

**Australian Research Council Linkage  
Project LP160100387:  
Partner Report**

*The Elending Project*

**&**

*Untapped: The Literary Heritage Project*

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# Executive Summary

Authors and avid readers will tell you about the libraries, and the librarians, who fostered their love of reading and the written word. Public libraries are social and cultural institutions: a place of refuge, of access, of the joy of discovery; a place where students can do their work in quiet, with knowledgeable help at hand to assist with navigating the world's knowledge and culture. Libraries are also, in copyright terms, an anomaly. Libraries have long bought books and lent them out, for as long, and as many times, as they like, without ever having to seek permission from copyright owners or authors.

Electronic books (ebooks), however, cannot be bought and lent out in the same, unrestricted way. The copies and transmissions made in the process of lending out an ebook (elending) are caught by copyright law. These activities must be licensed, and licences come with conditions and extended copyright owner control. But the ability of libraries to loan out books electronically can be hugely important in furthering the public role of libraries: for shift workers, for the housebound — or, in the context of a pandemic, for everyone. This raises a very important question:

*Are publishers making ebooks available for lending by public libraries in Australia – and if so, at what kinds of prices and under what conditions?*

So little has been known about the impact of the rise of ebooks and the shift into a copyright frame. In fact, as the elending project team learned, this market has been a black box for *everyone*: Publishers and authors did not know whether and how their ebooks were circulating; libraries had only a general sense of the terms on which ebooks are available; and no one knew whether elending had a positive, or negative impact on sales of books or ebooks.

The elending project set out to shed light on elending. Understanding the impact of the introduction of finer-grained control by copyright owners over the availability and terms of library borrowing is important for at least two reasons. First, we want to be sure that the important role of public libraries in providing access to books and promoting a love of reading is not undermined, while at the same time ensuring that we are supporting the important roles of authors and publishers in our cultural and economic life. Second, the issues in this market speak to broader questions in copyright. Does free circulation through libraries impact sales? Do copyright owners exercise their copyright in ways that we expect — do they apply terms and prices that reflect the different value of different books?

With the help of partners, providers and a multidisciplinary team including data science experts, we gathered data on hundreds of thousands of book titles (including a smaller more detailed set of books more important to Australians, both commercially popular and prize-winning books). We examined licence terms across Australia and four other English-speaking countries; investigated titles from large and small publishers; analysed millions of checkouts across multiple elending platforms; and surveyed librarians across Australia. As outlined in this report, we found:

- **An inflexible and unresponsive market:** where our librarians told us they wanted different terms so as to make best use of their budgets and meet reader needs, in fact 97% of titles were available under only one kind of licence.
- **Patchy availability:** Australia and New Zealand were missing 21% of titles; Canada and the US were missing 12%. When we looked at a subset of titles of most interest to Australians, we found 24% of the 546 titles tested were not available for elending (only 6% were not available as physical books).

- **Little evidence of a ‘market’:** the terms offered for titles have nearly nothing to do with the characteristics of the individual titles (such as their age, or popularity) — what seems to determine the price is the identity of the publisher.
- **Licence terms interfere with libraries’ role in offering variety:** increasingly, ebooks are available only on **metered and time-limited licences:** licences which expire after a certain number of terms or a certain period — whichever expires first. To justify the expenditure, libraries must be confident that there is sufficient demand for the book within the duration of the licence. This makes it more likely libraries will focus on new, popular titles at the expense of older titles. In our survey, librarians expressed interest in per loan or simultaneous use licences (like those available in some European countries), but we found no evidence of these being offered in Australia.
- **A positive impact when books enter the public domain:** public domain titles were more available for elending, and at a lower price, refuting claims sometimes made that publishers will not invest in making public domain titles available.
- **In one key positive message, no evidence of embargos on new titles:** new titles were made available for elending at the same time as titles launching for sale.

After all this work, we still had an unanswered question: **does elending impact on sales?** Thus, *Untapped: The Australian Literary Heritage Project* (Untapped) was born. Untapped worked with libraries, authors, and a publisher to republish 161 previously out-of-print but culturally important Australian titles. The titles were released simultaneously for retail sale and library elending in December 2021. By working across the chain, the team were able to collect comparative ebook sale and loan data for 12 months from the release date. The project revealed:

- **Borrowing demand:** the 161 ebook titles circulated 15,688 times in the first year following re-publication, with each ebook title — even the most niche and esoteric — circulating at least five times
- **Sales demand:** 5,923 digital copies were sold across Amazon, Apple and Kobo platforms during the 12 months after release;
- **No evidence of ‘cannibalisation’ of sales:** we had a set of titles already available from the publisher that were included in Untapped elending, meaning we could compare titles made available for elending and those only available for sale, from the same publisher, looking at the period before and after the elending release date. In fact, elending appeared to have a **modest positive effect on sales.**

Untapped generated around \$120,000 in additional income for authors in the project’s first 12 months. All participants received ebook royalties from retail sales and library licensing. Library promotions of the project (such as the promotion in Western Australia) may well have played a role in these successes.

Untapped worked because authors pursued **reversion** of their copyright (reclaiming their copyright from publishers). The project showed just how hard this can be for authors, even when reversion is written into publishing contracts. Authors struggled to:

- Find their contract and confirm they had reversion rights;
- Pursue those rights with the publisher (and sometimes, even work out who held publishing rights where they had been unsold); and
- Convince publishers to revert the rights.

## Where does all this lead us?

The elending project and Untapped have generated evidence of market failure: evidence that the terms on which titles are offered for elending do not make sense and do not reflect market or library value, and evidence that some publishers simply haven't made titles available. This all interferes with the critical public role of public libraries: in making culture and information available to all without discrimination, especially to those without the resources to buy books, and to preserve and make available older titles that are no longer available in the bookstores. The latter, in particular, is threatened by markets that impose the same prices, and the same rigid terms, to older titles.

This could justify legislative reform: copyright exceptions or other legislative reform, for example, to address situations where titles are unavailable or are unavailable on reasonable terms. In published work we have argued this would be possible (Giblin and Weatherall, 2022). There is also evidence to support reform to make **rights reversion** easier and more available for authors.

But there is another way this could go. Legislation is not always the answer, and can be conservative in its results, especially when it comes to copyright reform, and especially in Australia. Untapped, in particular, suggests there is a path forward where publishers, authors, libraries and readers could all win. With the evidence we have that elending does not harm, and may even *benefit*, sales, we see space for a better deal: for better cooperation between libraries, authors and publishers, in library-led initiatives that can make lending and sales more visible to those for whom it matters, and where authors can find their readers. We hope that the project can contribute to a more positive, more creative, and book-filled future.

## Background

Libraries serve a critical public function by undertaking curation work, fostering community engagement, and promoting access to knowledge. Libraries have long operated by buying and lending out books — which they can do without the permission of copyright owners who might see such activity as eating into their markets. Authors' remuneration for library uses has also traditionally sat outside the market, with public lending rights (PLR) providing federally-funded payments to authors for each public library loan of their title.

However, the growth of ebooks presents new challenges for the library sector. Lending ebooks necessarily requires libraries to make copies and transmissions. These acts fall within the copyright owner's exclusive rights. So, libraries are required to obtain licences from publishers before they can lawfully engage in these activities. Licences, of course, can be refused, or made conditional. This grants publishers substantial control over library use of and access to ebooks.

Many libraries have reported significant barriers to acquiring and lending ebooks as a result of high costs, restrictive licences and limited availability. This is a public policy problem, as digital books offer considerable potential for expanding access — particularly for remote communities, foreign language speakers, the vision-impaired, and those with limited mobility. Author remuneration in the ebook context is also a conundrum: in a context where libraries already pay 'market' prices determined by publishers, the case for public funding of author remuneration is less compelling. But there is little transparency and no guarantee that authors will benefit from library payments for elending.

There are reasons why ebook and physical loans might be regulated differently. Elending reduces frictions arising from physical book lending: it offers the opportunity for multiple patrons to

borrow the same ebook simultaneously without leaving their home, and the title will remain in perfect condition no matter how many times borrowers drop it in the bath. The concern is that eborrowing may constitute a perfect substitute for the purchase of books. Publishers have expressed fears that, as a result, readers could get a library card and never buy a book again. However, this purely market-based approach to elending risks undermining the important social goals that libraries serve.

In 2015, a first-of-its-kind study, *[‘At the Intersection of Public Service and the Market: Libraries and the Future of Lending’](#)*, by Giblin and Weatherall outlined the differences between the regulation of elending and the lending of physical books. They elucidated the risks involved in a market-based approach to elending, including the potential for publishers to contract out of copyright exceptions, the ability to impose technological limitations on library distribution and the market constraints placed on author remuneration. Other research at this time similarly examined whether libraries should be entitled to loan ebooks without rightsholder permission (Dusollier, 2015), the impact of ebooks on authors’ experiences (Throsby et al, 2015) and arguments for and against the extension of the PLR to ebooks (Matulionyte, 2016).

However, empirical data was scarce in relation to the social and economic impacts of elending and the effects of existing regulatory elending schemes on libraries’ abilities to achieve their missions. With this in mind, the elending project team, made up of experts from law, media studies, data science and economics, sought to investigate developing elending practices and analyse the social impacts of existing regulatory approaches. The team used this analysis as a foundation to examine the scope for legal and policy reform in this domain with the goal of ensuring that libraries can continue to fulfil their central social and cultural policy objectives.

## Aims and Objectives

The elending project aimed to support Australian libraries to navigate the challenges of elending within the existing regulatory framework, while exploring potential avenues for reform.

As an initial step, we sought to create a data-driven knowledge base to test the availability, price and impact of ebooks on libraries, and through them, society. The focus of this knowledge base was on:

1. **Availability:** The availability of books in electronic form.
2. **Access:** The terms on which libraries can obtain ebook access.
3. **Readership:** Who will borrow an ebook if it is available?

The main studies from the elending project revealed that a purely market-driven approach to elending is flawed. Outputs of the linkage project include publications, decision-making tools for libraries, and communications to inform policy discussions nationally and internationally — summarised below.

We then evaluated national and international laws and policies in light of the accumulated evidence, to determine whether there was a case for reform, and if so, to develop options for regulatory, legal and policy reform. As a short-term aim, we hoped to generate tools, methods and data to equip libraries to make better informed decisions about resource allocation within the current regulatory framework.

# Extensions to the Project Scope

## Untapped: The Australian Literary Heritage project

Despite the research and unique data gathered in the elending project, there was still a poor understanding of the relationship between elending and book sales. This made it difficult to introduce beneficial changes to the elending system, as we simply didn't know whether elending would hurt sales. Questions about the relationship between elending and ebook sales are notoriously difficult to test, and quality data has been inaccessible. This called for a novel methodology to investigate this relationship.

And so, we extended the scope of the project. In November 2020, we launched Untapped. Untapped digitised 161 culturally important and previously out of print titles — bringing them back to life. The team then worked with aggregators to include the titles on sales and elending platforms. By taking on the role of publisher, we had complete access to the sales data, and in partnership with libraries, we collected lending data for the same titles from aggregators.

This novel methodology provided an unusual but elegant vehicle to test four important research questions which have previously proven very tricky to test empirically:

1. To what extent, if any, does the introduction of elending cannibalise, or feed, book sales?
2. What are the relationships between library promotional activities and book loans and sales?
3. To what extent do out-of-print Australian titles have economic value that is currently being left on the table?
4. In practice, what challenges do authors face, if any, when they seek to revert their rights?

## Partners

The ARC Linkage Project LP160100387 was supported by formal partnerships with:

- National and State Libraries Australasia
- Australian Library and Information Association Ltd
- State Library of Western Australia
- State Library of New South Wales
- State Library of South Australia
- Yarra Plenty Regional Library Service
- Gold Coast City Council
- Brisbane City Council

We received additional support through partnerships with the Australian Society of Authors, Ligature, the State Library of Victoria, Libraries Tasmania, Libraries South Australia, Libraries ACT, and Libraries and Archives NT. Further valuable international cooperation was contributed by the Vancouver Public Library (Canada), St Mary's County Library (as part of the Maryland Digital Library consortium) (US), the Auckland Libraries (NZ) and the Hampshire Libraries (UK).

We thank all our partners for their contributions, expertise, time and other resources, and to aggregators Overdrive, James Bennett, Bibliotheca, Wheelers, Indyreads, and Bolinda for their cooperation and support.





## Project Team

The project team consists of researchers from cross-disciplinary but complementary areas, across legal, social and data science domains. The team brought a unique combination of qualifications, as outlined below.



**Professor Rebecca Giblin** was the project lead, and is an Australian Research Council Future Fellow, Professor of Law at the University of Melbourne Law School and Director of the Intellectual Property Research Institute of Australia (IPRIA). Her work focuses on copyright, access to knowledge, authors' rights and technology regulation.



**Professor Kimberlee Weatherall** is a Professor of Law at the University of Sydney, a Fellow at the Gradient Institute, a Chief Investigator with the ARC Centre of Excellence for Automated Decision-Making and Society, and a member of the Commonwealth Government's AI Expert Group. Her work focuses on the regulation of technology and intellectual property law.



**Professor Julian Thomas** is a Distinguished Professor in the School of Media and Communication at RMIT University and a Director of the ARC Centre of Excellence for Automated Decision-Making and Society. His work focuses on digital inclusion, automation and topics relating to the pasts and futures of new communications and computing technologies.



**Dr Paul Crosby** is a Senior Lecturer in Economics at the Macquarie Business School, Macquarie University. He specialises in applied microeconomics, focusing on the economics of digitisation, cultural industries, social media, sports and consumer choice.



**Professor Geoff Webb** is a Professor of Data Science and Artificial Intelligence at Monash University, an IEEE Fellow and world-renowned expert in data mining and machine learning. He has extensive experience working with researchers to obtain scientific insights from their data across a range of disciplines.



**Dr François Petitjean** was a Senior Lecturer in Data Science at Monash University and is currently a Data Science Director at the Australian Taxation Office.

# Results of Empirical Investigations

The team reported on the project's main empirical results through four substantive academic outputs.

## 1. 'Available – but not accessible? Investigating publisher e-lending licensing practices' (2019)

Rebecca Giblin, Jenny Kennedy, Kimberlee Weatherall, Daniel Gilbert, Julian Thomas and François Petitjean  
<https://informationr.net/ir/24-3/paper837.html>

Publishers have significant control over the elending landscape through the terms they set in licensing agreements, but remarkably little was previously known about how publishers exercise that power; how the availability, terms and pricing of ebooks differ across jurisdictions; and how such decisions may impact public libraries' abilities to fulfil their missions. In order to address that data-gap, we collected data from all five aggregators operating in Australia (OverDrive, Bolinda, Wheelers, James Bennett and Bibliotheca) and for 546 titles, we asked: were the books available, for how much, and on what terms? We then compared availability and pricing to physical versions.

In order to better understand cross-jurisdictional differences, we collected the same data from a single aggregator across five jurisdictions (Australia, New Zealand, the United Kingdom, the United States and Canada). This enabled us to draw a meaningful comparison at a title level in relation to availability, licence terms and pricing.

### Availability of titles

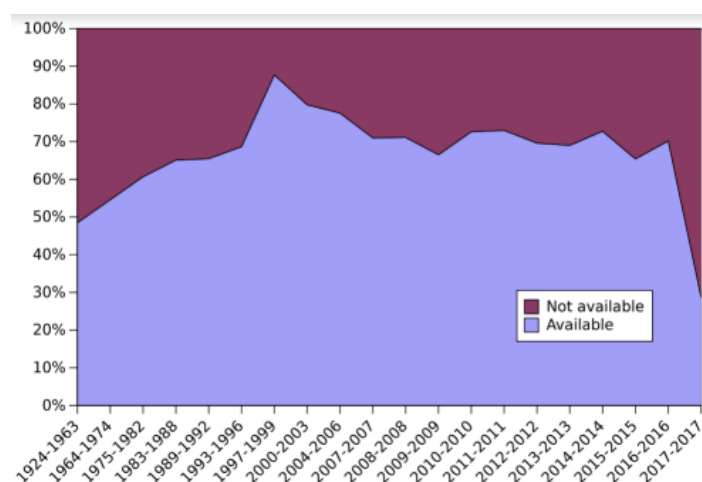
In our Australian focused study, we found that 24% of our sampled 546 titles were missing from the aggregators' offerings. When we examined this phenomenon on an international level, we found that books were similarly missing from aggregators' offerings at rates ranging from 29% to 41%. Whilst availability was better than anticipated, digital availability was still considerably lower than physical availability, with comparatively only 6% of the titles being unavailable in physical form in Australia. Interestingly, more than half of these physically unavailable titles *were* available for elending. This suggests that elending in libraries was already playing an important role in ensuring continued cultural availability.

### Did age have an impact on availability?

Our findings, reflected in Figure 1, show that the oldest titles were available at higher rates than the newest titles for elending. This may indicate a reluctance introduce new titles for elending due to a fear it could cannibalise retail sales for these newer titles.

Titles published between 1980 and 2000 were widely available, with peak availability for titles published around 2000. This shows that publishers are acting to capture value from their backlists, and highlights the important role played by libraries in ensuring that culturally significant books continue to be available.

Figure 1: Availability of title by publication date



## Was there a time lag?

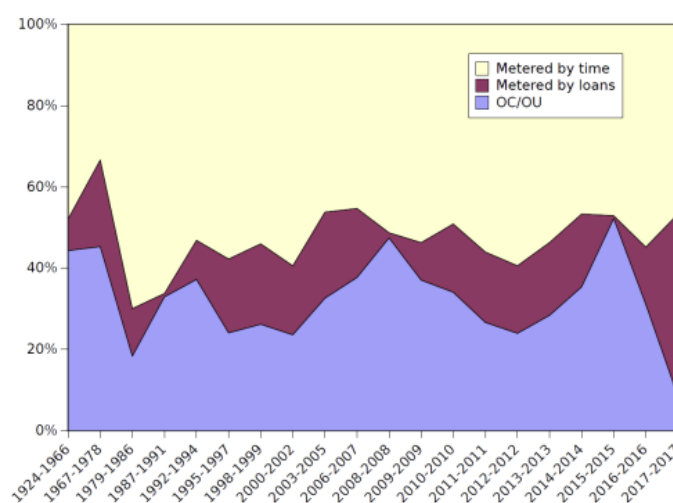
We analysed the timing of availability for lending for 81 books in the *Bestseller Time Lag* sample available via OverDrive. We found that most bestsellers became available quickly, with 49% of our sample of 81 books becoming available on their exact publication date and 26% becoming available before their official publication date. The latest a title was available after publication was 16 days. This suggests that delays for bestsellers was not an issue.

## Pricing

Substantial price variation was observed across platforms, with differences reaching up to 50% for identical titles. Prices also varied significantly by publisher, particularly among Big 5 publishers, making it difficult for libraries to accurately budget. Despite higher production costs for new titles, in-copyright older titles often had similar prices to new releases, which may limit libraries' capacity to purchase culturally significant older works. Notably, price variations were more prevalent domestically than internationally, where cross-platform competition was slightly less pronounced.

## Licensing models

Figure 2: Age and licence type – AU



Libraries had limited control over licence type, with 99% of titles having only one licence option in Australia. Similarly, on the international level, 97% of titles were only available via one licence option.

We found that whilst books may be more widely available to libraries for lending than expected, they are not necessarily accessible. As shown in Figure 2, our analysis revealed restrictive licensing models, with metered (time- or use-limited) licences being used widely. These limited

licences were used particularly broadly by the Big 5 publishers in Australia, the United Kingdom and New Zealand. 'One-copy, one-user' (OC/OU) licences, which allow ebooks to be lent to one borrower at a time for as long as the library subscribes to a platform, were increasingly rare for newer books. Interestingly, backlist titles, including the oldest books in the sample, were also predominantly made available on time-limited licences. This is concerning, as it means that these books will be deleted from library collections at the end of the licence term even if nobody has ever borrowed them. Books are known to depreciate quickly (Thompson, 2010). This puts older titles in a more vulnerable position, as libraries will be less likely to take a chance on these books if they are only offered on a time-limited licence.

## 2. ‘What can 100,000 books tell us about the international public library elending landscape?’ (2019)

Rebecca Giblin, Jenny Kennedy, Charlotte Pelletier, Julian Thomas, Kimberlee Weatherall and François Petitjean

<https://informationr.net/ir/24-3/paper838.html>

Building on earlier work and using a much larger dataset of almost 100,000 titles, this publication reported on the relative availability of ebooks for elending in five English-language countries. We also analysed the licence terms and prices on which these ebooks were made available. The analysis of licence terms was based on a unique dataset containing the author, publisher, price and terms for 94,328 titles and 388,045 elending licences across Australia, New Zealand, Canada, the United States and the United Kingdom as provided through the aggregator Overdrive. We created this dataset using innovative new algorithms, with one algorithm matching records across jurisdictions with high accuracy and the other algorithm estimating original publication date for each title. Statistical analysis and machine learning were then used to examine the relationships between the title price, age, terms, jurisdiction, publisher and publisher type.

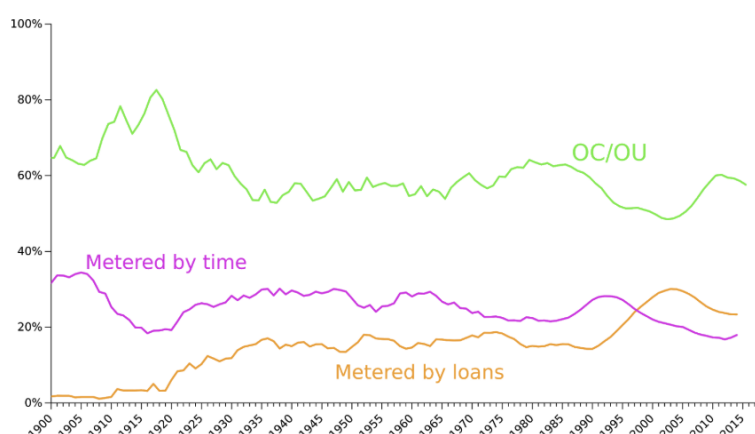
### Licence terms: Limited choice for libraries

Our analysis showed that libraries had close to no control over elending licences, with only one licence-type available for 97% of the titles in our sample. Licence terms were also largely uniform across jurisdictions. Any differences in terms, found in only 17% of cases, were typically driven by decisions from Big 5 publishers.

### Licence terms: Title age

Given our previous findings, we were particularly interested to see whether older books are made available for elending on different terms when compared to newer books. However, per Figure 3, our analysis showed that for in-copyright titles, title age does not influence publishers decisions regarding which licence to attach to which books. This suggests that publishers do not treat older books any differently when determining lending conditions.

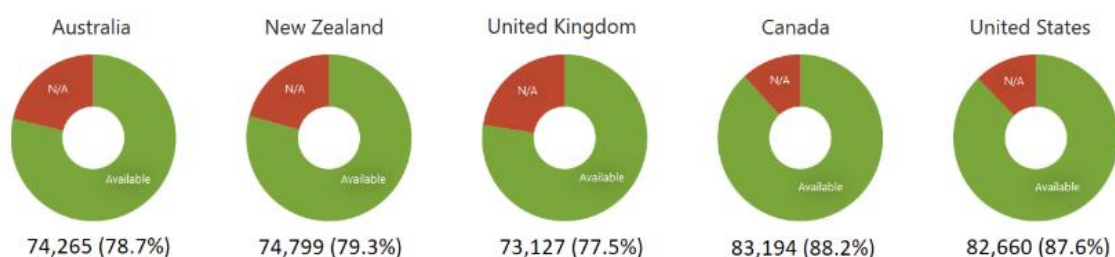
Figure 3: Proportions of licence type by year of publication



### Availability of ebooks across jurisdictions

We found that ebook availability was patchy. As seen in Figure 4, our analysis demonstrated that Australia and New Zealand were missing around 21% of books from our dataset, whilst the United Kingdom was missing 22% and Canada and the United States were both missing 12%. It was striking to see that Australia had the second worst availability of the countries studied, particularly as our sample was skewed towards books that were most read in ebook form in Australian libraries.

Figure 4: Relative availability of titles across jurisdictions



## Price variability

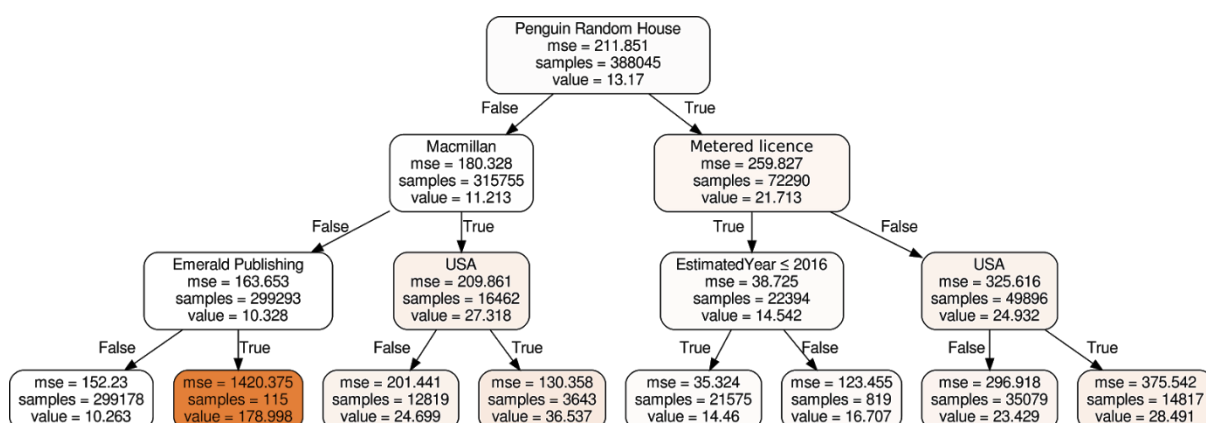
The price per circulation of ebooks was very similar across countries for the 94,328 titles available in all five jurisdictions. However, when focusing on the Big 5 publishers, we observed significant price variation. For Big 5 titles, median prices ranged from \$5.57 to \$40, while other publishers' titles had minimal variation, ranging from \$1.94 to \$7.49.

Public domain titles (those published before 1930) had significantly lower prices, with copyright status correlating to a tripling or quadrupling of price. However, we found no correlation between a title's original publication year and its price for in-copyright works. This shows that older (in-copyright) books with less demand are being priced similarly to new releases with much higher demand. This may make it infeasible for libraries to add them to collections, which in turn threatens libraries' role of ensuring continued availability of culturally significant books.

## Publisher impact on price

The publisher was found to be the most important factor in determining the price of an ebook, ahead of licensing terms or the title's age. This analysis was conducted using a machine learning model, which learned a regression tree based on the 388,045 licences. Time and time again the regression tree split on publisher name first regardless of the publication date, licence terms or publisher type. This suggests that the rights that libraries actually get under licences have nearly nothing to do with the characteristics of the individual titles or licences — it is simply the individual publisher who determines the price.

Figure 5: Representation of regression tree up to three levels



### 3. 'Driven by demand: Public library perspectives on the elending market' (2020)

Jenny Kennedy, Rebecca Giblin, Kimberlee Weatherall, Julian Thomas

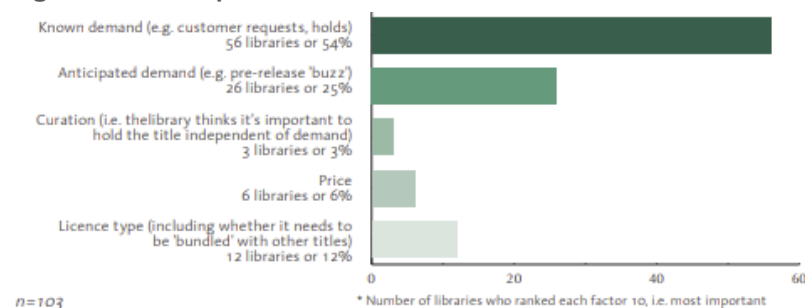
<http://elendingproject.org/report.pdf>

This report presents findings from a national survey of Australian public libraries. Through this survey, we sought to learn more about the challenges faced by Australian public libraries in managing their elending collections, with a focus on the impacts of licensing and pricing models.

#### Demand-driven purchasing

A key goal of this research was to understand how public libraries decide whether to buy titles for elending. Notably, we found that public demand for titles remains the most critical factor in library purchasing decisions, with libraries prioritising titles based on actual and anticipated demand over other considerations like price or licensing terms. Survey participants reported that libraries were willing to purchase high-demand titles even at unattractive prices to satisfy patron needs. As one respondent noted: 'remaining relevant means that we are a slave to demand driven purchasing. (Don't tell the publisher)'. This finding is particularly impactful given that our previous research has found that publishers set their prices in ways that are disconnected from the value of books to libraries.

Figure 6: Most important factors for libraries to decide whether to buy



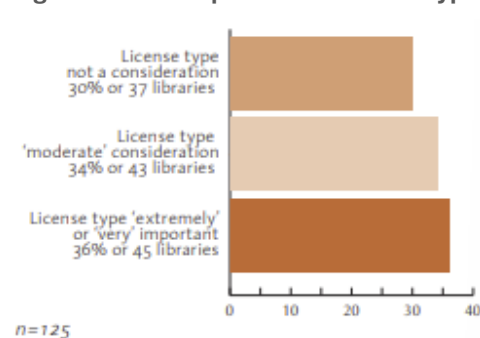
#### Financial investment in elending

Responses to our survey showed that Australian libraries are investing significant amounts in elending. The total reported annual spend on ebooks was \$11.77 million, with individual library budgets ranging from \$1,500 to over a million dollars. Despite forming a small portion of the overall book market, elending is a fast-growing segment of library budgets. These findings show that the financial stakes involved in elending are significant, making it all the more important to address the market issues identified in previous research.

#### Licensing and pricing challenges

Licence terms were an important factor in libraries' purchasing decisions, more so than price.

Figure 7: How important is licence type in library purchasing?





We found that libraries struggle with rigid licensing models that limit the number of loans or impose time restrictions, such as time-limited licences that cause titles to disappear from collections after a set time period. Furthermore, most libraries manage collections across multiple platforms in order to ensure access to the widest variety of books. However, this has financial implications given that platforms typically charge hosting fees.

Survey responses reported that licensing models and high costs have a notable impact on libraries' curation role, especially for culturally significant works and Australian literature. In particular, libraries reported challenges in maintaining a balanced collection when the only way they can repurchase titles that are important but less frequently circulated is through time- or use-metered licences. This results in collections that prioritise newer, high-demand titles at the expense of broader cultural representation.

Reflecting these issues, survey respondents stated that it was important to them that publishers offer multiple licence types and price points for titles, allowing libraries to tailor purchases based on their specific needs and budgets. They also expressed a preference for simultaneous-use licences, which allow multiple patrons to borrow the same title, and per-loan pricing, which would allow libraries to only pay for ebooks if they are borrowed by patrons. Ultimately, this model would allow for a larger selection of titles to be held in collections whilst eliminating the financial risk involved in including titles that do not circulate. However, for it to be an attractive option, the prices would need to be sustainable, which they currently are not.

#### **4. 'Untapped potential: Results from the Australian Literary Heritage Project' (2024)**

**Paul Crosby, Tessa Barrington, Airlie Lawson and Rebecca Giblin**

<https://law.unimelb.edu.au/news/ipria/untapped-potential-results-from-the-australian-literary-heritage-project>

Untapped republished 161 previously out-of-print, culturally important Australian titles. The titles were released simultaneously for retail sale and library lending in December 2021, allowing the team to collect comparative ebook sale and loan data for 12 months from the release date.

Our economic analysis was facilitated by the inclusion of 27 titles which had already been republished as ebooks by Ligature, Untapped's publishing partner ('Ligature-Untapped titles'). Because the entire collection was released simultaneously for lending and retail sale, and because the Ligature-Untapped titles had only been available for retail sale but not library lending prior to inclusion in the Untapped collection, this allowed the team to analyse the impact of lending on ebook sales with other factors controlled for.

##### **Public demand**

We found that there was substantial and previously unmet public demand to borrow these titles. The 161 ebook titles circulated 15,688 times in the first year following re-publication, with each ebook title — even the most niche and esoteric — circulating at least five times.

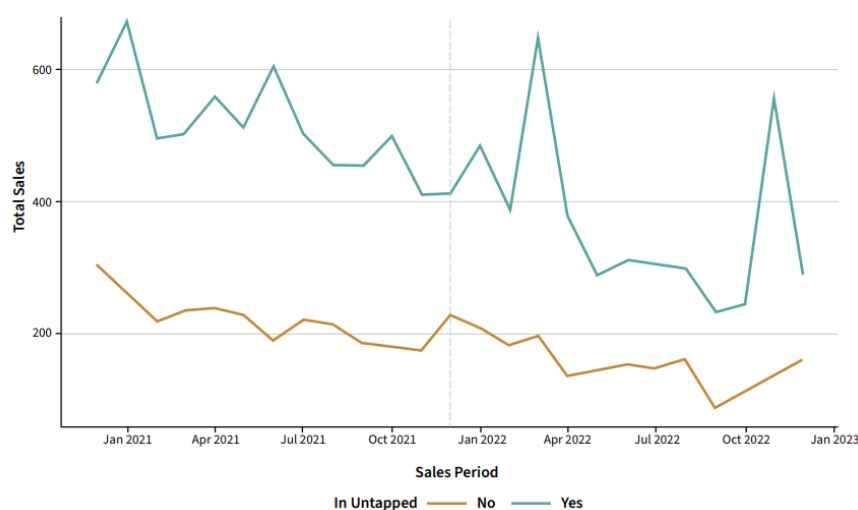
There was also public demand to purchase these titles, with 5,923 digital copies sold across Amazon, Apple and Kobo platforms during the 12 months after release.

##### **Lending does not cannibalise book sales**

We found no evidence that lending cannibalised book sales. We compared the sales data of the Ligature-Untapped titles (which were made available for lending) with the sales data from other Ligature titles that were not included in the Untapped collection (and were not available for

elending). We looked at data from the 12 months before Untapped was launched, and the 12 months following the launch.

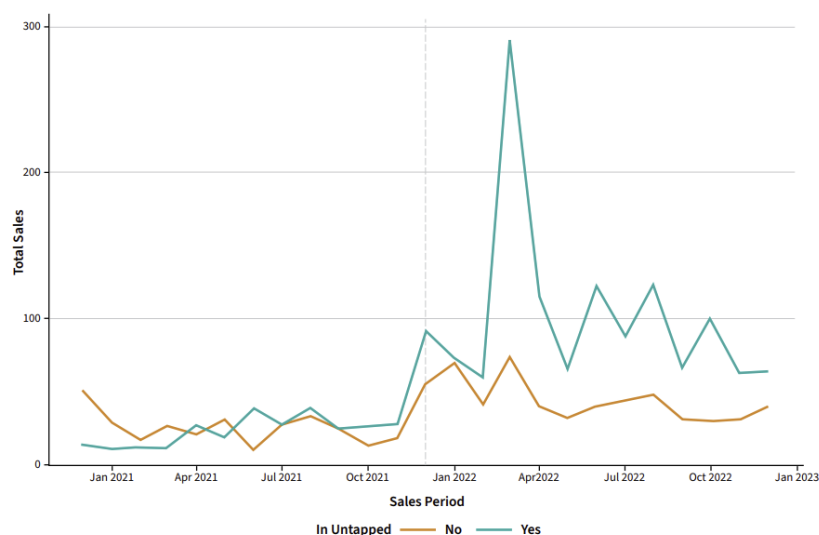
**Figure 8: Sales trends over time – Available for elending v only available for ebook sale**



As seen in Figure 8, there was a decline in sales. This was expected given that books depreciate quickly after publication. Crucially though, the decline in ebook sales for the Ligature-Untapped titles was not significantly different from the decline observed in Ligature titles. This suggests that the availability of the Ligature-Untapped titles for elending did not have any detrimental effect on their ebook sales.

### Elending may feed book sales

**Figure 9: Sales trends over time – Removing top 5 highest-selling authors**



As shown in Figure 9, after excluding the top five highest-selling authors to minimise variance in the data, we discovered that sales of Ligature-Untapped titles following the launch actually increased relative to sales prior to the launch. This suggests that elending had a modest positive effect on ebook sales for 'long tail' titles.

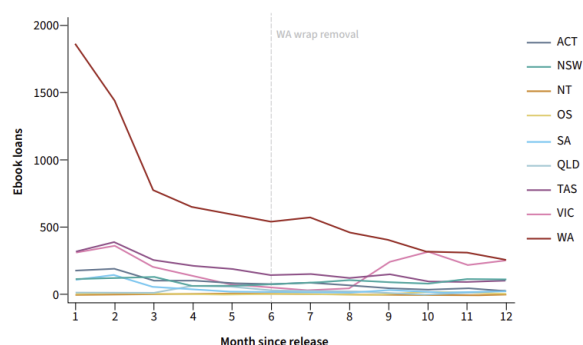
### Library promotional efforts influenced circulation

Our results in respect of promotional efforts were limited by the fact that only the State Library of Western Australia undertook and reported on substantial promotion of the Untapped collection;



most notably, it wrapped the library in an advertisement for the collection for six months from launch.

**Figure 10: Monthly loans over time by state**



**Figure 11: Promotional wrap**



Whilst limited, the results demonstrate that library promotional activities have a real and valuable ability to influence what people read. As seen in Figure 10, Western Australia had a higher number of ebook loans during their promotional period than any other state. Even after the promotional wrap was removed, the impact of the State Library’s promotions persisted with Western Australia outperforming all states for almost every month of the data collection period and recording the highest number of loans overall.

### **Economic and non-economic benefits for authors**

The Untapped project generated around \$120,000 in additional income for authors in the project’s first 12 months. All participants received ebook royalties from retail sales and library licensing.

In October to November 2023, we conducted a follow-up survey of the Untapped participants. The survey received 47 responses, three quarters of which were from authors or co-authors of Untapped titles (79%), with the remaining respondents identifying themselves as authors’ heirs (21%). Almost a fifth of respondents (17%) reported additional economic benefits above and beyond the direct financial rewards from publication, including speaker fees, international translations, and negotiations for film and television rights. Many authors also outlined the personal value to them of their books being once again available to the public.

‘The value is in having what I regard to be an important book out there and available again’  
– Steve Hawke

### **Reversion rights**

Untapped showed that there is substantial unmet demand for culturally important out-of-print Australian titles. However, the only reason we were able to meet this demand was because the participants were successful in reverting their rights.

Previous research has analysed contractual reversion rights in Australia’s trade book publishing industry, revealing a number of deficiencies in a contractual approach and highlighting a need for minimum mandatory reversion rights (Giblin and Yuvaraj, 2021). However, there has been a poor understanding of how contractual reversion rights operate in practice. Untapped’s novel methodology provided the opportunity to interrogate this issue further.

For 115 of the titles published by Untapped, the rights had already reverted to the author or their heirs prior to our involvement. For the remaining 46 titles, we worked with authors and estates to help them reclaim copyrights, recording the reversion process where practicable. We then

interviewed a sample of 23 participants to gain a better understanding of the challenges faced during the process.

We found that while most authors were eventually able to reclaim their rights, they often faced a wide array of obstacles and high transaction costs when seeking to do so. These included:

- Challenges locating the original publishing contract to determine whether they had a right to reclaim their copyrights
- Time and resources spent chasing publishers to confirm that their right to reversion had been triggered (i.e. that the title was contractually out of print)
- Difficulties identifying who held the publishing rights to the title, particularly where publishers' lists had been sold or acquired
- Some publishers initially refusing to revert the rights and instead seeking to strictly enforce their contractual entitlements, even where they showed no signs of re-publishing the out-of-print title.

Given the uncertain economic value of most out of print texts, in some cases these costs may deter authors from reclaiming their rights at all. These findings add weight to calls for a more effective regulatory framework for reversion rights in Australia.

## 5. 'Taking Control of the Future: Towards Workable Elending' (2022)

Rebecca Giblin and Kimberlee Weatherall

<https://www.degruyterbrill.com/document/doi/10.1515/9783110732009-017/html?lang=en#APA>

Evidence gathered in the course of the project raises the question: what is an appropriate policy response? In this open access chapter, Giblin and Weatherall summarise the empirical evidence from the project, and explore options for reform:

The first option would be to reform copyright to reinstate traditional library models of lending in the digital environment through exceptions. **Controlled Digital Lending** (CDL) is one model, under which a library which has purchased one or more copies of a book can make a digital copy and circulate the physical and/or digital copies up to the number of legitimately purchased copies held. Depending on the details of such an exception, Giblin and Weatherall argue that it could be consistent with international copyright law requirements known as the 'three step test'. The studies, and other evidence, support the view that there is market failure whereby an exception could be justified:

1. As a temporary and emergency measure to allow elending without copyright owner permission, especially for books otherwise unavailable as ebooks (eg during COVID);
2. Where publishers have failed to make books genuinely available for elending (the project having provided evidence that certain publishers have not made titles available);
3. For older and less popular books, where time-limited commercial licensing terms priced at similar levels to new, popular books do not provide value to public libraries.

A second option would be to enact legislation **prohibiting publisher licensing practices that are contrary to the public interest** (as has happened in some US states). Legislation could:

1. Require publishers offering ebooks for purchase to also make them available for elending on reasonable terms;
2. Prohibit embargoes;
3. Set out what limitations are 'reasonable' (for example, limiting loan lengths or the number of simultaneous readers).

Unfortunately, feasible reforms are likely to be conservative, and hew closely to the past — and fail to take advantage of potential *benefits* of digital technology.

A key problem is the lack of information: especially about ebook circulation via lending and the impact of elending on book sales. This is why the Untapped project outlined elsewhere in this report is so important.

Another option considered in the chapter is **library-controlled elending platforms**, which could provide access to local material, with fees lower than commercial providers. Such platforms could facilitate library access to out-of-print books via partnership with authors who hold reverted or retained copyrights. As the chapter outlines, there are possible scenarios where, with more information sharing and some creativity, everyone wins — libraries, readers, authors, *and* publishers.

## Other Outputs

The following publications were developed using the data obtained in the central papers reported on above.

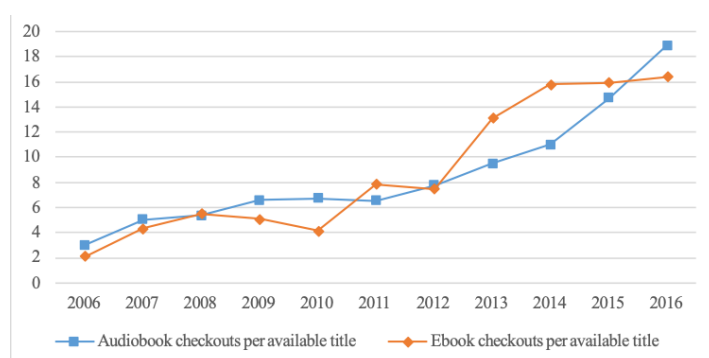
### 1. ‘Exploring the circulation of digital audiobooks: Australian library lending 2006-2017’ (2021)

Millicent Weber, Rebecca Giblin, Yanfang Ding and François Petitjean-Hèche

<https://informationr.net/ir/26-2/paper899.html>

This study investigated patterns in digital audiobook and ebook circulation in Australian libraries to identify and analyse trends in the demand for audiobooks and ebooks. Responding to the lack of existing data in this domain, we collated a dataset of 555,618 audiobook checkouts and 3,475,188 ebook checkouts which represented all OverDrive checkouts from these services between 2006 and July 2017. This data was enriched by adding information about the publisher, title genre and predicted sex of the author using the *Genderize.io* API.

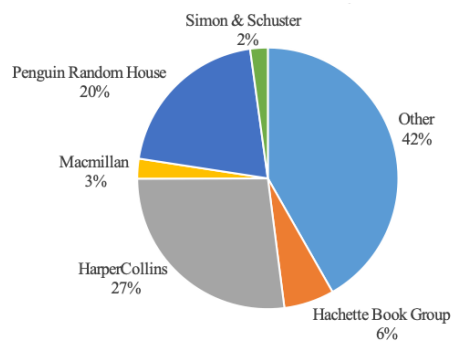
**Figure 12: Audiobook and ebook checkouts per available title, per year.**



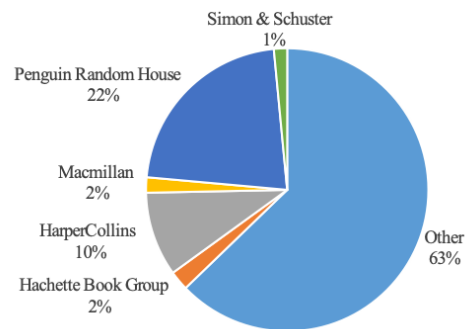
We found that audiobooks and ebooks have experienced substantial growth since 2006. Per Figure 12, this trend seems to be on a continued upwards trajectory.

Figures 13 and 14 show that the Big 5 publishers account for substantial shares of both audiobook checkouts and ebook checkouts. At a more granular level, however, the Big 5 publishers had less prominence, with digital-only romance publishers playing a significant role in the ebook market and other players being equally or more competitive than the Big 5 in audiobook publishing.

**Figure 13: Ebook checkouts per Big 5**



**Figure 14: Audiobook checkouts per Big 5**



Analysis of the enriched data also showed that titles authored by women tend to be borrowed more often than titles authored by men. This was the case both for audiobooks, where there were more male-authored titles available in the collection, and for ebooks, where there were more female-authored titles.

## **2. ‘What happens when books enter the public domain? Testing copyright’s underuse hypothesis across Australia, New Zealand, the United States and Canada’ (2019)**

Jacob Flynn, Rebecca Giblin and François Petitjean

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3401684](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3401684)

Using the rich database from our main empirical studies, we sought to investigate the effects of copyright on the availability of ebooks in public libraries. We specifically aimed to test the ‘underuse hypothesis’, which proposes that without exclusive rights, publishers lack the incentive to maintain older works’ availability.

We compared ebook lending data across Australia, New Zealand, the United States and Canada, examining works under copyright compared to those in the public domain. This was the first study to test the underuse hypothesis with a title-level analysis, facilitated by differences in copyright terms across these four jurisdictions. These differences allowed the team to simultaneously compare a title’s availability under copyright in one jurisdiction with the same title’s availability in the public domain in another jurisdiction.

Findings reveal a ‘public domain effect’, with books in the public domain being generally more available, and at a lower cost, than those in copyright. Contrary to the ‘underuse hypothesis’, exclusive rights did not guarantee better availability or more investment in our sample. This suggests that lengthier copyright terms may restrict access and discourage availability of culturally significant works.

# Getting the Word Out

To maximise the reach and impact of our findings, we disseminated key results through our own project websites, the popular press and in numerous in-person engagements.

## Websites

We published all results from the elending project at <http://elendingproject.org/>. The website was novel for its time, presenting a comprehensive and progressive interactive dashboard which allowed users to explore the data themselves.

Information about Untapped, including the team and our partners, a description of the project, and a recording of Untapped's official online gala launch, can also be found at <https://untapped.org.au/>.

## Popular Press

The Untapped project received considerable media attention, allowing the project to reach a broader audience and contributing to public dialogue around the preservation of out-of-print books and their cultural value.

Following the project's launch, The Guardian featured an article by James Shackell in June 2021 titled, '[Most of Australia's literary heritage is out of print: the fight to rescue a nation's lost books](#)'. This article outlined the project's mission, quoting project lead Professor Rebecca Giblin: 'We have to find new markets and new pots of money if we want our stories to continue being told'.

In November 2020, Professor Rebecca Giblin and Dr Airlie Lawson also released a piece in The Conversation titled '[10 "lost" Australian literary treasures you should read – and can soon borrow from any library](#)' to support the project's launch, highlighting ten important titles that would be re-published in digital form under the Untapped imprint.

Following the release of the Untapped project's primary findings, The Guardian featured an article by Kelly Burke in January 2025, titled '[More than 100 famous works by Australian authors rescued from oblivion by literary heritage endeavour](#)'. The article reported the project's main findings and emphasised the need for reform, quoting Chief Investigator Dr Paul Crosby: 'What we'd like to see is the introduction of some time limits ... recognition that if the publisher isn't using the rights, that doesn't mean they're not worth anything'.

## Presentations

The team also delivered a series of presentations to share the projects' aims and key findings.

### ADA Copyright Forum 2017

Date: 24 February 2017.

Location: National Library of Australia, Canberra, ACT, Australia.

Presentation: E-Lending: Its Legal and Social Impact.

Speakers: Dr Rebecca Giblin and Professor Kimberlee Weatherall.

### **Asia Pacific Library and Information Conference**

Date: 1 August 2018.

Location: Gold Coast, Queensland, Australia.

Presentation: A data-driven investigation into the availability of books for e-lending: comparing Australia, the US, the UK, NZ and Canada.

Speaker(s): Associate Professor Rebecca Giblin.

### **IFLA World Library and Information Congress**

Date: 29 August 2018.

Location: Kuala Lumpur, Malaysia.

Keynote address: 5 countries and 100,000 books - what the data tells us about the e-lending landscape.

Speaker(s): Associate Professor Rebecca Giblin.

### **RAILS Conference**

Date: 29 November 2018.

Location: Monash University, Melbourne, Australia.

Presentation: A multi-disciplinary mixed-methods approach to investigating public library e-lending practice.

Speaker(s): Associate Professor Rebecca Giblin.

### **Australian Digital Alliance Copyright Forum**

Date: 2 April 2019.

Location: National Library of Australia, Canberra, ACT, Australia

Presentation: Project updates – E-lending in public libraries.

Speaker(s): Associate Professor Rebecca Giblin and Professor Kim Weatherall.

### **WIPO Standing Committee on Copyright and Related Rights**

Date: October 2019.

Location: Geneva, Switzerland.

Presentation: E-lending project.

Speaker(s): Associate Professor Rebecca Giblin and Professor Kimberlee Weatherall, in partnership with IFLA.

**WTO IP and Trade Policy**

Date: 25 October 2019.

Location: Geneva, Switzerland.

Presentation: Creative work bringing the rigour to evidence-based copyright policy.

Speaker(s): Associate Professor Rebecca Giblin and Professor Kimberlee Weatherall.

Audience: TRIPS Council delegates and interested staff from WIPO and WTO.

**Australian Digital Alliance Copyright Forum**

Date: 6 March 2020

Location: National Library of Australia, Canberra, ACT, Australia

Presentation: E-Lending project:

launch of National Library survey results.

Speaker(s): Associate Professor Rebecca Giblin.

**Untapped Project Launch**

Date: 24 November 2020.

Location: Online livestream from Longacres, the historic house of Sir Arthur Streeton.

Presentation: Untapped project launch.

Speaker(s): The Hon Julie Dodds-Streeton QC and Associate Professor Rebecca Giblin.

**Australian Library and Information Association**

Date: 9 June 2022.

Location: Online livestream.

Presentation: Untapped: ALIA Research Review Seminar.

Speaker(s): Professor Rebecca Giblin and Dr Paul Crosby.

**IFLA World Library and Information Congress**

Date: 21 August 2023.

Location: Online livestream.

Presentation: Untapped potential: economic analysis emerging from the Australian Literary Heritage Project.

Speaker(s): Dr Paul Crosby.

### **Society for Economic Research on Copyright Issues Annual Congress**

Date: 6 July 2023.

Location: Bournemouth, United Kingdom.

Presentation: Untapped potential: economic analyses of the Australian Literary Heritage Project.

Speaker(s): Professor Rebecca Giblin.

### **Cultural Data Analytics Conference**

Date: 13 December 2023.

Location: Tallin, Estonia.

Presentation: Untapped potential: economic analyses of the Australian Literary Heritage Project.

Speaker(s): Dr Paul Crosby.

### **New York University**

Date: 24 April 2024.

Location: New York, United States.

Presentation: Untapped potential: economic analyses of the Australian Literary Heritage Project

Speaker(s): Professor Rebecca Giblin and Dr Paul Crosby.

### **IFLA Information Futures Summit**

Date: 30 September 2024.

Location: Brisbane, Queensland, Australia.

Presentation: How book people can save books.

Speaker(s): Professor Rebecca Giblin and Dr Paul Crosby.



## The Way Forward

The main studies from the elending project reveal that a purely market-driven approach to elending is flawed. Rebecca Giblin and Kimberlee Weatherall's work, '[Taking control of the future: Towards workable elending](#)', highlights the key issues identified in this project: ebook availability is patchy, often unaffordable and bound by restrictive terms. Libraries, driven by demand, are vulnerable to market pressures, further complicated by poor data sharing across aggregators, platforms, and publishers. This is a changing landscape, and since the data collection for the project, some major publishers shifted to time-metered licences (Albanese, 2018), with Macmillan re-introducing embargoes on new titles in 2018 (Blackwell, 2018). These changes mirrored fears at the time that elending would reduce sales and make it even harder for libraries to achieve their core missions.

Giblin and Weatherall proposed several options for reform, including Controlled Digital Lending (CDL) which would allow libraries to digitise books they already own and lend digital copies in a controlled manner, matching the number of physical copies they possess to prevent excessive simultaneous lending. This approach offers a balanced solution by adapting physical lending practices to the digital space. However, last year the US Court of Appeals for the 2<sup>nd</sup> Circuit has held that CDL as engaged in by the Internet Archive was not fair use (*Hachette Book Group, Inc v The Internet Archive* 115 F.4<sup>th</sup> 163 (2<sup>nd</sup> Cir, 2024)) and outside of the US, most countries don't have a system that would even arguably allow CDL. Furthermore, the Berne Convention arguably presents an obstacle to implementing such a system broadly, although a more narrowly tailored CDL, such as in an emergency, might be allowable. Another proposed approach is to legislate against unreasonable terms. Inspired by recent laws in Maryland and New York (Giblin and Weatherall, 2022, p. 367), this reform would prohibit publishers from setting restrictive licensing terms, including terms which limit simultaneous access or impose time-based limitations that hinder library access to ebooks.

Our findings from Untapped filled important gaps in our understanding of the relationship between elending and book sales. Notably, the evidence simply does not support fears that elending cannibalises book sales. Instead, there is some evidence that elending may have actually helped 'long-tail' titles modestly improve sales.

These findings underscore the need for library-controlled elending infrastructure. If public interest is prioritised over intermediary profits, it is likely that we could avoid many of the issues identified during the elending project and unlock the true potential of elending. In Australia, the State Library of New South Wales' Indyreads platform has already led the way by eliminating aggregator commissions when publishers sell directly to libraries, ensuring a greater share of fees goes to both publishers and authors. Such models not only improve access to titles but also enable libraries to retain more control over costs and data, thereby enhancing their ability to serve the public and fulfill their core missions. Furthermore, this framework opens communication channels between libraries and publishers, allowing them to gain a better understanding of each other's economic realities. Ultimately, library-controlled elending infrastructure could help promote elending practices that work better for all.

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