

### *Shaping the Future of Intellectual Property in Publishing*

Good afternoon friends and colleagues. My congratulations to the International Publishers Association and the Federation of Indian Publishers for organizing this important Congress in this beautiful venue. May I also say what an honor it is to be here with so many publishers and publishing experts and to discuss the future path of intellectual property with Dr. Gurry. Before we do that I have a few prepared remarks.

I like the title of this panel because it assumes that publishers *will* participate in the future path of intellectual property. In other words, the law is not simply something that happens to publishers, which is the way it may feel at times, but rather a living framework that both shapes and is shaped by everyone who comes in contact with it, including publishers. Moreover, publishers are not just shaping IP law, they are also using technology to shape the underlying content – the actual intellectual property, which in turn shapes IP law.

This suggests to me that publishers have two opportunities when it comes to participation. One is about engaging strategically with policymakers, courts, and intergovernmental organizations. The other is about the power to shape the law by continuing to do what publishers do best: develop new voices, new readers, new business models, and new markets.

Publishing has always been about transformation, but it also reflects the world we live in. Today, for example, there are significant English-speaking markets outside of the UK and USA. Half of the world's population lives in Asia. Five hundred million people speak Spanish. In many markets, the demographic is very young, with a majority of the population under the age of 30 or even younger. These are interesting and exciting facts, and they have implications for our future businesses and laws.

To know the future, it really does make sense to start with the past. As in Shakespeare's play *The Tempest*, everything that has come before has set the stage for the present and what will happen next. What's past is prologue. Indeed, we should all do a better job of embracing the fact that publishers are the original copyright innovators, both for their own interests and the rights of authors. Long before we had music, film, and software industries, we had publishers investing in and disseminating books, maps, and charts.

When I was in England last fall, I spent a wonderful day visiting Cambridge University Press where the history of publishing is on display in a permanent exhibition devoted to the subject—the subject of the history of the printing press and what came after. The connection to democracy, science, medicine, law, and every other form of progress is extraordinary when viewed in this dedicated context, so palpable it is almost in the air. It is a reminder that publishers were not only there but at the center of the revolution, and still innovating today.

At the Association of American Publishers, we are very forward-thinking about the industry and we are very proud of the role that publishers play in the world. AAP's mission is to advance a rational legal landscape that incentivizes the publication of books, journals, and

educational solutions and recognizes the essential role that publishers play in both local markets and the global economy. We like to say that publishers invest in—and inspire—the exchange of ideas.

As you heard earlier today, one of AAP’s member companies, John Wiley & Sons, is celebrating 210 years. In looking at the many successes of this publisher, I am most struck by the seriousness with which it has always approached its business. Wiley describes itself as developing and communicating solutions, but it does this through an exacting process that values rich content, accuracy, editorial responsibility, and technology. It operates as a catalyst for progress in the world we live in, much like the fundamental purpose of copyright law.

Another member company, Penguin Random House, is the largest trade publisher in the world, but in the words of the CEO it is “a multi-local, multi domestic” company. The global publishers of Penguin Random House are editorially and entrepreneurially independent, including here in India. This is a growth strategy that speaks directly to the company’s mission to “create the future of books,” but more generally, it reflects the willingness of publishers to be global citizens from the ground up—by respecting and learning from local markets.

From a copyright perspective, India is a fascinating place. It has a young demographic, high literacy, diverse cultures, and a great interest in technology, making it an exciting place for investment. Like other parts of the world, books for children and young adults are a fast-growing part of the business, and technology products such as audio books are popular. It seems readers everywhere increasingly like to “read” books by downloading or streaming them.

No matter the format, we rely on copyright laws to provide the incentives and protections that publishers need to advance their businesses, but these protections may also lead to broader progress. For example, through the marketplace of ideas, publishers may advance research, diversity, environment stewardship, or political movements. The point is this: there are many downstream benefits of a legal system that values creativity enough to provide copyrights. And one of the beautiful things about copyright law is that we don’t always know where the creativity will lead us.

Elsevier, another AAP member, has been very successful because it has creatively moved beyond the work of disseminating and circulating works, to the next step of making the underlying content maximally useful. In other words, in a globalized world, where there is so much information available and so many important issues to solve, this company asks how it might best use its platform and expertise to assist scientists, policy makers, and others focused on solving the world’s challenges.

In looking at the publishing industry today, I think it looks a lot like the vision of the original publishing innovator, Johannes Gutenberg. Here are his words from the 15<sup>th</sup> century:

“It is a press, certainly, but a press from which shall flow in inexhaustible streams...A spring of truth shall flow from it: like a new star it shall scatter the darkness of ignorance, and cause a light heretofore unknown to shine amongst men.”

When I first read this quote, I thought for a moment that Gutenberg had predicted Internet streaming— “a press from which shall flow inexhaustible streams!” But it is indeed exciting that after centuries of speaking about copyright law in terms of making and/or distributing copies, publishers today transact in such activities as downloading, providing access to, performing, streaming, or “making available” a work. A publisher today can offer an audio work that has been narrated by the author or performed by a dramatist in a transaction that is seamless and quick. Moreover, thanks to the *WIPO Internet Treaties*, publishers can even provide access to a work at a time and place selected by the reader online. There are many ways to publish and many stories to tell.

Recently, I watched a TED talk by the brilliant author Chimamanda Ngozi Adichie, called *The Danger of a Single Story*. I commend it to you if you have not seen it. She speaks about growing up as a child with professional parents in a middleclass family in eastern Nigeria, where she read books about fair skinned characters with blue eyes who ate apples, played in the snow, and waited for sunny weather to come. She discusses her transformation as a reader and a writer when she discovered African authors writing African stories. For Adichie, success came when she began to write with authenticity about the culture that she knew, only to endure a professor who observed that the characters she created were “not African enough.” The professor had a single story of Africa.

I think the danger of a single story is quite relevant to our ongoing copyright debates. Although there are many examples, the most compelling is about defining the public interest. Those who advocate for weak copyright laws—including those who seek to circumvent or appropriate copyrighted works to their own benefit—often do so by citing to the public interest. They frame the public interest as though it is separate from the rights of copyright owners or worse yet, that publishers and other copyright owners are an obstacle to progress. This is false. Copyright law induces authors and the dissemination of knowledge; it is central to the public interest by design and in practice. Yes, there are many equities at play in a complex world, but beware of those who would marginalize the contributions of others. They seek to hijack the story of the future, but progress is not a single story.

As we turn now to our legal discussion, I want to encourage you to embrace transformation because, as publishers, it is your history: you have led us to this point in time. And I would like to leave you with a few words of inspiration from the ever-eloquent novelist Arundhati Roy. This is from *The God of Small Things*:

“It was a time when the unthinkable and the impossible really happened.”

Thank you.