

**Access to eContent for Public Libraries – Update**

<b>Date:</b>	October 22, 2019
<b>To:</b>	Toronto Public Library Board
<b>From:</b>	City Librarian

**SUMMARY**

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The purpose of this report is to update the Board on the recent changes made by multinational publishers to their library purchasing models for ebooks and audiobooks. These changes will make developing comprehensive econtent collections unsustainable and will be detrimental to the free and equitable access to information, a fundamental value of public libraries. They will also disproportionately affect our most vulnerable customers, those whose only point of access for this material is the library. The result will be a two-tiered model of access to econtent dependent on the ability to pay.

For years, libraries have been attempting to convince the “Big Five” multinational publishers (Harper Collins, Penguin Random House, Simon & Schuster, Hachette and Macmillan) that their high prices and restrictive purchase models are bad not only for libraries but for them. Libraries want a vibrant publishing industry and are vital to its success, promoting books, authors and the love of reading. However, citing unproven evidence that libraries are “cannibalizing” ebook sales, the “Big Five” have imposed even more stringent terms, including Macmillan’s unprecedented embargo.

In response, North American libraries are working together to combat these changes. The Canadian Urban Library Council (CULC) and the Urban Library Council (ULC) are planning a North American advocacy campaign. The American Library Association (ALA) has launched an online petition against Macmillan’s embargo that is also open to Canadian libraries. Individual library systems in the U.S. are planning boycotts and exploring legal and legislative solutions. CULC had already developed a toolkit for government outreach, building on its #eContentforLibraries campaign. We will continue to update the Board as the details and results of these initiatives are known.

## **FINANCIAL IMPACT**

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This report has no financial impact beyond what has already been approved in the current year's budget.

The Director, Finance & Treasurer has reviewed this financial impact statement and agrees with it.

## **ALIGNMENT WITH STRATEGIC PLAN**

The "Access to eContent Report" reflects the Library's determination to continue its Mission of providing free and equitable access to services which meet the changing needs of Torontonians. It also speaks to the Library's Value of Intellectual Freedom - guaranteeing and facilitating the free exchange of information and ideas in a democratic society, protecting intellectual freedom and respecting individuals' rights to privacy and choice. As such, it is in alignment with the values expressed in the Strategic Plan.

## **EQUITY IMPACT STATEMENT**

The recent changes by publishers threatens access to econtent for vulnerable equity-seeking groups, including low-income Torontonians and those with disabilities. Toronto Public Library is working with other libraries to oppose these changes and to continue its commitment to free and equitable access to services.

## **DECISION HISTORY**

This report is the latest in a series informing the Board of the ongoing barriers to public libraries' access to ebooks and audiobooks due to restrictive purchase models and high prices. At the October 27, 2015 Board meeting, a presentation was given on the TPL-led CULC online campaign *Canadian Libraries for Fair Ebook Pricing*, which aimed to raise public awareness of the issues. On January 21, 2019, a second TPL-led CULC advocacy campaign was described, #eContentforLibraries, which focused on access to audiobooks as well as pricing. On June 17, 2019, the Board approved a request that Toronto City Council formally indicate its support of CULC's new government-facing campaign. On July 30, 2019, Council adopted the resolution and called on the federal government to develop a solution.

## **ISSUE BACKGROUND**

Public library customer demand for ebooks and more recently, audiobooks, is growing exponentially worldwide. Overdrive, the largest public library vendor of econtent, reported 274 million checkouts worldwide in 2018, up 100% from 2014. TPL has consistently been number one in the world for econtent use – over seven million in 2018 or 23% of circulation and expected to top eight million in 2019. However, it has been a challenge for libraries to acquire econtent from the Big Five multinational publishers, initially because some refused to sell to libraries and then due to their restrictive purchase models and high prices. In the last year, they have imposed even more stringent terms, endangering the ability of libraries to continue to meet customer needs.

## **COMMENTS**

### **Purchase models and pricing**

To appreciate the impact of the publishers' actions it is necessary to understand the library ebook market and lending process. For simplicity, the term 'ebooks' includes audiobooks except when referenced explicitly. Libraries do not buy ebooks, they buy licences to access them and publishers decide how long these licences last, after which they must be repurchased. This is compounded by unreasonably high prices, up to four to six times what a consumer pays. Even though they are digital, ebooks are sold and loaned out like physical books so a library must buy multiple licences to meet demand. There are two kinds of licences – perpetual, which last forever, and metered, which expire after a specified time or number of uses.

### **Multinational publishers' changes to purchase models**

To be clear, it is the 'Big Five' multinational publishers (Harper Collins, Penguin Random House, Simon & Schuster, Hachette and Macmillan) who continue to obstruct libraries' ability to build ebook collections that meet their customers' needs. Most smaller and independent publishers offer perpetual licences and fair prices.

Between October 2018 and August 2019, four of the five multinationals changed their terms. In summary:

- Penguin Random House switched from perpetual licences for ebooks to 24-month metered licences and dropped the minimum price from \$65 to \$57;
- Hachette, changed from perpetual licences to 24-month metered licences for both ebooks and audiobooks, the first publisher to change the already expensive (\$80-\$120) audiobook terms;
- Simon & Schuster extended its 12-month metered licence to 24 months, tripled Canadian prices and changed its audiobook licence from perpetual to 24-month metered;

- Macmillan will allow libraries to buy one ebook licence per system, regardless of size, at release date, followed by an eight-week embargo, after which 24-month metered licences can be purchased.

Only Harper Collins maintained its original model – a 26-use metered licence with fair prices.

The rationale for these changes is that sales to public libraries are “cannibalizing” consumer sales, in the words of Macmillan CEO John Sargent. And other publishers have jumped on this bandwagon to explain flagging ebook sales. Publishers claim that, unlike the circulation of physical books, ebook lending is ‘frictionless’, i.e., customers do not have to go to the library, ignoring the fact that they may have to wait months for a bestselling title.

### **The real problems facing traditional publishers**

There is no doubt that the Big Five publishers are in trouble in the ebook market but it’s not because of libraries. The American Association of Publishers reported a 4% decline in ebook sales for the fourth year in a row. But this figure does not include independent or self-published authors. The real reasons for falling sales are:

- **The rise of independent or self-publishing** – Self-publishing is gaining readers as traditional publishing is losing them. It is estimated that between 2017 and 2018, the self-published share of U.S. ebook sales rose from 45% to 46% while the share for traditional publishers fell from 46% to 43%. In 2017, only 36% of ebook sales came from the Big Five companies. The increase in self-publishing is largely due to Amazon’s Kindle Direct Publishing, which allows authors to directly upload books to their site. They can choose to participate in the Kindle Unlimited program, which allows subscribers to read them “for free”. Royalties are higher than from traditional publishers, up to 70%, and in 2018 Amazon paid out \$220M to its Kindle Unlimited authors. The rise of social media also allows them to promote their work and build fan bases.
- **The rapid growth of audiobooks** – Audiobooks are the fastest-growing segment in the digital publishing industry and generated \$2.5M in sales in 2018 up 23% from 2017. Once publishers did not even bother to sell the rights for audio but they are now a valuable commodity and all of the Big Five have in-house imprints. However, this slow start allowed Audible, the Amazon-owned audiobook subscription service, to pick up rights and create exclusive audiobooks. Many Big Five authors also choose to sell their rights separately to Audible for bigger payments. Audible does not sell its exclusive audiobooks to libraries.

- **Pricing** – In 2015, publishers won the right to set their own ebook prices on Amazon and promptly saw their sales decline. Of the current top 50 romance bestsellers on Amazon only two are from the Big 5 and cost \$15 and \$18 respectively. The other 48 are published by independent authors or Amazon and cost \$.99 to \$4.99.
- **Amazon** – Amazon itself is a publisher of both physical and ebooks and its output is increasing. It does not report on sales of its imprints but it is estimated that in 2018, 10% of ebooks sold in the U.S. came from Amazon publishing, which libraries can't buy, although they can buy the print versions. As the world's largest bookseller, Amazon obviously promotes its own products and they feature frequently on their bestseller lists. And major authors are starting to respond to the allure of Amazon's deep pockets and massive marketing reach – most recently, Dean Koontz, Patricia Cornwell and Mindy Kaling. Going forward, libraries will not be able to buy these popular authors' ebooks.
- **Piracy** – No one wants to talk about piracy, but it too is impacting publishers. A 2017 Nielsen survey found that publishers lose \$315M (USD) per year to piracy. And will this increase if customers cannot borrow the ebook from a library?

Amazon is the common thread that runs through most of the above issues and there is no doubt that they are having a negative impact on traditional publishers. However, there is also fear that they are training people to read books for what feels like free through Kindle Unlimited, Kids Unlimited and Prime Reading. The new Kindle Kids ereader comes with 1,000 books and parental controls. But like Prime Videos, this is all window dressing to increase Prime membership, Amazon's main business driver because, quite simply, Prime members buy more of everything. And Amazon does not care about libraries or recognize their value, refusing to sell econtent to them.

### **The impact on public libraries' customers**

The impact of the Big Five publishers' changes to their purchasing models and continued high prices on libraries are obvious. Libraries will have to reduce their ebook purchases at a time when demand for this format is still increasing by double digits.

**Circulation will suffer** – the decline in physical circulation is being offset by econtent use in most libraries. At TPL, even though use of adult and children's books is stable, circulation of CDs, DVDs, paperbacks and magazines continues to fall as does that of multilingual materials due to demographic changes and the availability of streaming video services. Total physical circulation dropped 18% or 4.4M between 2014 and 2018 (also impacted by NYCL closure) while econtent use increased by 101% or 3.5M.

**Significant ebook collections cannot be developed** – One of the reasons that TPL leads the world in ebook use is our decision from the beginning to build a comprehensive collection that supports long-term preservation. Fortunately, we had the materials budget to support this. However, it is clear that publishers do not want libraries to build rich collections as they have all introduced metered licences. The cost of repurchasing licences every two years is simply not sustainable, even for TPL, and not just in money but in staff time. Hachette actually says it is reducing prices by 25% for the first licence purchase but not for repurchases. This supports publishers' long-held and false belief that print books wear out after a couple of years then libraries must repurchase copies. As a result, most libraries' ebook collections will shrink to current bestsellers.

**Embargoes threaten access to content** – Although Macmillan's embargo will not have much effect on customers as they must currently wait for new ebooks, it sets a dangerous precedent that other publishers may follow and increase. Blackstone Audio, an audiobook producer, has also imposed a 90-day embargo during which the titles will be available through Amazon's Audible. Moreover, embargoes deny fair and equitable access to content, which stands in opposition to the fundamental values of public libraries. If libraries do buy Macmillan's one copy and holds mount up, customers may assume that we are ignoring them.

**Access to audiobooks is restricted** – As well as being the fastest growing format in digital publishing, the demand for audiobooks in libraries is rocketing. TPL saw a 35% increase in use in 2018 compared to 16% for ebooks. Libraries are already feeling the impact of lack of access to audiobooks because of limited rights sales and Audible's growing control of many titles, including the award-winning version of *The Handmaid's Tale* read by Claire Danes and Justin Trudeau's memoir.

**The digital divide will widen** – The real impact, of course, is on our customers. For some it means a more limited choice in reading format but for our most vulnerable customers, those whose only point of access for this material is the library, the affect will be dramatic. Ebooks and audiobooks have become essential for those with physical disabilities or who cannot visit the library. Audiobooks also help customers with low literacy skills and newcomers.

Unless the current direction can be changed, we are facing a future two-tier system where those who can afford subscriptions to Amazon Prime, Scribd and Audible have access to the best and newest econtent, while those who cannot will depend on the library, where collections will be limited and older. As Don Katz the Audible CEO said at the Canadian launch. "At this point we kinda decided the public library is just a place that people will get a smaller selection from others and that's fine."

## **Libraries respond**

Libraries recognize that publishers are facing ongoing disruption and must work to stay profitable, but libraries are not their enemy. Public libraries are an integral part of the reading ecosystem and, rather than cannibalizing sales, are a critical resource for discovery and engagement and, often, sales. Booknet Canada's report *Borrow, Buy, Read: Library Use and Book Buying in Canada* noted that library users bought three books a month, slightly more than non-users. They also read more print and ebooks and listened to more audiobooks. Libraries introduce customers to new authors and new books by established authors through author readings, readers advisory and displays.

Libraries have been trying to talk to the Big Five publishers for years about their purchase models and pricing but with little success, although access to all the publishers' titles was finally achieved in 2014. We have asked for flexible purchase models, for example, being able to buy short-term licence at a lower price and perpetual licences for more. They do not respond. Only Harper Collins charges fair prices, basically the same as the print copy. The others charge three to four times what we pay for the physical book or audiobook. Again, they will not explain the discrepancy. As a business model, pricing your most reliable customers and biggest cheerleaders out of the market does not make sense. Their latest actions have exacerbated an already bad situation, but it has certainly stimulated a long overdue response from U.S. libraries.

The Canadian Urban Libraries Council has been a leader in running online advocacy campaigns, developed by TPL, about these issues. In 2015, *Fair eBook prices for Libraries Long Overdue* focused on high prices and inflexible purchase models. The second, in January 2019, *#eContentForLibraries* called on customers to contact the Big Five publishers to complain about access to audiobooks and, again prices. While they garnered Canada-wide public and media attention, the publishers did not respond.

CULC's latest campaign targets municipal and federal political leaders to raise awareness and asking them to work on a solution to the econtent issues. TPL's Board approved a request that Toronto City Council formally indicate its support of CULC's new government-facing campaign. On July 30, 2019 Council adopted the resolution and called on the federal government to develop a solution. TPL has sent letters to all the federal candidates running in Toronto asking for their support. So far there have been preliminary discussions around the Copyright Act and the Competition Bureau.

In June, the American Library Association (ALA) adopted a resolution on ebook pricing for libraries and cited the CULC campaigns. It merely recommended the reforming of a digital content advocacy group, which will not meet until next year. But Macmillan's embargo finally galvanised them into action. The result – an online petition

#eBooksForAll, which is also open to Canadians. Many Canadian libraries have linked to the site on their home pages.

The most promising development is that CULC and the Urban Libraries Council (ULC) of major U.S. systems are working together to launch a communications campaign to highlight the issues and demand responsive change. Their plan is to work with publishers, authors and legislators to find a solution that is reasonable to all parties. Many North American mayors, including John Tory, have already signed a letter of support (attached). Individual library systems in the U.S. are planning boycotts and exploring legal and legislative solutions.

TPL is finalizing a statement for the home page, explaining the issues to the public and linking to the ALA petition. We will also post a message on our Overdrive site.

Libraries are in this battle for the long haul. Public libraries were founded to provide free universal access to information and literature, and are an essential part of having an educated and literate population. They are the ultimate democratic institution and support intellectual freedom in a time where fake news and misinformation flourish. They must be allowed to provide their customers with equitable access to content regardless of format.

## **CONTACT**

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## **SIGNATURE**

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Vickery Bowles  
City Librarian

## **ATTACHMENT**

Attachment 1: Letter of Support from Mayor John Tory

## Statement on Equitable Public Access to E-Books

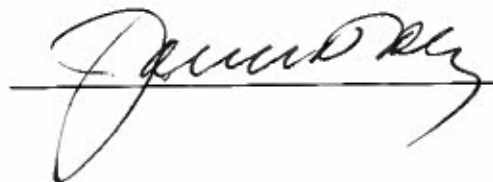
Major publishers have introduced severe restrictions to e-book and e-audiobook lending for public libraries, including embargoes on the sales of new titles and unreasonably high prices, which far exceed the prices offered for print books. As a result, libraries will be unable to fulfill their core functions in building educated, literate communities. These restrictions will be most harmful for populations who already face significant barriers to equitable knowledge and information access in our communities – including youth, people living with disabilities and those with limited financial means.

Public libraries play an essential role in levelling the playing field and strengthening the foundation of our communities. As digital technologies become increasingly inseparable from the ways that people learn, work and interact, the library's unique ability to create onramps for information and knowledge access is more important than ever. There is significant, rising demand for e-books and e-audiobooks from public library users – overall, digital content circulation is increasing by 30% per year.

As elected public officials and trusted leaders in our communities, we are committed to protecting and supporting the capacity of public libraries to:

- Provide equitable access for individuals to gain knowledge and become proficient with digital tools, regardless of their income, physical abilities, age, gender, sexual orientation, race, citizenship status or religion.
- Support lifelong learning and foster empathy, curiosity, civic engagement and a love of reading among community members.
- Educate community members about the rights, responsibilities and implications of their lives online, including data privacy risks when accessing online learning resources and digital content.
- Serve as valued partners to local government in advancing city outcomes for digital inclusion and as institutions that support informed citizens.

Our cities are strongest when all individuals have the same opportunities to further their personal, educational and professional goals. Our democracy is non-negotiable. We stand with all who are urging e-book and e-audiobook publishers to institute fair, transparent and flexible lending models for public libraries.





# Access to eContent for Public Libraries

## An Update

**Susan Caron**

**Director, Collections and Membership Services**

October 21, 2019



# Big Five multinational publishers



# eBook pricing and purchase models

- Libraries do not buy ebooks, they buy licenses to access them and publishers determine how long the license lasts.
- Perpetual licenses last forever, metered licenses last for a set time period or number of uses before they must be repurchased.
- Ebooks are purchased and lent like physical books – one copy/one user.
- Publishers charge unreasonably high prices – up to 4-6 times what a consumer pays or libraries pay for physical books.

# Penguin Random House moves to 2-year license

October 2018



“...the two-year licenses will undermine the ability for libraries to establish rich collections that can meet the needs of a wide and diverse readership. For many individuals in the digital age, the library provides their *only* point of access for ebooks ...”

Susan Benton  
ULC

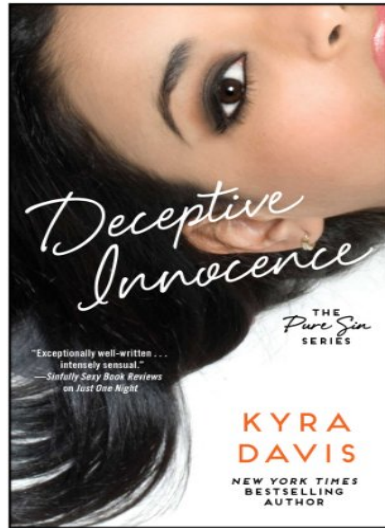
# Hachette moves to a 2-year license for ebooks and audiobooks

June 2019

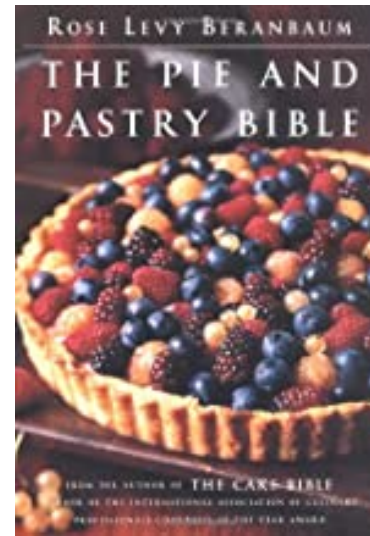


# Simon & Schuster moves to 2-year license for ebooks and audiobooks

July 2019



12 month price \$10  
24 month price **\$68**



12 month price \$16  
24 month price **\$152**

# Macmillan imposes 8-week embargo

July 2019

“Our current analysis on eLending indicates it is having a direct and adverse impact on retail sales.”

John Sargent  
Macmillan CEO



# Why are multinational publishers doing this?

“In the first three months of 2019, **digital book sales have fallen by 4.5%** and generated \$244 million dollars, which was \$10 million dollars less from the same period last year. **The continuous decline in ebook sales has been occurring for the past four years.**”

Michael Koslowski  
Good e-Reader

# Rise of independent publishing

The Amazon logo, featuring the word "amazon" in a bold, black, lowercase sans-serif font. Below the text is a curved orange arrow that starts under the letter 'a' and ends under the letter 'n', pointing to the right.

kindle | direct  
publishing

**tpl:**

“When I see an ebook that sells for twice the price of the paperback version, either someone has lost their mind, is asleep at the wheel or is deliberately steering the ship towards an iceberg.”

Cat Rambo

President Science Fiction & Fantasy Writers Association

# Audiobook growth



**tpl:**

“They aren’t gaming the system, they own the system.”

Rick Pascoello  
Literary Agent



# Impacts of changes

- Declining ebook circulation
- Inability to build significant collections because of cost
- Loss of current access through embargoes
- Reduced access to audiobooks
- A widening digital divide and a two-tiered system based on ability to pay

# What do libraries want?

- A vibrant publishing industry
- The ability to give our customers what they want, when they want it, and in the format they want
- Multiple and flexible purchase models
- Prices that are fair and sustainable for both libraries and publishers
- The same access to e-content as we have for physical content

# Libraries respond

## FAIR EBOOK PRICES Long Overdue for Libraries

Learn more about this issue  
and show your support

#eContentForLibraries

Français

**Wondering why you can't borrow  
more eAudiobooks & eBooks from  
your public library? So are we.**

And we need your help to fix it. Help us demand great  
#eContentForLibraries from big publishers.

GET THEIR ATTENTION

# Libraries respond



tpl:



sign  
the  
petition

**#eBooks****ForAll**

**tpl:**