

EBooks and Public Lending Right in Canada

Submitted to the Public Lending Right Commission

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The conclusions and opinions stated in this report are those of its author, Paul Whitney.
They do not necessarily reflect the official viewpoint and policies of the
Public Lending Right Commission.

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1. Executive Summary

There are two primary issues to consider in assessing the presence of eBooks in Canadian public library collections:

- The global struggle to settle on uniform terms and conditions for selling eBooks to libraries.
- Relative to the situation in the US for US authors (and even some Canadian authors), the low availability of Canadian authored eBooks for the Canadian library market.

The present debates on eBook availability in libraries are taking place in a context where all PLR stakeholders have serious concerns over the impact of digital dissemination on their institutional, corporate and individual futures. The Public Lending Right Commission (the Commission) is considering whether or not to admit eBooks to the Public Lending Right programme (PLR) before decisions have been finalized on eBook pricing, distribution channels and licence terms and conditions for the Canadian public library market.

A survey of libraries sampled by PLR for English language titles indicates that while eBook holdings and use are growing rapidly, their adoption in libraries is lagging behind the consumer marketplace. Both the profile of public library users and the lack of appropriate title availability to libraries contribute to this situation. No Canadian library book supplier is positioned to distribute eBooks to libraries in the foreseeable future, although several are at the early stages of exploring options to introduce this service. English Canadian publishers primarily use US based suppliers to distribute their trade eBooks to Canadian libraries. The exception is the Canadian Electronic Library which is providing PDF eBook access for a range of Canadian trade and professional titles to a very small number of public libraries. Lack of availability of Canadian titles in eBook form is repeatedly cited as a cause of frustration for Canadian public librarians.

French language libraries sampled by PLR report no measurable French language eBook holdings likely to be eligible for PLR in their collections. Although these libraries do not currently offer such eBooks to any appreciable extent, librarians interviewed are very eager to add eBooks to collections offered to patrons. Current trends in the book publishing industry including the pending launch of an eBook distribution platform by De Marque and planned upgrades to library computer systems suggest that eBooks will be available in substantial numbers to public libraries in Quebec during the 2012 calendar year. There is strong consensus among librarians on the need for French language eBook titles from local authors and publishers.

The report concludes with consideration of a variety of logistical and policy issues which are likely to influence the Commission's consideration of the inclusion of eBooks in the PLR programme.

2. Introduction

The author has been engaged by the Canada Council on behalf of the Commission to report on the availability, acquisition, and lending of electronic books (eBooks) in public libraries. Given that the eBook market for public libraries in Canada is in the very early stages of development, the report examines emerging distribution models for eBooks to public libraries under consideration by publishers in Canada and the United States (where relevant). The report also identifies for the Commission the possible implications for PLR's mandate and operations if eBooks are included in the programme. In discussions with public libraries sampled by the PLR programme it became evident early in the process that eBooks of titles likely to be eligible for PLR payment were not available in Quebec public libraries to a measurable extent. (Exceptionally, the Grande Bibliothèque in Montréal, sampled by the Commission in previous years, has a collection of over 40,000 eBooks in its catalogue.) As a result, only libraries sampled for English language titles were surveyed for holdings, expenditure and use data. The consultations on English language eBooks were more extensive than those in Quebec where consultations focussed on emerging plans for making Canadian published French language eBooks available to public libraries. Olivier Charbonneau did the research, interviews and writing for Section 4 of the Report (libraries and French language eBooks).

The report was written between March and May 2011 and should be read as a snapshot of the status of eBooks in Canadian public libraries during this period. Relevant developments continue and at the end of the report writing process they are taking place on almost a weekly basis. If anything, the rate of change is escalating and there is every indication that this will continue for the foreseeable future. Announcements on new partnerships for eBook development and distribution continue to be made while some new initiatives proclaimed early in the year have yet to result in tangible outcomes. The Commission should be conscious of the fact that stated intentions do not always result in the promised outcomes and certainly not necessarily in the promised time-frame.

While some lament current trends such as the increasing decline in print book sales, the Commission needs to both recognize the inevitability of transformational change triggered by the emergence of digital text and to position the PLR programme to adapt to this new reality.

3. English Language eBooks

A. Context

In the words of Rob Sanders, Greystone Books Publisher and Vice President of Douglas & McIntyre Publishers, there is profound change happening, “at lightning speed”¹ in global English language book production and distribution. After a prolonged courtship, marked by several false starts, by mid-2010 trade publishing had irrevocably joined the digital age.

Carolyn Wood, Executive Director of the Association of Canadian Publishers stated that the slow migration to digital in publishing should not be a surprise to anyone: “After all, this is an industry which has experienced 1.5 format changes in 500 years and the .5 was paperbacks.”² It is worth noting the timing of the emergence of eBooks which underlines the recent escalating rate of change:

- 1998 – The Rocket Book is introduced.
- 2000 – Stephen King self-publishes *Riding the Rocket* in digital form only.
- 2007 – In November Amazon releases the Kindle.
- 2010 – Amazon announces that it sold 140 eBooks for every 100 hardcovers in the second quarter.
- 2010 – In May majority owner Indigo Books & Music officially releases the Kobo eReader.
- 2010 – Before Christmas Amazon suspends the distribution of the Kindle in Canada because it is unable to meet growing demand in the USA.
- 2011 – In January Amazon announces that eBook sales exceeded paperback sales.
- 2011 – In February the *New York Times* revamps its bestseller lists (the most influential in North America) to include a separate eBook list and a combined print and eBook top 15 list.
- 2011 – In March Kobo announces that it has sold 2.3 million eBooks in over 100 countries.
- 2011 – In May Amazon announces that it is selling more eBooks than print-on-paper books.

While welcoming the recent rapid increase in eBook sales, the issue of “cannibalization” of print sales by eBooks is a major concern for publishers, authors, booksellers and, to the extent that it weakens the ongoing viability of print publishing, librarians. The general view is that print sales will inevitably decline for a variety of reasons, including eBook sales, but the eBook format holds the promise of new untapped markets and increased opportunities for impulse purchasing fuelled (for now) by lower retail pricing. This new market potential is enthusiastically described by Firefly publisher/owner Lionel Koffler:

The concern about the adaptation to electronic books I think is interesting because the publishing community still sells books to only 5% or 6% of the public in North America. Rather than worrying about the erosion of our market and revenues, I think we should be marketing e-books out there to

¹ In conversation with the author.

² In conversation with the author.

people who don't read books yet or don't buy them on a regular basis, who are a tremendous well of unexploited revenue.³

Koffler's enthusiasm aside, the generally held view in the publishing industry is that increases in eBook sales will mean lower print sales. Anansi's Sarah MacLachlan notes that the same people buying eReaders are the people reading already "so I can't help thinking it's going to take a swipe at the side of print publishing."⁴

In the United States and the UK, sales data bears out both the significant increase in eBook sales and a decline in print sales. US publishers reported a 2010 increase in eBook revenue of 164.4% (\$275.1 million). There was a corresponding decline in revenue from print sales of 6.1% (\$263 million). In 2010 revenue from eBook sales was 9.1% of the revenue from print sales. Recent US sales data indicates that the greatest negative impact on print from eBook sales is with mass-market paperbacks. Penguin US CEO John Makinson stated: "We are seeing in the US that the eBook may completely displace the mass-market paperback, price and convenience."⁵ In the UK, Nielsen Book-Scan reported in 2010 that, in conjunction with an upsurge in romance eBook sales, romance print sales fell for the first time on record.

Noah Genner of BookNet Canada confirms that corresponding Canadian eBook sales data is not yet available as both Kobo and Amazon are not providing separate Canadian sales numbers. (In March 2011 majority Canadian owned Kobo reported 2.3 million eBooks sold worldwide in its first 14 months of existence.) BookNet reported a 3% decline in revenue and units sold for print sales in Canada in 2010 and a "more than 3% decline" in Canadian print sales in the first quarter of 2011. The weakness in the retail bookselling sector is in part another indicator of the continuing decline in book sales. Estimates vary, but there is general agreement that eBook sales in Canada are lagging as much as 50% behind US numbers in terms of percentage of total sales.

Data from Nielson BookScan clearly demonstrates the impact of format on genre fiction sales. It reported that in mid-2010:

- Romance and saga comprised 14% of the global eBook market, more than seven times the genre's share of print sales.
- Science fiction and fantasy comprised 10% of the global eBook market share, three times the genre's share of print sales.

In reviewing this data, analyst Benedict Evans of Enders Analysis, a UK media and entertainment research firm, noted: "E-book adoption will vary widely by demographic and genre"⁶.

The New York Times combined eBook/print lists are instructive as they shed light on the market domination of the eBook format in specific genres. The 13 February 2011 list indentified the top 10 titles

³ Williams, Leigh Anne, « Publishers Ready for the Digital Dance », *Publishers Weekly*, 27 September 2010, page 13.

⁴ Ibid., page 13.

⁵ Benedict Evans' blog «Ebooks Explosion », posted 18 April 2011.

⁶ Philip Jones, « E-book sales begin to cannibalise print », *The Bookseller*, 24 September 2010, page 6.

when combined fiction and non-fiction sales for hardcovers, paperbacks and eBooks were tabulated. Seven of ten of this top 10 were mainstream genre fiction and three were non-fiction. For all of the fiction titles, eBook sales exceeded print sales by 59% to 100%. (The title reporting 100% of sales in eBook format was *Alone*, a mystery by Lisa Gardner, which was available in hardcover but presumably didn't register at all in print sales reporting). For the three non-fiction titles sales, eBooks constituted 59%, 43% and 23% of total sales.

It is worth ending this section with the warning articulated by Benedict Evans that there is a tendency to overestimate the short-term effects of the shift to digital and underestimate the long-term impacts. Several commentators (including Margaret Atwood) have compared the eBook today with the first days of the automobile. Predicting the long-term impact of digital delivery on the written word may be as quixotic as predicting the long-term implications of the automobile during the first days of the "horseless carriage".

B. PLR Commission Stakeholder Concerns

The three stakeholder groups represented by the voting members of the Commission all have serious concerns over the impact of the eBook revolution on their individual and interconnected futures. These concerns range from the short-term uncertainties arising from the changing digital market and emerging distribution models to fears about long-term survival. As we will see, publishers and authors, while clearly having their differences in some areas, do have a common focus in addressing the threat to revenue streams presented by eBooks. In preparing this report authors, distributors, librarians and publishers were consulted (a list of those consulted is provided in Appendix E).

1. Authors

The Executive Directors of the Writers' Union of Canada (TWUC) and Union des écrivaines et des écrivains québécois (UNEQ) report that their associations have not taken formal policy positions on eBooks other than developing suggested publishing contract language relating to digital rights. Author/publisher contracts can vary significantly and authors have the option of seeking different approaches when negotiating digital rights. This can include requiring the publisher to obtain the author's permission for digital licences for different markets including libraries.

Authors share common cause with publishers in seeking to ensure that digital availability (often at a cheaper price than the print equivalent) does not erode short-term and longer-term sales and royalties. When being interviewed for this report, Michael Elcock reported that he had instructed his publisher to withhold digital sales rights to libraries until he felt assured that his economic interests would not be undermined by the terms and conditions attached to their availability. Elcock convincingly hastened to add his general support for libraries and the role they play in society. TWUC's published guidelines on model publishing contracts do not address the issue of library eBook sales and it is uncertain if other writers are following Elcock's lead on this issue.

Elcock's stance, consistent with the position adopted by a few publishers, does highlight the increased control that digital content provides to authors and publishers. With digital content, for the first time in

the history, they have the ability to either prevent library purchasing of otherwise commercially available work or dictate the specifics of how the work is supplied to library users.

Authors report greater difficulties in negotiating royalty rates on eBooks than on print equivalents. Coupled with the fear of an overall decline in unit sales, a significant concern for authors is that in some instances royalties from eBook sales are lower than for print sales. The US based Authors Guild, in their study “E-Book Royalty Math: The House Always Wins” reports that on bestseller eBook sales compared with hardcover sales, publishers uniformly earn greater revenues and authors consistently earn lower royalties on eBook sales. Publishers argue that using hardcovers alone for royalty comparison with eBooks is unfair in that author royalties tend to be higher for backlist given that the development cost for a new title is higher than for subsequent editions. As Margaret Atwood has noted: “fair pricing is a work in progress”⁷ as is apparently consensus on eBook author royalties.

While the lessons learned from the loss of control over copyrighted content in the music industry is never far from the minds of both publishers and authors, there have been few reported instances of substantial systematic illegal file sharing with trade eBooks. While this might be attributable, as has been suggested, to the nature of the respective audiences for books and music, it is more likely due to the fundamental differences in how the content is used. Books normally do not get reread repeatedly by the same individual nor do they function as background for other activities. Having said this, it is clear that both publishers and authors will continue to push for technological protection measures which protect their works from inappropriate use. Author and technology commentator Cory Doctorow counters that “we won’t ever have an effective mechanism to stop people from not paying. The primary challenge is to convince them they should.”⁸

There is concern that the predominance of genre and bestselling titles in eBook sales will worsen the situation of literary and midlist authors. Award winning author Kate Pullinger notes that the ascent of eBooks “does result in the mid-list being squeezed and a lot of people falling by the wayside.”⁹

There have been very few high profile examples of authors “going it alone” in the eBook format and achieving significant financial self-publishing success. This has also been the case with print books. The open access movement is gaining momentum scholarly publishing where the move to digital distribution is universal, especially with journals where commercial pricing became a major issue for libraries and academics. While the elimination of the need for physical production and distribution will no doubt increase the attractiveness of self-publishing for some authors, the role of the traditional trade publisher appears to be secure for now. There are signs however, that for some authors self-publishing eBooks is seen as a viable option. US author Neal Pollock recently addressed this in an essay in the *New York Times*:

for a writer like me, which is to say, most working writers – midcareer, midlist, middle-aged, more or less middlebrow, and somewhat Internet savvy – self-publishing seems to make a lot of sense at

⁷ Rosalind Porter, « Digital revolution still needs authors, Atwood notes », *The Globe and Mail*. 16 March 2011, page A3.

⁸ Kate Taylor, « Are mid-list authors an endangered species? », *The Globe and Mail*, 15, March 2011, page A3.

⁹ Ibid., Page A3.

this point. I've built a modest audience and a name (...) Now that the advances are smaller and the technology is available why not start appealing directly to those readers.

Pollack provides this projection of the economics of his self-publishing venture:

I'm going to charge five bucks or \$4.99 a download. For every book sold, my online vendor will send me 70 percent of the revenue. In raw dollar amounts, that's more than three times what I'd get from a mainstream publisher for each paperback sale. If I manage to score a thousand downloads, which I almost certainly will at that price point (I have a large family) I'm looking at \$17,500. Quickly I'll have earned the equivalent of a pleasant advance for this book.¹⁰

Setting aside what may be unfounded optimism on the sales potential of his eBook, Pollock's perspective may gain traction with midlist authors who have a degree of name recognition with readers. How that name recognition is gained without the support of a trade publisher at the outset of a writing career is open to question.

Categories of books which rely on sales at public events may lose market share to digital sales. A prominent publisher of poetry noted when interviewed that the majority of the sales of his poetry titles were at author readings and he wondered, if consumer preference transfers to eBooks, how these sales could be maintained. If eBook availability limits or eliminates the availability of print editions, authors and publishers who are able to generate book sales from public appearances may find their marketing opportunities reduced. Of course, some writers have been very successful in using their web presence to increase sales and no doubt there will be increasingly sophisticated use of technology to enhance public readings.

2. Libraries

With eBooks and other digital text, libraries have to address for the first time an environment where authors and publishers can assert their ownership rights to the extent that libraries can be denied access to published work. In addition, with the advent of digital content, for the first time libraries were receiving collection criticisms from their users over issues which are largely beyond the control of library staff.

A digital content report produced by West Vancouver Memorial Library reported that if "patrons must learn complicated and counterintuitive software in order to access an inadequate selection of materials, their enthusiasm will quickly turn to frustration".¹¹ Library users are well aware of the capabilities of digital delivery of eBooks and to the extent that libraries are prohibited from matching these capabilities, their users will increasingly seek other sources of content if they can afford the content and the necessary technology. Libraries fear the loss of middle class users and younger born digital users who will have no patience for cumbersome and slow content delivery. In the words of one librarian: "the danger is they will either steal it or stop reading."

¹⁰ Neal Pollack, « Peddling Your Prose », *The New York Times Book Review*, 22 May 2011, page 31.

¹¹ West Vancouver Memorial Library, « E-Collections Concept Paper », 2011, page 1.

While the solution of only permitting one reader at a time to access an eBook (adopted by OverDrive, the most successful library eBook distributor) satisfies the concerns of many publishers, librarians note that it is not understood by some library users who (correctly) see it as the application of the “rules of the road” for an old format and business model applied to a new format where logistically they are not necessary. The problem for all parties is that the new business model for library eBook sales which addresses the legitimate concerns of all parties has not yet emerged.

A survey of PLR sampled English language libraries carried out in March for this report indicated that for every two eBooks borrowed one eBook hold was placed, a much higher ratio than holds on other collections to circulation. For example, in 2010 at Vancouver Public Library the overall holds placed to circulation ratio was 1 to 8.2 for all collections and 1 to 2.7 for eBooks (January/February only). Librarians believe that user patience for eBook availability from the virtual shelf is much less than their patience for the availability of print books from branch library shelves. This may require libraries in the short term to purchase duplicate copies of eBooks at a greater rate than their print counterparts and over time to negotiate different terms and conditions for use which increase short term if not immediate availability. In support of the perception that the immediate availability of eBooks is more of a factor than for print books, Anne Collins of Knopf Random Canada notes: “There is some sign that e-books are leading to impulse purchases in a way we haven’t seen for a long time because of the price point.”¹² This mindset of instant gratification carries over to library use where price is not a consideration but wait time certainly is. eBook hold trends combined with dramatically increasing use suggest that library users will increasingly grow frustrated with the delay in libraries delivering eBooks to them due to the one reader per copy at a time requirement.

Canadian Librarians continue to complain about their inability to acquire the eBooks their users want to read and the focus of these complaints has been the relative lack of availability of Canadian authored and published works. In March a librarian at Toronto Public Library expressed frustration that a user of New York Public Library had access to nine eBook works by Margaret Atwood while a user of Toronto Public had access to none. As we will see there are signs that this situation will improve as Canadian publishers both make digital rights available to existing eBook distributors and as new distribution channels for libraries emerge. For example, the recent availability of Random Canada titles through US distributor OverDrive means that Toronto Public now has access to Margaret Atwood’s McClelland & Stewart titles.

The Canadian Urban Libraries Council/Conseil des Bibliothèques Urbaines du Canada (CULC/CBUC), representing libraries serving urban populations over 100,000 residents, has developed a “Vision Statement for Public Library Access to Downloadable and Portable E-Content” and a “Statement on eBook Pricing Models” which are presented in Appendix E.

¹² Leigh Anne Williams, « Publishers Ready for the Digital Dance », *Publishers Weekly*, 27 September 2010, page 13.

3. Publishers

The fear is I get one library card and never have to buy a book again.

Brian Napack, US President, Macmillan Publishers¹³

The potential ubiquity and permanence of eBook availability lies at the centre of a lot of publishers' (and authors') concerns. The unconstrained ability to make a perfect copy of a digital book available anywhere, within and beyond a library's service area, leads to the conclusion that the impetus to buy more than one copy disappears. The largest distributor of eBooks to libraries globally, OverDrive, addressed this concern by placing technological protection measures on its eBooks which limited reading to one library user at a time with a time limited loan period. This digital replication of the use pattern for a print-on-paper library book satisfied a number of publishers however, others continue to hold back library sales rights.

In a recent interview Simon and Schuster CEO Carolyn Reidy stated: "Simon and Schuster does not yet sell eBooks to libraries. We have not yet found a business model that makes us happy. That's why we're not in it." When her interviewer followed up with the question:

libraries are worried about whether they'll survive the transition to digital books and funding difficulties at the same time. Are you at all worried about the survival of libraries across the transition to eBooks?

Reidy responded:

There's a part of me that worries about it, but I'm first worried about my company... and my authors, and their survival. So we have met with several people who are trying to come up with a solution to sell into libraries and there are people who are working on various and sundry different models that are not just sell one eBook and let it be loaned forever, and in fact we met with one last week. So we've actually been meeting with people and think there will come a solution that we can live with. We just haven't seen one yet.¹⁴

The announcement by HarperCollins that their eBooks would be made available to libraries for 26 loans only is an example of one recent attempt to introduce a "different model". Josh Marwell of HarperCollins US stated "we have serious concerns that our previous e-book policy, selling e-books to libraries in perpetuity, if left unchanged, would undermine the emerging e-book eco-system, hurt the growing e-book channel, place additional pressure on physical bookstores, and in the end lead to a decrease in book sales and royalties paid to authors."¹⁵ The response from librarians was swift and uniformly negative with some calls for a boycott of Harper titles. This is an excellent example of the different priorities of the various

¹³ Karen Springen, « Reaching the e-Teen », *Publishers Weekly*, 21 February 2011, page 23.

¹⁴ Eric Hellman, « Simon and Schuster is Looking at Limited Lending Library eBook Models », *Go To Hellman* blog, 23 March 2011.

¹⁵ Natalie Samson, « Libraries, distributors respond to HarperCollins' e-book lending cap », *Quill & Quire*, 3 March 2011.

stakeholders contributing to entrenched and opposing positions; librarians view themselves as financially challenged custodians of culture for the long-term and publishers and authors are focussed on protecting their financial return from their creative work.

In the UK, the debate on eBook terms and conditions for libraries has centred on how the library user accesses the downloadable content: in the library from a library computer or remotely from the library's web site. The Publishers Association developed guidelines for eBook lending which would require a library borrower to go to a library location to borrow an eBook; i.e. remote downloading from the library's web site on entering a library card number would not be permitted. The Publishers Association Chief Executive Richard Mollet noted: "Selling and lending have to be able to co-exist with neither duly harming the other."¹⁶ The concern that eBooks not be accessible for non-residents of the library's service area appears to be the root cause of the publishers' position. Librarians viewed this approach as an undue constraint on technology which would not be understood by library users and which would unacceptably impede their access to digital library collections. Libraries argue that requiring a library card number for authentication in order to borrow an eBook is sufficient protection to limit any widespread non-resident access.

The ascent of eBooks has presented a unique challenge to book publishers as they found themselves becoming almost pawns in the ongoing and high stakes battle for market share among Amazon, Apple, Google and Kobo in Canada. With digital content the distributors often had more leverage and power than the publishers, leading to high profile disputes, most notably over eBook pricing. As noted with authors and libraries, the apparent loss of control is a cause for anxiety.

In summary, libraries create a specific challenge for trade publishers (and authors) in that the possibility of perpetual free availability of eBooks from libraries is seen to present a far greater threat to retail sales to individual consumers than the presence of print titles in libraries. The resulting erosion of the publishing revenue streams (and therefore also author royalties) is at the root of publisher concerns with institutional sales to libraries.

C. eBooks in English Canadian Public Libraries

1. Overview

The eight public libraries sampled by PLR for English language titles were surveyed for this report. A summary of the survey results is provided in Appendix B.

It must be noted that accumulating reliable and comparable eBook statistics is a challenge due to the very different structures and platforms by which they are acquired and supplied to library users. For aggregated eBook collections the use date is usually supplied by the vendor and different metrics can be used. There are two primary methods of measuring eBook use. For a PDF¹⁷ aggregated database such as BC Books Online, the book is never "borrowed" by the reader but rather viewed as a web page often concurrently

¹⁶ Charlotte Williams, « PA e-book lending measures 'restrictive' », *The Bookseller*, 29 October 2010, page 5.

¹⁷ See Appendix A for definitions of PDF and EPUB

with other readers accessing the same content. The vendor reports “page views” as the measure of use and there is no equivalent to reporting the use of these titles comparable to the use of print books or EPUB eBook suppliers. For eBook titles supplied to one reader at a time for time-limited periods such as those from OverDrive, the loan statistics are comparable to those for physical collections.

The counting of titles in aggregated databases appears to vary from library to library. What the survey does reliably provide is a picture of the growth of eBook purchasing and use through February 2011. Libraries are unable to provide data on Canadian authored eBook holdings. An analysis of individually acquired Canadian published titles in the country’s largest public library consortium collection provides a reasonable sample of the presence of titles likely meeting PLR eligibility requirements and is discussed below with details provided in Appendix C.

The most telling comparable statistic on eBook use in public libraries, mirroring the experience in retail, is the explosion of use following Christmas 2010. Compared with January/February 2010, libraries registered a 243% increase in eBook loans in the first two months of 2011. But it has to be noted that this is a large percentage increase of a relatively small number: 127,708 eBook loans for the two months compared with 7,427,121 print loans in the same two months, meaning that eBook use is 1.7% that of print circulation (7 libraries reporting). Since Christmas 2010 libraries report a large increase in user queries on how to download content to their new eReaders. It is well established that the book is the library brand in the minds of many and it is interesting that this is seen to include eBooks. Libraries feel that they have become the de facto tech support for eReader retailers.

It can reasonably be assumed that eBook users and book buyers are more likely to have more disposable income given the cost of books and the eReaders. Once the initial financial outlay is made for the eReader, the lower price point of most eBooks and immediate accessibility when compared with their print equivalents makes purchasing titles a desirable option. Anansi’s Sarah MacLachlan characterizes eBook readers as “older people, retired people, people with dough.”¹⁸ In addition, the use of eReaders does require a degree of computer knowledge. While Canada’s public libraries have the potential to serve all residents and the provision of collections is only part of the services available, children’s collections are the most heavily borrowed. Library service to lower income and marginalized individuals is an important focus for urban libraries. These factors combine to understandably result in eBook use relative to print use lagging behind the ratio in the retail market place. It should be noted that libraries report increased demand for eBooks for children and as more digital collections for children become available in libraries this situation is likely to change.

A small number of public libraries are circulating eBook readers with pre-loaded titles to give their users the opportunity to “test drive” the new technology. The general consensus is that distributors such as Kobo are not licenced to sell eBooks still under copyright protection for library lending. At least one library is circulating Kobo readers loaded with their suite of public domain classics. In such instances the titles do

¹⁸ Leigh Anne Williams, « Publishers Ready for the Digital Dance », Publishers Weekly, 27 September 2010, page 13.

not appear in library catalogues; the library is circulating the reader so their users can experience the new medium and the content is incidental.

EBook purchasing by Canadian public libraries sampled by the Commission follows two general models:

- Individually selected by the library for use by its residents.
- Selected in a provincial consortium with other public libraries for use by the collective library card holders of the participating libraries.

Consortium purchasing is in place in British Columbia, Manitoba, parts of Ontario (but not the PLR sampled libraries) and Nova Scotia. (It should be noted that the New Brunswick public library is province wide for all services). The PLR sampled libraries in Calgary, Hamilton, Mississauga and Toronto acquire eBooks individually.

An analysis of the BC eBook consortium Library to Go follows. It is the largest of the consortia which would be sampled if eBooks were admitted to the PLR programme and is considered representative of Canadian public library title-by-title (as opposed to aggregated database) eBook purchasing.

2. Library to Go

In British Columbia, 57 public libraries as a consortium purchase eBooks from the US distributor OverDrive under the branding Library to Go. (OverDrive is described in the next section of this report.) With a projected 2011 expenditure of \$504,000 with OverDrive (double the 2010 budget), at the end of January 2011 the Library to Go collection held 15,887 copies of 9,683 eBook titles. 77% of the eBook copies in the collection were added in 2010 and the purchasing pattern shows a marked shift to EPUB from PDF format eBooks. Library to Go has a holds-to-copy ratio of 5:1 meaning that for every 5 user holds placed on a title, an additional copy is automatically purchased.

At the end of January 2011, 53,692 unique users had downloaded eBooks from the Library to Go collection. The comparable number from 2010 was 29,488 unique users. The Library to Go coordinator reports that the January 2011 user number represents 1.2% of the service area populations of the libraries or 2% of active library card users. This is a far lower percentage of the overall percentage of the population using public libraries overall, generally reported as one third and up.

A snapshot survey of Library to Go holdings in May 2011 identified 12 Canadian based/owned publishers with titles in the collection (excluding the Canadian owned but US based Harlequin). These publishers contributed 781 (8%) of the 9,702 eBook titles in the collection. Of these 781 titles it is estimated that 489 (5%) are likely eligible for PLR payments after ineligible Canadian published works are excluded (foreign authors, deceased Canadian authors, cookbooks and other ineligible non-fiction). No eBook titles were identified in the survey which would not be represented in the print collections of most, if not all, PLR sampled libraries. A list of individual publishers with title counts in Library to Go is provided in Appendix C. Extrapolated, this suggests that at present PLR eligible titles will comprise approximately 5% of eBook collections where titles are individually selected. This percentage will increase as more Canadian published

books are made available to libraries. The percentage of eligible titles will be lower when overall eBook availability is considered because the majority of aggregated eBook databases currently provided by sampled libraries originate in the US and many focus on reference and technical non-fiction.

3. Current and Pending eBook Distribution to Canadian Public Libraries

OverDrive

Founded in 1986, OverDrive is a “full-service digital distributor of eBooks, audio books, music and video.” The company describes its service as “secure management, DRM protection, and download fulfillment services for hundreds of publishers and thousands of libraries, schools, and retailers, serving millions of end users.” The company reports that it offers over 350,000 digital audio and eBook titles.

The OverDrive library model is based on a time-limited loan period with only one reader able to access a title at one time, mimicking the lending of print-on-paper books. Libraries can opt to have the borrower set the loan period with a fixed maximum length. Library users can place a hold on an “on-loan” title and OverDrive offers libraries the option of automatically purchasing an additional copy when a specified hold-to-copy ratio is exceeded. OverDrive titles are a one-time purchase for libraries, but the titles reside on OverDrive’s servers and access is “perpetual” only as long as OverDrive exists as a corporate entity and/or the library continues to have an ongoing relationship with the company.

Libraries have the option of negotiating with OverDrive to manage their authentication process or to manage this individually or collectively within a consortium. OverDrive charges libraries and consortia an annual management fee which is higher if OverDrive manages individual user authentication.

OverDrive is well established enough in the North American market that it organizes a user group conference. Digipalooza in July 2011 will be their third conference.

OverDrive has eBook distribution agreements with a small number of Canadian publishers but the number is increasing. The February announcement that Random Canada (including McClelland & Stewart and Tundra) will use OverDrive to distribute its list is a significant development in enhancing the scope of OverDrive’s Canadian content. A snapshot review of OverDrive’s Canadian published titles in February (pre-Random Canada title availability) identified 13,533 titles, of which 12,485 (92%) were published by Harlequin. In a January report prepared for BC’s eBook project, Library to Go, it was noted that OverDrive supplies Canadian libraries less than half of the Giller winners and that US public libraries have greater access to Giller winners than their Canadian counterparts. Recent OverDrive agreements with Canada based publishers will have partially addressed this situation.

Publisher representatives report unhappiness with their negotiations with OverDrive and complain about “unfriendly terms” but acknowledge that they continue to be the only established conduit for getting downloadable trade eBook titles into libraries. Librarians on behalf of their users report frustrations with the OverDrive interface which is described as cumbersome, especially when compared with commercial options available to the individual consumer. Considerable time is spent by staff, guiding users through the

download process for a variety of reading devices excluding the Kindle which does not support reading library-supplied eBooks. In May 2011 OverDrive announced an interface for Kindle in the US but there has been no word on when this might be available to Canadian Kindle users.

In the survey of 8 PLR sampled libraries with eBook collections, all use OverDrive as a supplier.

Canadian Publishers Collection

The Canadian Publishers Collection forms an important part of the Canadian Electronic Library (CEL) which is owned by Gibson Library Connections. The database comprises over 12,000 PDF eBook titles from over 60 Canadian publishers, slightly less than half of which are general trade publishers. The database is made available to libraries via the ebrary platform and interface. The collection requires a live Internet connection to view titles and they are not downloadable to handheld devices. Multiple readers can access the same work simultaneously. This has limited any significant public library sales to date for the collection which is described as a streaming research tool. The collection can be purchased “in perpetuity” or on an annual subscription basis. Full MARC records are provided to libraries for all titles in the database.

Early in 2011 ebrary was purchased by Proquest and negotiations are ongoing with Gibson Library Connections on the future shape of the CEL collections. Indications are that Proquest is placing a high priority on moving ebrary to include a downloadable distribution model.

In August 2008 Gibson Library Connections announced the sale of the Canadian Publishers Collection to the Canadian Research Knowledge Network (CRKN) acting on behalf of 67 Canadian universities. The collection at that time had over 8,000 social sciences and humanities titles published by 47 Canadian publishers. CRKN paid \$11 million for perpetual ownership of the collection. This translates into a payment of \$1,375 per title or \$20.25 per title per institution. It should be noted that the titles supplied were almost all backlist titles which many of the libraries already owned in print form. This collection has been added to, as 13 additional publishers have signed on (including Douglas & McIntyre) and the original participants have contributed additional titles to the database. Approximately 40 of the original university libraries receiving the CRKN collection have subscribed to receive the new titles on an ongoing basis. While noting that PLR does not presently sample in academic libraries, the CEL collection contains little fiction or poetry titles and a very rough estimate is that 2/3rds of the titles in their print form would be eligible for PLR payments.

The full Canadian Publishers Collection is marketed as the Canadian Electronic Library Public Library Collection but has not been sold to a public library on a subscription basis as yet. Collections available for individual purchase which are of greatest relevance to public libraries and hence the PLR program are: BC Books Online, Orca Digital Collection and Oxford University Press. Toronto Public Library has recently purchased a pilot subscription to the Orca Digital Collection which comprises 421 children’s titles along with resource guides for teachers. The Orca titles are not available for individual purchase and are not included in the CEL subscription package. BC Books Online is discussed in the following section.

BC Books Online

In 2007, a group of BC based publishers and libraries initiated a project to make BC books available to BC residents in digital form. The vision was to provide digital access through every public, school and post-secondary library in the province to a collection of non-fiction titles published and selected by BC based publishers. Partnering with Gibson Library Connections, a beta test of the database of over 600 titles was launched in 12 libraries (4 public, 3 school and 5 post-secondary). A grant from the Irving K. Barber Learning Centre at the University of British Columbia Library supplemented by financial contributions from Simon Fraser University Library and Vancouver Public Library funded the trial.

The original intent was to secure a provincial grant in the context of BC's 125th anniversary to fund the purchase of the database in perpetuity. The economic downturn at the end of the decade made this goal unattainable. The beta test is designed to profile the concept and to demonstrate its value to potential funders. The Association of Book Publishers of BC has commissioned a study of the project which is intended to identify possible next steps for the database including, presumably, direct sales to libraries. In this regard it should be noted that the large BC post-secondary libraries already have access to most of the BC Books Online titles through their participation in the CRKN digital book purchase or a subscription to the CEL.

The BC Books Online beta test collection contains 638 titles from 16 publishers with publication dates ranging from 1960 through 2009. No front list titles are included and publishers withheld titles with an active retail market. 39% of the titles are classed as science, health and environment and 25% as history. MARC records have been added to the majority of participating library catalogues.

The current pilot ends on 30 June 2011 and it is probable that the content will be taken down pending the development of a sustainable funding model to provide ongoing access and enhanced content.

Canadian Publishers Digital Services/eBound

The Association of Canadian Publishers (ACP) launched the Canadian Publishers Digital Services (CPDS) in March 2009. CPDS provides a range of services to ACP members including selling or licencing digital content at terms available only to large vendors and sharing current research and information on technology developments and market opportunities for e-publishing. The ACP web site notes that "CPDS is the single most important vehicle through which Canadian books can be effectively made available to readers in digital format." ACP is in the process of transitioning CPDS to a new arms length organization, eBound.

eBound will coordinate the distribution of ACP member digital rights to distributors such as Amazon and Kobo. At the time of writing, 63 ACP members are participating in eBound. Its Executive Director has indicated that enabling sales to libraries through intermediaries such as Overdrive and Baker & Taylor is also a priority. This coordinated approach to distribution will both increase the availability of Canadian titles to libraries and have the potential to provide consistent terms and conditions for library sales of the works of approximately 60% of Canadian authors writing in English.

Baker & Taylor

Baker & Taylor (B&T) is a major US based wholesaler of books and AV to libraries. The company claims to be the world's largest distributor of print and digital books. B&T was largely excluded from the Canadian market with the introduction of parallel importation regulations following the 1998 changes to the *Copyright Act*. These changes required that Canadian libraries purchase multiple copies of foreign-published works from Canadian sources when there was an exclusive agent for distribution to the Canadian market and specific performance standards were met. Parallel importation as defined by the *Copyright Act* does not apply to eBooks and this was not addressed in the recent copyright bills which died on the order paper following three consecutive election calls.

In late 2010, B&T announced a partnership with Blio which describes itself as "the world's most advanced flexible and engaging e-reader application." Blio is positioning itself as the ideal platform for digital books, including children's books, cookbooks, textbooks and travel guides, which do not properly display on eReaders due to graphic elements. Canadian publishers have expressed interest in this platform as a way to get their titles to the Canadian library market. With the distribution rights assigned by Canadian publishers, B&T would not be constrained from distributing eBooks to Canadian libraries outside Quebec. De Marque (see Section 4 for a description of the company) has signed a distribution agreement with B&T, presumably to distribute French language titles published in Canada using Blio to customers outside Quebec.

Google

The March 2011 US Court ruling rejecting the Amended Google Book Settlement (AGBS) has for the near term eliminated the most potentially significant "game changer" for the provision of eBooks, especially for in-copyright, out-of-print titles. Canadian published titles were included in the AGBS. Google has digitized over 15 million titles and currently provides access to over 3 million public domain titles. It is possible that the court ruling may be appealed or that the publishers and Google may attempt to renegotiate the settlement terms. Having said this, Google is likely to play an increasingly important role in the provision of in-print titles under agreements with publishers.

An announcement is expected in the near future from Google Canada which could very quickly see them become the vendor-of-choice for eBooks in Canada. Google has "Partner Program" agreements with over 35,000 publishers including "nearly every major U.S. publisher."

TumbleBookLibrary

Under the tag line "eBooks for eKids" this Toronto based aggregator provides an "online collection of animated talking picture books which teach young children the joys of reading in a format they'll love." The TumbleBooks collection includes 189 story books including 8 by Robert Munsch. The titles have been licensed from a variety of established trade publishers. The content is streamed and in addition, some titles are downloadable. Also included in the TumbleBookLibrary are language-learning titles and read-

along classics. The collection is supplied on an annual subscription basis with the primary market being elementary schools.

Three surveyed libraries indicated that they subscribe to TumbleBooks. The company does not supply catalogue records and it appears that the collection titles are not listed in library catalogues. The animated and audio aspects of the TumbleBook “picture book” collection raises the question: are the works still books.

Other Aggregated Databases

Surveyed libraries reported a number of other aggregated databases, none of which would have a significant effect on the PLR programme. These include:

- Net Library – the 440 eBooks surveyed in the Vancouver Public Library collection included series such as *Cliff Notes*, *Schaum’s Outlines* and one Canadian title eligible for PLR payment: *Shoeless Joe* by W.P. Kinsella
- Gale Virtual Reference Library – 1,000 reference titles
- Books 24 x 7 – technical, business and reference titles
- International Children’s Digital Library – historical and contemporary children’s books in more than 50 languages
- Safari Books – computer and technical books from a variety of publishers including O’Reilly and Microsoft Press
- BookFLIX – A Scholastic collection of interactive literacy resources targeting children in K to grade 3

4. French Language eBooks

A. Overview

In preparing this report, all the libraries surveyed for French-language titles (francophone libraries) by the Commission were contacted to enquire about their eBook holdings. The goal was to determine if their institutions held any French-language eBooks written by authors that could qualify for the PLR program as part of their regular collection or if they had plans to acquire them in the coming year. Had French language eBook holdings been reported, the library would have been included in the eBook survey carried out in the libraries sampled for English titles. In fact, no francophone library qualified to take part in the survey as none held French-language eBooks to any appreciable extent. To underscore the low library availability of French language eBooks Guy Berthiaume, *Bibliothèque et Archives nationales du Québec's* (BAnQ) President and General Manager, recently noted that 75% of BAnQ's eBook holdings were in English. Montreal Public Library staff reported that the Library's 2010 eBook expenditure was \$1,700. Indicative of the anticipated increase in eBook holdings in 2011 and 2012, Montreal Public has budgeted \$94,000 for eBooks in 2011 and is projecting that 15% of its collections budget will be dedicated to eBooks.

In light of their lack of eBook holdings, the reports assessment of PLR and francophone public libraries is based on interviews held with librarians from the sampled libraries. There was a strong consensus that the current commercial offering – or the lack thereof – is the single most important factor to consider when analyzing the presence of eBooks in francophone libraries. A second factor which has to be considered is the current state of Integrated Library Systems (ILS) used by Quebec public libraries (catalogue and circulation computer systems). Several librarians indicated that their ILS was antiquated and ill-suited to manage the new imperatives of eBook collections.

B. *Law 51* and the Book Trade in Québec

The book trade in Quebec is regulated by the law entitled *An Act respecting the development of Quebec firms in the book industry* – also known as *Law 51*. This law stipulates that public institutions in the province, including public libraries, must purchase their books at full price from accredited bookstores in their local region. Bookstores can seek accreditation if they hold sufficient titles. This law exists to foster strong bookstores in all regions of Quebec as library purchases are seen as a stabilizing factor for the bookstore's income.

Librarians are unclear about the application of *Law 51* to eBook purchasing. BAnQ's Guy Berthiaume recently stated:

“We are currently seeking a way to respect the spirit of *Law 51* in our approach to the digital environment, although we are not technically required to do so, because eBooks did not exist at the time of the entry into force, their scope escapes it. But, in the continuity of the law and current practices, it seems preferable to acquire (...) electronic books with a time limited use period

through bookstores, rather than straight from publishers. Local bookstores and publishers have been relatively slow to follow suit.”¹⁹ [translation by Olivier Charbonneau]

The rules established by *Law 51* have achieved their intent by contributing to a strong bookstore network in Quebec. There is a strong consensus among librarians that the purposes of *Law 51* are important for the book industry and they argue to preserve them for eBook distribution. This requires that all stakeholders must work collaboratively in the face of the dramatic changes caused by eBooks. Given the necessary cross-sector collaboration this entails, change occurs at a slower pace, especially given that the changes will be codified in legislation. This does mean however that when the changes are implemented, adherence is greater.

There is an Advisory Board on Reading and the Book Industry established in law, in order to coordinate the activities of the various stakeholders in the context of *Law 51*. As well, initiatives exist within the library community to act as a spring board for collaboration and coordination. Of these, the *Consortium d'acquisition de ressources électroniques du Québec* (CAREQ) is under the aegis of BAnQ and brings together public libraries to address common licensing solutions for digital resources. Librarians often cite this committee as the main agent in coordinating their efforts to develop eBook collections. *Law 51* may result in there not being a public library consortium for French language eBook purchasing given the requirement to support local booksellers.

C. Major players in the Quebec eBook Publishing Industry

Most of the evidence gathered from discussions with librarians focused on the market for eBooks published in Quebec. Of course, this does not represent the whole of the francophone market in Canada, but it is the largest. Librarians are seeking a critical mass of titles to build their first offering of eBooks. There are unique attributes to the book publishing industry in Quebec which differentiate their eBook solutions from those implemented by their English Canadian counterparts.

There are two main platforms that aggregate eBooks from Canadian French language publishers. The first one was developed for the Association nationale des éditeurs de livres (ANEL) by De Marque, a software firm based in Quebec City with over 20 years of experience in cultural and educational software. It hosts about 5,000 titles that are available for sale through online bookstores, such as the online bookstore from the *Librairies indépendantes du Québec* (Independent Bookstores of Quebec, LIQ). Québecor Media, a major media corporation in Quebec, offers the second eBook platform, originally branded as JeLis.ca. Visitors to this site are now redirected to the Archambault.ca web site, the bookseller owned and operated by Québecor Media. Of the two platforms, only the ANEL - De Marque system is actively engaged with the library community.

¹⁹ Martel, Marie D., « BAnQ de la culture à la culture numérique [5 ans de la Grande Bibliothèque] », *Argus* [La revue québécoise des professionnels de l'information documentaire], Automne 2010, p. 12.

Clément Laberge, responsible for the ANEL ebook aggregator at De Marque, indicated that a first pilot project was initiated in late 2009 and included five institutions: BANQ, Réseau Biblio du Québec (library system for small or rural municipalities) and the public library systems of the cities of Montréal, Québec and Brossard. This involved the streaming of eBook bundles available within the ANEL – De Marque system through a consortium license negotiated via CAREQ. For example, excerpts of 1,200 titles were made available via Astrolabe, the Quebec City’s library system in May 2010. Arguably, these excerpts were also available directly via the ANEL – De Marque web site for free, so the only major novelty was the inclusion of bibliographic records containing links to portions of eBooks. Significant complications arose from this pilot project. Librarians were concerned that the model for the pilot project, the streaming of eBooks under a consortium license, was a substantial departure from the spirit of *Law 51*. The digital collections required substantial modifications to local library computer systems. In addition, the pilot project was held during consideration of *Bill C-32, an Act to Amend the Copyright Act*, and this introduced some uncertainties regarding the regulatory regime for digital content delivery and therefore provided a difficult context for introducing a new business model.

Librarians expressed the desire to respect *Law 51*. In turn, this implied major technological modifications to the distribution platform developed by De Marque. Three requirements were required from the new system:

- It must enable loans of limited duration files to a single library patron at a time.
- Libraries must be able to purchase single titles, as opposed to aggregated collections of titles.
- eBooks were to be sold directly by local bookstores.

These requirements transfer the print publishing model as established in *Law 51* to eBooks.

From the technical point of view, this new model introduces a significant problem regarding the allocation of fixed costs involved in managing the system. Because the number of individual loans for each eBook at local institutions is not known in advance, it is impossible to allocate the costs of maintaining the servers that generate limited duration files. System maintenance costs will be invoiced separately from the costs of access licences for eBooks from the ANEL – De Marque platform. Laberge also notes that there will be a \$0.15 charge for each eBook loan at each library. (Laberge referred to this charge as the “Adobe tax” after the company which supplies the software for the downloading of eBooks). This per-loan charge would constitute a significant financial burden on library collection budgets if the costs were passed on to libraries as opposed to being paid by De Marque or the bookstore. If this charge had been made to the sampled English libraries for eBook loans in 2010 this would have cost \$51,000 and would cost well over \$100,000 in 2011 given borrowing trends.

Other important technical challenges included developing software to permit:

- The ability for libraries to acquire single titles.

- The sourcing the titles from the bookstore's inventory.
- Providing library access to the eBook over time.

Securing the funds to develop the system has also been a challenge.

Laberge indicated this system will soon be widely available. The upgraded system will be offered as soon as autumn 2011. The new platform will allow libraries to purchase eBooks from multiple digital bookstores and titles can come from any supplier, not just ANEL – De Marque. Publishers will decide which books will be available to libraries.

Once an eBook is ordered by a library from a bookstore, the ANEL – De Marque system receives an instruction to allow access to the eBook. The order generates the transmittal of information to the library (catalogue record, hyperlinks, etc.) and to the bookstore (invoice information). When a library patron triggers a loan on an available eBook, the ANEL – De Marque system generates a hyperlink to a limited duration file available for download. No other patron may download this copy of the eBook during the loan period, which is set by the local institution.

Laberge indicated that any bookstore will soon be able to use software developed by De Marque. In a deal announced at the meetings of the Canadian Booksellers Association and BookExpo America in May 2011, a partnership with Group Transcontinental (a large media concern) will offer the system on licence to bookstores. This model is similar to the Amazon.com system for bookstore sales to individual consumers. According to Laberge, this Canadian software will increase eBook sales, including sales to libraries.

D. Regroupement des éditeurs canadiens-français (RECF)

In order to complement the information obtained from publishers in Québec, information was sought from RECF, which groups 16 Francophone publishers outside Québec. In surveying the publishers listed²⁰ as having eBooks in the ANEL-De Marque aggregator, it was discovered that six members of RECF already had eBooks in this system:

- Bouton d'or Acadie - 98 publications
- CFORP - 10 publications
- Éditions David - 33 publications
- Éditions du Vermillon - 20 publications
- Éditions Prise de parole - 77 publications
- Les éditions du Chardon Bleu - 1 publication

²⁰ Entrepôt numérique, Répertoire des éditeurs (<http://vitrine.entrepotnumerique.com/editeurs>)

In addition, RECF has received funding from the Ontario Media Development Corporation to embark on an eBook project, namely:

“À L’HORIZON DU NUMÉRIQUE: This project will enable French-Canadian publishers to fully enter the digital market, by providing support for the digital conversion of their backlist collections and the publishing of new titles in epub format.”²¹

In that sense, it seems that the technological solution currently being explored by francophone publishers outside Québec is in line with other francophone publishers in Quebec. A source from RECF could not confirm the orientation of the OMDC-funded project, as it was still in the inception phase at the writing of the report.

E. Integrated Library Systems (ILS)

Quebec public libraries must have reasonably up-to-date computer systems to be able to make eBook collections accessible to their users and this is not uniformly the case. Several librarians indicated that they will be updating their ILS in order to make eBook collections available to their users. These upgrades will come at a significant cost, not just to purchase the appropriate software, but also to train staff and revise internal procedures. Although supplying eBooks is not the only motivation for ILS upgrades, the new systems will greatly enhance the deployment of eBook collections once they are offered to libraries.

F. Other Pilot Projects

In addition to the ANEL – De Marque library pilot, two additional small projects involve eBooks. One library tested lending eBook readers while the other tested a single eBook available for free on the Internet.

With regards to the lending of eBook readers, the library in question purchased 10 readers and stocked them with eBooks from the public domain and titles purchased from two online bookstores. These readers were then offered to patrons, who had to sign a consent form indicating that they would not transfer the eBooks from the reader. The second pilot project involved internal processes, specifically testing the acquisition cycle of an eBook, determining cataloging issues and staff training. In this case, the eBook in question was available for free under an open access licence.

G. Summary

Consultations with Quebec public librarians indicate that 2012 will be the tipping point for the presence of eBooks in francophone libraries. Specifically, the pilot project proposed by De Marque, pending ILS software upgrades, and a strong consensus among librarians consulted lead to this conclusion. The 2012 result in most francophone libraries is likely to be a substantial number of eBook titles in sampled public

²¹ Ontario Media Development Corporation, Entertainment and Creative Cluster Partnerships Fund Recipient Information (<http://www.omdc.on.ca/Page5409.aspx#10-11>)

libraries which are eligible for the PLR programme as print books. It is possible that, while French language eBook library holdings currently lag significantly behind English language eBook library holdings, in 2012 Canadian published French language titles may be better represented in public library collections than will be the case with English language Canadian titles in libraries outside Quebec. This is a direct result of the coordinated approach being taken by ANEL in assembling and distributing their titles as eBooks and the advantages of marketing in a single province with strong legislation and programmes in place which support culture.

5. eBooks and Public Lending Right

A. Introduction

This section of the report addresses logistical and technical issues, based on the research conducted, which the Commission should consider in determining whether or not to implement changes in the eligibility criteria for PLR compensation. These include the eligibility criteria themselves and sampling issues.

Irrespective of how the Commission chooses to proceed, basic elements of the programme are unlikely to change:

- The responsibility for registering titles rests with the author.
- The responsibility for approving eligibility rests with the PLR staff and Commission.
- Eligible titles must be listed in the catalogue of a sampled public library in order to receive a payment.

It is a given that eBooks will be acquired and licensed in a variety of ways by libraries. It has been suggested that where annual payments are made to subscribe to an eBook collection (an annual licencing model) that one PLR rationale of compensating authors for lost royalties due to the ongoing presence of their books in libraries is no longer valid. With this approach authors have the potential to receive annual eBook royalty payments (depending upon their contract terms). With the purchase of an eBook from OverDrive, there is a one-time payment for the content and ongoing maintenance charges all related to OverDrive's technical infrastructure. While there may be some legitimacy to the argument that time-limited licenced content should be treated differently from content purchased in perpetuity, it will very difficult in PLR sampling to differentiate between these two types of eBooks. Irrespective of the purchase method, the library's commitment to both pay for a title and add a catalogue record for the title is a measure of the book's worth and as such remains a valid proxy for determining compensation to authors when PLR is viewed as a cultural support programme.

The survey of English language libraries and the sampling of Library to Go indicate that the inclusion of eBooks, whether as separate editions or as new works, in the PLR programme would not have a short term detrimental effect on the hit rates for currently eligible print titles for the following reasons:

- Canadian titles are currently under-represented in library eBook holdings.
- Given use levels, large public libraries will continue to purchase print copies of Canadian titles likely to be published as eBooks.
- No eBook-only titles likely to be eligible for PLR have been identified in sampled library collections.

A. What is a Book?

*Is a book still a book when it's no longer between covers or even on paper?*²²

Paul Kennedy

While common sense suggests that a digital file of a text work, an eBook for example, is the same work (perhaps with some additional features), this is not the view held in legislation. The Canadian *Copyright Act* defines “book” as “a volume or part or division of a volume, **in printed form**” (emphasis added) excluding works such as pamphlets, maps and sheet music.

If the Commission decides to include eBooks in the PLR programme, whether or not as a new edition of the same work or a new work if it exists as an eBook only, the Commission’s mandate and eligibility criteria would have to be revised. The revisions would have to be substantial if eBook-only titles are to be included. The Commission’s mandate is unequivocally linked with books: the Commission “distributes annual payments to Canadian authors for the presence of their books in Canadian public libraries.” The Commission’s eligibility criteria specify that books have to be printed volumes meeting minimum page length requirements:

- Books that are at least 48 pages in length, or in the case of children’s literature, at least 24 pages.
- Printed books with an ISBN.

EPUB eBooks (currently the preferred format by public libraries) do not have “pages” per se. (For definitions for the two eBook formats, EPUB and PDF, see Appendix A.) Page numbers are introduced as a postmodern reassurance and finding aid for the reader and page numbers, if present, change with font size adjustments initiated by the reader. In this context, it should also be noted that there is an emerging preference for shorter works in the eBook marketplace. An example is Kindle Singles, novella length non-fiction works priced from \$2 to \$4 described by the eBook retailer as “Compelling Ideas Expressed at Their Natural Length”. The separate eBook publication of Canadian novellas which previously appeared in short story collections would be a logical extension of this trend.

Should the Commission decide to admit eBook editions of titles already eligible in print form, this could be achieved by the inclusion of a statement to this effect in eligibility criteria without having to change existing criteria. For example, it can be reasonably assumed that the eBook version of a print title will have the same word count as its print equivalent.

It is inevitable that titles will be published in eBook format only which would be eligible for PLR if they were issued in printed form. The author has heard anecdotally that at least one New York publisher is no

²² CBC’s *Ideas*, broadcast on 31 Jan 2011.

longer committing in contracts to publishing pending titles in print form. However, it is believed that there are presently no titles published as eBook only which would be eligible for PLR in sampled library collections; i.e. living Canadian authored “literary” titles. A poll of surveyed libraries identified no such titles.

There are significant uncertainties on how eBook content will evolve to exploit the format’s potential and reader preferences. What is evident is that content changes will take place and it is likely that the changes will cause challenges in ascertaining eligibility for PLR. There are examples of eBooks with added audio and visual content and this approach is likely to increase. A realistic option available to the Commission, should it wish to consider the inclusion of eBooks in PLR, would be to solicit from authors examples of potentially PLR-eligible eBook-only titles. When a sufficient number of these titles are available for analysis, a Commission Sub-Committee could work with PLR staff to draft eligibility criteria for Commission consideration. Issues likely to arise include:

- Establishing an eBook equivalent of page length.
- Differentiating between text and audiovisual components – at what point does an eBook cease to be a book and become a movie or musical work?
- Considering the interests of other creative contributors (music, animation, narration...)
- Establishing what constitutes library ownership.
- Should eligibility require the involvement of a publisher?

A sufficient number of eBook-only titles would be required for examination to guide this process. Given the likelihood of there being a large number of self-published eBook-only titles submitted for consideration (many of which would be unlikely to be catalogued by sampled libraries), it will be important to ensure that there is a good representation of commercially published titles in the sample.

It should be noted that this approach to addressing eBooks in PLR may well be medium term solution. Changes in how content is created by authors, published and distributed by publishers and acquired and maintained by libraries have the potential to make this present approach untenable. With publishers considering distribution of individual chapters of books, freely available blog novels, catalogue links to open access and creative commons works in the cloud, present notions of creation, publishing and library supply will be challenged. As noted earlier, predicting the future for eBooks is similar to predicting the future and implications of the automobile in its early days. The Commission has the option of introducing change to the PLR in recognition of the changes underway but it should be recognized that any new approach is unlikely to stay in place for the next 25 years of the programme in the way that core eligibility criteria remained largely unchanged over the past 25 years.

B. What is a Loan?

PLR has not been extended to eBooks in Europe for a variety of reasons. Jim Parker of the UK PLR Office reports that cost was a significant factor in their government's decision not to proceed. The cost for the UK programme was estimated to be an additional £350,000 (\$558,030 CAN) annually due to their per-loan compensation model. Parker and European librarians consulted by the author indicated that eBooks downloaded from a library's web site by library users in their home or school are not considered loans under EU copyright guidelines. These books are considered to have been telecommunicated and as such the transaction is not covered by PLR legislation. The only eBook loans which would qualify for PLR in the EU are those transactions where the library user downloads a title to their eReader in the library.

While not constrained by narrow interpretations of legislation as is the case in Europe, the Commission would face challenges if loan activity were to be considered as one of the determinants for PLR payments. As previously indicated, access to streamed PDF eBook files are not considered as being in the possession of the reader but rather consulted on a remote server (or increasingly "in the cloud"). Use is monitored by page views and/or accesses and not "borrowings." There is no means of coming up with comparable use statistics for PDF and EPUB eBooks. If it was decided not to make streamed PDF titles eligible for PLR, there is no way to differentiate the PDF eBooks listed in a library catalogue from downloadable EPUB eBooks in the same catalogue using the PLR Z39.50 sampling method.

There are two models for calculating PLR payments: annual loans (the UK approach) or holdings (the Canadian approach). Given that the use of library collections varies widely depending upon genre and author popularity, there is no question that there would be significant variations in author payments depending upon which calculation method is used. When PLR was introduced in Canada the Commission of the day considered a loan based system but rejected the idea in part due to the logistical barriers in calculating individual library loans given the limitations of library computer systems. While there continue to be challenges in calculating annual loans on a title by title basis, it would be more feasible for print collections with today's more sophisticated computer systems. (The ease of implementation would vary library to library given the different circulation systems in place and this methodology would be more staff intensive both for the library and PLR staff). It should be noted however, that were eBooks to be included in the PLR programme, it would be much more challenging if not impossible to calculate comparable annual title "loans" given the difference in EPUB and PDF use calculation and the fact that often the methodologies for calculating use and the data itself are controlled by the supplier not the library.

C. The Catalogue Record

BookNet's Noah Genner uses the phrase, "it's the wild west out there"²³ when describing the early days of bibliographic description and controls for eBooks. Genner does feel that the situation has improved considerably over the past year and that now there is increased consistency in the application of ISBNs. While at the outset of eBook production, some publishers assigned the same ISBN to print and digital versions of the same book, the norm now is to assign different ISBNs. (There is no separate number sequence for eBook ISBNs.)

It is probable that libraries will adopt different practices in adding catalogue records for eBooks in their collections. Common sense suggests that it makes no sense for a library to spend money on an eBook and then not let library users know that it is available. The exception may be eBook collections such as TumbleBooks and BookFLIX which have narrow target audiences and where a user is motivated to use the collection as a whole on repeat occasions and not necessarily seek out specific titles. The logistical challenges of having to search for titles not listed in the catalogue elsewhere, including in individual databases would be substantial. It appears to the author of this report that the necessity of a catalogue record for title eligibility is unavoidable.

D. Sampling Issues

If eBooks were included in PLR, it is probable that the way eBooks are acquired or removed from collections would result in more changes to hit rates year to year than is the case with print books. The reason for this is the purchase (or non-renewal of licences) of aggregated eBook databases which could individually contain hundreds of eligible titles. For example, it is likely that the BC Books Online database titles will be dropped from the Vancouver Public Library catalogue at the end of the pilot project mid-2011 pending agreement on a sustainable funding model moving forward. This would mean that the catalogue records for of over 600 eligible titles would disappear overnight. This suggests that there would be an increased desirability for sampling all eligible titles in all libraries every year.

²³ In conversation with the author.

6. Summary

The main justification for the Commission making no change at the present time and continuing to monitor the situation is that current publishing and library environments are in flux (if not upheaval) and this will continue to be the case for an extended period. Also, it is highly unlikely that the inclusion of eBooks in the PLR programme at this time would see an appreciable increase in eligible titles or a noticeable shift in payments among authors or groups of works. The Commission may wish to let things play out further to be better able to assess the longer term implications of eBooks in public libraries for PLR.

An advantage of including eBooks as separate editions sooner, rather than later, is that the intake of new ISBNs can commence when the numbers are relatively small and the inevitable increase can be staged in a manageable way. Should the Commission choose not to proceed with the inclusion of eBooks at this time it is likely that there will be ongoing questions on this decision and there is the risk of appearing out of touch, especially with authors who, correctly or incorrectly, may assume the decision is not in their financial interests. As indicated in the report, the inclusion of eBook-only titles would require significant changes to the eligibility criteria and there are not enough examples of these titles currently available to inform this process.

CULC/CBUC has as 10 of the PLR sampled libraries as members and two current Commission members (Linda Cook and H  l  ne Roussel) represent their libraries at their meetings. CULC/CBUC is advocating on behalf of its members with the Canadian publishing and book distribution sectors and in recent months eBooks have been the primary focus of discussions. CULC/CBUC continues to work on refining statistics relating to eBook collections and to develop position papers on the supply of digital collections (see Appendix E). CULC/CBUC staff and member libraries provided invaluable assistance in the statistics gathering components of this report. Given that CULC/CBUC will continue to analyse eBook trends in its members' collections and has demonstrated its willingness to support the Commission in its research on eBooks, the Commission could request its CULC/CBUC affiliated Commissioners to act as liaisons between the two bodies to encourage the ongoing sharing of relevant annual statistics and other appropriate documents. Through CULC/CBUC annual statistics, usually available each May for the preceding year, the Commission should monitor trends in the following areas:

- current and projected collection expenditures on print books and eBooks
- collection holdings for print books and eBooks
- circulation for eBooks and print books (separately reporting page views for streamed titles)
- holdings by eBook format and access (EPUB/PDF, downloadable/streamed...)
- expenditures by eBook vendor in order to monitor changes in distribution channels.

The Commission is in a unique position as it represents the one formal body where French and English Canadian writers, Canadian owned publishers and librarians meet with a common cause. It is clear that there are substantive issues which need to be addressed on the availability of eBooks in libraries to both

protect the interests of all parties and ensure that Canadian readers continue to have reasonable access to the wealth of Canadian written works. While the Commission is not the appropriate agency to coordinate the deliberations on outstanding issues moving forward, the Commission should advocate for these deliberations to take place.

The longer term viability of PLR as a robust and valued cultural support programme for Canadian writers will be in large part dependent on acceptable resolutions to the current challenges with eBooks availability in public libraries.

Appendix A

Definitions

In discussing eBooks it is important to distinguish among the different formats which are commercially available and in public library collections. Two formats predominate for text eBooks: EPUB and PDF. EPUB is emerging as the preferred solution for retail and library eBook use with the exception of books with high graphic content and those in Chinese and other non-Roman characters.

EPUB

Short for electronic publication, EPUB is an open source eBook standard adopted by the International Digital Publishing Forum in 2007. The format is designed to serve as a single application which can be used by publishers, conversion companies, distributors and retailers at all stages of the eBook's existence. As EPUB uses reflowable content (i.e. the text adapts its presentation to the reading device), it means that text display can be adjusted to suit different devices.

PDF

Developed in 1993 by Adobe, PDF (Portable Document Format) became an open source file format in 2008. It is page oriented and provides a fixed image of text and image on the device screen and therefore is the preferred format for books with visual content, including graphic novels. PDF is not considered to provide an acceptable image on eBook readers such as Kobo. In the words of Christina de Castell, Vancouver Public Library's Manager of Online Services & News, "I don't consider PDF acceptable... (It) is terrible on handheld devices, it's only appropriate for use on a computer, laptop or tablet, where you have a high level of control over the sizing of the interface – and a big enough screen to read the text when a full page is showing."²⁴ Chinese language eBooks are only available to libraries at this time in PDF format.

(definitions derived from Wikipedia)

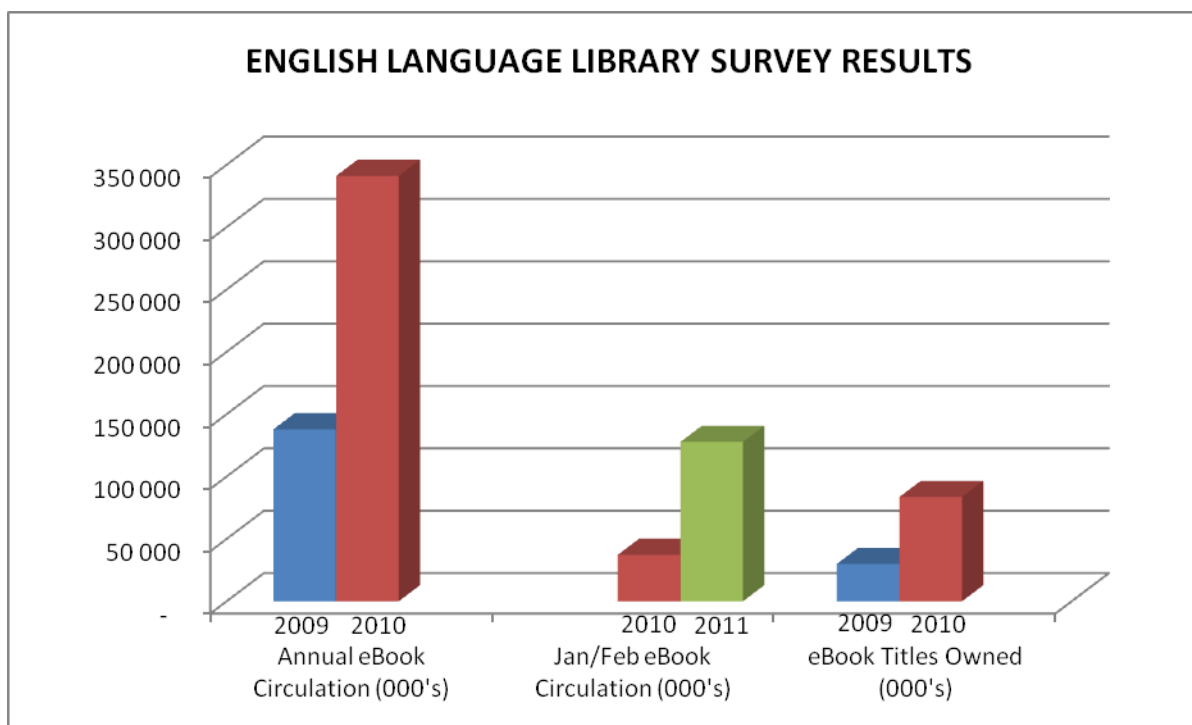
Publishers report that PDF is cheaper to produce. Some publishers do limit availability to libraries to the PDF format. The format of an eBook is a factor in the library's decision to purchase or not.

²⁴ E-mail correspondence with author.

Appendix B

Key Statistics from the English Language Library Survey

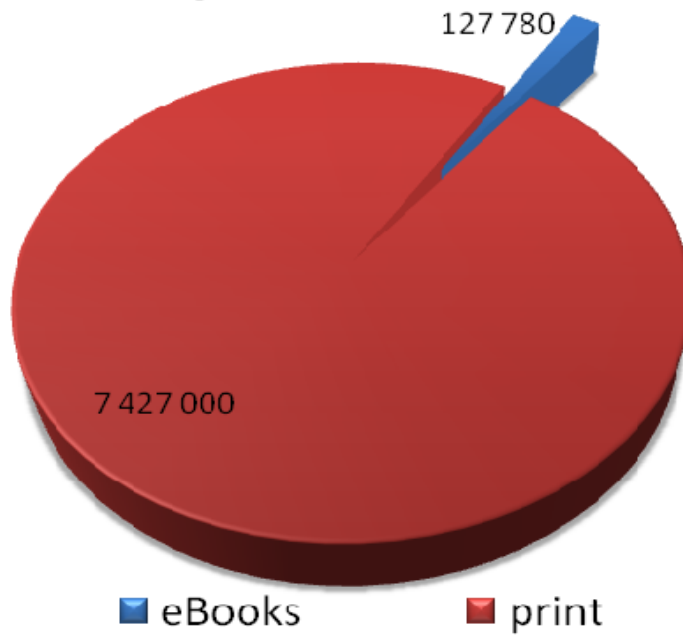
- ✓ eBook circulation for 8 reporting libraries went from 138,004 loans in 2009 to 341,121 loans in 2010, an increase of 147%.
- ✓ Jan /Feb 2011 eBook circulation for the 8 reporting libraries was 127,708 loans, a 243% increase over Jan/Feb 2010 eBook circulation of 37,228 loans.
- ✓ Jan/Feb 2011 print circulation for the 7 reporting libraries was 7,427,121 loans meaning that eBook circulation was 1.7% of print-on-paper loans for this period.
- ✓ 2011 acquisitions budget for eBooks for 5 reporting libraries is \$834,500 or 4.3% of the 2011 print acquisitions budget of \$19,189,004 for the same libraries.
- ✓ Jan/Feb holds placed on eBooks for 8 reporting libraries was 63,998 meaning that for every 2 eBooks borrowed, 1 hold was placed.
- ✓ 2010 eBook holdings for 8 reporting libraries was 66,274 titles, a 121% increase over 2009 title holdings of 30,000.
- ✓ 2010 eBook item holdings for 8 reporting libraries was 83,725, a 152% increase over 2009 item holdings of 33,211.
- ✓ The eBook item-to-title ratio at the end of 2010 for 8 reporting libraries was 1/1.3 compared with a 1/1.1 ratio in 2009.



2011 Acquisitions Budgets (\$)



Jan/Feb 2011 Circulation



Appendix C

Canadian Publishers in Library to Go

On the survey day of 05 May 2011, 12 Canadian-based publishers had eBook titles in the collection (excluding Canadian-owned but US-based Harlequin). These publishers contributed 781 of the 9,702 titles in the total collection (8%). Of these titles, 489 (5%) are most likely eligible for PLR (excluding known dead authors such as Pierre Burton, Emily Carr and Paul Quarrington, known foreign-authored works along with cookbooks, travel guides, etc.) Not included are Canadian-authored works published by non-Canadian-based publishers. The publisher/title count and projected PLR eligible titles are listed here:

Arsenal Pulp – 23 of 28 titles likely eligible

Douglas & McIntyre – 42 of 50 titles likely eligible

Doubleday Canada – 23 of 116 titles likely eligible

ECW – 5 of 5 titles likely eligible

Greystone – 26 of 33 titles likely eligible

House of Anansi – 13 of 13 titles likely eligible

Knopf Canada – 74 of 159 titles likely eligible

McClelland & Stewart – 78 of 115 titles likely eligible

Orca – 55 of 60 titles likely eligible

Penguin Canada – 107 of 137 titles likely eligible

Random Canada – 40 of 62 titles likely eligible

Tundra – 2 of 2 likely eligible

Wordwrights Canada – 1 of 1 likely eligible

This sample provides a reasonable indicator of the OverDrive eBook titles in Canadian libraries eligible for PLR. Very few of these eligible titles are likely to not be in the book collections of PLR sampled libraries as the titles are almost all mainstream trade titles.

Appendix D

Audio Books

1. Overview

The Canada Council *Request for Proposal* for this study sought information on audio books as well as eBooks including information on titles produced by the CNIB.

A study of audio book and eBook publishing in Canada, carried out by Turner-Riggs in 2008 for the Library and Archives Canada, noted that there was very little data on the Canadian audio book market and estimated that imported titles held 95% of the Canadian audio book market. The following explanation was offered:

...commercial audiobook production in Canada is very limited with only three established audio programs among commercial publishers in English Canada, and nine in French Canada. This appears to be largely a function of the limited economies of scale in audiobook publishing in Canada. It is expensive to produce an audiobook, and, as a niche format in the smaller Canadian market, the average unit sales per title are modest (meaning that recovering those initial production costs can be a challenging proposition).²⁵

Public library audio book collections fall into two categories:

- Those produced by not-for-profit agencies such as the CNIB and l'Institut Nazareth et Louis-Braille under Section 32 of the *Copyright Act* for exclusive use by persons with perceptual disabilities.
- Commercially produced titles marketed to the general population and available to all library users.

There has been a dramatic shift in the formats of audio books in public libraries with collections moving from cassettes in the early days to CDs and now to digital downloadable content. Both the cassette and CD formats were cumbersome to loan given that an unabridged reading of a book would typically require 10 or more CDs and even more cassettes. The initial publishing response was to favour significant text abridgements to reduce the number of cassettes/CDs in each title package. Abridgements are far less common for downloadable audio books. The retail market cassette/CD audio books of trade titles are disappearing rapidly and a number of libraries have phased out spoken word audio cassette collections or are in the process of doing so.

As has been the case with publically available audio book collections, the titles produced for the print disabled have also shifted formats with the introduction of the DAISY format: an enhanced CD format with a variety of special features which requires a special player. Part of the rationale for this format is that it provides assurance that audio books produced for the print disabled will not find their way to the general population. The CNIB has migrated much of its audio book collection from analog to digital format.

²⁵ Turner-Riggs, Audiobook and eBook Publishing in Canada, a report submitted to Library and Archives Canada Library, October 2008, page 16.

The CNIB and other agencies continued to produce audio books after the emergence of retail audio books in large part due to the relatively small number of titles and especially the lack of availability of Canadian and other titles popular with Canadian library users. The Turner-Riggs report quotes a librarian on this issue:

It's unrealistic to expect that we can acquire materials only from commercial publishers. There is virtually no Canadian content, and many of the [audiobook titles] are bestselling commercial fiction. We want to have the books that are in the [*Globe & Mail* bestseller list] but they are not available."²⁶

There does not appear to have been a significant change in this situation in the intervening 3 years.

The advent of digital text offers the promise that the necessity of not-for-profit audio book production for the print disabled will lessen as text to speech software is enhanced and provides more equitable access to our written culture for the print disabled. In this context, it should be noted that Amazon disabled the text-to-speech functionality in the Kindle when publishers objected saying that this was not licenced and Amazon was undermining a separate market.

2. Audio Books in PLR

There are several significant issues to consider if audio books were to be compensated in the PLR programme, especially for the non-commercial restricted access titles produced for use by the print disabled.

There would be a moral, if not legal, obligation to consider compensation for other contributors to the audio book, especially narrators but also potentially the producer and musicians (if music is used) if authors, translators and illustrators receive compensation. Section 19 of the *Copyright Act* states that both the performer and maker of a sound recording of a literary work is entitled to payment for the communication of the work to the public by telecommunication. It is unclear if the downloading of an audio book from a library web site constitutes "communication to the public by telecommunication" as is believed to be the case under European Union copyright guidelines.

Irrespective of how downloading is defined, were audio books admitted to the PLR programme it is likely that narrators, as a new cohort of creators, would be admitted to the programme. It does appear that there will be few Canadian narrators of audio books. It is unclear how many of the Canadian audio book titles distributed by OverDrive were produced in Canada but it is reasonable to assume many, if not most, would have been produced in the US with US narrators given that the publishers are American companies.

Canadian titles are underrepresented in audio book collections, even more so than is the case with eBooks. A check of the Library to Go catalogue indicated that of the 6,773 downloadable audio titles available (compared with over 9,700 eBook title), none were published by the 12 Canadian based publishers with eBooks in the collection. A check of the large audio book publishers, who licence work from print publishers and which contribute half of the total downloadable titles available from Library to

²⁶ Ibid., page 18.

Go (Brilliance, Books on Tape and Blackstone), identified only 43 Canadian authored titles potentially eligible for PLR including 2 by the Dalai Lama (presumably honorary citizenships count in PLR). Again genre fiction predominates in the downloadable audio collection; Canadian born Christian romance writer Janette Oke has 9 titles, Canadian born thriller writer David Morrell has 7 titles (their citizenship status and whether or not they are registered in PLR is not known to the author of this report) while Michael Ondaatje has 3 titles and Alice Munro has 2 titles.

Audio books in public library collections produced specifically for use by the print disabled are not available to the general public. The titles potentially eligible for PLR in these collections are produced by charitable or not-for-profit agencies and most are read by volunteer narrators. These titles exist because there is no commercial means to access the work in audio form.

In the past authors have argued against the legislation which enables the creation of these audio titles on moral rights grounds: i.e. such use of an author's work should not be allowed without an author's permission. Several years ago the idea was informally raised of seeking additional funding for PLR in order to compensate authors for the presence of their work in alternate formats for the print disabled in public library collections. A negative reaction was received from one of the writer's organizations on the Commission given that these audio titles had been created without the consent of the author and should not be given legitimacy through such payments. As a result the issue was not formally considered by the Commission. If the Commission decides it wishes to further explore compensating authors for the presence in public libraries of audio books for the print disabled, this should be considered as a separate programme from PLR given the work's restricted access and only after the consent of the majority of writers' organizations on the Commission is obtained.

If anything, the inclusion of audio books in the PLR programme would present greater logistical and policy challenges than the inclusion of eBooks:

- The issue of compensation for creators other than the author is more significant as it would apply to many audio book titles.
- Treating the audio book as a separate edition of the same work in other formats would not be as straight forward as adding an eBook edition given that there would be new contributors who would in all likelihood receive prorated payments exclusive to the audio book.
- Compensating for the presence of eligible audio books produced for the exclusive use of print disabled individuals has the potential to be controversial.

It should be noted that eBooks have the potential to increasingly present these challenges as audio-visual components are incorporated in the work.

Appendix E

Stakeholder Interviews

In compiling background information for this report, discussions took place with the individuals listed below. The consultations were conducted in person, by telephone and a small number via e-mail. These individuals are knowledgeable in issues relating to digital rights and/or PLR and represent a variety of perspectives including those of authors, publishers, librarians, distributors, writer/publisher associations and the Commission itself. Given the lack of availability of French language eBooks in libraries at this time the French language interviews focussed on the publishing, distribution and library sectors to ascertain how and when French language eBooks would become available. The author attended a meeting with representatives of eBound, the BC Public Library Services Branch and staff from 10 BC public libraries. A meeting was also held with PLR staff.

Information was sought on both the specifics of eBooks in the context of the individual's current work environment and on perspectives on pending changes in content delivery generally and specific to their organization or work. Where they had the necessary background, some individuals specifically addressed eBooks in the context of PLR in Canada.

Vickery Bowles – Toronto Public Library

Christina de Castell – Vancouver Public Library

Erin Creasey – ECW Press, PLR Commission

Alan Cumyn – writer/The Writers' Union of Canada's President

Deb deBruijn – Canadian Knowledge Network

Ed Devine – Baker & Taylor

Kelly Duffin – The Writers Union of Canada

Michael Elcock – writer

Francis Farley-Chevrier – Union des écrivaines et des écrivains québécois

Noah Genner – BookNet Canada

Jean-Pierre Germain – Ville de Québec - Bibliothèques

Annie Gibson – Playwrights Canada Press

Bob Gibson – Gibson Library Connections

Gary Gibson – Gibson Library Connections

Louise Guillemette-Labory – Bibliothèque de Montréal

Beatriz Hauser – writer, PLR Commission

Robert Hayashi – Association of Canadian Publishers/eBound

Jackie Hushion – Canadian Publishers Council

Jack Illingworth – Literary Press Group

Clément Laberge – DeMarque/Association nationale des éditeurs de livres

Carole Laguë – Bibliothèque municipale de Gatineau

Anne Lebel – Ville de Saguenay - Bibliothèques

Jim Looney – Library to Go

Ken McGoogan – writer, PLR Commission

Peter Milroy – University of BC Press

Christopher Moore - writer

Lorraine Morehouse – New Brunswick Library

Odette Pelletier – Ville de Trois-Rivières - Bibliothèques

Margaret Reynolds – Association of Book Publishers of BC

Hélène Roussel – Bibliothèque et Archives nationales du Québec, PLR Commission

Rob Sanders – Greystone Books/Douglas & McIntyre

Rodger Touchie – Heritage Group, Past President Association of Canadian Publishers

Alan Twigg – BC BookWorld

Kevin Williams – Talonbooks

Carolyn Wood – Association of Canadian Publishers

Appendix F

CULC Statements

VISION STATEMENT FOR PUBLIC LIBRARY ACCESS TO DOWNLOADABLE AND PORTABLE E-CONTENT

Public libraries provide access to a broad range of human knowledge, information, and ideas and serve all readers, regardless of their socio-economic, educational, or literacy status. In order to continue to do this, public libraries have to be able to access information regardless of the delivery mechanism. The Canadian Urban Libraries Council (CULC) / Conseil des Bibliothèques Urbaines du Canada (CBUC) has developed a vision statement to identify public library issues around access to downloadable and portable e-content with the intent of entering into a dialogue with publishers, distributors, and producers of e-content.

The value of libraries to publishers and producers in introducing the public to the world of e-content and creating potential consumers cannot be underestimated. CULC/CBUC member libraries expended almost \$10,000,000 in 2009 on e-content. Member libraries spent nearly \$90,000,000 on materials in 2009. E-book expenditures grew by more than 40% in 2009; libraries predict a further 40% in 2010. Public libraries are a huge support to Canadian authors, publishers and producers of e-content because they purchase large quantities of materials in a variety of formats. In addition, public libraries promote those materials in library branches, through library programs, on websites, and in the local media. They offer training programs on using e-content and provide customers with technical support.

ACQUISITIONS

Libraries need...

- to be able to select and order e-content from anywhere as is done for print.
- to be able to use any type of vendors/producers of e-content. When digital rights management (DRM) is being negotiated, DRM for libraries should be included.
- fair and flexible pricing models that offer options to libraries, (e.g, one copy/one use, simultaneous use, and actual use models).
- simultaneous release of e-content to the consumer and library markets.

COLLECTIONS

Libraries need...

- to own the e-content they purchase. The future of library collections depends on the ability of libraries to collect, describe, organize, and preserve these collections. Publishers and producers of e-content cannot remove titles without libraries' consent.
- to be able to select from a broad spectrum of e-content publishers and producers.
- access to more Canadian content.

DELIVERY PLATFORMS, CIRCULATION, AND ACCESS

Libraries need...

- a shared, non-proprietary delivery platform and interface for the circulation of all e-content that is easy to use. Access to e-content should be allowed through the catalogue and/or through a consolidated site/portal, as determined by individual libraries. Having to search and borrow e-content through different vendors is inefficient and confusing.
- to be able to offer downloading of e-content without customers having to install proprietary software on their devices.
- DRM that allows loaning, customizable loan periods, and the ability to download to multiple devices. These terms should be determined, or at least negotiated, by the individual library.

DEVICE, USE ISSUES

Libraries need...

- device independence; content must be device agnostic. Having files in proprietary formats and for use on proprietary devices eliminates public library access.
- accessibility standards to be in place for all applications.
- open standards (e.g. ePub format for ebooks) for use on multiple devices. It is recognized that even then, producers may have to make adjustments to ensure device compliance.

STATEMENT ON eBook PRICING MODELS

Canada's public libraries regularly work in partnership with the Canadian publishing industry, and recognize mutual benefit from a strong interest in books and reading in Canada. CULC/CBUC member libraries spend more than \$90 million on book and electronic content purchases annually, contributing to the health of the book industry in Canada.

In this period of rapid change, CULC/CBUC members have sought to build relationships with Canadian publishers, distributors and producers of e-content that help us serve our customers, benefit our country's authors, and contribute to a healthy domestic publishing industry. In an effort to foster communication, CULC/CBUC has developed a Vision Statement about public library access to e-content and has entered into constructive discussions with stakeholders.

The pricing model recently announced by HarperCollins Publishers that imposes a cap of 26 uses on eBooks does not work for public libraries. It will be difficult for libraries to manage, difficult for distributors to support, and the circulation limit per copy is not in line with the performance of most print counterparts. However, we recognize the need to work with publishers to implement a system that allows libraries to meet the expectations of our customers, without harming the publishing industry in Canada or elsewhere. Pricing models have to work for all parties. As stated in the CULC/CBUC Vision Statement, it is important to understand that "The future of library collections depends on the ability to collect, describe, organize, and preserve these collections."

Libraries and publishers have a number of existing models for electronic content licensing and purchase, which include: Content purchase; Content licensing by item; and Content licensing by category. Public libraries are interested in continuing a dialogue with Canada's publishers, distributors, and producers of e-content to find an eBook licensing model that fits all of our needs.

We understand that publishers are also grappling with the ways that libraries provide access to materials and share resources. Many Canadian libraries purchase as part of consortia, selecting resources as part of a group and negotiating terms for that group. Many publishers and distributors of electronic content find consortia models beneficial and express satisfaction in dealing with libraries in this way. Consortia models usually result in more libraries participating, therefore buying more products than they would alone. To meet customers' demands, libraries must purchase enough copies of popular titles for the population of an area, and this is not significantly affected by a consortia model.

Barriers to borrowing reduce support for libraries, which leads to decreased funding and decreased purchasing power. Canada's urban public libraries look forward to continuing the discussion with publishers, distributors and producers of e-content to find eBook solutions that benefit us all. We hope that a productive partnership will allow us to serve our customers and build a thriving Canadian eBook industry.

Collection: eBook Collections

Group	Indicator	Prompt	Description	Definition	Notes
Use/Holdings/Budget/Data (6929)					
<i>For this survey the definition of eBooks is the text (not audio) digital equivalent of a title which would be part of the library's circulating collection as a print book</i>					
-2009 (6930)					
30630	2009 eBook Expenditures				
30632	2009 eBook Holdings (Titles)		with individual title records in the catalogue or to be loaded in the catalogue		
30635	2009 eBook Holdings (Items)		with individual title records in the catalogue or to be loaded in the catalogue		
30823	2009 eBook Acquisition Budget		2009 budget allocation for eBooks (individual title and aggregated book database purchases but not including magazines and computer/repair manual databases)		
30638	2009 eBook Circulation				
30639	2009 Print Circulation		Total catalogued book circulation.		
30642	2009 Total Circulation				
-2010 (6931)					
30624	2010 Total Materials Acquisition Budget				
30628	2010 Print Materials Acquisition Budget		total catalogued book circulation/budget		
30626	2010 eBook Acquisition Budget		2010 budget allocation for eBooks (individual title and aggregated book database purchases but not including magazines and computer/repair manual databases)		
30631	2010 eBook Expenditures				
30633	2010 eBook Holdings (Titles)		with individual title records in the catalogue or to be loaded in the catalogue		
30634	2010 eBook Holdings (Items)		with individual title records in the catalogue or to be loaded in the catalogue		
30636	2010 eBook Holdings Canadian		estimate the percentage of eBook holdings which are Canadian authored		
30637	2010 eBook Circulation				
30640	2010 Print Circulation		Total catalogued book circulation.		
30641	2010 Total Circulation				
30647	2010 eBook Circulation for Jan-Feb		please provide your eBook circulation for Jan-Feb 2010		
30650	2010 Print Circulation for Jan-Feb		please provide your catalogued print collection circulation for Jan-Feb 2010		
30821	2010 eBook Holds for Jan-Feb		please provide your eBook holds placed for Jan-Feb 2010		
-2011 (6932)					
30625	2011 Total Materials Acquisition Budget				
30627	2011 eBook Acquisition Budget		2011 budget allocation for eBooks (individual title and aggregated book database purchases but not including magazines and computer/repair manual databases)		
30629	2011 Print Materials Acquisition Budget		total catalogued book circulation/budget		
30645	Extract Records		Can you extract your library's eBook catalogue records into a separate file searchable by author/title/ISBN?		
30648	2011 eBook Circulation for Jan-Feb		please provide your eBook circulation for Jan-Feb 2011		
30649	2011 Print Circulation for Jan-Feb		please provide your catalogued print collection circulation for Jan-Feb 2011		
30822	2011 eBook Holds for Jan-Feb		please provide your eBook holds placed for Jan-Feb 2011		
Contact Information (6933)					
<p><i>The Canada Council on behalf of the Public Lending Right Commission is conducting a study on eBooks and their potential impacts on PLR in Canada. Paul Whitney, former City Librarian for Vancouver, has been hired by the Commission to undertake the work. CULC/CBUC and Olivier Charbonneau of Concordia University Library who will be supporting Paul and helping collect the necessary quantitative data. 12 CULC/CBUC member libraries are part of the PLR's sample group.</i></p> <p><i>The goal of the study is to assess the present state of eBook collections and emerging trends in Canadian public libraries. Interviews are being undertaken with representatives of the key publishing stakeholders on the rapid changes taking place with Canadian eBook production and distribution to libraries.</i></p> <p><i>Your contribution is appreciate.</i></p>					

Jennifer Marriott, who assists CULC/CBUC members with their KPI collection and reporting is available to assist with this short collection. Jennifer can be reached at 416-599-6849 or by email at jmarriott@culc.ca.

DEADLINE: April 8, 2011

30643	Contact Name for Survey		Enter the name of the person responsible for compiling this survey.		
30644	Survey Contact Email Address		Survey contact's email address.		

Acquisitions and User Access (6934)

30651	eBook Vendors		eBook vendors supplying your library		
30646	Without Records		Does your library have significant eBook holdings without catalogue records?		
30652	Major Successes		Major successes in your library with building and providing access to e-books		
30653	Major Concerns		Major concerns/frustrations in your library with eBook availability, terms and conditions and supply		
30654	Brief Assessment		A brief assessment of where you would wish your library's eBook collections would be in 2012 and what you project will actually happen		

-Use Parameters (6935)

A brief description of your eBook collection use parameters, please include a note if you are estimating.

30655	Downloadable		How many eBooks are downloadable?		
30656	Streamed		how many eBook titles require Internet access to read; ie. not downloadable?		
30657	Annual Licence Renewal		How many eBooks are subject to an annual licence renewal?		Annual fee applies to hosting fee. E-books are one-time purchase. - (CULC5573/2011-04-13)
30658	Permanent Purchase		How many eBooks are a permanent purchase?		
30659	Limitations on Use		describe the common limitations placed on eBook use by your borrowers		One checkout, one user. Established circulation parameters although customers have choices in length of loan period. Inability to renew or extend loan period. These are not necessarily limitations. - (CULC5573/2011-04-13)
30824	Other Purchase Plans		How many eBooks are purchased under other terms (specify in notes)		The Library does hold e-books that are more reference in nature and there are databases which contain e-books. E.g. Gale Virtual Reference Library. - (CULC5573/2011-04-13)

Library Survey Results

	Burnaby	Calgary	Halifax	Hamilton	Mississauga	Toronto	Vancouver	Winnipeg
2009 eBook Expenditures	\$39,647		\$17,148	\$18,191	\$420	\$104,389	\$91,485	\$15,000
2009 eBook Holdings (Titles)	2,283	2,029	2,693	2,503	50	11,546	2,907	5,989
2009 eBook Holdings (Items)	2,990	2,062	2,713	2,509	50	13,287	3,607	5,993
2009 eBook Acquisition Budget			\$15,000	\$20,000	\$420	\$105,000	\$44,000	\$15,000
2009 eBook Circulation	2,663	12,603	8,903	9,554	0	90,081	7,582	6,618
2009 Print Circulation		10,539,193	2,622,697	6,025,560	5,236,255	19,446,716	6,732,601	4,686,800
2009 Total Circulation	3,798,656	16,414,836	2,631,600	6,059,732	8,235,708	31,117,665	9,886,149	5,726,342
2010 Total Materials Acquisition Budget		\$7,457,000	\$1,715,180	\$3,650,000	\$2,395,455	\$17,514,855	\$4,886,500	\$2,803,103
2010 Print Materials Acquisition Budget		\$4,069,000	\$1,192,180	\$1,897,000	\$1,469,331	\$12,000,000	\$2,537,000	\$2,044,388
2010 eBook Acquisition Budget			\$30,000	\$75,000	\$52,000	\$250,000	\$50,000	\$20,000
2010 eBook Expenditures	\$39,950		\$35,000	\$76,893	\$14,370	\$260,000	\$50,000	\$32,800
2010 eBook Holdings (Titles)	8,923	9,031	4,232	9,399	523	13,884	9,347	10,935
2010 eBook Holdings (Items)	13,587	9,964	4,416	9,772	629	20,884	13,533	10,941
2010 eBook Holdings Canadian				1345.00%	58.00%			
2010 eBook Circulation	4,908	64,845	28,950	32,336	5,231	168,840	11,894	24,117
2010 Print Circulation		10,074,484	2,683,085	6,284,588	4,756,302	19,433,800	6,823,230	4,521,290
2010 Total Circulation	3,982,449	16,254,934	2,712,035	6,347,007	7,614,310	32,324,416	9,461,347	5,473,701
2010 eBook Circulation for Jan-Feb	435	4,867	3,459	3,662	0	20,604	1,089	3,112
2010 Print Circulation for Jan-Feb	470,974		422,582	1,018,461	836,393	3,032,143	1,032,715	725,311
2010 eBook Holds for Jan-Feb	703	2886	1329	1112	0	5877	668	1139
2011 Total Materials Acquisition Budget		\$7,937,000		\$3,407,500	\$2,395,455	\$17,114,854	\$4,797,500	\$3,048,983
2011 eBook Acquisition Budget				\$97,500	\$53,000	\$431,000	\$213,000	\$40,000

Library Survey Results

	Burnaby	Calgary	Halifax	Hamilton	Mississauga	Toronto	Vancouver	Winnipeg
2011 Print Materials Acquisition Budget		\$3,827,500		\$1,694,000	\$1,284,801	\$11,500,000	\$2,547,700	\$2,162,503
Extract Records	Yes	Yes	No		Yes	Yes	Yes	
2011 eBook Circulation for Jan-Feb	2,212	28,627	11,656	16,210	3,223	52,064	4,716	9,000
2011 Print Circulation for Jan-Feb	462,703		424,645	1,033,379	779,533	2,931,985	1,091,938	702,938
2011 eBook Holds for Jan-Feb	3,930	15,006	8,991	7,508	3,526	15,536	4,373	5,128
eBook Vendors	Overdrive, Safari Books Online, Tumblebooks, Bookflix, Oxford University Press, Facts on File, Salem Press.	OverDrive	Content Reserve/Overdrive		OverDrive	OverDrive is the main vendor we use but we also use NetLibrary, Safari and recently started a pilot for some streamed eBooks with the Canadian Electronic Library.	eBrary/Best of BC Books Online Books 24x7 Gale: Virtual Reference Library, Literature Criticism Online, Dictionary of Literary Biography Overdrive: Library to Go netLibrary Learning Express Library (no MARC records) Tumblebooks (no MARC records)	Winnipeg Public Library (WPL) and Public Library Services, Manitoba (PLS) share the eLibraries Manitoba (eLM) website, hosted by Overdrive. We both purchase materials which are all listed in WPL's and PLS's catalogues and are available to many library systems throughout Manitoba and more libraries in the province continue to join. WPL also purchases Tumblebooks and TumbleReadables; subscription cost was approximately \$8000 in 2010 for access to 617 titles with simultaneous use. These titles are not accessible through WPL's catalogue.
Without Records	No	No			No	No	No	

Library Survey Results

	Burnaby	Calgary	Halifax	Hamilton	Mississauga	Toronto	Vancouver	Winnipeg
Major Successes	<p>We have seen a significant increase in e-book use since adding them to the collection. Both Overdrive and Tumblebooks have seen a 100% increase in use over last year. We purchase Overdrive consortially and I think the work of the consortium has been a major success for us, both in terms of streamlining support and collection management.</p>	<p>Increasing circulation and use, customer suggestions, increasing range of material available for acquisition</p>			<p>From initial launch in July, 2010 demand and use has grown steadily. From July 7 to the end of the year, e-book circulation was about 30 circs per day, since January, 2011 it has more than doubled to 63 circs per day.</p>	<p>Great public interest and media coverage has helped spread the word that the library has eBooks for downloading to home computers and devices such as the Kobo. Use has grown exponentially and the situation with Canadian content is encouraging in terms of meeting customers' needs.</p>	<p>Continued open authentication for Gale Virtual Reference Library (login is not required)
Moving towards streamlined, efficient patron support for Overdrive
Appropriate level of staffing available -- we are generally able to meet patrons needs for support with ebooks
Timed system-wide training for staff well, so that they were prepared for Christmas season 2010</p>	<p>Tumblebooks has been extremely popular since we started providing this service several years ago; we added TumbleReadables in 2009. eLM use grew dramatically throughout 2010 and continues to grow. There is demand for more titles and quicker and easier access. The development of mobile apps and access for Apple devices has been very helpful.</p>

Library Survey Results

	Burnaby	Calgary	Halifax	Hamilton	Mississauga	Toronto	Vancouver	Winnipeg
Major Concerns	We have struggled at times to meet demand for support for e-books from our patrons who encounter difficulty with third-party software, understanding the download process, and who encounter digital rights management issues. We also struggle to meet demand for content, which is often simply not available in e-book format.	Recent Harper Collins limitation on checkouts, need for more content for preschoolers, need for content for ESL			Not all publishers have released digital contact so many desired titles are not available. Others do not offer fair pricing: charging libraries significantly more than other purchasers. Harper Collins is now limiting use of their titles to 26 circulations per purchase. The Mississauga Library System is not currently purchasing titles from them.	Pricing and options for pricing eBooks are a major concern. Libraries, publishers, producers of e-content and authors need pricing models that work for all parties. The HC use cap is not a sustainable model. Despite some progress, more Canadian content is required and is a serious concern. Libraries being so dependent on one vendor (OverDrive) is a concern. Ownership of eBooks is necessary. Libraries need to be able to control the content they purchase. (This is not to say that ownership is always necessary, as in some pricing models, libraries may want some eBooks titles on a subscription or license basis only.)	eBook licensing models - circulation limit by Harper Collins, no good solution General lack of availability of titles in downloadable format, particularly Canadian Keeping up with demand for downloadable eBooks Streamlining DRM usability for patrons. Having only one vendor in the market so lack of choice and competition Not owning the co	Staff is having trouble keeping up with the demands of the public who want help accessing and using ebooks on diverse devices and diverse formats. It needs to be easier! We are concerned about spending increasingly large amounts of money on something that we don't actually have; we only have access via a subscription. If you want to purchase from more than one vendor, access needs to be seamless for patrons. Too many formats and formats that only work with some devices. Publishers are concerned about their customers borrowing ebooks from libraries instead of buying from them. The future economics of the book and ebook industry is unclear and how it will affect libraries is also unclear.

Library Survey Results

	Burnaby	Calgary	Halifax	Hamilton	Mississauga	Toronto	Vancouver	Winnipeg
Brief Assessment		Increased range of content, increased use, easy discovery for customers, more Canadian content, resolution to the Harper Collins situation re: limited checkouts. Anticipate continuing issues around digital rights. Would like to see another vendor with different content.			E-Books have proven very popular with Mississauga borrowers particularly since the holiday season.	Ebooks extend access to the printed word and can reach people who may not be inclined to use the traditional printed book format. Libraries have a long tradition of providing broad access to information and resources that are relevant to people. Making eBooks available to people from public library websites is critical for libraries to be able to continue to fulfill this important role.	Current statistics say that 5-10% of the population is buying eBook readers or using these devices. With tablets, this will grow through 2012. Given that, we should be looking at a shift to 10% of library collections spent in this area so that we respond to demand. For 2011 we're at 4.4% with the help of surplus and reserve funds. At VPL, we're responding appropriately so far, and seem committed to the format. The risk for 2012 is that publishers will not respond as quickly in making a supply available to libraries. I suspect we will not have a solution to the lack of supply in 2012, so we'll continue to have difficulty spending the money that we allocate to downloadable ebooks. Lack of technology.	We will continue to provide ebooks and will monitor their use and the industry carefully. We are concerned about publisher's decisions on what rights they will and will not allow libraries. Paper books are still the preferred choice of most of our library patrons.
Downloadable	9504				1850	17426	10005	10324
Streamed	13488				50	3400	22500	617
Annual Licence Renewal	13465		14000		12000	3400	16300	8000
Permanent Purchase	9527				1850	9862	5444	10324
Limitations on Use							31000	
Other Purchase Plans						7564	5444	