



NATIONAL LIBRARY PARTNERS WITH INTERNET PIRATES

The New Zealand Society of Authors Te Puni Kaituhi o Aotearoa (PEN NZ) Inc (NZSA) and the Publishers Association of New Zealand Te Rau o Tākupu (PANZ) are shocked the National Library of New Zealand (NLNZ) has announced plans to handover hundreds of thousands of books from its collection to the notorious Internet Archive.

The Internet Archive's scanning and online distribution of books has been condemned internationally as piracy on a massive scale.¹ This activity by the Archive is the subject of a major lawsuit by international publishers, representing authors from around the world, and supported by authors groups.²

Our organisations represent thousands of authors and dozens of publishers from across Aotearoa New Zealand. In recent years leading authors from New Zealand, including Catherine Chidgey, Keri Hulme, Elizabeth Knox and Damien Wilkins, have had their books illegally distributed online for free by the Internet Archive, forcing publishers and authors to repeatedly spend time and money taking enforcement action.

But the piracy of treasured New Zealand works continues unabated. On the day of the National Library's announcement, works by Janet Frame, Patricia Grace, Keri Hulme, Witi Ihimaera, Albert Wendt and many other leading authors were being illegally distributed by the Internet Archive.

'We are stunned the National Library would partner with internet pirates that damage New Zealand literature on a daily basis,' says PANZ President Graeme Cosslett. 'The Internet Archive's repeated infringements of New Zealand works show their true nature – no claims to made-up laws, fake protocols or sanctimonious ideals can obscure this – they are committed to taking work from Aotearoa's authors and publishers. How can the National Library stand alongside internet pirates and not New Zealand's own literary community?'

¹ <https://publishingperspectives.com/2020/06/usa-aap-member-publishers-file-copyright-infringement-lawsuit-against-internet-archive/>

² <https://publishers.org/news/publishers-file-suit-against-internet-archive-for-systematic-mass-scanning-and-distribution-of-literary-works/>

‘The Internet Archive’s online distribution of copyright books is illegal,’ says NZSA Chief Executive Jenny Nagle, ‘American colleagues have described what the Internet Archive is doing as “no different than heaving a brick through a grocery store window and handing out the food – and then congratulating yourself for providing a public service.” Now their made-up ruse of ‘controlled digital lending’ means they’re simply asking people to form an orderly line around the block before receiving stolen goods. Hearing our own National Librarian repeat this lawless rationale is frightening.’

The National Library pleads that an ‘opt-out’ clause for rights holders of books given to the Internet Archive will address rightsholders’ concerns. Like the wider agreement, this mechanism has no standing in law, here or abroad. It appears to make claim to a presumed consent that simply does not exist, as shown by the scale of the current lawsuit from affected rightsholders.

This partnership directly contravenes international copyright treaties to which New Zealand is a signatory. If the National Library follows through with this scheme it will jeopardise New Zealand’s global standing as a place where creative industries can flourish. ‘It amounts to the National Library exporting its problem – washing its hands of it – to become instead the problem of individual authors, publishers, family estates and other rights holders around the world.’ says Cosslett, ‘This is not how New Zealand typically behaves on the world stage, nor does it reflect our nation’s values as a responsible global actor.’

Authors and publishers invest vast amounts of time, energy, and resource into working alongside New Zealand libraries, including the National Library, to provide readers with access to books. This scheme jeopardises our local literary ecosystem. ‘Internet Archive piracy challenges the livelihoods of Kiwi authors and publishers, who work hard in tough market conditions, to bring Aotearoa the stories we treasure.’ says Nagle, ‘The Department of Internal Affairs appears to think this scheme comes at no cost. But it brings heavy long-term costs, costs that fall squarely on local authors, publishers and the creative sector.’

We acknowledge that the National Library is under pressure to find a solution for these books. Placing them offshore with internet pirates is not the answer. The National Library must withdraw this plan, abandon any partnership with the Internet Archive and instead consult with New Zealand’s literary ecosystem to find a lasting solution that is legally and ethically sound.

For further information or to speak with Jenny Nagle, Chief Executive of the New Zealand Society of Authors or Graeme Cosslett, President of the Publishers Association of New Zealand, please contact director@nzauthors.org.nz or Catriona@publishers.org.nz

NOTES:

The New Zealand Society of Authors Te Puni Kaituhi o Aotearoa (PEN NZ Inc.)

Established in 1934 as the New Zealand PEN Centre and remains the principal organisation for New Zealand authors. It is a membership-based arts organisation, representing over 1,730 writers nationally through eight branches, and many hubs. For over 30 years, the organisation campaigned for a **Public Lending Right** to compensate authors for the loss of royalties on library use of their books. In 1973, the Authors' Fund was introduced by Norman Kirk and over 1,400 authors benefited from PEN's initiative. The Society works closely with our industry partners, government, and Creative New Zealand to ensure that the professional interests of writers are strongly represented on all issues.

The Publishers Association of New Zealand Te Rau o Tākupu

PANZ actively represents publishers' interests to industry and government. The PANZ advocacy team works to inform the relevant government departments and industry bodies of key issues facing book publishers and how we can work effectively together. Strong support from the publishing industry is vital to this work. Association members are a diverse mix of general, literary and educational publishers, ranging from small independent niche publishers to large multinationals. PANZ is an incorporated society headed by a President and seven council members. The Council is supported by an Association Director and a Membership Services Manager.

Creative Rights

www.creativerights.nz

Visit for more information on Aotearoa New Zealand's writing and publishing ecosystem.

International publisher's legal action:

<https://storage.courtlistener.com/recap/gov.uscourts.nysd.537900/gov.uscourts.nysd.537900.1.0.pdf>