts for around 20 % of the dailies in world. Around 92% of the Indian print market comprises newspapers with magazines comprising the balance 8%.

The print media industry had a very moderate rate of growth of 2% in the year 2009. However, the industry is projected to grow at a CAGR of 10% over the next 5 years and reach around Rs. 31,010 crores by the year 2015[2].

2. Legal Regime Governing the Print Media Sector in India

A. Authorities Regulating the Print Media Sector in India

The following authorities regulate the print media sector in India:

*(a) Ministry of Information & Broadcasting ("**MIB**")*

The MIB is the apex body responsible for formulation and administration of the rules, regulations and laws relating to the print media sector. The functions of MIB, *inter alia,* include

[1] *"Hitting the High Note", FICCI-KPMG Indian Media & Entertainment Industry Report, 2011.*

[2] *"Hitting the High Note", FICCI-KPMG Indian Media & Entertainment Industry Report, 2011.*



administration of newspapers, magazines and periodicals, monitoring a public grievance redressal mechanism, handling of press relations to present the policies of the Government of India and fostering international co-operation in the field of information and mass media.

(b) The Registrar of Newspapers for India ("**RNI**")

The Government of India under the Press and Registration of Books Act, 1867, appoints the RNI ("**PRB Act**"). The functions of RNI, *inter alia* include verification of titles, registration of newspapers, maintenance of a register of newspapers containing the details as prescribed by PRB Act and submission of an annual report providing an annual account of the working of the newspapers. The RNI also formulates the newsprint allocation policy, assesses, and certifies the need of newspapers to import machinery for printing and other requirements.

(c) Foreign Investment Promotion Board ("**FIPB**")

Regulatory oversight over foreign investment in the print media sector is the responsibility of the FIPB and the MIB. The FIPB is a regulatory body, which approves foreign investment in the country, which is under the government route.

B. Foreign Investment in the Print Media Sector

In India, foreign investment is regulated primarily by the Consolidated FDI Policy (*Effective From April 1, 2011*) issued by Department of Industrial Policy and Promotion ("**DIPP**"), Foreign Exchange Management Act, 1999 ("**FEMA**") and the regulations and notifications issued by the Reserve Bank of India ("**RBI**") under FEMA, from time to time.

The following are the sectoral caps and other conditions applicable to the Print Media sector as per the FDI Policy:

(a) Newspapers and periodicals dealing with news and current affairs

Foreign investment, including Foreign Direct Investment ("**FDI**") and investment by NRI's/PIO's/FII's, up to 26% is allowed. Investment can be made with the prior permission of the FIPB under the Government route. The investment in this sector is further subject to the



Guidelines for (i) Publication of newspapers and periodicals dealing with news and current affairs; (ii) Publication of facsimile edition of foreign newspapers, issued by MIB on March 31, 2006 (collectively known as "**March Guidelines**").

(b) Indian editions of foreign magazines[3] dealing with news and current affairs

For publication of Indian editions of foreign magazines dealing with news and current affairs, FDI (including investment by NRI/PIO/FII) up to 26% is allowed. The investment is subject to the Guidelines for publication of Indian editions of foreign magazines dealing with news and current affairs, issued by MIB on December 4, 2008 ("**December Guidelines**").

(c) Facsimile edition of foreign newspapers

For publication of facsimile edition of foreign newspapers, FDI up to 100% (one hundred percent) is permitted. The additional conditions are as follows:

(i) The FDI must be by the owner of the original foreign newspapers whose facsimile edition is proposed to be brought out in India;

(ii) The publication can be undertaken only by an entity incorporated under the Companies Act, 1956 ("**Companies Act**"); and

(iii) The publication would be subject to the Guidelines for publication of facsimile edition of foreign newspapers issued by MIB on March 31, 2006 ("**March Guidelines**").

(d) Scientific and technical magazines/specialty journals/periodicals

Foreign investment of up to 100% (one hundred percent), with prior Government approval as allowed in publication/ printing of scientific and technical magazines/ specialty journals/ periodicals. Such investment is further subject to the Guidelines for (i) publication of Indian editions of foreign technical/ scientific/ specialty magazines/ journals/ periodicals; and (ii) foreign investment in Indian entities publishing scientific/ technical/ specialty magazines/ journals/ periodicals, issued by MIB ("**Guidelines**").

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[3] *"Magazines" is defined for the purpose of the FDI Policy as a periodical publication, brought out on non-daily basis, containing public news or comments on public news.*



(e) Restrictions on foreign investment

It is important to note that NRI's or PIO's are not allowed to invest in a firm or proprietorship concern engaged the Print Media sector.

i. Guidelines issued by the MIB for investment in the Print Media Sector

(a) Registration requirements for publishing newspapers and periodicals dealing with news and current affairs

Every person seeking to publish newspapers and periodicals dealing with news and current affairs is required to obtain prior permission from MIB and should be a company registered in India under the Companies Act.

In relation to publication of newspapers and periodicals dealing with news and current affairs, the March Guidelines, *inter alia*, prescribe the following eligibility criteria for an applicant company:

i. Foreign Investment is allowed only where the resultant entity ("**New Entity**") is a company registered with the Registrar of Companies under the provisions of the Act.

ii. The largest Indian shareholder should have at least 51% (fifty one percent) of the total paid up equity, excluding the equity held by public sector banks and public financial institutions.

iii. While calculating the 26% foreign investment in the equity of the New Entity, the foreign holding component of the Indian shareholder companies of the New Entity is reckoned on pro rata basis to arrive at the total foreign holding.

iv. At least 50% (fifty percent) of the FDI must be by issue of fresh equity and the rest by transfer of existing equity.



v. At least 3/4th of the Directors on the Board of Directors of the New Entity and all key executives and editorial staff must be resident Indians.

In addition, the applicant company is subject to other restrictions including verification of titles of the newspapers, employment of foreigners/NRI's and a full disclosure of shareholders' agreements and loan agreements to the MIB.

(b) Registration requirements for publishing Indian editions of foreign magazines dealing with news and current affairs

The requirements for publishing Indian editions of foreign magazines are broadly the same as for newspapers. 100% identical content of the foreign magazine concerned is allowed. The following additional conditions are imposed:

i. The publisher/owner of the foreign magazine must have sound credentials.

ii. The foreign magazine must have the requisite approvals in its country of origin and be continuous publication for at least 5 (five) years, with a circulation of at least 10,000 (ten thousand) paid copies in the last financial year.

(c) Registration requirements for publishing facsimile editions of foreign newspapers

Any Indian entity seeking to publish facsimile editions of foreign newspapers is required to obtain prior permission from MIB and should be registered under the Companies Act. The following additional conditions are prescribed:

i. The principal place of business of the company should be in India.

ii. At least 3/4th of the Directors on the Board of Directors of the New Entity and all key executives and editorial staff must be resident Indians.

iii. The facsimile edition should not contain any locally generated content or carry any advertisements aimed at Indian readers.

iv. The facsimile edition should indicate that it is a facsimile edition and contain the editorial page and the place of publication of the original foreign newspaper.



(d) Requirements for investing in publishing of scientific and technical magazines/ specialty journals/ periodicals

In terms of the Guidelines, foreign investment is allowed only in Indian entities publishing scientific and technical magazines/specialty journals/periodicals. Prior permission of MIB is required for such an investment and the title of the publication must be verified by RNI. The Guidelines also prescribe the following procedure for foreign investment in Indian entities publishing scientific and technical magazines/specialty journals/periodicals:

i. An application should be made to MIB for permission, wherein MIB, after due inter-ministerial consultations would decide on whether the proposed publication is a scientific, technical or specialty magazine, periodical or journal.

ii. Upon approval, MIB issues a no objection certificate for foreign investment, and the copies of the same are forwarded to RNI, Secretariat for Industrial Assistance, RBI and the applicant.

iii. Pursuant to obtaining the no objection certification from MIB, the applicant must approach the authorities (FIPB/RBI) for clearance.

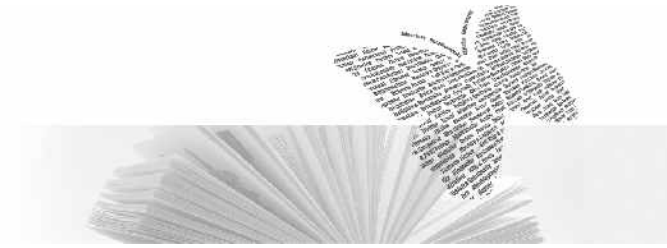
iv. Additionally, subsequent to the determination of the category of the publication by MIB while granting permission, if the contents of the publication undergo a change, then MIB would be entitled to review its determination.

The MIB has prescribed additional conditions for publishing Indian editions of foreign scientific and technical magazines/specialty journals/periodicals.

C. Other Laws/ Regulations governing the Newspaper Industry

In addition to the above, a multitude of legislations continues to govern the print media sector in India. The most prominent amongst those is the PRB Act, which requires that every person publishing, or intending to publish, a newspaper or a periodical, in India have to be registered under that Act. The Registration of Newspapers (Central) Rules, 1956 ("**Rules**") prescribe reporting and compliance requirements for newspapers.

The regulation of newsprint, an important raw material for printing of the newspaper, is done through the Newsprint Allocation Regulation. The Newspaper (Price and Page) Act, 1956 ("**Price**



and Page Act") empowers the Government to regulate the prices chargeable for newspapers and periodicals dealing with news and current affairs.

Ethical oversight over the print media industry is maintained through the Press Council Act, 1978 which establishes a Press Council for the purpose of preserving the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in India. The Central Press Accreditation Rules, 1985 deal with the grant of accreditation to the representatives of news media organizations with the Government of India.

Lastly, the Guidelines for Syndication Arrangements by Newspapers ("**Syndication Guidelines**") provide for a framework under which newspapers can enter into syndication arrangements with foreign publications for procuring content materials. The Syndication Guidelines are inapplicable to facsimile editions of foreign newspapers, which are approved by MIB.

3. A script for the future

The print media industry is one with enormous untapped potential for future growth. Literacy rates around the country have been rising and there is an enormous opportunity for publishers of newspapers, magazines and periodicals to cater to the burgeoning demand. As the FICCI-KPMG Indian Media & Entertainment Industry Report, 2011 notes: *'in contrast to the US, UK and global trends, print circulation numbers in India continue to be on an uptrend. Furthermore, given rising literacy levels and no immediate threat of new media platforms, the trend is expected to sustain over the next five years.'*

A conducive regulatory environment is paramount to realise the emerging opportunity for growth in the print media sector. The current regulatory framework is fragmented and lacks a collective approach. The following are the impediments for effective regulation:

a. Lack of a coherent policy on print media

Under the current framework, individual guidelines and application procedures have been prescribed for publication of newspapers, magazines and periodicals. However, there is no clear cut policy for regulating the print media sector. A consolidated policy approach would enable the investors and stakeholders in the print media industry to streamline their business in accordance with the regulations.

b. Lack of single, effective and independent regulator



The print media industry is currently regulated by MIB. The MIB is a Ministry in the Union Government as is not a independent regulator. It is submitted that an independent regulator for the print media sector would bring the much needed professional approach to regulation. A prime example is the Australian Communication and Media Authority (ACMA), established in 2005, is a statutory authority within the federal government portfolio dealing with Broadband, Communications and the Digital Economy. It is responsible for the regulation of broadcasting, the Internet, radio communications and telecommunications. In performing its role, ACMA is guided by principles laid down in the legislation, of minimizing the financial and administrative burdens on industry and encouraging the supply of internet carriage services at performance standards that meet community needs.

c. Streamlining/Liberalization of FDI Policy

A major hindrance to attracting investment in the print media industry is the *lack of a uniform policy on foreign investment*. The print media sector currently lacks a consistent and uniform policy on foreign investment. As noted above, there are different caps in foreign direct investment in various segments: in newspapers and magazines, FDI is fixed at 26 % while for facsimile editions of foreign newspapers, scientific journals and periodicals, it is fixed at 100%.. These caps must be streamlined in order to attract maximum investment in the industry.

Further, there is an argument to liberalize the squeezed margins in the current FDI policy. It is expected that increased investment will allow the industry to become self-sustaining for equipment upgrades, enhance customer relationship and enable mass-market reach at affordable costs. It is also expected to improve employee retention and advance working conditions for journalists.

d. Digital Media

The increasing importance of new media technologies in the publishing industry cannot be overstated. The internet platform poses an opportunity as well as a challenge to the print media sector in India. Around the world, there is a growing realization that new media technologies represent the future. Digital media is expected to augment and supplement traditional channels for distribution of content. However, the current regulatory framework in respect of digital medial is almost non-existent. For effective growth, the print media policy must take into account the opportunity provided by the emergence of digital media and provide for regulatory oversight on publication and distribution of online media content.



e. Policy on Advertising

Advertising represents a major source of revenue for the print media industry. However, critics have long argued that the current framework for advertising is eschewed in favour of the Government and represents a significant opportunity cost for the private sector.

Currently, the Directorate of Advertising & Visual Publicity ("**DAVP**") is the nodal agency of the Government of India for advertising by various Ministries and organizations of Government of India including public sector undertakings and autonomous bodies. The framework is charecterised by preferential advertising rates to Government institutions through the DAVP. Moreover, far from seeking to curtail advertising space, the government is today the largest single advertiser and consumer of newsprint in the print media industry. Uniformity in advertising policy would create a level playing field for the stakeholders in the sector and must be the way forward.

f. Self-regulation

Promoting self-regulation within the print media industry to regulate content is of equal importance, especially in the current regulatory environment. Various studies around the world have shown that self-regulation achieves better enforcement of good media practices in the broadcast industry. In the context of India, a regulatory body along the lines of ACMA in Australia would be ideally suited to regulate and guide content codes. The enforcement aspect of self-regulation must be clearly set out and enforcement powers of self-regulatory bodies must be clearly defined in order for the regulation to be effective.

4. Way Forward

The 18th Century French philosopher once said, while addressing a journalist: *'I detest what you write, but I would give my life to make it possible for you to continue to write.' The duty of the media is to keep people informed by reporting the truth. This is the justification for upholding press freedom as an essential feature of a democratic society. An enabling regulatory framework would help the industry to realize its fullest potential by serving the public interest through openness, fair competition and above all, by reporting the truth.*

Indian Publishing – A Giant in Slumber Ready To Bounce

Mr. Anand Bhushan
President, The Federation of Indian Publishers and Jt. Managing Director, Pitambar Publishing Co. Pvt. Ltd., New Delhi

India is a country with an ancient civilization and a rich tradition of culture dating back to many centuries. Its philosophy, emanating from the Holy Vedas and propounded by the sages and seers with deep learning, has been handed down to us through the ages – first by oral rendering and later on by handwritten books – the only parallel to this being the great philosophers of Greece, the personalities of Socrates, Plato, Aristotle and the like. The craving for learning has been so great in India that the writers did not wait for the paper to be invented and started with writing on Bhojpatras followed by Tampatras. Of course, it was a limited edition of the text but copies were available none the less. A tradition, deeply inherited and cherished flourished gradually to the age of modern books and has outwitted their counterparts in excellence in other parts of the world.

India is proud to have a pulsating world of book publishing in a number of modern Indian languages including English. As on date, we have 22 languages recognized by our Constitution including English. The history of Indian language publishing dates back to almost a century. India, today, is perhaps the only country in the world which publishes books in 24 languages and ranks third, after the USA and UK, in the publication of books in English. There has been an astounding increase in the number of titles being published in India. Out of the estimated 90 to 95 thousand new titles published every year, an estimated 25,000 are in Hindi, 20,000 in English language and the rest in other Indian languages. This engages about 19,000 publishers in India. Today, Indian publishing is one of the greatest in the world and India is among the first seven publishing nations. It is a great story and can be presented with pride. Today, India has a literacy rate of around 68% which gives a literate population of about 82 crores. This means that a great number of people are there who can read and write. On top of it, there is a whopping 550 million people below the age of 30, and with a vastly growing consumerist middle class, the need for publishing more books and sales in the country are bound to increase manifold.



Again, if we look at the figure of readership of books for which Indian publishers provide reading materials, it is mind-boggling. There are 336 universities including 100 deemed universities and 20 Central universities, 5589 colleges, 1,16,820 high schools, 1,98,094 middle schools, 6,41,695 primary schools and over and above there are lakhs of private centers which have never been enumerated. Then, there is the adult population of millions of people who read and buy all sorts of books. Indian publishers provide books not only for the organized educational sector as given above but also for neo-literates as well as, may I say, illiterates who do not read books by themselves but buy books to get these read out to them. This group is not small in number. We must also take stock of the large and hitherto unacknowledged segment of religious publishing which has always been an integral part of the publishing and reading scene of India, spread out into its far distant corners. India is the seat of eight major religions and a large section of the followers of all these religions live in the rural areas. They form a large chunk of readership in religious texts published all over by specialists in the field and marketed during the local fairs and festivals by pavement hawkers. Copies of holy scriptures like the Bhagavad Gita, the Ramayana, the Holy Quran, the Guru Granth Saheb, the Holy Bible and other adorn Indian homes and are read or heard by billions of devotees. These publications never reach the National Bibliography, even though they account for nearly 8 to 10 thousand books a year. If one were to take the quantum, of the number of copies of these books, it would touch a figure in billions.

Another area which has yet to see the light of day is that of folk literature which, too, feeds the rural areas. India has an age-old tradition of folklore which are recounted by mothers to their off springs as lullabies, around the banyan tree in community gatherings or around a campfire. These stories have been collected and printed for generations but find no mention in the annals of publishing even though they constitute a sizeable chunk.

Viewed in the light of this knowledge of the newly emerged realistic figures, we realize that Indian publishing is truly a colossus a sort of giant in slumber which needs to be given its realistic status and true identity.

India is publishing books in various categories and subjects. Apart from the text books for schools and colleges, books are being published in the category of electronic publishing, paperback and hard covers, religious books, feminist writing, science, technology and medical books, law books and above all children books. It is not known to the world at large that with a huge reservoir of scientists, Indian publishers are bringing out a number of books in the field of science and technology. Similarly, we have published authentic law books for the last so many



decades. Then, in the field of latest trends also, for example, feminist and mind, body and soul publishing, I think, India, has made a name in the world. Many leading publishers have taken special interest in the publishing of books in these two vital areas. The year 1959 has a great significance for the book reading public and book publishing in India. It saw the great revolution of publishing General. Trade Books in paperback in subjects of fiction, novels, poetry, travelogues, palmistry, religion, how to do books, translation of world classics, know-series like know your cities, temple, places of tourist interest, career oriented books, alternative medicine etc. The list has been growing since then to engulf the whole gamut of new subjects like meditation, yoga, management, computer etc. This experiment was a great success and paved the way for publishers in the nineties from all over the world coming to India in large numbers and sitting up joint ventures or giving translation rights or doing co-publishing.

The market for general books is immense and certainly there is a potential for huge turnover. The Indian publishing industry is, however, very price conscious though it has never compromised on the quality. The market compulsions in the field of general books have paved ways for innovations. The world publishing community is quite aware of the paperback experiment in India. The basic postulates for the success of paperback publishing in India are low prices, large editions and efficient, network of book distribution. Many publishers in English, Hindi and Indian, languages have launched Book Clubs with mixed success. The net result of all this was that more and more people belonging to masses started reading books. One could see paperbacks in Indian languages in the hands of ordinary people to elite in every walk of life.

Now, let me look at some other perspectives relating to the field of book publishing. The British writer Malcolm Muggeridege once jokingly said that the last Englishman would probably be an Indian. He was absolutely right. In the global business of electronic publishing, at any rate, it already looks as if the real expertise for putting the English language into printable shape may make its final home in India. Major international book and journal publishers find it viable and it makes a sound commercial sense a price advantage like 40% to get typesetting, page making and digitization done in this country either at their own Indian operations or through one of the electronic publishing agencies in India.

As I have mentioned earlier, Indian Publishing is taking a great leap forward and is fulfilling its responsibility of providing books not only to Indian reading public but also to readers in all parts of the world. India is producing high quality books which are being exported to over 130 countries of the world and our total exports are approx. Rs. 800 crores. Still there are problems and challenges under which Indian publishers are working. To enumerate a few are the shortage



of capital, high postal rates, lack of trained professionals, gaps in distribution, retail and marketing, nationalization of textbooks, shortage of bookshops etc. The demand and supply of books is totally mismatched with books not reaching all the potential buyers. One more challenge has come before the Indian Publishers during the last one decade and this refers to the unregulated entry of foreign publishers. Books pertain to the field of culture which the Government must spare like the Newspaper Industry.

The most important challenge which the Indian Publishing Industry is facing is the Nationalisation of School Text Books. This area of publishing is the foundation of publishing worldwide but the Indian Publishers are being starved of their due. In today's world, where liberatlization and globalization is the mantra of success, the Swadeshi Publishing looks forward to the Government of India to frame a suitable policy to undo the damage.

It was a long felt need that the Government of India should set up a Book Development Council to look into the malaise facing the industry. In September 2008, the Ministry of Human Resource Development had set up a National Book Promotion Council with a view to facilitate exchange of views on all major aspects of book publishing, interalia, covering writing/authorship of books for different segments of population for various age groups in different Indian languages and the quality and content of Indian books in general. After the first meeting of the National Book Promotion Council held on 25 September 2009 under the Chairmanship of the Minister of Human Resource Development, It was felt that there is need for a comprehensive National Book Promotion Policy in order to meet the challenges of Right to Education in the 21st century. After deliberations, it was suggested that a 12-member Task Force should be constituted to draft a comprehensive National Book Promotion Policy. The author of this article as President of FIP, is one of the twelve members of the Task Force and has played a major role in preparing a suitable document.

After considering the suggestions from various quarters including authors, publishers both public and private, universities, NBT, NCERT, Sahitya Academy etc. Shri Kapil Sibal, Minister of Human Resource Development, enumerated the following key issues which should form the basis of preparation of the Book Promotion Policy by the Task Force:

1. A website may be created providing a platform to the interested creative persons to convey their interest in topics of subjects in which they would like to write books. This forum may be named as " In search of authors".



2. The draft NBPP should also deal with pricing policy on books. However, this should not be mandatory in nature but advisory in nature.

3. There should be Public Private Partnership in publishing of text books for school children. The National Policy should aim to improve quality and distribution of books.

4. The NBPP should specifically focus on access to books by print disabled persons and physically challenged.

5. Neighbourhood library system shuld be promoted and strengthended.

6. Neighbourhood libraries shuld be intergrated with panchayat, district and state level libraries and the stated should subsidise these libraries.

7. State Governments should be involved in the NBPP.

8. Pre-school books should be encouraged.

9. A vailability and affordability of books for poor and ordinary people should be given importace.

10. Culture of weekly book markets should be promoted in all localities in major cities and town.

11. Book distribution system should be strengthened and incentives be provided for translation of books.

12. Every small and market place should have bookshops.

13. At least one hour in a week should be devoted for inculcating among students reading habits in school libraries.

14. There should be more focus on e-books and digital libraries.

15. Both public broadcasters and private channels should have regular programmes of book review in the their respective channels.

16. There should be a brand ambassador by involving celebrities to encourage book reading habits and to promote the NBPP.



The Task Force after wide ranging consultations and deliberations has come up with a draft policy which has been presented to the Ministry of Human Resource Development for approval. We are sure that the Government of India will adopt the policy and execute it to see that Indian Publishing becomes a vibrant force in the world.

The Federation of Indian Publishers which is the apex body and to which are federated all the Language Publishers Associations and which, in turn, is federated to the International Publishers Assocation, has played an active part in the formation of NBPP. Not only it has lent its active hand in the NBPP but has also helped and advised the Government of India on matters of Copyright, Piracy, Reprographic Right, Rights of visually impaired, etc. We in the FIP are committed to fulfil our national responsibility.

I am confident that Indian Publishing is moving in the right direction and in years to come will become a force to reckon within the World Publishing.

The Comics Era in India

Dr. Bandana Pandey, Chairperson & Ms. Sheel Nidhi Tripathi,
Teaching Associate, Deptt of Advt Mgt and PRGJUS&T, Hisar-Haryana

Comics have always been the interesting element of a child's life. Holidays are considered to be incomplete without comicses. What I have perceived is that comic books are not only a thing of entertainment but they are something which is very dear to children. With the rise of the Indian middle class and its purchasing power and indigenous production, comics have gradually become an integral part of the children's world in India today. Almost all Indian children, especially those belonging to the lower middle class and above and living in urban areas, grow up with comics available to them in a wide array of choices. They are fond of it, not only because of its childish portrayal but because of their communication style. Let me elaborate it more. The bright or dazzling cover page or even the inside pages, the graphic version of printing a story, the excitemenat, the adventure, the spine chilling journeys in Indian comics take any reader irrespective of age, is just overpowering! The childhood days in India and the ensuing growing up into young adults, is basically wholly dedicated to devouring comic books day and night. I must say that they also increase the reading habits in children.

Such aura of fun, frolic, mirth, anticipation and amusement emoting eternally from the colourful pages, is justified by a vista of Indian comics that have proliferated over the years; and this is just not an overstatement! Comics in India had undergone evolution from the adoptions of the Ramayana and the Mahabharata of 1960s, to informative comics for children, caricatures in print media and adaptations of American version of `superheroes`.



At the World Book Fair In Delhi, India

{Source: Kumar Manan; 'Today's Comic Culture in India'}

History of Fun Days (Comics)

The realm of comics has evolved relatively later in India than in the West. Around three decades ago comics were not much in vogue in India. The selection that was available was in the form of imported digests and books like Tintin (originally French private detective), Asterix and Obelix (superheroes of Gaul, erstwhile France), Archie and Commando (war stories of World War II) etc. A costly product for an average Indian, these comics were rather available to the children of the wealthy. The change came in the mid '60s when a leading newspaper publication house of India launched Indrajal Comics. It was the first serious effort directed towards the evolution of comic culture in India. Well within the buying capacity of middle class children, Indrajal Comics made foreign comic heroes like “Phantom- the ghost who walks”, Mandrake the magician, and Flash Gordon household names in India. The immediate success of Indrajal Comics gave a further boost to the indigenous comic industry and in 1967 came the educational comics series called Amar Chitra Katha (Immortal Picture Stories) by Anant Pai, who is also considered the father of Indian comics. A welcome change, Amar Chitra Katha effected a fusion of the rich treasure of folk tales and exploits of mythical and legendary characters in comics. Each of the comics in this series was devoted to a person or event in Indian history, religion and mythology. Anant Pai conceptualised all of these and wrote the scenarios for most of them. With over 70 million copies sold in the last 40 years these comic books are regarded as internationally



successful. Most Indian children have grown up with Amar Chitra Katha's vast and rich treasury of Indian folk tales, the brave exploits of mythical and legendary characters–from Birbal's witty and lively stories to the endearing and didactic tales of Jataka and Panchtantra. Amar Chitra Katha forms a storehouse of books for all age groups in several Indian languages. Like Anant Pai, cartoonist Pran has also made positive contribution in the evolution of Indian comic culture. Pran broke the monopoly of syndicated foreign comic strips and gave India its first comic characters 'the teenaged Dabu and his mentor, Professor Adhikari' in 1960. He followed it up with Shrimatiji, and in 1973 with Chacha Chowdhary and Sabu, the duo who combine brain and brawn to fight the evils of society. These characters like those of Anant Pai have provedtough contenders for the foreign counterparts in their Indian comic scenario.

Comics in Indian Society

Devoid of any superheroes or cult figures like Superman, Spiderman or Tintin, the Indian children have found their own heroes in the form of comic figures like Shaktiman (person having powers like Superman), Nagraj (Snake man), Tenali Raman (witty minister of a king), Motu-Patlu (fatso and skinny), Chotu-Lambu (short and tall), Billoo (naughty kid), Kapish (monkey having the power to lengthen his tail), Chacha Chaudhary (intelligent uncle), Rajan-Iqbal (detective friends), Mahabali Shaka (extremely powerful man), Fauladi Singh (Iron man), Agniputra Abhay (son of fire) etc. However, many of these indigenously produced comics are substandard–not only do they lack a proper storyline, content, imagination and visual graphics but they also draw heavily on characters from western comics like those of Superman, Laurel and Hardy, and Dennis the Menace, etc. Most of the indigenous substandard comic literature is more popular in small towns and shanty areas of major towns in the Hindi speaking belt. Available at very low price on hire (Re. 1 per day to Rs. 2 per day) in private libraries-cum-shops, they hook children at a very tender age. Another section of middle and upper class children living in urban areas more or less relate better to foreign comic characters like Disney's Mickey and Donald, Tin Tin, Superman and Archie, etc. But they are also avid readers of Indian comics like Amar Chitra Katha and a magazine called Tinkle. The popularity of Indian characters can be judged from the following. “One of the characters of Tinkle is called Suppandi and the stories are sent in by readers and then drawn by professional artists. The publisher gets about 5–6 thousand letters with stories from their readers per week.” (From the India comics website created by World Comics, Finland, Dec. 2000). Comic books and cartoon strips in India are available primarily in Hindi, but also published in English and several other regional languages. The most authentic stylemark for Indian comics are its treasure of original stories, splendid artwork with an Indian hand. Amar Chitra Katha, one of the majors, successfully had breached the old parent-child dichotomy over comics by bringing alive the ancient legends of India. Some of the most popular



characters and tales incorporate: Akbar-Birbal, Vikram Betaal Tales, Tenali Raman, Hitopadesha, Panchatantra, Ganesh Mahima, etc.

"Walk in" of Comics in Indian Society

It is known that on an experimental basis, Pran had first created comical characters like Pinki, Billoo, Chacha Chaudhary in the 1970s. Comic magazine of earlier days, Chandamama is an exceedingly popular and well-liked one. Since 1947, it is being published in an overwhelmingly more than 5 languages. The Vikram aur Betaal Stories have also brought in fame and reputation to this magazine, elevating Indian comics to summit levels. Maxims of religious texts, the stories of martyrs and several legendary and historical personas bloom and blossom in several books on Indian comics since ages. In 1967, the editor Anant Pai of the India Book House had established the irreplaceable series Amar Chitra Katha. They aimed to make the children thoroughly aware about their country`s exceedingly affluent heritage. The life of Lord Krishna was the first in the Amar Chitra Katha series, followed by the Ramayana and the Mahabharata. The compilation in contemporary times, translates to 426 volumes. This success inspired other publishing houses like Dreamland Publications and Diamond Comics in New Delhi and Jaico Publishing House in Mumbai to launch innovative themes. The marked change in Indian comics came with the publication of the first Indian comic magazine in the year 1980s. It was named as Tinkle and became quite legendary and celebrated within a short span of time. Most of the characters of the magazine are depicted in the shades of Marathi or Maharashtrian influences. Another much venerated and prominent publishing house of Indian comics is the Raj Comics, producing famous characters such as Nagraj, a Hindu hero; Doga, Super Commando Dhruva, Parmanu and several others.

Cartoon strips for print media and comic books had also begun to flourish, especially in West Bengal. It is known that Pratulchandra Lahiri had produced two strips for the Jugantar newspaper in Bengali and for the Amrit Bazar Patrika in English. Narayan Debnath had gifted the country with his unique and truly inimitable creations, Nonte Phonte and Handa Bhonda, very much still in circulation and has spawned animated films too! Another one of Narayan Debnath`s creations, Batul The Great, is one of India`s earliest superheroes as it was conceived during the sixties.

Indian comics received its tremendous upheaval with the launching of Virgin comics by Gotham Comics of India, in collaboration with the USA-based legendary company. They are specialised in producing special series of Indian comics in Indian mythology and Indian ancient history.

In the gushing and fast-paced era of computers and internet , it is obvious that Indian comics will adept itself to the sophisticated technologies. Thus, web-comics is also very much in vogue. Badmash is in particular created by and directed at the Indian Diaspora. This format is anticipated to enlarge due to ICT literacy, colossal numbers of white-collar workers and internet

permeation into India. Web comics indeed afford a superb platform for artists who do not wish to distribute via the published media.

In the year 2002, the comic industry in India had tried their hands to bring out comic series, depicting the trends of contemporary Indian culture. Slave Labor Graphics of San Jose California, falling into this category, had published Bombaby the Screen Goddess. The comic premised a character by the name of Sangeeta, who doubled over as a compliant daughter by day and as a reincarnated Hindu goddess by night! In addition to the gradual timely development of more mature comics in India, in 2004, India`s first graphic novel, Corridor, was gifted by Sarnath Banerjee, thus ennobling the future of Indian comics of the near future. Indian comics are thus invested and distinguished by its multi-dynamism and embellishment, creating its scope and future to a wide extent.



Effective ideas to write Comics:

Step 1- 'IDEAS '

- Collecting Material- Make notes in a note book about ideas and themes.
- Based on the material collected, write down roughly, a description of the whole narrative.
- For example--This story is about an incident that took place in my neighbourhood. A man woke up one morning and found his house completely under water...

Step 2- PAGE BREAKDOWN

- Based on the description of the narrative, write a new description, this time breaking it down page-by-page. Write down dialogues as well.

For example--page 1- cover- image of bird flying

page 2- A woman walks on the side of a road. She enters the gate of her college. A man stands at the gate. They look at each other .



TIP: Try to end your comic on an even-numbered page.

Step 3- ROUGH DRAFT

- Based on page-by-page descriptions, draw rough layouts of each page on paper.

This is the most important step in comics.

Step 4- FINAL DRAFT

- Based on rough layouts, do the fair drawing using pencil (H-grade) on smooth, thick paper, A4 size.

TIP: Use photographs for reference if you have to draw something that you are not familiar with. You can download reference images from the Internet (ex: Google Images)

TIP: Try to avoid having the horizontal space between panels match with the ones above.

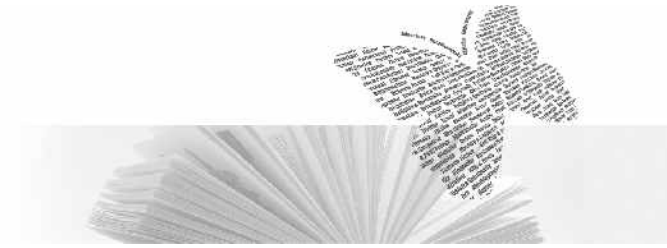
Step 5- INKING

- Ink the fair drawing, using either nib pen or drawing pen and waterproof Indian ink.
- Erase the pencil lines neatly.
- Scan the inked page inhigh-res (300-600 dpi) and save it as PNG file.

Rewind the History….

Comics are indisputably one of the easiest way to reach into a child's mind. Therefore we must keep certain ethics and discipline in the writing to cater to the needs of the most sensitive audience of children. After making its presence felt in the Indian society this is the time to concentrate and expand the market and reach the International platform. For achieving this in the real sense efforts should be paid on the following ideas:

1. Although communication is important but the essence of comics lies in its innocence, therefore the language should be healthy and descent.
2. The traditional, folk lures should be given space in the comics so that our children can attain the traditional values from their favourite medium.
3. Special attention should be paid on the content of comics specially communication. The



seven C's of communication should be taken care of. For example clarity in the content, conciseness, continuity, commonness, credibility, correctness and completeness should be present.

4. Although the serious messages should be printed but there has to be creativeness and a tempting attempt which can make avid readers to satisfy themselves.
5. The treatment towards the comics should be more refined, and interesting because the target audience is children.
6. The concentration should be on various humour strips, short strips and G.K kind of stuff.
7. The idea of comic strips can also be used in Corporate Communication for bringing awareness in the internal as well as the External Publics.
8. The issues related to superstitions should be adopted more n more arising the awareness level of the child from the beginning.
9. National integration and stories of the freedom fighters should be included in the comics with the visual representation.
10. Workshops, capsule courses and Certificate courses should be sponsored by the Government or Private Organizations to motivate the writers to perform better in the area of Comics Journalism.

Dr. Bandana Pandey

&

Sheel Nidhi Tripathi

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Managing IPR in Publishing

Ms. Divya Pandey and Ms. Rishu Srivastava
S. S. Rana and Co. Advacates

Olivia Goldsmith, a famous American author once said that "Publishing is no longer simply a matter of picking worthy manuscripts and putting them on offer. It is now as important to market books properly, to work with the bookstore chains to get terms, co-op advertising, and the like…"

Any establishment engaged in the creation and use of the work of human mind and intellect, must take all essential measures to protect and enforce their intellectual property portfolio. Proper management of IP asset is deleterious to the success and growth of the business. Book publishers not only hold the rights on behalf of the authors and creators of the original work, but are themselves the custodians and managers of valuable intellectual property rights. Publishers are entrusted with the responsibility of protecting and monetizing these rights to the mutual benefit of the authors and themselves.

Intellectual property (IP) is a term referring to a number of distinct types of creations of the mind for which a set of exclusive rights are recognized. Under intellectual property law, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs. Common types of intellectual property rights include copyrights, trademarks, patents, industrial design rights and trade secrets in some jurisdictions.

The asset and value of any publishing firm, be it Penguin Books or Tata McGraw-Hill Publishing Company, is not determined from the number of books stacked in the company or the latest industrial printing presses, but the intangible asset that would generate revenue even when the shelves stacked with the books are emptied. Therefore the publishers must take all essential steps to secure, protect and enforce their IP rights.

The lack of awareness of the IP rights has really been the bane of the publishing industry. The problem arises because of the deep rooted prejudice that IP is very complex and hard to decipher. Nevertheless the publisher should realize that importance of IP since it forms the basis of the knowledge industry of which publishing is a part of. The IP in-fact is a very important link in the legal relationship that connects the readers, authors and the publishers. A well protected and enforced IP is not only responsible for the commercial success of any firm but also determines its future prospects and encourages the further publication of artistic and literary work.

The most important types of IP Rights relevant to a publisher include:

1) Copyright
2) Trademarks
3) Domain Names
4) Trade Secrets

Copyright is a legal protection extended to the owner of the work created by him. It subsists in the "original" work created by the author. It is however important to note that such originality pertains to the "form of expression" and not to the underlying idea. Copyright comprises two main sets of rights: economic rights and moral rights. Economic rights include the right of reproduction, broadcasting, public performance, adaptation, translation, public relation, public display, distribution and so on. The moral right includes the author's right to object to any distortion, mutilation or other modification of his work that might be prejudicial to his honor and reputation.

Copyright is the most significant intellectual property right relevant to the book publishing industry. Section 13 of the Copyright Act 1957 states the type of work that qualifies for the protection of a copyright in India. Copyright laws have been enacted to prohibit duplication or reproduction of the work in any form or format that is not justified under the umbrella of "fair dealing" or "fair use", which allows reasonable use of excerpts or examples. The publisher can also have copyright on the published edition as the typographical arrangement of the publication, the layout and typeface etc. It is pertinent to point out here that the moral rights are never owned by the company but is given only to the original creators or authors. In-fact mutilating or encroaching on the moral rights of the original creators tarnishes the reputation of the publishing firm.

Moral rights above Copyright

In 1962 **Amarnath Sehgal** completed a 140 by 40 feet bronze mural that depicted rural and modern India, spanning the entire wall of the foyer of Vigyan Bhawan. Later in 1979 due to the mural being incompatible with the construction work being carried out at the building, it was torn down without taking permission from the artist. The artist felt cheated and believed that his moral rights were violated.





In 1992 the artist, Amarnath filed a suit for permanent injunction, declaration and damages in the Delhi High Court only to be relieved after a 13 year old long battle that ended in the year 2005.

The court awarded damages worth rupees 5 lakh in favour of the plaintiff and declared that Vigyan Bhawan had no rights and all the rights vested in the plaintiff only.

Books comprises bundle of copyright: in the literary content and in the artistic work of drawings and photographs. The publisher therefore must have the knack to identify these rights and enter into such contracts with the author or first owner of copyright that would enable him to acquire the rights enabling him to publish and reproduce the work, or license permitting him to exploit such rights.

Book publishers may have either opted for an “outright assignment” thereby acquiring copyright from creators (writers, artists, designers, photographers etc.) or may make a license agreement with the right owners. It shall identify the specific works and specify the rights assigned and the duration and territorial extent of such assignment or license. It shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the term of the assignment and the assignment shall be subject to revision, extension or termination on terms mutually agreed upon by the parties. The author will have no rights to publish his work if the copyright for the same has been assigned to the publisher.

In India copyright in case of original literary, dramatic, musical and artistic work lasts for author's lifetime and 60 years from the year following the death of the author. The term of the copyright is an important factor that a publisher needs to know, because different term is applicable in different countries. Thus the publishers should have the knowledge about the local copyright legislation.

European Union extends term of protection in Copyright

EU introduced the directive this month to extend the term of protection for performers and sound recordings to 70 years. The term is 70 years for the authors after their death and therefore the term for performers is now revised to be in sync with that.

The extended term will enable performers to earn money for a longer period of time and in any event throughout their lifetime. According to the European Council "Performers generally start their careers young and the current term of protection of 50 years often does not protect their performances for their entire lifetime. Therefore, some performers face an income gap at the end of their lifetimes. They are also often not able to rely on their rights to prevent or restrict objectionable uses of their performances that may occur during their lifetimes".

Therefore, the income from copyright remuneration is important for performers, as they often do not have other regular salaried income. The extended term will also benefit record producers who will

generate additional revenue from the sale of records in shops and on the internet. This should allow producers to adapt to the rapidly changing business environment and help them maintain their investment levels in new talent.

The new legislation, has become known as "Cliff's Law" in the U.K. named after Sir Cliff Richard, a long term campaigner for copyright extension.

Long live Mickey Mouse

Mickey Mouse remained immortal for another 20 years, after its 50 years of copyright expired in 2003 all due to the efforts of Walt Disney. The "Sonny Bono Copyright Term Extension Act", also called the “Mickey Mouse Protection Act” amended the 'Copyright Term Extension Act' under the US legislature to gain protection for an expanded number of years. Also saved by the new act were Pluto, Goofy, Donald Duck which were headed for the same fate in 2009. Under the US law previously copyright would last for the life of the author plus 50 years, or 75 years for a work of corporate authorship. The Act extended these terms to life of the author plus 70 years and for works of corporate authorship to 120 years after creation or 95 years after publication, whichever endpoint is earlier.






Copyright term Extension



The rights of publication of Rabindranath's work rests with Viswa Bharti which managed to amend the Indian Copyright act by introducing an extension of 10 years on the then existing copyright term of author's life plus 50 years in the year 1990. The copyright was to expire in the year 1991 but due to the consistent efforts of Shantiniketan commitee and the Viswa Bharti publishing house the term extended till 2001. Again the publishers tried to seek an extension prior to the second expiration date but lost firstly due to the non- feasibility of frequent amendments, secondly since Viswa Bharti did not seem to be living up to its standards as was expected from it in terms of quality among other reasons.

It is the obligation of the publisher to ensure that the published work complies with the relevant IP laws. The practice of plagiarism should be discouraged and curbed. It is very difficult for a publisher

to identify the plagiarized work, thus it is advisable if some kind of **warranty** or **indemnification** clause is also included in the contract or agreement with the author, to protect the publisher against any kind of plagiarized work of author.

The author and publisher must realize that plagiarism is an offence and against the moral rights of the original creator. Thus if the publisher wishes to incorporate any third-party material, he must seek permission from the owners to reproduce the work.

An interesting Plagiarism case



Plagiarism to the extent of the following story looks more than just the effect of the memory pill. Kaavya Viswanathan, an Indo American girl just after graduating from high school wrote "How Opal Mehta got kissed, got wild and got a life". Its 2006 debut was highly publicized. While attending Bergen County Academies, Viswanathan showed her writing to Katherine Cohen of IvyWise, a private college admissions consultancy which Viswanathan's parents had hired to help with their daughter's application process. Through Cohen, Viswanathan was signed by the William Morris Agency under senior agent and William Morris partner Jennifer Rudolph Walsh and referred to book packaging company 17th Street Productions (now called Alloy Entertainment). On the basis of an outline and four chapters of the novel that would become Opal Mehta, Viswanathan eventually signed a two-book deal with Little, Brown and Company. She began writing the book the summer before college and finished it during her freshman year at Harvard College, while taking a full course load. Opal Mehta was published on April 4, 2006, and Viswanathan was profiled by The New York Times on April 6, 2006.

On April 23, 2006 The Harvard Crimson reported that several portions of Opal Mehta appeared to have been plagiarized from Megan McCafferty's first two "Jessica Darling" novels Sloppy Firsts (2001) and Second Helpings (2003), noting over a dozen similar passages.

For instance:

McCafferty's SloppyFirsts and Second Helpings	Viswanathan's Opal Mehta
Sloppy Firsts, page 7: "Bridget is my age and lives across the street. For the first twelve years of my life, these qualifications were all I needed in a best friend. But that was before Bridget's braces came off and her boyfriend Burke got on, before Hope and I met in our seventh grade Honors classes."	**Page 14:** "Priscilla was my age and lived two blocks away. For the first fifteen years of my life, those were the only qualifications I needed in a best friend. We had bonded over our mutual fascination with the abacus in a playgroup for gifted kids. But that was before freshman year, when Priscilla's glasses came off, and the first in a long string of boyfriends got on."



On May 1, 2006, The New York Times ran a story giving national prominence to claims on the Sepia Mutiny blog that Viswanathan may have lifted text from Salman Rushdie's 1990 novel Haroun and the Sea of Stories. On May 2, 2006, The New York Times alleged "striking similarities" between passages in Opal Mehta and those in Sophie Kinsella's 2003 "chick-lit" novel Can You Keep a Secret. Viswanathan apologized and said any similarities were "completely unintentional and unconscious." All shelf copies of Opal Mehta were ultimately recalled and destroyed by the publisher and Viswanathan's contract for a second book was canceled.

Trademarks

Another aspect of IP of significance to the publishers and publishing firms is the trademark. A trademark is a distinctive sign which identifies certain goods or services as those produced or provided by specific person or enterprise. A trademark may be a combination of words, letters and numerals. It is used by firms to distinguish their goods and services from those of their competitors. Trademark do not protect the ideas behind the goods from imitation or duplication, but prevent firms from deceiving the customers into believing that services provided by them were produced by the trademark holders. The trademark once registered can be renewed as long as the owner wishes to use it. Thus unlike copyright, it can always be protected.

The publisher may trademark any or all of the following: single letters, words, initials, names of characters, titles, phrases, logos, the distinctive size or shape of publication. It is worth noting that protection of names, characters or titles of books varies with the national legislation.

The trademark largely contributes to the brand awareness. However in the publishing industry, barring few big publishing firms like Pearson and Thomson Reuters, the awareness among general public is not much. More often than not, it is the character we talk about and not the publication house. Teenagers around the globe go crazy over “Edward Cullen” from the famous Twilight series, however very few would have the inkling that it is published by Little, Brown and Company. Nevertheless the publishing firms should register their trademarks as without its protection it would become difficult to take action against infringers and protect their intellectual property.

Low Price edition sale

The rights of the publishers are highlighted in the following case : (IA No.11331/2008 in CS (OS) No.1960/2008)

John Willey & Sons Inc., Cengage Learning Inc. and Pearson Education Inc. with their exclusive licensees namely Wiley India Pvt. Ltd, Cengage Learning India Pvt. Ltd. and Dorling Kindersley India Pvt. Ltd. respectively, are in their respective fields of publishing academic, scientific and other educational books which are circulated worldwide. Keeping in mind the requirement of the business,

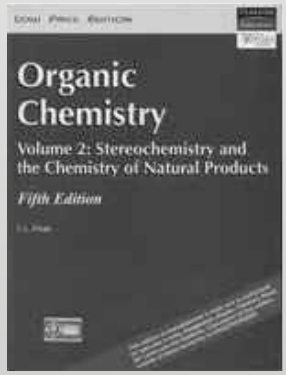
demand of the books and the economic viability of the purchasers they decided to expand their operations in India by introducing low price editions of their books so that the otherwise costly ones are made available to the Indian and other Asian students. The plaintiffs contended that any attempt by anyone to sell, distribute or circulate the books outside the territories prescribed by the owners of the copyright shall cause infringement of the copyright.



The plaintiffs very clearly have the following notice printed on every low price edition:

-Wiley Student Edition Restricted for Sale only in Bangladesh, Myanmar, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka and Vietnam. Or,

-For sale only in: Bangladesh, Myanmar, India, Indonesia, Nepal, Pakistan, Phillippines, Sri Lanka and Vietnam



Additionally each book bears a yellow band at the top of the cover with the phrase 'Low Price Edition' prominently appearing on the front and back covers.

The defendants were Technischer Overseas Pvt. Ltd. a bookseller in Delhi under the website 'www.alibris.com' and its owners, who were offering online sale and delivery worldwide of the Low price editions of the plaintiffs' publications.

Consequently in this prima facie case the defendants, their agents and sister concerns were restrained from advertising, offering for sale/exporting any publications to the countries outside the territories specified on the books published by the plaintiffs.



Ideally the Plaintiff's case should have been dismissed on the grounds that the Defendant's activities were perfectly legitimate under the "First-Sale Doctrine". Under the first-sale doctrine, once a person has bought a lawfully produced copy of a copyrighted work, he is free to further sell or dispose that copy without the permission of the copyright owner.

The temporary injunction was granted against the defendant and the judgment further stated that “the purchaser after purchasing from the exclusive licensee cannot by claiming the principle of exhaustion or extinguishment of rights defeat the rights of the owner. This is the only harmonious interpretation possible by invocation of doctrine of first sales in the present case.”

Domain names used in association with websites and e-commerce can also be registered and protected as trademarks. With the advent and rapid globalization as well as commercialization of the internet, domain names have become the significant business identifiers. A domain name is a publishers own unique identity and always will be as long as he continue to use that name.

Trade Secrets

The Publishers receiving scripts and original works have the legal responsibility of not disclosing the work to any other person. A non-disclosure agreement between the author and publisher is a kind of comprehensive agreement that prevent disclosure of confidential and commercial information and ideas by the proposed publisher.

Business and Legal Consideration

In case of sales or acquisition of a publishing firm by another company, the terms and conditions of the publishing contract between the author and publisher would usually remain unaffected.

The intellectual property, like any other physical property can be bought, sold, bequeathed and inherited. Thus an author may gift his legal rights or obligations to others or his legal rights would be inherited by his legal representative, if he dies during the term of the contract.

The authors and publishers also have moral responsibility for what is published. They should ensure that none of the published content is malicious, obscene or defame others. Some of the contractual arrangement also includes liability clauses for the same.

Digital Media

Print media is gradually giving way to electronic libraries. The digital media is promoting transference of knowledge at a much lower cost system of storage, transfer, reproduction and archiving. E-publishing has particularly been successful in the areas of science and education, news and databases.

Flipkart…a success story

Flipkart is an Indian electronic commerce company headquartered in Bangalore, India. Established in 2007, it is the largest online bookstore in India. Flipkart was established by Sachin Bansal and Binny Bansal. Both are alumni of Indian Institute of Technology Delhi and worked for Amazon.com before quitting and founding their own company.

Initially they used word of mouth marketing and social networking websites to popularize their company. A few months later, the company sold its first book on flipkart.com - John Woods' Leaving Microsoft to Change the World. Within two years through word of mouth of their services, Flipkart became one of the top 100 Indian sites and was credited for being India's largest online bookseller with over 7 million titles on offer.



Flipkart broke even in March 2008 and claims to have had at least 100% growth every quarter since its founding. The store started with selling books and in 2010 branched out to selling CDs, DVDs, mobile phones, cameras and other electronic gadgets.

In December 2010, Flipkart acquired WeRead, a social book discovery tool from Lulu, a US-based on-demand publishing firm.

An important factor to consider is the digitization of the copyrighted work. The liability of the internet service factor is to be taken into account. The service providers may either be directly responsible if they are engaged in activities like unauthorized reproduction or communication to the public or may have contributory liability if they augment unauthorized acts of others. The publishers of both the hard and soft copy must take essential measures to prevent unauthorized copying and ensure that the copyright of the owners are protected on the internet.

EMERGING TRENDS IN PUBLISHING

Amazon kindle: Revolutionizing the Digital Media



The Amazon Kindle is an e-book reader developed by Amazon.com. It uses wireless connectivity to enable users to shop for, download, browse, and read e-books, newspapers, magazines, blogs, and other digital media. Amazon released the Kindle First Generation on November 19, 2007 and was sold out in five and a half hours. Through a service called "Whispersync", customers can synchronize reading progress, bookmarks and other information across Kindle hardware devices and other mobile devices.

In the last three months of 2010, Amazon announced that in the United States, their e-book sales had surpassed sales of paperback books for the first time. The success of the e-book reader clearly goes on to show the changing scenario in the publication industry.

BUSINESS IMPLICATIONS OF EMERGING TRENDS

Industry experts believe that with the emergence of e-books, the traditional publishing industry has received a major setback. Statistics reveal that there has been decline in the paper book printing, distribution and sales. The traditional book publishers must therefore take measures to adapt themselves to the e-books and make them an integral part of their overall strategy.

The world without Borders



Borders Group, Inc., was an international book and music retailer based in Ann Arbor, Michigan. The company employed approximately 19,500 throughout the U.S., primarily in its Borders and Waldenbooks stores. It also formerly operated stores in Australia, New Zealand and Singapore.

On February 16, 2011, Borders applied for Chapter 11 bankruptcy protection and began liquidating 226 of its stores in the United States. Despite an offer from the private-equity firm Najafi Companies, Borders was not able to find a buyer before its July 17 bidding deadline, and therefore began liquidating its remaining 399 retail outlets on July 22, with the last remaining stores expected to shut their doors by the end of September. The last Borders New York store closed on September 14, 2011.



The “Publishing News” reported that the impact of the closing of Borders's stores started to show up in industry numbers. According to preliminary estimates released on September 14, 2011 by the Census Bureau, bookstore sales fell 4.2% in July, the steepest decline in 2011. Sales dropped to $982 million from $1.02 billion in July 2010. The July decline followed a 1.9% drop in June and as a result bookstore sales for the first seven months of 2011 were down 0.5%, to $8.03 billion.

The industry insiders have predicted that the print book sales would continue to decline while e-books sales would increase.

E-books are profitable options for all publishers as they have low production costs, and low shipping and non-existent return costs.

Barnes & Noble Booksellers bookstore may soon go the way of the music retail stores, spurred by price cuts on e-book readers and sales of digital books. Barnes & Noble has dropped prices of its e-ink-reader “Nook by Barnes & Noble” to match the ever increasing competition from Amazon.com Inc.'s Kindle e-book reader.

Kindle e-book reader, sold out -- weeks before it even started shipping.

Amazon is selling more e-books than paper-based books on its websites. Then there are other options of downloading electronic books such as on Apple iPads, computers, and cell phones. But e-book readers are the key for serious readers. Three years ago, an e-book reader cost $400, offered a limited choice of books, and had a dark gray screen that wasn't so easy on the eyes. Today they're just over $100, offer almost unlimited choices of books, and the screens are excellent. And, naturally, you can download books over the air.

Let's see what happened in the music industry:

2001 Music Stores Employees Working 80,000

2002 the iPod took off

2010 Music Stores Employees Working 20,000

Employee Strength Down by 75% ⬇

The days of print media is definitely not over. Publishers however rethink and reorganize their print business strategy. Worries of piracy have kept many publishers and authors, most notably J.K. Rowling, author of the Harry Potter book series, from embracing the e-book format. Even though Rowling's publisher, Scholastic Books, doesn't currently offer any Harry Potter titles in e-book format, hackers have scanned all of the books and turned them into PDF files that are viewable on any e-reader. Thus with the advent and increasing sales and use of e-books and e-publication the issue of piracy on these mediums and illegal copying and distribution would also need to be tackled.



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Children's Literature in India

Ms. Jaya Bhattacharji Rose
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India is the second most populace country in the world with 50% of its population under the age of twenty-five and 65% under thirty-five.[1] This is a huge number. Children and young adult literature as a distinct genre is a recent phenomenon in India. Traditionally, Indian children have been brought up on a vast repertoire of storytelling based on oral tales, folk tales[2] and mythology. Literature in print is a relatively new concept. In addition, there is the sociological problem of parents who stress education (text books) more than reading for pleasure. Having said this publishing for children and young adults is booming. Today it accounts for Rs. 400 crores or nearly US$ 90 million per annum.[3]

Publishers

Independent and multinational publishers who have dedicated lists of literature in English for children and young adultS include the National Book Trust (NBT)[4], Children's Book Trust (CBT)[5], Tulika Books[6], Tara Books[7], Karadi Tales[8], Katha[9], Pratham Books India[10], Puffin[11], Roli Junior[12], Young Zubaan[13], Scholastics India[14], Hachette India[15], Arvind Kumar Publishers[16], Eklavya[17],

[1] *http://en.wikipedia.org/wiki/Demographics_of_India*

[2] *Folklore and Children's Literature, National Folklore Institute, Chennai, April 2006 http://wiki.indianfolklore.org/images/1/16/Ifl_21.pdf*

[3] *Statistic shared by Ravi Lalwani, Managing Director, Mediastar on 3 Dec 2010.*

[4] *http://www.nbtindia.org.in/ It is organised by Ministry of Human Resources and Development, Government of India.*

[5] *http://www.childrensbooktrust.com/ This trust was established in 1957 by Shankar Pillai to focus on different facets of children's publishing in India.*

[6] *http://www.tulikabooks.com/*

[7] *http://www.tarabooks.com/*

[8] *http://www.karaditales.com/*

[9] *http://www.katha.org/kathawp2/*

[10] *http://www.prathambooks.org/*

[11] *http://www.penguinbooksindia.com/category/Children.aspx*

[12] *http://www.rolibooks.com/children/*

[13] *http://www.zubaanbooks.com/zubaan_books.asp?CategoryID=5*

[14] *http://www.scholastic-asia.com/scholastic/index.php?regionid=31*

[15] *http://www.hachetteindia.com/*

[16] *http://www.arvindkumarpublishers.com/*

[17] *http://eklavya.in/go/*



Anwesha, Room to Read books[18], Goodword Books[19] and Mango, an imprint of DC Books[20]. Of these, NBT, CBT, Tulika, Pratham and Young Zubaan also publish literature for children in other Indian languages. NBT's mandate is that every title they publish must be automatically translated into fifteen other Indian languages; Tulika publishes on an average in nine languages. Arvind Kumar Publishers and Mango bring into India translations from other European countries. This list does not take into account the variety of books that are brought into the country by the wholesalers, importers and distributors. There is a wide spectrum of lists and genres that are covered by these publishers. These range from picture books, chapter books, fiction, fantasy, translations, retellings of mythological and folk tales, anthologies of theme-based fiction, historical fiction, graphic novels, adventures, mystery, time-travel fiction, realistic fiction, terrorism, conflict, romance, some poetry and non-fiction including biographies, quiz books, travel stories, and some drama.

Authors and Illustrators

Given this growth potential, publishers are searching for authors and relying on the commercially successful ones to churn out new titles. Some of the more popular and well-known authors[21] are Anil Menon[22], Anita Nair[23], Anushka Ravishankar, Devdutt Pattanaik[24], Paro Anand[25], Payal Dhar, Ranjit Lal, Roopa Pai, Ruskin Bond[26], Samit Basu[27], Siddharth Sarma, Sirish Rao and Sudha Murthy[28]. And They are only the tip of the iceberg. Many of these writers have

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[18] *http://blog.roomtoread.org/room-to-read/india/*

[19] *http://blog.roomtoread.org/room-to-read/india/*

[20] *http://www.mangobooks.net/*

[21] *Aditi De, Anil Menon, Anita Nair, Anshumani Ruddra, Anu Kumar, Anupa Lal, Anushka Ravishankar, Bindia Thapar, Deepa Agarwal, Devdutt Pattanaik, Eunice Desouza, Geeta Dharmarajan, Gita Wolf, Githa Hariharan, Hema Pande, Kalpana Swaminathan, Manisha Choudhary, Manjula Padmanabhan, Monisha Mukundan, Paro Anand, Payal Dhar, Prema Jayakumar, Ranjit Lal, Roopa Pai, Ruskin Bond, Samit Basu, Sampurna Chattarji, Shreekumar Varma, Siddharth Sarma, Sirish Rao, Sudha Murthy, Swapna Dutta, Vijaya Ghose, Zai Whitaker and Mala Dayal.*

[22] *A confident, brilliant new voice in Indian literature, Anil Menon is at the vanguard of a revolution in changing the way desis imagine the future. He was recently shortlisted for the first Crossword Vodafone Award for children's literature, 2010, India.*

[23] *http://www.anitanair.net/*

[24] *http://devdutt.com/ Devdutt Pattnaik is very well-known for his retellings of the mythology.*

[25] *http://www.paroanand.com/ An award winning writer, who is also popular as a storyteller. She has been writing for over thirty years, but has recently written her first novel for adults as well. She is one of the first authors in the country to tackle the subject of terrorism in No Guns at my Son's Funeral.*

[26] *http://en.wikipedia.org/wiki/Ruskin_Bond He is an incredibly popular children's writer.*

[27] *http://samitbasu.com/ He is credited with having published the first fantasy trilogy in India (The Simoquin Prophecies) and lead to a spurt in its growth.*

[28] *http://en.wikipedia.org/wiki/Sudha_Murthy Sudha Murthy is the wife of Narayan Murthy, one of the richest Indian businessmen, but she is better known as a children's writer and is very successful too!*

been ably supported with fantastic illustrations and layouts by illustrators like Atanu Roy, Bindia Thapar, Tapas Guha, Vishwajyoti Ghosh and Pooja Pottenkulam to name a few[29].

Market

This variety in the lists is commendable, given that in India is multi-lingual, with eighteen regional languages though the lingua franca continues to be English. The market is not homogenous and readers are comfortable with more than one language. For this reason, publishers are competing with each other for a miniscule space. Translated into numbers, this space may seem attractivethe population is large and even a small percentage would mean substantial unit sales. But there are other parameters to be considered. The consumer profile varies from a family that has to survive on less than US$ 1 per day to millionaires. The priority for most Indians is education and not on reading for pleasure. Changing this mindset is taking time, but the change is now perceptible. In fact, schools and parents are seeking trade books that can supplement school syllabi. Publishers like Tulika are regularly asked to create such modules. Another factor that has contributed to the growth and interest in children's literature is the transition from joint families to nuclear families. In joint families, older people would normally have told children stories but now parents in nuclear families need books for their children to fill the vacuum created by the absence of older storytelling elders. Also, there are more double-income families which means there is some disposable income available for books. There is also a perceptible shift from the stress on books for education to books for pleasure and entertainment. Children and teenagers too have greater exposure to books through various platforms, among them book exhibitions and direct marketing initiatives in schools like those by Scholastic; book clubs that circulate regular newsletters; book weeks that are organised by schools wherein authors are invited, there are regular interactions like Q&A, storytelling sessions, dramatizations of the stories and author-in-residence programmes; and storytelling nights that are organised in all cities and towns.

Within this context, it is no surprise then that the sale of children's books in Crossword bookstores is 20-25%[30]–it is the single largest category by volume. Most publishers are recording annual leaps in sales. “Scholastic brings out 100 titles every year. While the number of titles published hasn't changed in the last five years, the sales figures have grown by 20 per cent. Puffin recorded a 30 per cent growth over the last year, while Radhika Menon of Tulika says it has seen almost a 100 per cent growth in the past three years.”[31] Yet there is a voracious

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[29]Anitha Balachandran, Harshvardhan Kadam, Kunal Kundu, Ludmilla Chakravarty, Priya Kurien, Pulak Biswas, Suddhasatwa Basu, Taposhi Ghoshal, Uma Krishnaswami and Vandana Bisht.

[30]In a telephone conversation with R. Sriram, ex-CEO and cofounder, Crossword Bookstores. 3 June 2010.

[31]“Baby boom”, The Telegraph, Sunday, 1 August 2010 http://www.telegraphindia.com/1100801/jsp/7days/story_12755840.jsphttp://www.telegraphindia.com/1100801/jsp/7days/story_12755840.jsp



appetite for books across all segments of society. According to Ravi Lalwani, Managing Director, Mediastar who is an importer and a distributor of books and periodicals in India the bulk of his business is due to children's and YA literature.

Libraries

Given that this is a very price sensitive market and that the majority can even now ill-afford low-priced books, there are many initiatives to encourage reading. For instance, NBT has mobile libraries which visit rural and urban areas; sometimes one week tours are organised with an author as well. The automobile industrialists, Mahindra and Mahindra, have begun to develop plans to establish over 250 libraries across the northern state of Punjab, as Sudha Murthy has been doing in the southern state of Karnataka. Pratham Books is a not-for-profit organization that publishes affordable and quality books for children in multiple Indian languages. Their mission is to see "a book in every child's hand" and democratize the joy of reading.[32] A minimum Pratham Books print run is 12,000 copies, and each title is reprinted at least 5-8 times. Plus, Pratham publishes in eleven languages. This is especially remarkable given the low price of their books.

This boom in children and young adult publishing could also be attributed to a growing number of spaces where there are regular interactions between authors, illustrators and storytellers with their readers. For instance, there are now children's annual literature festivals. One such is Bookaroo[33] which is growing in popularity every year.[34] The organisers bring in international and Indian authors who have wonderful interactive sessions with children and parents. These could be storytelling and book reading sessions, workshops, craft corners based on literature, author signing sessions, Q&A with the children, dramatizations based on favourite pieces of literature, competitions, doodling on a wall under the guidance of an illustrator, or even an exhibition of prominent illustrators. There are also author trips organised across the city schools in the week preceding the festival. Some of the other festivals are UNESCO's Ghummakad Narain and the one week festival organised by Anwesha in Guwahati, Assam where they include Assamese literature as well. Similarly, Scholastics organises regular storytelling nights[35] in various cities and these are becoming very popular as authors enjoy the interaction with their readers. Publishers

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v[32] http://www.pratham.org/M-26-3-Pratham-Books.aspx

[33] http://bookaroo.in/v2/

[34] "The Li'L Wizard" Outlook, 13 Dec 2010 http://www.outlookindia.com/article.aspx?268541

[35] http://www.scholasticsasia.com/scholastic/content.php?regionid=31&rchannelid=&mainchannelid=508&pid=984&PHPSESSID=dfc7cdb0b1a0d75657a7e3b1e8355e4b



like the storytelling nights and children's book fairs as it opens up new spaces for promoting their books and authors; editors like it as this gives them an opportunity to meet prospective authors, gauge the reaction of the market to the books and look for new ideas; and children and parents like it, as it is an entertaining evening spent together. Apart from this, there are now regular "book weeks" being organised in schools where there may even have an author-in-residence sitting in the school library for a couple of hours every day, chatting and discussing books. There is even an initiative organised by the writer Paro Anand called "Literature in Action" where the medium of literature becomes an excuse to discuss sensitive topics like identity, relationships and bullying.

Awards

For the first time in the history of publishing in India, two awards for children and young adult literature were announced in 2010. The first one was the Vodafone Crossword Book Awards[36] that was won by Siddhartha Sarma for The Grasshopper's Run. The second one called the Bal Sahitya Puraskar[37] was announced by the Sahitya Akademi on 14 November 2010[38]. Hopefully there will also be more reviewing spaces for this genre as at the moment, it is restricted to a special mention in November.

Conclusion

Children and young adult literature is a segment of publishing that is growing at such a phenomenal rate that it is impossible to predict what will be the scenario even three years down the line. But, it was lovely to see at least one-third of the little hands shoot up when Anthony Horowitz asked his audience, "Who wants to be a writer?"[39] Choosing writing as a profession was an unthinkable option even five years ago in a country where emphasis is placed more on sound and steady jobs of doctor or teacher. So there is much to look forward to. Already, there are budding teenage writers[40] who will be published in the coming months.

Jaya Bhattacharji Rose is a publishing consultant and critic based in New Delhi. She has been working with children and young adult literature since the nineties.

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[36] *http://www.crosswordbookstores.com/html/cwba-homepage.htm*

[37] *http://ifp.co.in/shownews.php?newsid=13443*

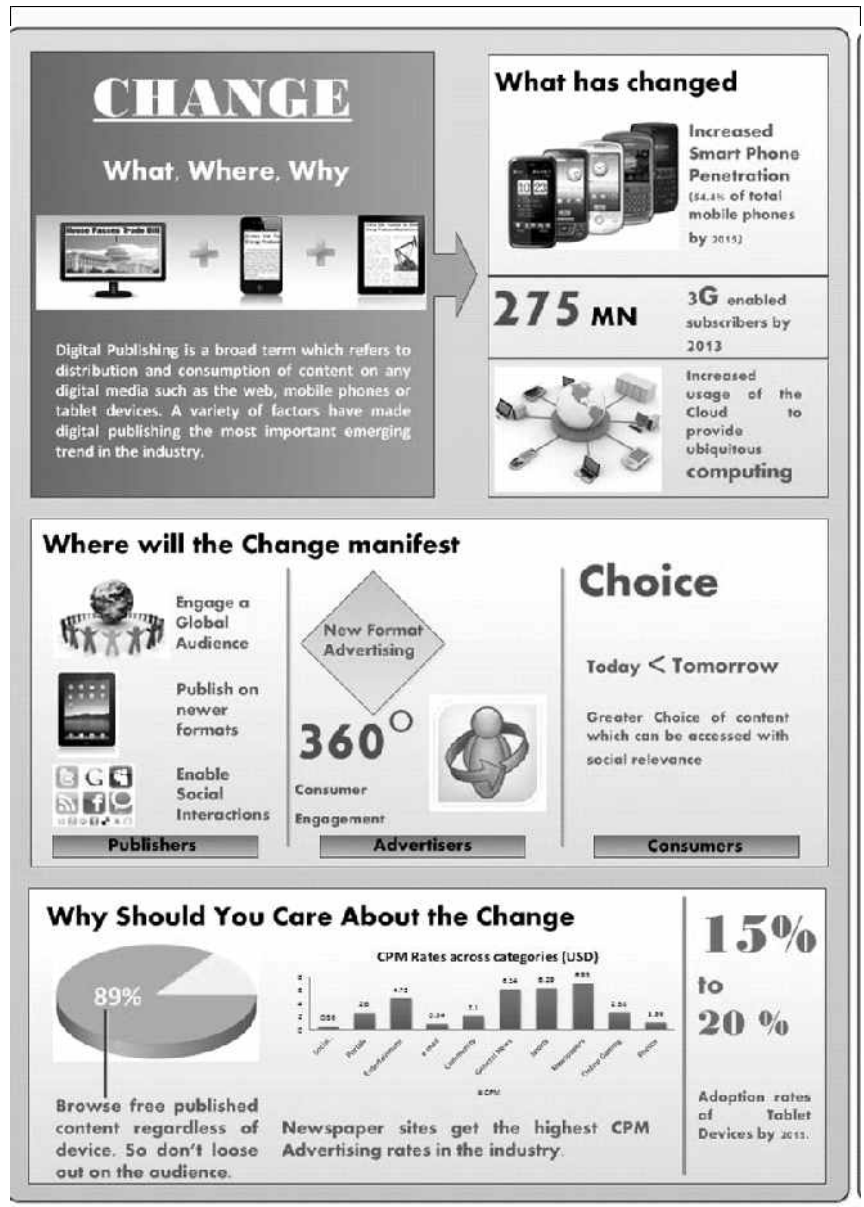
[38] *14 November is the birthday of the first Prime Minister of India, Jawaharlal Nehru, who loved children very much. So, now it is commemorated as Childrens Day in India.*

[39] *On Sunday, 29 Nov 2010 at Bookaroo Festival, IGNCA, New Delhi.*

[40] *"Five go to Gutenberg", Outlook Magazine, 13 Sept 2010. http://www.outlookindia.com/article.aspx?266990*

Digital Publishing Unchartered Territory or Greener Pastures

Mr. Manish Dhingra
Mediology Sofware



The above info graphic clearly highlights the reason why Digital Publishing is slowly gaining momentum and is a must have for today's publishing business.



Introduction

Over the last 4 years there has been a surge of interest on Digital Publishing and consuming print content on digital devices. While there are several reasons that have led to the built up of this interest, today Digital Publishing is more real and a bigger opportunity as the world moves towards bridging all the geographic divides, through technology and digitization.

Four main reasons have led to this being a paradigm which is here to stay.

1) **New affordable set of devices**: The iPad and a new set of Android powered tablet devices have brought down the cost of owning and participating in content consumption of Digital Devices. From the time when there used to be one PC in a household to today every member of the household having their own computing device, be it tablets or smart phones, the device access factors which were until now stalling the revolution in the publishing industry are now irrelevant.

2) **Greater Connectivity**: With a major improvement in the telecom infrastructure, Wi-Fi and Broadband connectivity becoming more affordable, along with 3G enablement on mobile devices, today the consumers are no longer limited by Digital Access. Hence this brings in the perspective of an always connected consumer who can easily access digitally published content, at greater speeds.

3) **Improved on Demand Computing**: The emergence of Cloud Computing and access to Cloud Computing setups like Amazon Web Services makes it easier for businesses to setup and expand their computing infrastructure for large loads. The services enable highly specialized use for storage, computing, databases, emails and notifications.

4) **Increased Social Media Penetration**: Social Networking is slowly and steadily taking over most of the content engagements which happen in the digital world. Sites like Facebook and Twitter are increasingly being used to create a highly interactive, social media optimized experience for content publishers. Today publishers cannot ignore putting up a facebook like or a twitter share widget on their sites. Hence to enable social sharing, content needs to be available in a digitally hosted domain.



Why is the Digital Publishing Landscape so different?

While it is true that digital publishing is a very important trend in the industry and should be looked at very closely, there are definitive reasons which have led to this trend, and where knowledge of technology are most important.

1. ***Changing consumer preferences***: With the advent of internet, the computer started to become the preferred device for consuming real time content like news. Mobile and e-reading devices like the iPad, the Galaxy Tab and Kindle have made digital reading possible and convenient for other forms of content like magazines and books.

2. ***High costs of distribution***: Print is difficult to distribute and limited in reach. The cost of paper, coupled with cost of transport and delivery makes digital publishing very attractive.

3. ***Competition from new media***: New Internet based technologies such as blogging; micro-blogging and social networking have led to a drastic erosion of readers from traditional print publishers forcing them to adapt themselves to the digital media.

4. ***Carbon footprint***: Paper is produced from cutting trees and there is an increasing concern around the environmental impact of the same.

The Need for a Digital Publishing Platform

Unlike traditional print publishing, Digital Publishing is a more complex and dynamic endeavour. Traditionally, publishing had two major aspects – **content and layout**. However, in the digital world, apart from content and its layout, publishers also need to think about making their content interactive, social and discoverable. Furthermore, monetization of digital content is radically different from the old approach of selling ad space in newspapers.

As the number of devices (be it mobile phones, e-readers or tablets) continue to increase, publishers need a platform where they can create their content once and then be able to publish it and monetize on all possible digital media.



A Digital Publishing Platform would hence contain the following elements

1. ***Interactive content creation***: A web-based system to allow publishers to add interactive elements like videos, slide shows, opinion polls etc. to their existing static content.

2. ***Content digitization and optimization for various media***: Ability to create content once and then optimize it for distribution through the web, various mobile devices, e-readers and tablets.

3. ***Social Media integration***: Allow users to share content with their social network and find out content being read or recommended by their friends.

4. ***Analytics***: Ability to track and analyse readership data segmented by devices, geography, demography etc.

5. ***Hyper local Targeting:*** There are several large media companies that have very regional and local publications. The publications using a combination of geo tracking and advertisement targeting can enable effective local distribution.

6. ***Monetization***: Inbuilt ad-serving capabilities optimized for specific devices and modes of content consumption.

Where are the Revenue Sources

Digital Publishing opens up completely new avenues to revenue generation. Some of the perspectives allow for revenue generation from pre-created content, which effectively means a much greater return on investment. So of the newer modes of revenue generation are highlighted below:

Subscription Sales

Publishers can choose to sell some or all of their Publications online, through a point and click subscription based mechanism, today it is ever so easy to subscribe to content which gets delivered to your inbox very easily.

It has been typically observed that niche content genres like personal finance, education, career development, medical and travel are more relevant to subscription based sales, since such content has a greater shelf life and a highly targeted audience which understands the value of the subscription.

However if the content is generic, like local newspapers, news magazines, lifestyle magazines, then that content is better off being distributed free, on a digital platform.

Nevertheless, even if that content is distributed free, the opportunities for revenue generation are still available, primarily through Advertising.

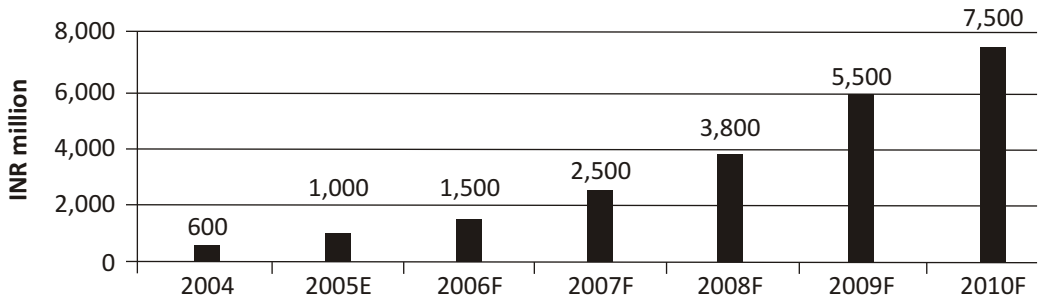
Advertising Sales

Ever since the start of the internet age, spanning to almost 20 years now, digital advertising has been the main stay of revenue generation from content forays on the web.

So it is no different here to that Advertising Sales will play a major role in this space. The difference however lies in the fact that the cost of putting your content up on the digital platform is almost zero for an existing publisher.

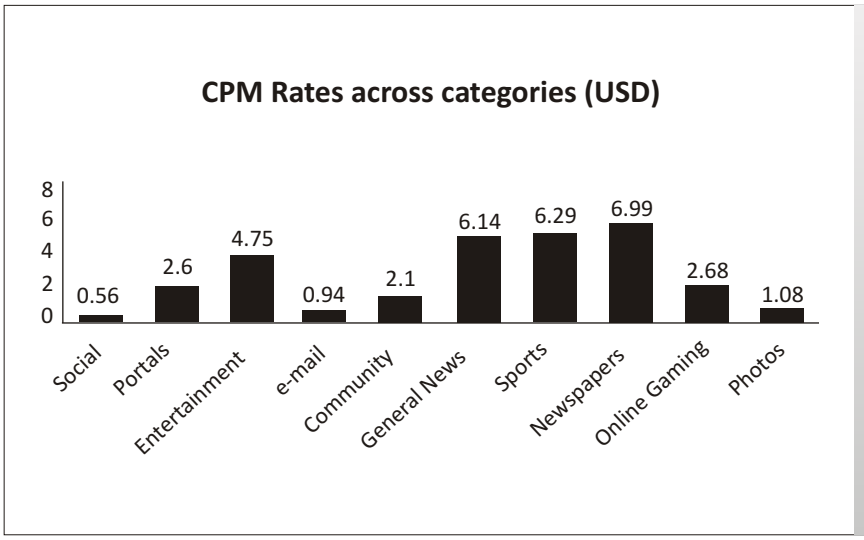
The above is coupled with the fact that as access to news on various digital devices increases, new ad-solutions which allow for a more immersive advertising experience is emerging. Mobile Advertising networks like AdMob (Now owned by Google) and InMobi are catering to this new genre of advertising.

Projected growth of Indian internet advertising industry



source: Industry estimates and PwC analysis

The Indian Internet Advertising Industry has seen robust growth in the last 5 years. Internet & Mobile Association in India (IAMAI) predicts at least a 28-30% growth in these numbers over FY 2011 2012.

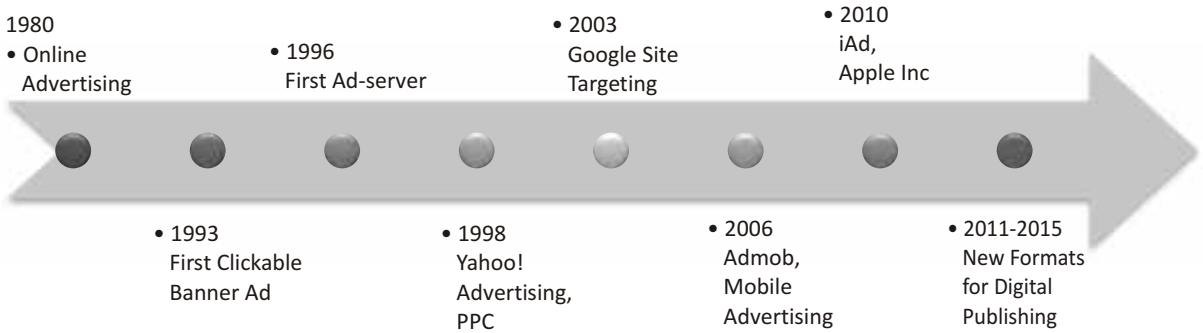


As per Comscore data, on Display Advertising Categories for 2010 newspaper sites attract the highest CPM rates from the advertisers, owing to constantly changing content and greater interest in world affairs among the masses.

Lead Generation and Newer Ad Formats

The Digital Publishing industry like any new industry has also brought in new opportunities for enhanced, more interactive ad formats.

As we saw in previous years, every time a new publishing trend has come into being, new advertising opportunities have cropped up. Similarly there are numerous new possibilities in Digital Advertising, which are becoming more relevant to digital publishing.





Interest Point Augmentation is a format of Advertising which consists of providing interactive opportunities to consumers, to associate directly with the content. This could be through hyperlinks which are linked to advertiser sites or lead generation forms which allow for the readers to associate with the advertiser.

A Peek into the Future, What's coming?

CHANGE

A Peek into the Future

As the world moves towards greater content consumption on digital devices, the lines between traditional publishing and digital publishing are increasingly getting blurred. More and more publishers will be focussing on creating content for Digital Only Consumption.The Digital Newsstand will replace the regular newsstand. New formats of advertising, will replace the traditional display advertising concepts. Social Media Advertising will ensure you can share the ads across your social graphs. Publishers will be able to analyse content consumption to a pixel level granularity, thus enabling fine grained control on content creation.

Digital Newstands



An increasing number of publishers, especially Magazine Publishers will produce content entirely for Digital Consumption. Example Outlook Money Digital (http://digital.outlookmoney.com)

Social Advertising

75%

Of the Advertising will be Social Ads, integrated directly in the content.

Content Heatmaps



Publishers will be able to track how the consumers interact with their content and hence be able to better synergize their editorial and content generation strategies.

Indian Publishing Industry: An Assessment of Export Potential in India

Mr. Pankaj Sevta and Mr. Abhinav Kumar
National Law University, Orissa

INTRODUCTION

The publishing business of India is considered to be one of the largest in the world. An industry that is at once strong and vibrant, both in English and other Indian languages. The phenomenal growth of publishing in the last few decades, the coming up of more and more new publishing houses catering to specialized areas and the increasing global visibility of Indian writings have combined to create a need to produce and market books professionally, offering a wide collection of rewarding employment opportunities.[1] Indian publishing market is estimated at Rs. 20000 crores which includes all types of publication like books market (13,000 cr.), magazines (15 % total market) and newspaper (4000 cr.).[2]

It can be seen that although print media may be losing out to television and the Internet in other countries, in India the print media industry (including newspaper and magazine publishing) is floating and is expected to grow at a 13 percent cumulative annual growth rate over the next five years. With readership (222 million adult readers) growing at a fast pace, the industry is estimated to almost double from its current size of US$ 3.2 billion to US$ 5.80 billion by 2011. This growth is being attributed to two distinct factors; Indian government liberalizing laws pertaining to foreign investment in Indian publishing companies and the Indian economy's fast growth in English-educated middle-class citizens with increased disposable incomes. Global media companies are now eyeing the Indian market and are actively seeking entry through collaborations and joint ventures. A number of Indian versions of international publications (franchises of the original) have entered the Indian market, including Elle, Cosmopolitan, Scientific American, Good Housekeeping and Maxim.[3]

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[1]*Available at http://www.nbtindia.org.in/pdffile/General%20Information%20Book%20Publishing%20Course.pdf (Last Accessed on 09/09/2011)*

[2]*The Indian publishing industry, Available at http://www.businessstandard.com/india/storypage.php?autono=337856 (Last Accessed on 09/09/2011)*

[3]*India Publishing Industry, Available at http://www.scribd.com/doc/6150990/India-Print-and-Publishing-Industry (Last Accessed on 09/09/2011)*



Growth in India's print and publishing sector is assured in the years to come due to the growth in the literacy levels in both urban and rural India. Laws to protect intellectual property (IP) rights are also now in place in India. Although enforcement of the laws at local levels needs drastic improvements, IP theft in India is much lower as compared to other emerging markets. Consequently, interested American publishers should consider entering the Indian market.

Around 80,000 new titles in 24 different languages are published every year in India. The country is the 7th largest book publisher in the world and is the 3rd largest English language books market in the world after the U.S and U.K. However, it has a very low per capita expenditure per annum on books of Rs. 80 as compared to Rs. 4000 in U.K.[4].

FORCES AFFECTING PUBLISHING INDUSTRY

There are some key forces which influence potential and growth of publishing industry in India. Some of them are:

1. High Attractiveness: High and sustainable margins for all the players in the value chain ensures that each player gets his own rightful share in the value chain, prompting and motivating them to stay and grow in the value chain.

2. High Potential: With the increase in the literacy rate the growth of the economy and the increase in expenditure is also high, so the demand for books is also on the rise, thereby high growth for the industry is predicted.

3. There is a huge untapped potential in India because these factors are only bound to become more favorable in the future, and drive the growth of the industry.

4. Protection from economic shocks: Books are merchandise for the education industry. As the education industry is protected from any economic shocks the book publishing industry also gets a mechanical protection against such shocks.[5]

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[4] *Publishing Market Profile Report – India, Global Publishing Information, United Kingdom, 2008*

[5] *Available at http://tejas-iimb.org/articles/49.php (Last Accessed on 09/09/2011)*



POTENTIAL OF INDIAN PUBLISHING INDUSTRY

India's publishing industry reflects the level and diversity of the subcontinent itself around 12,000 publishers publish roughly 80,000 titles every year in the country's 24 official languages.

The industry is estimated to have an annual turnover of over $1 billion and there is still ample of potential for growth. Around one third of the annual book production is in English and the remainder in Hindi, Tamil, Bengali and other languages. Even though only a relatively small percentage of India's 1.1 billion people can read English, the subcontinent is still the world's third largest market for books in English after the US and Britain. Globalization and India's IT and services boom mean that English is essential for the young and educated.

The growth of India's middle class offers great opportunities. It is estimated that there are 600 million book readers in the South Asian giant – a massive potential readership yet to be fully exploited by international publishers.

But big publishers have recognized the potential of India with Penguin, Harper Collins and Random House setting up operations there to publish Indian books in English and distribute them in India. Yet, in a country of extreme contrasts, it is estimated that one third of Indians below 15 years are illiterate. The export of books produced in India is estimated to be worth $100 million annually. India's reasonably priced educational text books in particular are in great demand in developing countries. In the West, books from India continue to enjoy popularity, in particular those reflecting the country's rich and varied culture, such as volumes on spirituality or cuisine. “Books about Hinduism, Buddhism and all their variations obviously still enjoy unbroken popularity among publishing companies and readers,” says Michael Kegler, curator of the Guest of Honor exhibitions at the Frankfurt Book Fair. It is noticed that around 200 Indian publishers are attending the international fairs, the largest of its kind in the world. Forty writers have been invited by India's National Book Trust (NBT), the organizer of India's Guest of Honor project, and at least an equal number have been invited by their own publishers.[6]

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[6] *India : Publishing Market With Vast Potential, Available at http://myafrica.wordpress.com/2006/10/07/india-publishing-market-with-vast-potential (Last Accessed on 09/09/2011)*



CONCLUSION

The Indian publishing industry is full of potential and opportunities. Today the world media looks at the Indian market because it contains lot of possibilities and readers in comparison to any other section of the world. People all around the globe look forward to good literary and creative work from the Indian press and publishing Industry due to the recent contribution in the global academic journal the demand is high for original and authentic work. As a matter of fact, in terms of number of English language publishing in India, we stand at number three after USA and UK. Therefore it can be drawn to the conclusion that in the time of IT revolution the publishing industry has great future ahead.

Managing IPR in Publishing Industry

Ms. Purvi Mathur[1] – Gujarat National Law University &
Mr. Saransh Kabra[2] – Padmashree Dr. D.Y. Patil University

The area of management of Intellectual Property Rights has acquired utmost significance in today's world of fierce technological growth and development.

It is a well-known fact that the role of Intellectual Property protection has expanded at an unprecedented pace during the last two decades. With the rapid growth in diversified fields of technology, and with the advent of new scientific inventions, the country's technological prospects and perspectives have to be redefined and one such aspect is the implementation and protection of Intellectual Property Rights.[3]

According to the World Intellectual Property Organization (WIPO), intellectual property is defined as consisting of the two main branches of industrial property and copyright. Industrial property *"deals principally with the protection of inventions, marks (trademarks and service marks) and industrial designs, and the repression of unfair competition".* Copyright is applied to *"creations in the fields of literature and arts"*, with such works able to be expressed as *"words, symbols, music, pictures, three-dimensional objects, or combinations thereof (as in the case of an opera or a motion picture)".*

Therefore, in an era with a backdrop where innovation, creativity and novelty play a pivotal role, it is becoming increasingly necessary that rights aimed at accelerating the dissemination of knowledge and protecting the creators against slavish imitation are given its due importance.

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[2]*B.tech Biotechnology, Dept. of Biotechnology & Bioinformatics, Padmashree Dr. D.Y. Patil University, Navi Mumbai.*

[3]*Corporate and Allied Laws Intellectual Property Rights Management and Its Growing Importance in Diversified Field of Technology in Context of Developing Countries*



PUBLISHING INDUSTRY: *What is it like?*

The printing and publishing industries are the biggest sectors in an economy, providing a whole range of products and services in analogue and digital formats. The publishing industries are of extreme importance as they significantly contribute towards both the national as well as the international economies. In fact in some Asian economies the publishing industries have played a pivotal role of development and growth.

The ability of a publisher to make a precise and a careful selection of the content that, the target population who are the readers will be willing to purchase forms the core of the publishing industry in every country. Publishers of the respective content are its acquirers, managers, owners and users of intellectual property rights. They possess rights through which they produce and sell, and they hold other rights on behalf of third parties.

The business of publishing involves trapping and exploiting the rights of the writers, just the way they seek to defend and protect what are theirs and what they have been entrusted to defend. Publishers have a commercial and a professional interest in exploiting these rights.

Progress and advancement in marketing techniques and technology have fuelled India's publishing industry forward into a rapid and magnificent expansion. As estimated by Shakti Mallik, president of the Federation of Indian Publishers, the Indian publishing sector is currently "worth Rs.80 billion and it is growing by over 15 percent every year." The country is witnessing fresh promotional strategies in all aspects of the bookselling field.

Recently, Google's declaration of its partnership with India's publishers for Google Book Search indicates the wallop that the Indian industry is beginning to claim around the world. Sage Publications are among the companies already involved, along with Orient Longman, Roli Books, Orient Paperbacks, Diamond Publications, etc and Google is still looking forward to expand its affiliate base with other big names in the industry.

Google Book Search allows people to browse portions of a book online and search it for specific terms. The service also connects with publishers, websites, and local bookstores that carry the title. To protect those titles which lie under copyright, no more than 20% of the book can be viewed, no more than five pages can be scrolled through consecutively, and no text can be downloaded or printed. The service is highly beneficial for the publishers, who receive a share



of the advertising revenue, and the entire portion of any book sales. It's free for the publisher to provide their books, and it will give Indian publications an even larger presence worldwide.

Hence keeping a pace with the rocketing boom of the publishing industry, there is a growing need and a demand amongst the innovators and the publishers that their unique rights must be protected against any malpractice. This requirement calls for an effective management regime that can ensure an iron clad protection to these novel rights.

IPR MANAGEMENT: *What and How?*

Intellectual property laws enable authors and owners of other rights to protect their creations and to control or license their use by others.[4]

For any enterprise in the business of creating or using the products of the mind, a poorly-managed intellectual property portfolio can be detrimental to the success of its business. For this reason it is essential for publishers to protect their company's intellectual property assets, as they will in turn work for them and be their most vital and valuable asset in the business of publishing.[5]

Copyright laws protect the owner of property rights in literary and artistic works against those who 'copy' or otherwise take and use the form in which the original work was expressed by the author. The main purpose of protection and management of copyright and related rights is to encourage and reward creative work.

IPR MANAGEMENT: *Publisher's Resort*

An effective Intellectual Property management would have an unsaid incentive for the creators or the innovators to engage in knowledge creation. This would lead to greater professional recognition for them.

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[4] *"Managing Intellectual Property in the Book Publishing Industry"- A Business-Oriented Information Booklet Creative Industries - Booklet No.1 World Intellectual Property Organization, pg. 11*

[5] *"Managing Intellectual Property in the Book Publishing Industry"- A Business-Oriented Information Booklet Creative Industries - Booklet No.1 World Intellectual Property Organization, pg. 7*



According to Ananth Padmanabhan, Vice-President, Sales, Penguin Books India, "the English language publishing market in India is estimated to be about Rs 7,000 crores or US$1.4 billion with a growth rate of 10per cent per annum. Of this, it is estimated that book pirates impact nearly 30 per cent of the market. At times, with best sellers by Jeffrey Archer and Dan Brown, the pirated copies could even equal the amount of copies sold by the legitimate publisher."

International, 'Copied' Versions of Harry Potter are available all over The Harry Potter character is a highly profitable but heavily copied, imitated and a counterfeited character. In a number of countries it is possible to find a Harry Potter 'sequel' entitled Harry Potter and Leopard-Walk-Up-to-Dragon; a Harry Potter twin, Tanya Grotter, star of Tanya Grotter and the Magic Double Bass; Porri Gatter and the Stone Philosopher; and Harry Potter in Calcutta, where Harry meets up with various characters from Bengali literature.

For several years, a growing number of academic publications have called for strategic management of intellectual property.[6]

The intellectual property rights concerning copyrights are of utmost relevance to the publishing industry. The primary owner of a copyright in any piece of work is the person who created it. The publisher publishing that piece of work enters into a legal relationship with the creator in order to publish the work. This is possible only by way of a legal contract that the publisher enters into with the author who either assigns a copyright to the publisher or grants to the publisher an exclusive, or a non-exclusive, license.

The digital environment poses many challenges for copyright owners in terms of accessing and reproducing copyright material. This occurs in a number of ways:

i. ease of copying and reproduction is greatly enhanced by digital technology;

ii. the copies made more easily are the same quality as the original; and

iii. the re-use of material is facilitated by the internet and the networked environment.

This ease of reproduction and dissemination threatens the traditional business model in the publishing industry. Previously, when photocopying was the primary means of copying works by the individuals, the number of copies made from published works was limited. Digital

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6 Hufker & Alpert, 1994, Nickerson & Silverman, 1998, Reitzig, 2004, Tao et al., 2005



technology means that people can now distribute the copyright content easily and cheaply when they have no right to do so. Further, that content, because of the quality of the reproduction, competes directly with legitimate content. The challenge for policy makers is to balance the desire of copyright owners to control and protect the copyright works with the demand of the consumers for access to those works.[7]

According to an assessment by the U.S. Chamber of Commerce, counterfeiting and piracy cost the United States nearly $250 billion annually. The Association of American Publishers (AAP) estimates that American publishers lost over $600 million last year due to copyright piracy; and with the internet as a basis for reproduction and transmission, it seems this number will only grow in the years to come. In Argentina, for example, a total of 1.2 million books under 800 titles are pirated every year with an estimated $10 million annual loss in revenue. As the international community continues to grow and become increasingly interconnected, the importance of being able to adequately protect one's own self or one's business worldwide cannot be understated.[8]

In 2010, there were between 1.5 million to 3 million searches per day on Google for pirated e-books, a 50 percent increase throughout the past year. The most piracy searches originated from the United States and India.[9] Online book business through direct association with publishers is possibly the best solution to curb piracy.

www.tradus.in, an online shopping portal with special focus on books has entered into exclusive tie-ups with publishers such as Harper Collins, Pearson Education, Rupa and Co., Wiley India, Penguin Books India, and Scholastic India, in order to curb piracy and promote the sale of original book copies. They are planning to extend into tie-ups with other international and regional publishers, helping them to cover all the key regional languages.

Sachin Bansal, CEO, Flipkart, another leading online book mall, claims Flipkart to have grown more than 10 fold over the last couple of years, in an Indian online book market he estimates to be Rs 1 billion currently. He is confident of growing at a much faster rate in the years to come.[10]

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[7] Ms. Caroline Morgan, "Intellectual Property Rights and Book Publishing", Copyright Agency Limited
Available at http://www.accu.or.jp/appreb/10copyr/pdf_ws0601/c2_3.pdf

[8] "Piracy & IPR in the Publishing Industry", available at:
http://export.gov/industry/paper/industryresources/index.asp

[9] "New Study Suggests e-Book Piracy is On the Rise", available at:
http://news.cnet.com/8301-17938_105-20018831-1.html

[10] "Book Piracy Reaches Alarming Levels in India", available at:
http://www.mydigitalfc.com/knowledge/book-piracy-reaches-alarming-levels-india-739



Collective Management:

It has been mentioned that the creator of a work has the right to allow or to prohibit the use of his works; a playwright can consent to his work being performed on stage under certain agreed conditions; a writer can negotiate a contract with a publisher for the publication and distribution of a book; and a composer or a musician can agree to have his music or performance recorded on compact disc. These examples illustrate how the owners of the rights can exercise their rights in person.

Individual management of rights is virtually impossible with regard to certain types of use for practical reasons. An author is not materially capable of monitoring all uses of his works; he cannot for instance contact every single radio or television station to negotiate licenses and remuneration for the use of his works. Conversely, it is not practical for a broadcasting organization to seek specific permission from every author for the use of every copyrighted work. An average of 60,000 musical works is broadcasted on television every year, so thousands of owners of rights would have to be approached for authorization. The very impracticability of managing these activities individually, both for the owner of rights and for the user, creates the need for collective management aimed at bridging the gap between them in these key areas, among others.

Collective management organizations are an important link between creators and users of copyrighted works because they ensure that, as owners of rights, creators receive payment for the use of their works. There are various kinds of collective management organization or groups of such organizations, depending on the category of works involved (music, dramatic works, "multimedia" productions, etc.) that will collectively manage different kinds of right.

In the field of printed works collective management mainly involves the grant of the right of reprographic reproduction, in other words allowing protected material to be photocopied by institutions such as libraries, public organizations, universities, schools and consumer associations. Non-voluntary licensing arrangements, when allowed by international conventions, can be written into national legislation; in such cases, a right of use against remuneration is accorded that does not require the consent of the owner of rights. Collective management organizations administer the remuneration. In the special case of reproduction for private and personal use, some national legislation contains specific provision for equitable remuneration payable to the owners of rights and funded by a levy imposed on equipment or photocopies or both.



Two treaties were concluded in 1996, under the auspices of WIPO, to respond to the challenges of protecting and managing copyright and related rights in the digital age. Known as "the Internet treaties," the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty deal with obligations concerning technological protection measures and rights management information in the digital environment; they ensure that the owners of rights are protected when their works are disseminated on the Internet; they also contain provisions requiring national legislators to provide efficient protection for technological measures, by prohibiting the import, manufacture and distribution of illicit circumvention tools or material and also outlawing acts detrimental to rights management information systems.

COPYRIGHT INFRINGEMENT IN THE COURTS

- **Dan Brown's *The Da Vinci Code*[11]**

The copyright infringement case against the publishers of The Da Vinci Code was fought by Michael Baigent and Richard Leigh, two of the authors of a 1982 non-fiction work, The Holy Blood and The Holy Grail.

- **Facts:**

At the center of the dispute was a hypothesis presented in The Holy Blood and The Holy Grail concerning the early Christian legend of the Holy Grail. The core of the authors' hypothesis was that references to the Grail in early manuscripts were disguised references not to the chalice, but rather to the bloodline of Jesus Christ. Baigent and Leigh used six known 'indisputable' historical facts, or supposed facts, though their conclusion was the result of 'historical conjecture' based on those facts. This quasi-historical approach was also the basis of various other published hypotheses.

Baigent and Leigh claimed copyright in the literary work and alleged that Dan Brown, author of The Da Vinci Code, had copied the way in which they had made the sequence of connections of the facts of the merging of the bloodlines. Since there was little copying of the actual text of The

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11 Dr. Uma Suthersanen, *"Managing Intellectual Property in the Book Publishing Industry",* Intellectual Property Law & Policy department of Queen Mary, University of London, WIPO Magazine, June 2006; *Michael Baigent and Richard Leigh v. The Random House Group Limited* [2006] EWHC 719.



Holy Blood and The Holy Grail, the claim was that there had been non-literal copying of a substantial part of their literary work.

The Holy Blood and The Holy Grail is comprised largely of historical facts, which are unprotectable ideas. Baigent and Leigh therefore based their case on the claim that Brown had taken a substantial part of the "manner" in which they had expressed those ideas.

- **Judgment:**

The court held that, while the evidence was clear that Dan Brown had drawn on The Holy Blood and The Holy Grail, this did not mean that he had infringed copyright in the book. Rather, he had used the book to provide general background material.

- **Alice Randall's The Wind Done Gone**[12]

- **Facts:**

The Wind Done Gone re-tells Margaret Mitchell's Civil War-era story from the point of view of Gone With the Wind heroine Scarlett O'Hara's half-sister. Ms. Randall stated that her work was designed to critique a book depicting slavery and the Civil-War-era American South, while Margaret Mitchell's estate argued that the use of the same settings and characters amounted to a breach of the original work's copyright.

- **Judgment:**

In Suntrust v. Houghton Mifflin Co., 252 F. 3d 1165 (11th Cir. 2001), the US Court of Appeals overturned the decision prohibiting the publisher of Alice Randall's The Wind Done Gone from distributing the book. According to this case, the creation and publication of a carefully written parody novel in the US counts as fair use. Although the court ruled that Alice Randall's book constituted parody, which is permissible under copyright law and protected by the First Amendment of the US Constitution, which guarantees freedom of worship, speech, assembly and a free press, it also stated that Mitchell's estate may be entitled to monetary damages. Subsequently the parties settled out of court to allow the book to be published.

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[12] *http://www.yale.edu/lawweb/jbalkin/telecom/suntrustbank.pdf; http://laws.lp.findlaw.com/11th/0112200opnv2.html.*



- ***National Comics Publications v. Fawcett Publications,* 191 F.2d 594 (2d Cir. 1951)**

- **Facts:**

This was a decision by the United States Court of Appeals for the Second Circuit in a twelve-year legal battle between National Comics and the Fawcett Comics division of Fawcett Publications, concerning Fawcett's Captain Marvel character being an infringement on the copyright of DC's Superman comic book character. The litigation is notable as one of the longest running legal battles in comic book publication history.

- **Judgment:**

The suit resulted in the dissolution of Fawcett Comics and the cancellation of all of its superhero-related publications, including those featuring Captain Marvel and his related characters. DC later acquired the rights to Captain Marvel in the 1970s, which they hold to this day.

- ***Nichols v. Universal Pictures Corporation,* 45 F.2d 119 (2d Cir. 1930)[1]**

This was a cause celebrated judgment delivered by the United States Court of Appeals for the Second Circuit on copyright infringement by non-literal copying of a dramatic work. The Court held that copyright protection cannot be extended to the characteristics of stock characters in a story, whether it is a book, play, or film.

- **Facts:**

The plaintiff, playwright Anne Nichols, was the author of Abie's Irish Rose, a motion picture play about a young Jewish man who marries an Irish Catholic girl against the wishes of both of their fathers, with hilarity ensuing. The defendant then produced The Cohens and Kellys (which the court referred to as "The Cohens and the Kellys"), a film based on a play about an Irish boy who marries a Jewish girl from feuding families, with hilarity ensuing. A lawsuit ensued, with the plaintiff asserting copyright infringement based on the defendant's use of similar story elements. The question before the Court was whether the defendant's film infringed the plaintiff's copyright in the play by using similar elements.



- **Judgment:**

Judge Learned Hand, writing for the Court, noted that protection of literature cannot be limited to the exact text, or else an infringer could get away with copying by making trivial changes. The question then is whether the part taken was 'substantial'. However, it is impossible to set a firm boundary demarcating the line between work and ideas, he said, stating, “her copyright did not cover everything that might be drawn from her play; its content went to some extent into the public domain.” In this case, there was no infringement, as the ideas that are copied are really universal concepts and stock characters.

- **A LOOK INTO THE FUTURE: *Proposed Amendments to the Copyright Act***

The proposed amendments to the Copyright Act have been celebrated spats bollywood producers and lyricists. Lesser known is that a proviso to one of the sections threatens to dismantle the very fabric of Indian writing in English. The ministry seems ready to pass this bill which could go down in history as the one act that will set India back a hundred years.

The proviso to the section 2(m) of the Copyright Act of 1957 seeks to remove the protection that India had as a copyright territory. Any book published anywhere in the world can now be sold here infringing an exclusive Indian edition - published or imported. One needs to realize that authors own copyright to their works and then assign publishing rights to different territories, so that the book and readers are best served.

Vikram Seth, for example, is published in Britain by Hachette, in the US by HarperCollins, in Canada by McArthur, and by Penguin in India. Each territory is protected by law to best publish the work. Without this legal shield, any of the four editions could infringe on each other.

- **Implications to the Publishing Industry**

It benefits the end consumer because open market competition will bring prices down. But a point that should be considered is that India is the lowest priced market in the world, and no benefit outside short-term spoiler pricing can accrue to the customer.

Almost all world markets practice what's known as 'remainder' sales. Essentially surplus stock is cleared-off at dirt-cheap prices. These stocks, if not prohibited by law, will just flow in and wipe out local editions and eventually industry.



However this does not end up benefitting the end customer as the remainder merchants still sell the remainder stock just below existing price points to maximize their own profits.

The legal position of the author's rights is paramount. A creator should have the right to decide what he wants to do with his creation and should benefit from it. The 'edition right' is thus an extension of the prime right of the artists to protect and share their property without infringement. If we regard the contractually established edition rights as having no territorial exclusivity, then they become solely a right to distribute a printed object in a given territory. What the law will do is erode the economic right of the authors to profit from their copyright as much as it will erode that of the edition rights buyer and will give the reader or bookseller no certainty that they have paid the best price for a product. There's always a chance that a remainder comes and lowers the price again.

The author who was planning to get designated royalties by territory will hardly get an income stream because royalties on remainders are near zero. Which also means we are placing authors in competition with a third-party non-holder of copyright - the remainder merchant who brings the book in against the author's wishes because the law permits him to do so - a completely unjust intellectual property system.

It's bad enough that one has to cope with rampant piracy. This will be an even worse cut. A publisher takes enormous risks and invests. And with no significant investment available to back them what incentive do authors have to write? Why would any overseas publisher grant licensing rights to India? One may actually now see old editions dumped in here undercutting new ones. Low priced editions would vanish, further fostering piracy.

India has its own laws and 'religious sentiments'. An Indian rights holder ensures these are conformed to; indiscriminate 'export dumpers' do not.

The existing law was created presumably after some thought. We've had five amendments of the 1957 Act. The present exercise began with trying to redress the rights of authors in the music and film business. It will end up killing book authors.[13]

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13 The Death of Books, available at:
http://www.hindustantimes.com/The-death-of-books/Article1-652735.aspx



This will result in making the management of intellectual property rights a furthermore difficult a task to be accomplished.

• CONCLUSION:

This paper has carefully looked into the aspects of publishing industry, its role in affecting the economy in positive spirit and the challenges faced by the publishing industry in this technologically sound era. The paper discusses intellectual property rights protection and management, and the need and importance of collective management. The authors also make an attempt to deal with the important judgments wherein the judiciary has talked about copyright infringement cases.

On the perusal of the proposed amendment to the Copyright Act, it can be stated that the effecting amendments in intellectual property laws will make it further more difficult for the creators and the innovators to protect and manage their intellectual properties. In a context where innovation plays a key role, often called knowledge economy, implementation of strategies that take into account all those sources of complexity, the organization of IPR management is crucial. This area is less explored than more visible parts of IPR strategies.

It may be asserted that effecting amendments in intellectual property laws would most likely favor just one of the publishers/creators/consumers, which would in turn disturb the balance that needs to be maintained so that all parties involved feel motivated and contribute actively. There is a need to exploit what the laws provide to better serve one's own needs effectively, in such a manner that ensures high profits to the publishers and at the same time attract customers, while keeping the creators satisfied.

However, for effective management of IPR, it must satisfy three requirements:

i. It must always be possible to identify or locate their subjects
ii. It must always be possible to unambiguously identify their objects
iii. It must always be possible to specify their predicates

Although difficult, still the advancements in the technology have witnessed a number of developments in authentication mechanisms which can enable the creators or the innovators to



manage and protect their intellectual properties. One such technology is encryption which will assist in controlling access to publications.

License agreements are also used to define the amount of access that may be provided to a digital publication. Institutions whose role is to preserve access to such material may enter into agreements with publishers or creators which restrict access to their materials.

Emerging technologies such as digital signatures, watermarking and digital time-stamping will assist in the area of establishing a publication's authenticity.

The management of intellectual property rights, at first, may appear to be a tedious and expensive affair. However, in the long run incorporating this practice in the publishing industry will safeguard the interests of all the parties involved. This will prevent malpractices such as infringement of copyright, and help in the laying down of the basics of the trade, encompassing factors such as electronic publishing and distribution.

Widespread implementation of the intellectual property rights in the publishing industry will help in understanding the dynamics involved in the whole process and the evolution of the copyright laws.

The Boon of Publishing Challenges and Response Back to the common man

Professor S.K. Bhatt, Director
Academy of Indian Numismatics & Sigillography, Indore

We are meeting in the PubliCon on an occasion when the country is witnessing an unprecedented socio-politico-economic transformation; an anxiety for the rulers and the ruled alike to face and formulize devices to eradicate the twin evils- corruption and terrorism. FICCI has a glorious tradition of guiding the destiny of India since 1927 through its Publishing Industry, which is vibrant both is terms of volume and value of production. This occasion calls for retrospection about policies and programmes.

Normally a publisher publishes that which is in demand in market and saleable in society. But in the light of the scenario referred to above, can we reillumine our self as publisher rejuvenating our actions inconsonance with the nation's call ? Apart from publishing that which is conveniently saleable, should we not prefer that which the people of the nation need ?

In the domain of all the branches of knowledge including major subjects of Arts, Science and Commerce and Management Studies, Medicine, Computer Science, Electronics, Automobiles, Information Technology, Biology, Environmental Sciences and Other Fundamental branches of education, with pride we have to acknowledge that Publication Industry has excelled in terms of achievements and accomplishments. This needs to be applauded. It has helped the academic world in grooming talents leading to knowledge revolution in the country.

At the same time, by and large, it is being observed, that today, along with other themes, 'Face' and 'Fashion', disproportionately dominate and excites human mind beyond expectation. Its literature, puzzles an average Indian as dreamy and drowsy. Sometimes in revealing it, all the frontiers of morality are crossed, and still we feel delighted at this !

Besides, 'Horrors' and 'Cartoons' predominate our book selves and cartons, may be for a momentary joy, to lighten the tensions of a clumsy life and stimulate our imagination, without



enriching and preserving the realities of life. It has often germinated timidity instead of courage and strength. Therefore, it needs your thoughtful consideration.

Gentlemen, with one voice, you all will agree that our publication (literature) should illumine the human mind and in no way should it be permitted to dim it. It should empower rationality, enabling an average citizen to discriminate between good and bad, desirable and undesirable in the context of emerging national values of Indian Society, marking indelible identity of the civilized world. I am pained to say that here we are somewhere lacking, setting aside the precepts of Gautam, Gandhi, Tagore, Premchand, Sharad and the likes.

India is growing as a world power with 120 crores of people farmers, labours, skilled workers, and elites- the makers of Modern and Future India. They all eagerly look at us and hope for deliverance. Most of them with rich cultural heritage and deep faith in religious traditions and unfailing commitments towards their fulfillment; a poor with minimum resources on earth, contemplates for heaven after death ! And a rich too not legging behind in following his footsteps in the trail. Your comprehensive outlook as reflected in publications dilating over the remedies of their diseases through restructuring the system of governance and for pleading for an equitable distribution of natural resources alone can make them happy and prosperous. At this stage you alone have the power to eradicate poverty and corruption plaguing our society.

A majority of groaning grown ups feel dejected and disgusted with the corrupt people who are often painted in publications as heroes and venerated as *Masihas*. At the same time they are bedeviled by the bogus current religious literature loaded with the preaching's of the shrewd *Dharmacharyas*, mostly devoid of religion and divinity, often coupled with the hidden agenda of ambitious political parties, exciting common man, practising unconstitutional methods for personal gains.

We are in a dilemma as the voluminous increase in publications, widening the gulf between the haves and the have-nots, has equally widened common man's expectations and we have hardly any concrete solution to satisfy both of them. Therefore, I feel that by simply selling dreams would not do. We will have to explore working devices/hypothesis. This calls primarily for a vital change in publication policies as well as programmes to transform the trend of the trade - instead of earning profits, we will have to look for yielding of social gains by simplification of knowledge to enhance the utility of our publications.

The power of the Pen and Print being vital and wider than a lame Parliament, the younger generation look to us and our working as that of a Big Power House to illuminate their conscience communicating to them the basics of constitutionally combating with deceits and practicing the art of living as *Vaishnavajan* (a Gandhian concept) for the fulfillment of their need. We have to respond unfailingly to the call for survival in this complex world.

Managing Intellectual Property Rights in Book Publishing*

Ms. Sanjana
National Law University, Delhi

1.1 Intellectual Property- Definition: Intellectual property is the creative work of the human intellect. The creators are given statutory rights by the various countries through national legislation. These legislations also give rights to the public to access those creations. These rights are instrumental in promoting creativity and dissemination. In fact, it is said that the economic development of a nation depends on the how the intellectual property rights are structured and used.†

1.2 Publishing and its Interface with Intellectual Property Law: Everyone 'publishes' at one or the other point in life. Publishing in a general and broad sense includes one's thoughts or other information sent which is seen by a party other than the recipient. Such scenarios are part of daily life and usually there is no explicit link or need to trace the link between acts of publishing and law. However, law becomes involved when for example, if an e-mail sent out to a list of people defames someone or if text or pictures used on a website infringe someone's copyright or if a writer / artist wants his or her work to be published. Thus, knowing the law relating to publishing is very important, especially so for a publisher. Further, it could be said that knowledge of intellectual property law is essential for the publisher as there the nature of the branch of law most often demands vigilant eyes and ears so that one does not step on others' copyrights or trademarks while in the business of publishing.

1.3 Author- Publisher Contracts: It is every author's desire to get his or her work published. Typically, such authors approach a publishing house. The publishing house acquires the required

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† *The prosperity achieved by the developed nations is, to a large extent, the result of exploitation of their intellectual property. V. K. Ahuja, Intellectual Property Rights in India, Vol. 1, 1st ed. 2009, Lexis- Nexis, New Delhi, p. 3.*



rights over the work and enters into a contract with the author. This contract called the "publishing contract" is of profound importance in many ways. This contract is the key to "managing" intellectual property in book publishing. Thus, managing IPR in book publishing is about knowing how to draft these contracts in the most optimal way possible and in the best way that would suit the interests of the stake-holders involved.

Publishing agreements must fulfill the requirements of consensus ad idem, the furtherance of a legal object, the subject matter having to be legal and the existence of consideration. In addition to adhering to the usual requirements, a publishing contract needs to take account of the situations on the ground in order to be optimal.

One of the main objectives of a publishing contract, at least from the publisher's point of view, is to acquire rights.[‡] The acquisition of rights by the publisher can be done by two methods. Firstly, the copyright can be acquired by obtaining an assignment of the copyright from the copyright owner. Assignment of copyright typically involves the owner of the copyright (called the assignor) disposing of the copyright in favour of the assignee or the transfer of ownership of copyright. The second method of acquisition of copyright is through licensing whereby the publisher could be granted a publishing license. Licensing usually involves the licensing of some rights and not the whole of the rights. A license is an authorization of an act without which authorization the act would be an infringement of copyright.[§]

The publishing contract is an attempt to exploit copyright works in as many languages, forms and media. Thus, every publishing contract should make clear as to who owns the copyright, and what publishing rights that owner grants to the publisher. It is also advisable to acquire electronic publishing rights even though it may not seem on the face of it that the work may not have much scope for digital usage.[**] The publishing contract should spell out whether the above type to rights are granted to the publisher or reserved by the author. 'Doing this will ensure that;

- the author and publisher clearly know who controls which rights
- that the publisher can safely sub-license individual rights to others

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‡ *"An Introduction to Publishing Contracts", available at http://www.archive.sfwa.org/contracts/IntroPubContracts5521.pdf*

§ *. V. K. Ahuja, Intellectual Property Rights in India, Vol. 1, 1st ed. 2009, Lexis- Nexis, New Delhi, p. 81*

** *Hugh Jones et al., PUBLISHING LAW, 3rd ed. 2006, Routledge Great Britain, p. 73*



- that rights can effectively be assigned or transferred
- that all licensed activities can be protected legally against copyright infringers'[††]

There are several kinds of rights that need to be kept in mind and incorporated in the publishing contract. These rights and their respective incorporation into the contract have been discussed below.

1.3.1 Moral Rights: These rights are inalienable from the author. However, they can be waived contractually.[‡‡]

The Berne Convention lays down the minimum requirement of moral rights to be adhered to by member nations in two categories, namely; the right of paternity and the right of integrity.

Right of paternity allows the author to claim authorship of his or her work at the same time preventing all others from claiming authorship of the work. The author by virtue of this right can demand that his name appear in all copies of his work at the appropriate place.[§§]

Right of integrity gives the author the right to prevent distortion, mutilation or other alteration of the work. The right is also against any other act prejudicial to honour or reputation of the author.[***]

1.3.2 Translation Rights: Translation is an adaptation of the original work. The rights to publish the original work may have been granted by the author to the publisher through the author-publisher contract. However, the adaptation of the original work can be done only by the copyright owner. The right to adapt through translation must be granted by the copyright owner. Hence, the first and foremost thing to be done when there arises a question of translation of a work is to check as to who owns the right to translation. This is important because most often publishing contracts only grant rights to publish in a single language. Rights to translate the work when acquired are sub- licensed to foreign publishers who then publish in different languages for different countries of regions.

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†† *Ibid.*

‡‡ *V. K. Ahuja, Intellectual Property Rights in India, Vol. 1, 1st ed. 2009, Lexis- Nexis, New Delhi, p. 126.*

§§ *Cornish and Llewelyn, INTELLECTUAL PROPERTY: PATENTS, COPYRIGHT, TRADE MARKS AND ALLIED RIGHTS, 6th ed. 2007, Sweet and Maxwell London, pp. 487-88.*

*** *Ibid., pp. 487-88.*



The translator will own the copyright in the translated work. This copyright owned by the translator will be in a new original copyright work.

Rights to use illustrations and permission to use extracts must be obtained separately once again for the foreign language editions.[†††]

1.3.3 Electronic Rights: The clause on electronic rights in earlier times, was not part of the template of a publishing contract. However, with technology touching every part of our lives, electronic rights demand a place in publishing contracts. Electronic rights could encompass a range of modes of exploitation such as verbatim text in digital form, CD-ROM and e-books. The contract between the author and publisher must make clear two issues: firstly, what rights precisely are granted and secondly, what will be paid for the grant of electronic rights.[‡‡‡]

The publishers may sub-license electronic rights to others. While doing so the following considerations must be part of the sub-licensing agreement.

- 'Is the license exclusive or non-exclusive?
- The languages (computer languages as well) and territories in which exploitation may take place'[§§§]

1.3.4 Merchandising Rights: These rights come into play in a big way especially in cases of children's books which consist of characters, names and designs that may be so popular in their own right as to be capable of exploitation not only in the book form they are part of but also as merchandise (on T-shirts, stationery etc.). Popular examples include Harry Potter, Winnie the Pooh and Batman.

'Merchandising rights have the capacity to add significantly to the earning of the original work. The author could while granting rights over the original work to the publisher also grant merchandising rights if it is thought that there is potential for merchandising. Alternatively, the author could retain merchandising rights for separate exploitation. Exploitation of these rights

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††† *Cornish and Llewelyn, INTELLECTUAL PROPERTY: PATENTS, COPYRIGHT, TRADE MARKS AND ALLIED RIGHTS, 6th ed. 2007, Sweet and Maxwell London, p. 490.*

‡‡‡ *Hugh Jones et al., PUBLISHING LAW, 3rd ed. 2006, Routledge Great Britain, p. 134.*

§§§ *Ibid., p. 137.*



may be done one product at a time in which case, the publisher would end up with multiple licenses over a range of goods. Merchandising rights could also be granted in bulk. Quality control is a very important aspect of handling merchandising rights.'[****]

'A publisher needs to check the contract to know whether or not merchandising rights vest with it. The contract may contain a specific grant of merchandising rights or a clause that says 'all subsidiary rights' whereby there is an inclusive grant of merchandising rights. If the merchandise is of the original illustrations in the book, then the illustrator must have granted merchandising rights to the publisher. The illustrator might own not only copyright in the original illustrations but also moral rights in them. In such a case, the illustrator's right of paternity (the right to be acknowledged as the illustrator) and right of integrity (right against derogatory treatment of the object) must be taken special care of during the process of merchandising the object.

Once the merchandising rights vest in the publisher, the rights can be sub-licensed depending on which rights the publisher wishes to sub-license. Sub-licensing requires the publisher to take into account the following considerations.

- Will the rights granted be exclusive or non-exclusive?
- Will the license cover the world, or a specific territory or territories? Will it cover internet or other electronic exploitation?
- How long will the license last?'[††††]

1.3.5 Rights for Works done by many Authors: Often, it is found that most work is done in teams. For example, two persons may co-author a text or jointly write a research paper. Also, academic and professional works are complex in nature. These works are made usually by virtue of contributions from various authors. When the above types of works are to be published, the publishing contract must be one that involves all the people part of the project. This is important in order to be clear as to who is doing what as well as to lay down who owns the copyright in all the works which result. The contract should also make sure that the publishing activities reckoned are fully licensed by all those owners.[‡‡‡‡]

In addition to the above rights, the contract must cover clauses pertaining to deliver, approval, acceptance, competing works, warranties and indemnities, subsidiary rights, copyright

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**** *Ibid., pp. 126-127.*

†††† *Hugh Jones et al., PUBLISHING LAW, 3rd ed. 2006, Routledge Great Britain, p. 127.*

‡‡‡‡ *Ibid.,136.*



infringement, governing law and jurisdiction, revisions and new editions among a plethora of other issues that can be fathomed during the drafting of the contractual clauses.

The management of intellectual property in the business of publishing demands effective drafting of publishing contracts. The draft of the contract must be prepared after due anticipation of future events and subsequent developments. The contract must be able to handle any situation likely to arise from the surrounding features and ramifications of the work.

2 The Present- Publishing Industry in India: India is one of largest markets for the book publishing industry. Neo- literacy is only adding to the hunger for more books. However, there are also problems in the book publishing industry. The advent of e-books and other digital formats of books have always been known as an inevitable occurrence. Piracy has existed in the past also but is nevertheless still unacceptable. Piracy is a menace that has been and is eating into the profits of the book publishing industry. Laws against piracy must be strictly implemented and the vigilance role of the concerned authorities must be heightened.

2.1 The Copyright (Amendment) Bill, 2010 and its Implications: The Copyright (Amendment) Bill, 2010 became controversial for many reasons among which the most relevant to the business of publishing, having potential to change the dynamics of the industry is the proposed addition of a proviso to Section 2 (m) of the Copyright Act, 1957. The Bill introduces the parallel importation of books in accordance with Article 6 of the Trade Related Intellectual Property Rights (TRIPS) Agreement. The provision was intended to provide readers in developing countries with books at cheaper prices. The same provision has not been welcomed by publishers in India. In fact, it has been called "the death of books".[§§§§]

Section 2(m) of the Copyright Act, 1957 defines the expression "infringing copy" as a reproduction of a literary work. According to the present status of the Copyright Act, the publishers in India have to enter into license agreements with the owner of the Indian copyright in a foreign work which authorizes him to publish the work in India. However, this situation would be drastically changed if the amendment to Section 2 (m) takes place. The amendment that the Bill proposes seeks to add a proviso to Section 2 (m). The proviso reads as follows: "provided that a copy of a work published in any country outside India with the permission of the author of the work and imported from that country into India shall not be deemed to be an infringing copy". If this amendment comes into force, the publishers in India can merely buy the

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§§§§ *Thomas Abraham, "The Death of Books", The Hindustan Times, January 20, 2011.*



book abroad, freely import the book and re-sell it in India without having to obtain a license from the owner of the Indian copyright in the work. This process is termed "parallel importation". The only "formidability" to such an Indian publisher in the process of parallel importation is that the book purchased from abroad (from the foreign publisher) must not be one that is illegally copied or imported into India.

There have been apprehensions expressed from several quarters as to why the government is insisting on moving ahead with the provision of parallel importation when countries such as the United States of America and the United Kingdom have not yet moved for such a provision.[*****] Also, if India adopts the provision of parallel importation, it would be a unilateral act with respect to a few countries whose publishers could use this easy provision which allows them access to the vast and growing Indian market without having to go through the trouble of setting up their own houses in India.

'Another dimension is offered by the Indian publishers who oppose allowing parallel importation of books on the grounds that foreign publishers will stop licensing cheap Indian editions of their work to Indian publishers leading to rise in book prices in India. Further, if licensing ends, Indian publishers will have no incentive to invest in the marketing and promotion of books. In its report on the Copyright Amendment Bill 2010, the Department-Related Parliamentary Standing Committee on Human Resource Development disagreed and found that the present practice of publishing books under a territorial license results in very high prices of books and the low priced books are confined to old editions. However, no empirical evidence was discussed by the Parliamentary Standing Committee in its Report before arriving at this conclusion.'[†††††]

'The Bill has not gone down well with authors and creators either. Parallel importation erodes the economic right of the author who was planning to get designated royalties by territory and by the amendment will not have an income stream as royalties on remainders are near zero. Also, the amendment would be denigrating to the author as he would be placed in a level–playing field with a party that does not even hold the copyright- this party is the remainder merchant who would be assisted by the law to bring in the book to the market against the author's wishes.'[‡‡‡‡‡]

***** *Sudesh K Verma, A Death Knell for Indian Books, Book Link, March 2011.*

††††† *Aparna Viswanathan, "The Copyright Amendment Bill 2010: On the Death of Books and the Digital Environment", The Hindu, July 4, 2011.*

‡‡‡‡‡ *Supra., n. 12.*



3 Conclusion: Managing intellectual property in the business of publishing demands effective drafting of publishing contracts. The draft of the contract must be prepared after due anticipation of future events and subsequent developments. The contract must be able to handle any situation likely to arise from the surrounding features and ramifications of the work.

India is one of the top six publishing countries in the world today. In terms of English-language books, it is the third largest after the US and the UK. The publishing industry is estimated to grow even more and hence most global publishing houses want to throng the Indian market. According to Harper Collins, a major publisher, its India-business has grown at around 30 per cent annually over the past three years. Around 70 per cent of the sales in the industry come from the organised sector, though the unorganised sector is much bigger in terms of the people employed as well as the number of titles published.[§§§§§]

Within English-language books, the demand for Indian writers has increased on a scale that never existed before. A country which has a relatively young population offers immense scope in the area.

The rapid growth in the economy, greater literacy rates with more emphasis on English, since this results in greater employability the massive growth in the size of the middle class, increased globalisation, and so on, are all factors which have contributed to this rising demand for books. The fact that there are a larger number of Indian writers in English has also had a positive impact on Indian readership.

Given all the above facts, it is only obvious as to why the Indian market is attracting publishing houses from outside the country. Also, the government can help the business of book publishing by declaring book publishing as an 'industry', this would be a big help as publishers would be able to access credit at more viable rates.[******]

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§§§§§ *Shri Nath Sahai, "Publishing Industry on a Roll", Business Standard, May 17, 2009.*

****** *Ibid.*

Rejuvenation of Libraries- A Reader's Perspective

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Abstract

The library culture of old times is dwindling among people nowadays engrossed in their fast paced lives. While there may be serious, tangible problems of funds and space crunch for buying and housing the books with ever rising costs, it is yet important to maintain and expand the libraries so that they can serve their meaningful role in the society. The institutional academic libraries should keep a good stock of extracurricular books targeted at all round development of individuals, apart from the subject specialization books, to elicit greater reader interest and to inculcate the habit of reading beyond the curriculum. The public libraries are of special benefit to the children and the elderly who can get to read books at very nominal charges. The onus of rejuvenation of libraries lies on readers as well, by keeping the love of books alive and to kindle it in children. It helps to have special kids section and arrangements for refreshments in the library area to facilitate more extensive readership. The novel concept of book cafes is really good and needs further fillip, taking into consideration the ease of access and affordability for wider reader participation.

Introduction

It may be said that in today's hectic life, the library has been rendered only as another source for information retrieval, under fierce competition from the all pervasive internet, rather than a place where one may spend one's leisure hours by choice to experience the joy of holding, leafing through and reading books, amassing knowledge in the process. Those who visit a library regularly, know that reading is an immensely pleasurable activity.



Libraries Galore

There are many types of libraries, and each has its own importance. There are libraries owned by the government- the much useful and very affordable public libraries, as well as the fast coming up and well stocked privately owned libraries which may have a more selective and exclusive clientele. The institutional libraries such as of schools, colleges or universities are largely academic libraries catering to specific subjects. The physical book libraries are being replaced at some places by the digital libraries that offer the advantage of ease of storage and accessibility of a vast collection of books in a digitized manner, with arguably the accompanying disadvantage of taking away the delight of holding a real book in hands. The online rental libraries, offering doorstep delivery of books, have also been a huge hit with readers keen to read but with limited time to commute to a library. Such libraries save time but may take away some of the enjoyment of handling, skimming through and selecting books picked off the racks as in a physical library.

The Internet Alternative

These days, the existence and full usage of libraries is being threatened by competition with the Internet, which makes tremendous material available online, at the click of the mouse. Internet has made search easy. However, it cannot be a substitute for the satisfaction, the engagement and the involvement of reading a printed journal or a well used book. One may think that Internet is an easier, more effective option for data access and retrieval as compared to a physical library. It is undoubtedly quicker, one gets a deluge of information, but one may have to spend extended, and sometimes futile, hours over sifting the information for the useful parts. Also, many a times, one cannot be sure of the authenticity of the information retrieved.

As a faculty member at a research institute, I have observed that the Wi-Fi laptop-enabled students prefer to do their entire literature search online, finding it more convenient and time-saving than spending hours in the library. Consequently, there has been a perceptible decrease in the number of students who make visits to the library for information retrieval. Understandably though, many a times, the fund-strapped libraries, facing financial constraints, do not subscribe to what is needed. The subscription package for institutions is a profitable option worth consideration.



The free to download books are an area of stiff competition from the Internet. No doubt, it helps if one can read free e-books from sites such as Project Gutenberg. There is no denying the time saved. However, there could be a threat of copyright violation by the unscrupulous surfers, which is more for digitized books than the physical books. In my opinion, Internet will remain an inadequate alternative to the physical libraries, working best as an addendum.

The Digital Libraries

The shift from the physical to the digital libraries is becoming evident in many of the libraries. While the numerous benefits of digital libraries, such as the space-saving data storage, the rapid information retrieval, the wider reach and shared access cannot be denied, it is imperative to have well-stocked physical libraries as well. It is important to preserve for the children the physical libraries, which provide a less distracting environment as compared to reading a book on a laptop. The children should not miss out on the fun of holding a book in their hands.

The Joy of Books

Libraries are interesting places, exposing us to the fascinating wonderful world of books and also in a way to their readers. One reads the books that others have read before. One comes across different kinds of readers, the readers who read books by choice, and those who are perhaps constrained to read out of necessity. Many readers leave some sort of vignette of their personalities in the books they have handled or read. There could be a careless reader, who has left food marks or dog eared pages, or the thoughtful, meticulous reader who has even placed a bookmark, or the undisciplined reader who was tempted to scribble a telephone number or message, or there could be a fumbling reader who marked the difficult words with pencil presenting along with their meanings in Hindi.

Reminiscences of A Library User

I had been a student at a research institute whose library is said to be one of the biggest agricultural libraries. It housed a large collection of books on a variety of subjects assiduously assembled over the years. During my student days, it had been a coveted place for many. The evening library visit had almost been a ritual, for the serious book lovers, and for those who had assigned it the status of a rendezvous point. It had been a daily treat, with books stacked everywhere, the new arrivals, the old books, some rebound and some, rather well used, in dire

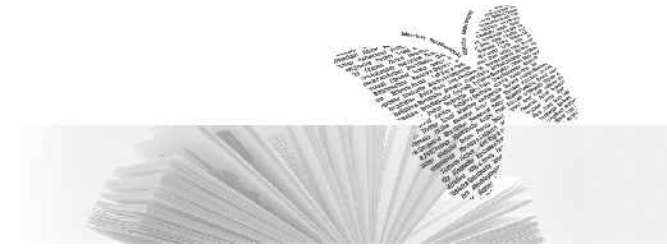


need of binding. It was an acknowledgement of and a testimony to the vast and wide ranging knowledge house that lay open to be read and enjoyed. The quiet ambience and the rich smell of books all around would sometimes transport me to a world where one had the control and immediate access to what one wanted to read. Of course, at examination times, the large number of fellow students bent over their course books, oblivious to the world outside, would perhaps had been a daunting sight to some, reminding oneself of one's own ill preparedness.

There have been indelible impressions of using a well stocked library which helped shape many of my thought processes. It had an old world charm with its spacious high ceilinged reading rooms and big solid teak wood tables and chairs. There were huge stack rooms on both sides, split level with the iron staircases and landings. There were tall wooden stools to access the topmost shelves. Of special interest was the archives section, where the very old journals were housed, which provided the thrill of laying one's hands on and reading articles that were published even before one was born. I recall the excitement experienced at having located the right stack and the chagrin at finding all the issues neatly stacked except the one that was needed. Sometimes, in search of a required book, one would even walk through the binding section, where the books lay scattered, the busy employees filling out forms, stamping and arranging the books in neat stacks. And sometimes, the hopeful requests to the librarians to loan out a book from the reference section, which was usually turned down. I, often, would envy them their job. They had the freedom to read the new books first of all or so I thought.

Rejuvenation of Library Culture

Lamentably, the library culture is fast disappearing. It indeed needs rejuvenation. The habit of reading books, apart from the curriculum books, should be inculcated early on in children by their parents and teachers. Therefore, it is important to stock the extracurricular books for the all round development of students in institutional libraries. It works as a reprieve, a healthy, constructive diversion from the tedium of repeated readings to the point of saturation, of only the books prescribed as part of syllabus. As a member of library committee, I have had the enviable opportunity of going through multitude of books, fresh from print, lined up for determining their suitability for purchase, in our departmental library. The universities may introduce a compulsory course on library use and documentation for optimum utilization of library resources by the users. There is, often though, the need for allocation of adequate funds for library in institutions. Some of the funds crunch can albeit be managed by going in for the more economical e-subscriptions for journals.



A responsibility of both the owners and organizers of the libraries and of the readers as well, is to keep alive the habit of reading, and to inculcate it in the younger generation. The libraries in the schools especially need to be optimally utilized for helping young minds develop a love for books, by exposing them to the timeless classics, the must-read books. Mothers have a special role in teaching their children the joy of reading as many books as they can and while they can, till adulthood catches up and one has to literally steal time to read.

Making Libraries Indispensable

The libraries will do well to emulate the model of well established libraries such as the British Council Library (BCL). It, apart from housing a large collection of books in a very pleasant ambience, also has the very welcome children's section. This section has a good stock of interesting, illustrated books, which otherwise one would spend a considerable amount buying, computers with children games, and also frequently held competitions and workshops for children. I, as a mother, found it especially useful, since one does not have to feel guilty about leaving children alone while making a library visit. It, instead, becomes a family excursion. The kids enjoyed it too. The present renovated BCL is largely digitized, well populated, a kind of working library with snacks and ports for using laptops and internet available.

Concluding Remarks

The public libraries are viewed as vital to our socio-cultural development. The library culture is facing onslaught from many quarters, the dwindling funds, the hard-to-find space and the ever busy readers with almost no time to read. Yet, there has been progress and innovations on many fronts, the revamped public libraries housing something for the entire family, having books catering to people of all ages and with varied interests, the very convenient doorstep-delivery online rental libraries, and the praiseworthy mobile libraries, largely a government effort, that can well be supplemented and further aided by the generous corporate sector. The book cafes are also a welcome fast-catching-up trend.

A crucial component of rejuvenation of libraries is the end users, the readers, who must keep their interest as library members alive. The library culture must be nurtured and passed on to the next generation as well. The libraries can hold events such as book reading, book inauguration and creative writing workshops to increase participation. Thus, the libraries can become gathering places for social interaction as well. The media can pitch in its share by widely



advertising the library-related events. The neighbourhood libraries, especially for the children and the elderly, should be encouraged. The local Resident Welfare Associations may take initiative for assigning a place for the library, which can be stocked with good books with donations from the inclined. Free libraries in the low-income-group areas are especially desirable to promote literacy, awareness and healthy reading habits among inhabitants.

Digital Publishing: An Indian Review

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Digital publishing is synonymous to e-publishing, yet as a singular activity of digital production, is complimentary to digital distribution and digital readership . It has evolved as a new generation holistic hi tech publishing system both in traditional print version publishing and e-publishing, to deliver, create, monetize and optimize with digital tools in providing publishing solutions by integrating the state of the art in professional management, digital production and marketing of the printed books, digital e-books,e-paper, e-fiction, white paper ,micro films, microfiche, pdf files and numerous digitalized forms. The conversion of manuscripts to a published and monetize content in digital edition format with a professional technological edge is the essence of digital publishing. It is in this evolving digital publishing environment both in the domestic and global e-market that the Indian publication Industry finds itself in a quandary to exploit the potentials of e-publishing & e-readership.

Access to the global e-market by high speed broadband internet portals through digital electronic devices like ipads, Android tablets, BlackBerry play book, PDA's , and Apps with e-readers on popular digital platform for global audience and readership has not only revolutionized marketing ,but also given a global reach to e-publish and e-distribute for the global readers to browse and facilitate reading from any digital portal easily accessible to them.

Although to some extent, a miniscule of the Indian educated youth have access to digital portals in websites or Apps, the majority of them browse the social network in immersive activity. The non availability of digital widgets or the payment process by seamless integration of digital publications *'in cloud digital lockers'* by the publisher to control access of the e-published content discourages the readers to buy e-book readers and e-books. It is for this reason that, other than free downloads or free e-books, the print version of academic, technological texts, fiction & non-fiction books have seen a rapid increase in both print publication & sales in the past decade. This growth is in tandem with the increasing number of Institutions admitting more & more students each year and the new generation youth taking up employment in multi national companies, who are the present segment audience of fiction & non fiction books readers..



The impetus to the Indian publishing industry in the content conversion of manuscripts to digital print and e-market distribution is at a snail's pace, yet slowly evolving with future potential in the changing publishing business environment. Although many International publishers have outsourcing advantage in India for content conversion, with exception to a few major media and book publishers , the Indian publishing industry has very little private resource to take advantage of the available technology. The Indian publishing industry in-house R&D is in dismal state and lacks the will in the domestic and global competitive market to provide or seek publication solutions in high tech production and professional management, other than by dependence to global technology.

The government agencies that promote print book publication fail to promote digital publication in sync with the global e-publication trends and demand for the obvious reason that it is bogged down in its own quagmire of policies to augment any benefit to Indian publishers in the new age of digital publication. It has yet to endorse public funding to promote e-publication and e-marketing.

The most disadvantaged in the Indian publishing industry are the small and medium players who fail to capitalize the global trends in e-publication business and the opportunities available for growth with a share in the global market segment in e- publication. Despite the potential and growth of the Indian publication Industry in the past decade with the advantage of the low cost in content conversion to digital content of academic and technical e-books outsourced by major foreign players, our domestic players are handicapped by the cost of e-book that far exceeds the print version. In addition, the prohibitive cost in investments in e-books & e-readers or to take digital content online to individual readers, Universities and libraries becomes a hurdle difficult to cross. The government has yet to endorse e-publication and e-marketing to achieve global distribution by public funding with technological access to the small & medium Indian publishers and be in sync with the global opportunities availed by other global players .

Numerous Indian authors have successful global presence by offering their manuscripts to global publishers and distributors both for the print and digital format, while some who had preference for the Indian publishers are still languishing in oblivion in the print version in the domestic market. The new authors are therefore reluctant to offer their manuscript to the Indian publishers with obsolete technology and distribution, and prefer global players with a digital platform for a wider reach and market.



Mou with global e-distributors like Apple Inc, Kobo Inc,Amazon, Barnes & Noble by both the public and private sector could boost the present e-publishers in India to e-distribute publications till such time the Indian e-distributor's presence is seen in the global e-market in the near future with major Industries investing and diversifying to new areas such media & book publication.

Dr. Shekhar Sarkar is a cognitive therapist with literary inclination , both as author and publisher promotes youth writers for a humanitarian cause . All fiction publications sold have a pink ribbon tag with a nominal contribution of `1 for every book sold towards Cancer society . He is a Xaverian & holds M.A(English) & M.A (Linguistics) degrees from the University of Delhi. He is associated with Consortium Octet, an academic forum patronized by the famous cricketer of Indian princely family of Maharaja Ranjit Singhji of Nawanagar and his successors.

Dr. Shekhar Sarkar has decades of business management experience both in Publication as publisher & distributor, & in Petroleum Industry as a contract operator of Hindustan Petroleum Corporation retail petrol & IGL CNG outlet at Noida. He is the proprietor of M/s Sagi Publications, New Delhi & the marketing firm M/s Sarkar & Co,Delhi.

Managing IPR in Publishing

Mr. Sudarshan Kcherry, Managing Director
Authorspress

The textbook definition of an intellectual property right (IPR) defines it as the recognition of an exclusive right for various types of “creations of the mind”. In other words, an IPR enables the owner to gain exclusivity over the use and appropriation of a variety of intangible assets, which include musical, literary or artistic works; discoveries and inventions, or words, phrases, symbols and designs. The clinical description of this term in such a manner, however, belies the various issues and dilemmas that the term has been fraught with over the years in various fields and disciplines where the mind and its power of creation is the most central aspect of the field/discipline's practice.

Humanity's access to various forms of knowledge has increased at numerous points in history via tools which enable the dissemination of individual or collective intellectual contents or creations to be reproduced. The development of new forms of information technology has allowed culture to be preserved in various ways, by making it possible to fix the various expressions of intellectual creativity, and enabling the social diffusion of information and protection, and survival of human thought. From the very first development of such a technology as printing, which weakened the monopoly over knowledge dissemination, to the internet, which has revolutionized the way people in the new millennium gain access to information, it was clear that the evolution of technology called for greater control for the creators and enablers of knowledge. Intellectual property rights, therefore, came about as a natural progression of this fact.

Undertaking a look at the history of copyright, right from the emergence of printing, all the way upto the emergence of the internet, we find that copyright has been the primary force which has enabled the development of cultural knowledge. Works which have been imprinted with the creative spirit of the individual require policies and laws in which recognize and respect their talent, and copyright has been key to the process which has enabled authors and other rightholders to devise, create and disseminate works not only for their own invidiual benefit, but contribute to the cultural wealth of mankind.



In the field of publishing, the phrase intellectual property right acquires an extremely crucial meaning, since IPR can be said to form the very essence of the business of publishing. The ill-management of intellectual property portfolio can wreak havoc for the success of any enterprise which is engaged in the business of creating or using the products of the mind. For a business like publishing, the value of the enterprise stems not from the land or property owned, or even the inventory of books in the warehouse. It is the intellectual property rights that the publisher holds onto, since those are the valuable assets that would ensure the maintenance of the revenue stream, long after the warehouse stock is gone.

In order to understand the issues of copyright in publishing, it is very necessary at the outset to clear the fact that the author and the publisher are the two main parties of focus when it comes to IPR in publishing. This paper will also primarily deal with these two parties, even though other participants like printers, booksellers and consumers team up with the former two to comprise the entire range of the value chain process.

The publishing contract is the main vehicle via which the relationship between the author and the publisher is formally sealed, and the most indispensable element of this contract is the author's consent to reproduction of the work in a given number of copies.

The importance of the publishing contract has meant that national legislation has paid special attention to the subject. It is generally regarded as having the status of a legal statement, specifying both fundamental and supplementary rules, in particular regarding the consent of the parties to this private relationship. What is more critical to comprehend, however, is the fact that this contract is the main establishing point of the author as well as the publisher's copyright over the published work.

More than copyright issues in hard-copy books, the more potent issue of our times is that of managing copyright in the digital era. One of the major challenges facing the publishing industry today is the dilemma of ensuring that the ever-widening digital environment does not disrupt the equilibrium between various interest groups in publishing in terms of access to and reproduction rights of the copyright material. The primary issue lies in the fact that digital technology eases the process of replication of copyrighted material. Earlier, when photocopying was the primary means of copying works by individuals, the number of copies which could be generated was limited; the ingenuity of technology however, facilitates the rampant copying when people do not have the right to do so. The quality of content also directly competes with the copyrighted material, and the challenge of the policy makers is to somehow ensure that there is a balance between the desire of copyright owners to protect their rights, and to satisfy the consumer demand for access to these works.



One of the most burning topics in the digital era is the issue of the ownership of intellectual property. Dissecting intellectual property- the message- from the medium in which it travelled was a difficult process before the internet and the World Wide Web became an indispensable reality of our times. Pre-internet, the laws and policies which governed the uses of the medium and the message were straightforward and clear, but the landscape has changed drastically since then.

Just over a fifty years ago, in the field of publishing, an expressed idea, which took the form of a printed page or a photographic image, could not be conceived of as divorced from the medium. Both the idea behind the novel and the novel itself were inseparable, but this is no longer the case.

The digital era has brought in complexities which are simultaneously exciting and challenging. On the one hand, it has brought about publisher, the author or the editor, and the reader, all together in a constant dialogue. Online publishing has created a scenario where the readers can also become active participants and even creators in the work of art that is a book, or an e-book. The process, however, does not end at the co-creation or co-participation stage. Publishers, and market-savvy authors, are demanding and pushing for the dialogue which incorporates the reader into the larger picture of the creation, marketing and reception of a book, and are utilizing opportunities which connect them to their consumers for understanding: the consumer base, putting a feedback system in place, and improvement of the product without losing out on time while waiting years for the first printing inventory to be sold out.

Yet another interesting facet of this phenomenon is the way the legal relationship between the publisher and the reader are undergoing dynamic changes. Before, a typical transaction between the publisher and the consumer was limited to the bookstore where the customer shelled out money and walked away with the product. Now the legal relationship has become interactive, at least in the sense that both parties are obliged to articulate their relationship with one another.

A contract which spells out for the consumer his rights and limitations, and the publisher's copyright, is a necessary part of the bargain, and crucial to ensuring that proper treatment is meted out to the intellectual property. The challenge lies in the fact that the greater proximity of the publisher and the consumer to each other threatens to become one of hostility if the consumer feels constricted by the contract he/she is obliged to sign. Most people really do not like breaking contracts, and they will abide by a contract of that kind even though they have little chance to negotiate its terms, so long as they feel they are being treated reasonably and



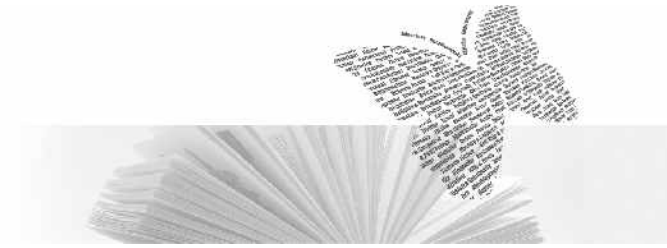
fairly. Most publishers are sceptical of this kind of a relationship, if only due to a lack of faith in the technology which they perceive as ruinous to the maintenance of ther relationships with consumers.

In order to assuage such fears, let us take a cue from the *Chicago Journal of Theoretical Computer Science:* in that publication, each subscriber receives a lengthy statement from the editors advising what sorts of downloading, usage, and sharing of the contents of the journal are permissible. This system of clear articulation of thoughts and ideas is vastly preferable to the old one, where all that consumers could do was hide behind their ignorance.

The internet is also becoming useful in other ways for copyright when it becomes clear that in the world of online publishing, nationality is an irrelevant issue, something that would have been difficult to achieve in the formal, non-digital world of intellectual property right structures. For example, it is absurd to imagine that U.S. publisher license network distribution rights on an India-specific basis. However, what needs to be kept in mind is that the legal system of the world are not so seamless, and a U.S. publisher may very well encounter problems in India over the use of certain photographs or content which would never arise in his home country. It is this sort of thing which highlights not only the need for coordinating copyright policy but also the importance of obtaining a clear contractual relationship between publisher and users. The contractual obligation thereby becomes the catalyst to overcome and surmount the difficulties faced in the incompatibilities of legal systems.

It impinges on the publishers to think carefully about the kind of uses they can allow the readers without cutting down upon their share of the profit. The answers haven't been found yet, but publishers should try to see the situation from the user's point of view, and be realistic about the sorts of activity that will truly wreak havoc. The fact of the matter, however, remains that realism needs to be incorporated while thinking out a strategy- it is very easy to fall prey to the delusion that technology cannot provide a platform for fair use. The Digital Millennium Copyright Act, enacted in October of 1998, contains stern warnings forbidding decryption, and pay-per-use technology appears to be imminent. If publishers become over-protective of their copyrighted material, they might very well lose their business, and protective mechanisms may very well backfire.

Education is a key factor in garnering support on the key issues of copyright, besides the strategy of reasonable licensing or fair use policies, and education must start with the authors and editors. Besides the publishing contract which may seem draconian to the authors, publishers must reach out and explain first and foremost that the main aim of copyright is to support the



creation of new works of art and information. Publishers should explain to the author why copyright is important why the publisher must control it, how the publisher will administer it for the author's benefit as well as his own.

Although we have previously talked about contracts with the consumers, let us not forget that the contract itself can be a platform for education about the importance of the copyright to new talent. A license agreement may need to contain legalese in order to state clearly the laws and policies, but it can also be the vehicle via which a gentle sermon on the moral obligations of the customer be spelled out. A gentle sermon may not be the solution to the problem, but it can sometimes go a long way in ensuring right practice amongst the more conscientious people.

The general public is also another facet that the publisher not overlook. The ordinary man or woman in the street is profoundly ignorant of the necessity of a copyright, and publishing, as a copyright industry, can provide corrective measures on that account by urging policy-makers to incorporate copyright as a matter of study for students as young as in middle-school.

The education process needs to spell out not only the economic facets but also other services that publishers provide. As time goes by, publishers will become more critical, not less. Already most of us feel so inundated by random information that we despair of ever managing to know even the essentials of what we must know. Good editors and their peer-review networks, by screening that information for quality, and validating it during the publishing process, perform an enormous service. Good editors need the support of good publishers.

What is important to keep in mind as we ponder over these issues is that the age of information not turn into the age of disinformation. As text and images become easier to manipulate, and that too without leaving any traces, authenticity becomes an issue which is of paramount consideration. If Jonathan Swift, in the 16th century, could destroy the credibility of a hostile critic by spreading rumours of his death, one can only imagine the consequences of a mischievous intent on the Internet, with its all-encompassing power. The publisher, by utilizing this powerful technology judiciously, can therefore offer the consumer the only, reliable source of truth.



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