

How the Settlement Will Work

By Isabel Howe

The landmark settlement between the Authors Guild and the Association of American Publishers (AAP) and Google promises to create new markets for out-of print books, while vastly improving reader access to those books.

The settlement will establish a new not-for-profit organization controlled by authors and publishers, the Book Rights Registry, which will collect and distribute revenues from Google and maintain a database on rightsholders. The board will be composed of an equal number of author and publisher representatives, initially appointed by the Authors Guild and the AAP. Google will provide start-up funds for the registry; ongoing funding will come from an administrative fee the Registry will draw from overall revenue.

The Google Book Search “library” will be composed of both out-of-print and in-print books. Out-of-print books scanned by Google from academic libraries are included in the database by default, although authors or publishers may request that specific books be removed. In-print books work in opposite fashion: They are not included without the approval of the author and publisher. One of the first tasks Google will have is to help determine what is in print and what is out of print, by discovering which books are commercially available.

Out-of-print books are the central focus of the project. The goal was not to displace the traditional market for in-print books, but to create a new market for out-of-print books. Many books that were unavailable to the general public, and thus earned nothing for their authors, will get a second chance as a result of the settlement.

Authors can easily opt out of the system through the Book Rights Registry. Authors can contact the Registry and say, for example, that they want some of their titles available and others unavailable—and can change this later on.

All licensing revenues go initially to Google, which keeps its 37% share and forwards the remaining 63% to the Book Rights Registry. The Registry then forwards the appropriate amount to rightsholders, keeping an administrative fee. Google also passes on usage data, which determines how the Registry distributes payments.

The revenue split between authors and publishers includes several different categories. For out-of-print books, there are three possibilities:

- If the rights have reverted to the author, he or she gets 100% of the income, minus the Registry’s fee.
- If the rights have not reverted, and the book was published after 1986, there is a 50–50 split between the author and publisher.
- If the book was published before 1987, the revenue split is 65–35 between the author and the publisher, the majority going to the author.

For in-print books, the split depends on the terms of the book contract between

author and publisher.

The arrangement creates four initial sources of revenue: Institutional licensing, purchase of individual online editions, advertising, and fees from printing at public access terminals available at public libraries and higher educational institutions. Institutional licensing promises to be the most significant economically. Google will license unlimited access to the database to colleges and universities for a flat fee based on the number of students and faculty.

The second source of revenue is from individual online use, which allows individuals to set up accounts with Google Book Search and pay to access particular books. Google will establish initial prices on books ranging from \$1.99 to \$29.99, but these can be changed later by authors or publishers. These online editions will not be downloaded by users; instead, account holders will log in to view books they've bought through the system.

The same 37–63 split will apply to the third source of income, advertisements. When readers use Google Book Search individually, not through a university license, they will see ads—plain text only, with no popups, audio or motion permitted—on various pages. Google will receive the income from ads displayed on most of the pages, such as those that list search results, but income from ads that show up when a reader is looking at a full page of text from a specific book will be split between Google and the rightsholders.

The fourth source of revenue is from printouts from public access viewings of books.

What all of these uses will mean for authors is renewed economic life for books that are otherwise unavailable or have limited availability. Authors will control whether their books are included in the database, as well as over what is shown under the preview function. The agreement will also benefit readers and scholars, who will have unprecedented access to millions of books.