



## **Interview with Dan Conway, Publishers Association (UK)**

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**KENNEALLY:** When the United Kingdom withdrew from the European Union, the nation reasserted its right to make laws and regulations. Since January 2021, the UK is no longer bound by any EU legal framework and is no longer a member of the European Single Market. This historic shift ultimately will affect all areas of British life and business. Already, the government is considering post-Brexit changes to copyright that authors and publishers fear may hit them hard.

Welcome to Copyright Clearance Center's podcast series. I'm Christopher Kenneally for Velocity of Content. In June, the UK's Intellectual Property Office announced it will look at changes to the exhaustion of intellectual property rights. Essentially, exhaustion of IP rights is a limit on the control that copyright holders and others have over physical distribution of their works, such as books, in markets around the world.

Cressida Cowell, the UK's Children's Laureate and author of the *How to Train Your Dragon* book series, says a change would weaken copyright protection and mean significant economic harm to authors and publishers.

**COWELL:** (recording) The UK's book industry is currently facing a potential change in our copyright law that could devastate authors and illustrators' earnings. Copyright allows authors and illustrators to earn a living from their work. Without strong copyright laws, authors wouldn't be able to make money, and many would have to pursue other careers. This would be detrimental to the diversity and health of our currently very healthy, world-leading book industry, meaning that there will be fewer books by fewer authors for fewer readers.

**KENNEALLY:** Dan Conway is director of external affairs for the Publishers Association in the UK. He leads the PA's Save Our Books campaign on copyright exhaustion. Dan joins me now from London. Welcome to the program, Dan Conway.

**CONWAY:** Thanks, Chris. It's a real pleasure to be here. Thanks for having me on.

**KENNEALLY:** We're very glad you can join us, and we appreciated hearing from Cressida Cowell, the children's book author, there. And the point she makes – fewer books by fewer authors for fewer readers. I have to ask you, Dan, how would a change to the exhaustion of IP rights lead to such an outcome?



CONWAY: Yeah, it's a pretty dystopian view, isn't it – fewer books, fewer authors, and fewer readers? I think it's worth saying that prior to Brexit, prior to the UK leaving the European Union, the UK's copyright exhaustion regime wasn't really a topic that anyone was considering. What we're dealing with here in the UK is an unintended consequence of Brexit, and we're now trying to work that through with the UK government.

So to your question, why is it so important? Why would it be so impactful? The issue that's being looked at here is an author or a publisher's fundamental right to control the distribution of their books in the UK. One of the options being considered by the UK government would be to remove any copyright protection at all and being able to limit foreign editions sold anywhere internationally from entering the UK market and competing with that UK edition.

Currently, there is IP protection for authors and publishers, and our message to the UK government is if it ain't broke, don't fix it. But if a radical shift to international exhaustion were to be brought in, then it would trigger a number of immediate problems for the sector. Firstly, it would fundamentally impact authors' livelihoods and the diversity of authorship in the UK. I'll use an example to explain why that is, if I may.

An English-language Indian edition might be sold at a third of the price of a UK book, UK edition. Plus, that author might also be on, for example, a 50% royalty rate for that export copy. So if there's no copyright protection against that particular Indian edition being sold back into the UK market, the author could see a cut of perhaps 85% of their income on that book. Scale that up to thousands or tens of thousands of English-language copies from around the world, and you can see that the impact on that particular author would be huge.

KENNEALLY: Dan Conway, how do you expect the UK publishing sector might respond to such changes? What would be the impact as far as the books on the ground, so to speak – book publishing on the ground in the UK?

CONWAY: We're looking very carefully at how the publishing sector will need to respond. It's often said of the publishing industry that it's like betting on the horses. A number of books will earn out their advances, and a number won't. Each published book is an investment and a risk taken on by a business. Fundamentally, if you're building investment risk into the process, then it follows that publishers won't be able to take as many risks, won't be able to publish as many authors, and won't be able to bring as many diverse voices to market that they do currently.

Also, for publishers, they'll be looking at their exporting strategies as well, because in the example I was using earlier about the Indian edition, if there are big price differentials



around the world of global copies and UK copies, and there is mass parallel importation of foreign editions, then publishers will need to look at how they export and where they export. So exporting markets will likely be significantly hit as well.

And at its worst, if you look at the worst possible ramifications of this policy, it could see over time a relocation of publishing away from the UK. I don't say that lightly, but our early estimations of the projected impact of this policy could be a 25% hit on all print revenue of the UK publishing industry. That equates to about £1 billion. So we're talking about a really sizable impact, and it's something that really could upset the applecart of publishing in the UK.

KENNEALLY: Who's been involved, Dan, in the Save Our Books campaign, and what's been the public reaction?

CONWAY: The campaign so far has been brilliant. I think it's important for me to say at this point that this isn't a Publishers Association campaign on our own. We have been working shoulder to shoulder with a number of different book-related organizations in the UK to try and deal with what really is the biggest systemic problem that we are all facing.

The founding partners are the Association of Authors' Agents, the Society of Authors in the UK, and other author groups. And so many authors have also been involved, fantastic authors, from the Children's Laureate that you've just heard from, Cressida Cowell, through to other names that you'll be very, very familiar with, including Kazuo Ishiguro, Hilary Mantel, and others. So it's a real cross-sector effort for us and a real public effort. I say public because members of the public have been getting involved, which has been fantastic. We've had over 3,000 letters so far into UK MPs on this issue.

KENNEALLY: The suggestion has been made that such a change might lead to further support for online retail giants, and that would lead, correspondingly, to damage to the already suffering British high street, as you call it – to the booksellers in cities and towns across the country. Tell us why that might happen.

CONWAY: Yeah, so the UK high street really has obviously had a torrid time throughout the pandemic, as I imagine is true in the US as well. The truth is we don't know if there will be any benefits to an international regime. And probably more importantly, the UK government doesn't know, either, because the economic modeling to look at potential benefits just hasn't been done. But if there is a boom in parallel trade in the UK in books, it would stand to reason that online marketplaces such as Amazon and third-party sellers on their platform would be the quickest to exploit any price differentials that do exist. Of course, the UK high street would be impacted by that if further sales were driven towards Amazon and Amazon's platform.



KENNEALLY: And for authors and publishers, are there any particular groups that would be more affected than others?

CONWAY: All authors and publishers would be affected by this potential change to UK copyright law where you're selling into the UK market, but perhaps particularly those relying on territorial rights systems around the world would be particularly impacted. I say that because if you're operating a territorial rights system, if you're an author or a publisher who has split up rights around the world and is selling through rights partners in different territories, then it's crucial that you can preserve and enforce the exclusivity of that territory. So the falling away of an IP protection of this type will be particularly difficult if that is the business model that you are operating.

But in short, all authors will be affected. I've been focusing this morning on UK authors and UK publishers, for obvious reasons, given the organization that I'm representing. But it's also true that US authors and publishers would be similarly affected if they're selling into the UK market, either directly or through rights deals, because it's not in the interest of anyone for the UK market as a whole to be devalued.

KENNEALLY: Naturally, the Publishers Association and the Society of Authors are concerned about book authors and book publishers. But are there other potential losers among IP creators if this change were to happen?

CONWAY: Yes, Chris. We're focusing on books, again, for obvious reasons. But the consultation actually doesn't just impact books, and it indeed doesn't just impact copyright itself. It relates to any physical IP good across all types of IP rights – so copyright, patents, and trademarks as well. So other groups impacted include musicians, because musicians are selling CDs and vinyl. I should make clear the exhaustion principle that we're talking about here applies only to physical IP goods, not to sales of digital copies. So musicians are one group which are impacted. Other IP creative industries are heavily involved as well, such as the toy industry, and frankly all other sectors that are relying on IP.

KENNEALLY: How should listeners in the UK – and we've got plenty of them for our program – make their views known to government? And what about others around the world? Will the IPO, the Intellectual Property Office, listen to people in America or Canada or Australia, wherever?

CONWAY: Thank you. Yes, we would encourage all of your listeners, please, to get involved in this campaign. Please visit the Save Our Books website. It's [saveourbooks.org.uk](http://saveourbooks.org.uk). For UK audiences, it is writing to your local MP, and the website can help you do that through the get involved tab. But for international audiences, it's also to please follow the



campaign on Twitter and post your support. Every little helps. It really does in trying to convince the UK government that moving to an international regime would be a really bad idea.

KENNEALLY: Dan Conway, director of external affairs for the Publishers Association in the UK, thanks so much for joining me today.

CONWAY: It's been a real pleasure. Thank you for having me.

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