

ACADEMIC AND NON-FICTION AUTHORS' ASSOCIATION OF SOUTH AFRICA

PROPOSAL

INTRODUCTION OF THE PUBLIC LENDING RIGHT IN SOUTH AFRICA

PREAMBLE

- Authors, as the primary creators of knowledge and with whom the entire book chain is conceived, are an integral part of the cultural industry. Literature is closely related to cultural development and in encouraging cultural diversity, State policies should promote the role of literature in society. Such policies, by aiming to promote reading by the general public, should also support the creative process by investing in authors in order to acknowledge the work they have done and encourage their future creativity.
- Authors are unable to sustain full-time careers in writing due to the very low income obtained from book sales and this inhibits the creative process. Also, income due to authors from book sales is lost when readers borrow books from public libraries instead of buying their own copies. Therefore it is important for the State to introduce a form of remuneration to authors to compensate for this and to provide an incentive to enter the field of writing as a gainful profession.
- The Public Lending Right (PLR) system is a cultural benefit that gives authors the legal right to receive payment for the free lending of their books by public libraries. It has proved to be a vital form of remuneration and has promoted the literature and cultural industries in countries that apply it, mainly because it acknowledges the personal development of both published and aspiring authors, and rewards them financially, advancing their careers and offering them personal fulfillment thus nurturing the well-spring of creativity. This has created a force for the growth of the writing and publishing industries.

The Academic and Non-Fiction Authors' Association of South Africa (ANFASA) proposes the introduction of the PLR system in South Africa as follows:

HOW MUST PLR BE INTRODUCED?

1. The Department of Arts and Culture (DAC) as the government department entrusted with the objectives of promoting the arts and culture is the appropriate body to introduce the Public Lending Right in South Africa.
2. The DAC should provide for a central fund either from its budget or through a request to Parliament to put aside a special budget for this purpose. This budget can be an amount ranging from **R500 000** upwards.
3. To this end the DAC should introduce new legislation that provides for PLR, a *sui generis* piece of legislation catering specifically for PLR and nothing else because the introduction of PLR should not be seen as introducing another form of Intellectual Property Right, as would be the case if it is introduced under the Copyright Act. A *sui generis* piece of legislation, as applied in other countries, is a uniquely tailored law that seeks to address a particular issue. It will describe the purpose of the fund and who will benefit from it.
4. The legislation should provide for remuneration only of authors resident in South Africa and writing in any of the official languages. This would ensure that money does not leave the country by paying out to foreign authors or local authors who have since relocated. More importantly the remuneration will promote local authors who are still living, this will restrict the ambit of the funds to administer the system and address needs within the local cultural industry.
5. The remuneration to be paid out to authors must not be taken from the libraries' limited budget. It should come out of a central fund provided for by Parliament.
6. The remuneration can be calculated on the basis either of library book loans or of library book holdings. If the pool of funding is restrictive, book loans are the preferred option because this compensates for the actual borrowing of the book. However, the book holdings option will provide for a more generous form of remuneration which takes into account new titles by aspiring authors not top of the borrowing list but present in the public libraries.

HOW WILL PLR BE ADMINISTERED?

7. This legislation could be managed in several ways. Examples are to be found in other countries. The most suitable route will be to introduce a PLR office within the DAC to administer the fund, or one that will report to the DAC.
8. Alternatively, the Dramatic, Artistic and Literary Rights Organisation (DALRO) might administer the PLR system. As a Reproduction Rights Organisation (RRO), DALRO has a track record of collecting and distributing royalties on behalf of rightholders and most countries that have a PLR system use their RROs as the body responsible for this. Assigning this role to an already functioning organisation would cut down on costs, and the administration of the PLR system would be managed by a credible organisation.
9. Alternatively, the DAC could appoint an organisation to take on the role. In other countries the relevant rightholder organisations to benefit from the system, have teamed up and introduced a collecting society that deals with the administration of PLR. In the case of South Africa, an authors' association such as ANFASA could carry out this role in partnership with the DAC.
10. The PLR system should be fully computerised, with automatic digital collection of book loans or library holdings data. This system will not negatively affect the duties of librarians – no need for extra professional cataloguers – and therefore PLR will not be a burden to librarians. It will be necessary to keep constant and precise records of how many local books are borrowed or contained in libraries within a specified period of time. Most South African public libraries are already computerised so can easily forward data to DALRO or whichever body is administering the scheme, collating the information and distributing the funds. A side benefit to libraries is that the data collected on book loans will provide information on reading patterns on a much broader scale and this will be useful in assisting them plan the increase of library stock.
11. In paying out of the funds from PLR, most countries provide for both direct payments to rightholders and payment into a fund to be used for social and developmental purposes. This hybrid system benefits both individual authors by helping them to develop full-time writing careers, as well as the arts and culture community by providing funds necessary for writing projects, for skills development, or for social or educational purposes. Therefore, initially PLR money could be paid into a central fund but in due course, when the amount allocated for PLR increases,

it could then be shared between the fund and direct payments to authors.

CAN PLR WORK IN THIRD WORLD COUNTRIES?

12. The main reason why PLR does not exist in third world countries is because there has not been a lobby for its introduction as was the case in most developed countries that operate the PLR system. The underlying benefits of PLR, however, are the promotion of the cultural industries and such objectives are not foreign to third world countries.
13. The payment of royalties to musicians every time their record is played on a radio station is a very similar kind of remuneration to that which PLR seeks to introduce for authors. This remuneration has sustained musicians' careers in third world countries (and indeed all over the world) and if a similar remuneration is introduced for authors in the form of PLR it will be a great incentive.
14. The PLR system is capable of being adapted or customised to suit the needs of a particular country. The level of funding available and the prevailing needs in the cultural industries (e.g promotion of writing in marginalized languages or supplementing low incomes for authors or supporting writer development programmes) will influence the design of the scheme.
15. By investing in authors and promoting creativity, the PLR system will make a contribution to the culture of reading and writing in South Africa. This is one of the key objectives of the DAC and acknowledging the contribution of authors as the backbone of this culture and investing in their creativity is a means of achieving the minimum standards set out in the DAC's policy paper.