

NEW ZEALAND AUTHOR

NEW ZEALAND SOCIETY OF AUTHORS (PEN NEW ZEALAND INC) TE PUNI KAITUHI O AOTEAROA

COPYRIGHT ACT REVIEW SPECIAL

CLNZ's CEO Paula Browning and Business Manager
Tom Hill, PANZ CEO Catriona Ferguson, NZSA CEO Jenny Nagle and
PEN (NZ) Dana Wensley discuss the key copyright issues facing
New Zealand authors and publishers.

Elizabeth Heritage makes the
case for Creative Commons

Tips for Crime Writers by a
New Zealand author published in
the UK

Plus: Beverly Martens' Literary Walking Tours in Dunedin, a Weekend Writer's
Retreat on the Kapiti Coast, and how true experience makes writing richer.

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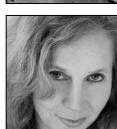
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BEVERLY MARTENS is actively involved in the Dunedin literary scene. She is the founder of Literary Walking Tours.



CARMEN RADTKE, a former journalist, writes novels and film scripts. Her debut novel, published in the UK in September, is *The Case of the Missing Bride* (Bloodhound Books).



DAMON STAPLETON The Chief Creative Officer of DDB New Zealand, is most known for creating *Penny the Pirate* for OPSM, a campaign that included a children's picture book masquerading as an eye test judged to be the most effective campaign in the world by the WARC 100 last year.



DANA WENSLEY PH.D. The PEN (NZ) representative for freedom of speech, Wensley also currently serves as a Director on the board of Copyright Licensing New Zealand.



The Russian novelist Aleksandr Solzhenitsyn once said: "Talent is always conscious of its own abundance, and does not object to sharing." But it goes without saying that copyright is one of the world's most hotly contested issues and one of particular interest and concern for publishers and authors in New Zealand, especially in light of the review of the Copyright Act set to take place in 2018. In a press release issued earlier this year, InternetNZ's deputy chief executive Andrew Cushen said: "The internet has opened new ways to make and market creative content from New Zealand to audiences around the world." InternetNZ's call for 'a modern balance' for copyright, they say, could unlock further benefits of new technology for New Zealand, particularly in our schools and businesses, while maintaining protections for our local creative industries. "This is about a balance that boosts the innovative and creative potential of New Zealand," said Cushen.

Meanwhile, at the recent Michael King Writer's Centre Weekend, Kevin Chapman of Upstart Press, who was affectionately called 'the grandfather of New Zealand publishing', warned authors "there are a lot of people who want your content for free".

Certainly NZSA, Copyright Licensing New Zealand (CLNZ), and Publishing Association of New Zealand (PANZ) are concerned about changes to the Act that lead to further open access. So this issue's special focus is on copyright. CLNZ's CEO Paula Browning gave an insightful speech at NZSA's Janet Frame Memorial Lecture and we've published it here followed by an exhaustive Q&A with Browning by PEN (NZ) spokesperson and CLNZ director, Dana Wensley. Read those stories and the others in our Copyright Act Review Special to get a handle on the most pressing concerns for authors as well as what you can do to ensure your opinion is heard. To maintain our own balance, *NZ Author* invited writer and publishing consultant Elizabeth Heritage to make the case for Creative Commons (full disclosure: many of the images that you see in *NZ Author* are downloaded from websites that offer Creative Commons open access. We would certainly never otherwise be able to afford them).

No matter which side of the divide you're on, we would love to hear your thoughts on the copyright debate. ■

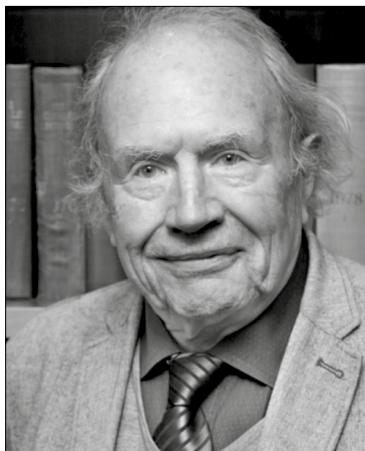
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NEW ZEALAND AUTHOR SEEKS NEW EDITOR FOR 2018



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BERNARD BROWN, PRESIDENT OF HONOUR NZSA 2017-18

— GRAEME LAY —

I've been a member of PEN, later the NZSA, for over forty years.

Over those four decades, Auckland branch chairmen have come and gone, presidents have come and gone, secretaries and treasurers have appeared and disappeared, but one person has remained constant in the organisation throughout that time, and that is Bernard Brown.

I have no need to explain how valuable Bernard is to this organisation. Bernard has published six books of poems and stories and several about law. His long-standing dedication, loyalty and affability are renowned. He makes new members welcome and is unfailingly hospitable to all. He inspires us with his wit and his love of language. He is a fine writer of both prose and poetry. To employ one of his own Latin phrases, Bernard is *Sui generis*. Who of those who witnessed it

can forget Bernard in a gorilla suit, auctioning off items donated to the Auckland branch one Christmas? Or the time he impersonated the Queen at another of our fund-raising functions?

For many years Bernard and I served on NZSA's Legal Complaints Committee, called by us the 'Portnoy's Committee'.

In the Auckland branch of NZSA the name 'Saint Bernard' applies not to a canine, but our longest-serving member. And so, Bernard, I was delighted to learn that you had been elected President of Honour of NZSA. You join the ranks of many distinguished writers who have been accorded that honour. None deserves it more than yourself, after your many years of selfless service to our organisation.

Mr President, I know you will also bring distinction to the presidential office.

Congratulations! ■



Public Lending Rights: Our New Representatives

SIOBHAN HARVEY

Along with our wonderful array of programs and residencies, New Zealand Society of Authors' long advocacy for better outcomes for authors from the Public Lending Right scheme is, I think, a key benefit we provide to members; and, of course, in the case of the latter, to non-members alike.

That our writers receive full and proper royalties from their books is an unquestionable right. In principle the Public Lending Right Scheme allows this to happen, for instance, through its compensation to authors for having their books repeatedly read in libraries. The devil, though, is in the detail.

At present, there is a minimum number of copies – 50 held in libraries across the country – after which payment is made. Title numbers are even further restricted by the calculations being based on a weighted sample survey conducted by Statistics NZ. So for instance, under the current regulated

scheme, I'm informed there are 35.5 copies of one of my books, *Cloudboy*. Only statistical classifications could result in libraries holding half a copy of a book

I dream of a time when there's no such tariff on numbers in libraries. In the meantime, for the benefit of authors nationally, there's much work to do to ensure more equitability and transparency, so that more money is returned to us for use of our books.

The New Zealand Society of Authors has two representatives on the Public Lending Right Advisory Group convened by the National Library. This too has been a period of transition as previous NZSA representatives, Karen Trebilock and Neville Peat have concluded their terms of service, and National Council has sought applications for replacements. I'm happy to announce that the new PLR representatives will be previous NZSA President Kyle Mewburn and previous *Author* editor and tireless literary advocate, Rae McGregor.

It's my belief that both will be indispensable in enabling the NZSA to continue to fight strongly for the best author outcomes where PLR is concerned. ■

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I dream of a time when there's no such tariff on numbers in libraries.

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Chief Executive's Report

JENNY NAGLE

The National government announced a review of The Copyright Act 1994 in June which will proceed with our new government. The last review of the Act was in 2004 and resulted in the Copyright (New Technologies) Amendment Act in 2008. An issues paper will be released in January 2018 and when we know its contents, we will prepare our submission and champion the rights of authors and content creators to decide how their work is used. Thus this issue of *NZ Author* includes a Copyright Act Review special, signalling this review as the most important issue of the day.

On October 31, Bernard Brown, our 2018 President of Honour delivered a superb address to a 100 strong crowd at Old Government House. Erudite, whimsical and hilarious, we have captured the audio of this lecture for the first time and the files are now available on the website so you can listen and enjoy.

Earlier in October brought the biennial Storylines Hui which many children's authors and illustrators attended from around the country. Tessa Duder delivered

the keynote address by way of a history of childrens' publishing in New Zealand which has been published on our website. I thoroughly recommend it.

Much has happened this past quarter: Selina Tusitala Marsh is our new poet laureate, Going West, NZSA Chch Heritage Awards, NZSA Hamilton Book Month, Bookshop Day, Wellington Lit Crawl and Paula Green, Witi Ihimaera honoured at the Prime Minister's Awards, Raymond Huber, Rhian Gallagher, Dylan Horrocks with residencies, National Poetry Day and the Storylines National Festival Tour along with the national poetry slam, open mic events and the Michael King Writer's Centre Weekend conference. (NB SAVE THE DATE! September 15 and 16, 2018 for the 2nd NZSA National Writer's Forum in Auckland.)

At last week's annual NZ Book Council lecture, delivered by Owen Marshall, CEO Jo Cribb launched a new campaign seeking support to expand the Writer's in Schools programme – 80 More Writers, 80 More Schools for 2018. Research has shown that 40% of our young adults are functionally illiterate and the NZBC is targeting where it all begins, aiming to increase the skills and experience and engagement of our youngest citizens with books. Finally, I urge you to think local this Christmas: buy a NZ book, from a NZ publisher from a NZ bookshop. If we all buy local and gift one book, it will boost the literary arts economy. Merry Christmas. ■

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Research has shown that 40% of our young adults are functionally illiterate...

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Governance Report

— PHILIPPA WERRY —

DELEGATES

The current National Council delegates are listed under the About button on NZSA's website or at the back of *NZ Author*. These people are your representatives on NC, so please do contact them if you have any queries or issues you want to discuss.

NC MEETINGS

Our last NC meeting was a video conference on Sunday 20 August. The next meeting will also be by video conference on Sunday 26 November.

NZ BOOK WEEK

Thanks to everyone who got involved in Book Week or Bookshop Day. It was great to see lots of bookish activities and events being advertised around this time.

NZSA REPRESENTATIVES

Over the last few months, we have been considering applications for several positions on external boards and committees. We would like to thank the previous representatives whose terms have come to an end, as well as those members who have been willing to put their names forward or accept nomination for these roles. This is a very helpful way to serve the interests of the writing community and we would encourage others to consider doing so in future. We are very pleased to confirm Maggie Rainey-Smith as our NZSA representative on the Whitireia Polytech Advisory Committee and Kyle Mewburn and Rae McGregor as

representatives on the Public Lending Right Advisory Committee. The selection process is continuing for our new representative on the Copyright Licensing New Zealand (CLNZ) Board.

COPYRIGHT ACT REVIEW

We would encourage all members to read carefully and thoughtfully the info on copyright in this issue of *NZ Author*. We hope all authors will get involved in the Copyright Act review and help us work towards a copyright law that supports the creative sector and protects the rights of creators.

LITERARY PRIZES AND COMPETITIONS

At our last NC meeting we received and discussed a letter from an NZSA member concerning unfair conditions for literary prizes and competitions (and one recently advertised competition in particular). If any members come across competition rules for NZ-based competitions that they feel are unfair please do contact National Office. It's important that we try and get the message across to competition organisers that rules should be fair to writers.

NZSA WEBSITE PROFILE

We'd like to remind members to keep their profiles updated on NZSA's website. The author pages get a lot of hits and it's a good way to let people know what you do. In particular, you might need to check your contact details if you are currently changing (public) email addresses. ■



Courage Day 2017: *Six Authors Remembered*

— DANA WENSLEY —

One constant in the PEN calendar is *The Day of the Imprisoned Writer*. This year, on November 15, PEN marks the 38th commemoration of this special day, started in 1981 by PEN International's Writers in Prison Committee. Known in New Zealand as *Courage Day* (after writer James Courage whose book *A Way of Love* was banned) this is the day we recognise writers around the world who defend the right to free speech, and those who suffer oppression and are imprisoned or even killed for their work. As writers remain behind bars around the world, and many are still denied a fair trial, PEN calls on writing groups in New Zealand to remember

authors less fortunate than themselves.

It is heartening to see so many groups around the country doing something unique to commemorate Courage Day. In Nelson this year, Gaelynne Pound (host of the *Top Writers* radio show on Fresh FM) is organising an evening event with poetry and music at *Volume Books*. It is encouraging to see the support of a book store coming on board to recognise authors whose works are sometimes never published because of censorship. At the Nelson event, I will be talking about freedom of speech and why it is as important for us today to promote free speech and freedom of expression, as it was in 1921 when PEN was founded.

Cesario Alejandro Félix Padilla Figueroa (Honduras): Journalism graduate, student leader, and board member and founding member of PEN Honduras, Figueroa was convicted of 'usurpation' at the National Autonomous University of Honduras on June 7, 2017. He has faced a 'pattern of harassment' since 2014 following his involvement with student protests.

Nguyen Ngoc Nhu Quynh (Viet Nam): Known by her pen name, *Me Nâm*, on June 29, 2017, blogger Nguyen Ngoc Nhu Quynh was sentenced to 10 years in prison following her conviction under Article 88 of the Penal Code for "conducting propaganda against the Socialist Republic of Viet Nam".

Ramón Esono Ebalé (Equatorial Guinea): Writing under the alias 'Jamón y Queso', Ramón Esono Ebalé (an award-winning cartoonist and activist) uses his work to critique the government of Equatorial Guinea – in particular President Obiang. Arrested on the September 16, 2017 he has been questioned but according to PEN has not been formally charged. He is currently held at Black Beach prison in Malabo awaiting further investigations.

Razan Zaitouneh (Syria): Abducted on December 9, 2013 after documenting human rights violations, Zaitouneh, a blogger, lawyer, and co-founder of the *Violations Documentation Centre*, is presumed to be still detained by armed Islamic groups. No word has been heard of her since her abduction almost four years ago.

Zehra Dogan (Turkey): Convicted under Article 7/2 of the Anti-Terror Law for 'propagandising for a terrorist organisation', Dogan is serving a prison sentence of two years, nine months and 22 days. PEN calls for her immediate and unconditional release.

Dareen Tatour (Palestinian citizen of Israel): Tatour was arrested in a raid on her home in October 2015 and has spent over nine months in police detention before being placed under house arrest. She is standing trial on charges of 'support for a terrorist organisation'. She remains under house arrest, and is prohibited from accessing the internet, or leaving her home without a licensed chaperone. ■

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Why Copyright is the Issue of the Year

At the recent NZSA Janet Frame Memorial Lecture, Copyright Licensing New Zealand CEO Paula Browning gave an insightful speech on why authors should be able to choose how their work is shared.

I can't take credit for all the media attention that copyright had in New Zealand a few months ago – we have to thank the National Party and Eminem for that – but it was very interesting to follow the formal and informal media opinions, particularly given that the government is in the process of developing an issues paper on what's not working in copyright in Aotearoa.

CLNZ is the licensing agency that serves the New Zealand publishing industry. Our licenses provide advance permission for organisations to copy published material and we then make payment to the authors and publishers whose work is copied under licence. Two percent of the revenue generated from our licensing is put aside in a cultural fund that invests in New Zealand writers, publishers and organisations that support writing and publishing. This fund invests in an annual non-fiction writer's award as well as research grants, tertiary scholarships for creative writing students, a publishers training fund, the annual Price Waterhouse Coopers report on the economic value of publishing in New Zealand, a report into writer's earnings in New Zealand, and a contestable fund. In 2017 this will equate to \$185,000 being invested back into writing in Aotearoa.

In conjunction with New Zealand Society of Authors and the Publishers Association, I spend a lot of time talking to government and other organisations that have an interest in published materials and copyright. It's unlikely that copyright is a subject you'd raise in a social situation but I'm going to encourage you to do so in the coming months. Now is the time to start talking about what copyright means for New Zealand and, for those of you who write, what it means to you personally. New Zealand is an incredibly creative country and for the past two and a half years I have had the privilege of chairing WeCreate which is the alliance of the 11 industries that make up our creative sector. I have read numerous reports, research papers and articles about creativity and creative economies. Each one has its own focus, but the common theme that I picked up in what I read is that not every country's creativity is created equally. Some countries, and their people, are simply more creative. This comes about for different reasons that go back a long way into history. New Zealand may have moved on from the Number 8 Wire idea, but we really are a nation of people who are simply awesome (with a captial A) at great ideas and telling stories. When we look to the future to see what New Zealand will look like in a world of virtual reality and artificial intelligence, it is our ideas and the expression of those ideas through technology that will make the difference to our economy and the well-being and prosperity of our people. This is where our creative people, including our writers who shape and tell our stories, really matter. And it is why copyright – the right of creative people to choose what happens with the expression of their ideas – is even more important in the future than it is now.

In a legal sense copyright is a complex subject to engage with. But in a moral sense it's pretty straight forward – well to me it is. If you write something you should have the choice as to how and where what you write is distributed or copied. If writing is your primary source of income, you may need to monestise the majority of your work.

That should be your choice. If you're a teacher and you write to develop materials to use in your and your colleagues' classrooms, whether or not you want to give the materials away should be your choice. If you're a researcher and you publish for academic advancement and not income, that too should be your choice.

If you break the word copyright into two parts – copy and right – and look these words up in the Collins Dictionary, you'll find that 'copy' means to imitate or reproduce an original and 'right' means in accordance with what is good, proper, or just. So it's not so complex after all if you take it away from the 294 pages in the legislation and think of it in terms of what the purpose of the law is.

It's interesting to look at copyright in terms of what the law is meant to do and what it actually achieves in practice. The most over-used word you'll hear in copyright discussion is "balance". It's unlikely you'll hear writers say this, but you'll hear it a lot from groups that rely on the input of writer's content to make their businesses work. Let's go back to the Collins dictionary for a moment. 'Balance' is defined as giving two or more things the same strength or importance. So in copyright, this would mean giving equal rights to people who create content as to those who want to use the content. I see this argument as fundamentally flawed. Where else in the economy are the makers of a product or a service told that their rights as to how they run their livelihoods need to be balanced?

The so-called balance is achieved in copyright law through the provision of exceptions to copyright. In New Zealand we have a number of defined exceptions in our law. There are exceptions to your exclusive rights as a writer that benefit the media, the education sector, researchers and those undertaking private study, libraries and

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The analogy in 2015 was that government wouldn't talk to wine drinkers about regulation that matters to the wine industry so why were they only talking to content users when it came to what matters to New Zealand in copyright? They should have been talking to authors!

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archives, the government and those with a print disability. Quite a long list isn't it?

During Select Committee discussions on the Trans Pacific Partnership Agreement, I used an analogy to the wine industry to help the committee members understand the frustration authors felt over the arguments against copyright term extension. The analogy in 2015 was that government wouldn't talk to wine *drinkers* about regulation that matters to the wine industry so why were they only talking to *content users* when it came to what matters to New Zealand in copyright? They should have been talking to authors! So let's try a wine analogy with copyright exceptions in the publishing industry. Wine is generally sold in cases of 12 bottles. If a case of wine equals a non-fiction book and every copyright exception is a bottle that's given away for free to someone who isn't the winemaker, you may have only half the bottles left to sell after all the exceptions that copyright legislation says others get to have. The value of your original work is diminished before you've even sold one copy!

This is not to suggest that clearly defined copyright exceptions are not the right way to provide access to written work. But I do think, especially in our digital world where we have access to more content than we will ever be able to read or watch in our lifetime, the time to think about the impact of exceptions on authors exclusive rights needs to be considered very carefully.

On the subject of thinking carefully in our digital world, there's another copyright get out of jail free card given to online service providers. It's called 'safe harbour'. Safe harbour is a protection for ISP's and website hosts....but, hang on a second, copyright is supposed to protect authors, so why are website hosts getting protection?

This insertion into copyright law came about with the upsurge in the use of the internet in the mid-1990's. Online service providers were new businesses and didn't want to be held accountable for the actions of their users and governments around the world gave them safe harbour protection. That continues to this day to be the source of the largest problem for authors in getting meaningful remedies when their content is let loose online without their permission. Sure, you can send the website host a take-down notice and they might comply with it. But what if they don't? What if your content is back up on the same site the next day? What do you do then? I'm afraid the answer to this is "not much". There really is no meaningful remedy for you when your work is uploaded and made available in the online world by someone other than you. Just like personal property rights, your intellectual property rights are only as

valuable as your ability to enforce them and in the 21st century, chances are that if your work is illegally uploaded, you'll be trying to enforce your rights against some of the biggest companies that exist in the world today. These companies don't subscribe to the premise that you as a writer should get to choose what happens to your work. They are well resourced and highly active in lobbying governments around the world to secure rights for themselves that give them free access to content.

There's been some discussion in New Zealand recently about companies that get a free input into their business that we're not too happy about. It wasn't a discussion about content, but about water. So at the risk of overdoing the use on analogies, think about safe harbours in a similar way as our bottled water debate. We don't want companies bottling and selling our water they don't pay a cent for, so do we want multinational companies doing the same thing with our creativity and hiding behind safe harbour provisions?

Now is the time for New Zealand to be thinking about what we want for our writers in the future. It's time to think about how important our writers, our stories, our music, our movies, our video games and our art are to us as a country. It's time to maximise the opportunity that online distribution offers so that our creative content is widely available to New Zealanders and to the rest of the world. It's time to decide who we want to be in control of where a writer's work goes and how it can be used. I hope that you'll all speak up and say, "Hey – that's my choice", and make sure that the decision-makers who will determine what happens with copyright in New Zealand's future, hear what you have to say. An innovative, creative, technology driven economy is the key to New Zealand continuing to be an amazing place to live and our writers of today, and tomorrow, are a vital part of that future. ■



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Q&A

PEN (NZ) Freedom of Speech spokesperson Dana Wensley quizzes Paula Browning, CEO of CLNZ about the most pressing issues of copyright concern for authors.

It is no coincidence that the history of freedom of speech is inextricably linked with the history of copyright. In 1985, when considering the premature and unauthorized publication of extracts from Gerald Ford's memoir *A Time to Heal*, the United States Supreme Court sided with the publisher Harper & Row, going as far as to describe copyright law as the "engine of free expression".

The Statute of Anne was the first copyright act in Britain. Passed in 1710, it provided for government regulation of copyright, and established a copyright term of 14 years. This was followed in 1886 by the Berne Convention for the Protection of Literary and Artistic Works. Championed by Victor Hugo, the Berne Convention – significant for its introduction of the concept that copyright automatically attaches to a work (rather than attaching only upon the 'registration' of a work) – is still in force today, where it operates as an international copyright agreement between countries.

Given the link between freedom of expression and copyright, it's not unexpected that PEN is an important player in discussions around copyright, and its importance to an author's ability to make a living from their creative endeavors. In 2016, PEN International adopted an overarching policy on copyright that's purpose was to be utilized as an instrument for advocacy for authors' intellectual property rights globally. The PEN International Copyright Manifesto, states, 'An author's economic independence and autonomy is central to freedom of expression and encourages a diversity of voices, which in turn fosters democracy.'

In New Zealand, we are undergoing the first stages of a review of our Copyright Act. The New Zealand Society of Authors is a joint shareholder in Copyright Licensing New Zealand (CLNZ), along with the Publishers Association of New Zealand. I asked Paula Browning, CEO of CLNZ, key questions about the upcoming review.

DANA WENSLEY: *When was the review of the Copyright Act launched, and what is the proposed timeline?*

PAULA BROWNING: The review was launched in June 2017, and is now being conducted by the Ministry of Business, Innovation and Employment (MBIE). There is no firm timeline, but the first stage of the review (an Issues Paper), is due for release in early 2018.

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DW: What are the Terms of Reference for the review?

PB: As with copyright reviews in other countries, the Terms of Reference talk of achieving balance in copyright law and removing barriers that inhibit creation and dissemination of creative content as well as ensuring legislative settings are right for the new digital environment.

DW: Why is MBIE doing this work now?

PB: In 2008, the Copyright Act was updated to take account of developments in digital technologies. At that time, the government committed to review the updates within five years. This review, due in 2013, was deferred pending the outcome of the Trans Pacific Partnership Trade Agreement, (TPP) negotiations. With the TPP (mostly) concluded, the decision was made to proceed with the Review.

DW: Stage One of the review was to adopt a qualitative approach, including interviews with stakeholders and authors. What were the main points that came out of this initial work?

PB: MBIE published a study of Copyright and the Creative Sector in late 2016. It examined the role of copyright in the creative sector. Written Content & Print is the section in the study that focuses on writing and publishing. Key findings were identified as:

- Digital technologies allow authors to publish and distribute their work at low cost.
- Ensuring financial viability in the online world is a challenge.
- Not being able to obtain rights to digitize content can mean that work is “locked up” and not able to be made available.
- Libraries have issues with obtaining the licences for digital content that meet their needs.
- Authors write for many different reasons, not all of which are economic.
- Printed books are not going away any time soon.

DW: From CLNZ's perspective, what are the main challenges on the horizon?

PB: CLNZ follows international trends in copyright closely. The main challenge to copyright protections

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(from the perspective of the creative community) is from those sectors who want to see the law changed to allow wider, often free, access to content for their own purposes. The arguments are positioned as content creators wanting to hang on to “outdated business models” and the suggestion that copyright “inhibits innovation”. Often there’s a “tech versus creative” angle to the discussion and a great deal of misunderstanding about the role of copyright in the creative sector.

DW: What are the key issues for authors in the review?

PB: The ‘fair use’ argument, often used to loosen copyright laws, is one of the significant challenges for authors. The doctrine of ‘fair use’ is enshrined in US law, and allows for a set of factors content users can consider in determining if their use of creative content is ‘fair’. In contrast to ‘fair use’, New Zealand copyright law uses the ‘fair dealing’ approach. This provides a defined list of content uses considered to be fair. Examples of fair dealing include uses of content by the media, education institutions and libraries. The fair dealing approach provides more certainty for content creators and for users given that what is determined to be fair is laid out in the legislation and not left to others to decide. The other area of hot-debate is likely to be the reach of ‘safe harbours’. Currently, as long as online service providers have procedures in place (as defined by the Act) there is limited liability for content hosted on their platform that is in breach of copyright. This can be seen by authors as a get out of jail free card for large search engines, who may be aware their services are used to share illegal content, but have little incentive to support authors in removing the material.

DW: How is CLNZ involved in the Copyright Act review?

PB: CLNZ is busy with many aspects of the Copyright Review meeting regularly with MBIE. CLNZ is also undertaking a significant piece of work, engaging an independent economic consultancy firm to prepare a report detailing the value of copyright which will inform our submissions. Along with NZSA, CLNZ is a member of WeCreate, the creative sector alliance organisation that is advocating to government for an action plan to grow the creative economy.

DW: The NZSA has previously made submissions to the Ministry of Economic Development regarding the lending of digital books by libraries. Some authors are concerned that one digital version can be loaned multiple times without the author receiving further payment. Is this an issue covered by the proposed Copyright Act review?

PB: The extent of use that libraries can make of digital files is very likely to come up as part of the review, along with the issue of contracts imposing stricter terms (or over-riding) copyright law. This can be an issue for libraries when licensing access to ebook collections from overseas.

DW: Books are increasingly being made into audio files for use by those who are vision impaired. Does the current Copyright Act deal with this? Is it a subject of the proposed review?

PB: Section 69 of the current Act deals with the creation of 'accessible formats' for people who have a print disability. This part of the Act has already been reviewed by MBIE so that New Zealand can ratify the WIPO Marrakesh Treaty. We expect that this part of the legislation will go through parliament soon and not be part of the wider review.

DW: I have heard authors express concern about proposed changes to copyright resulting from the TPP. How does the Copyright Act Review relate to the TPP?

PB: The copyright aspect of the TPP that impacts authors is term extension. In order to comply with the trade agreement, New Zealand would need to extend the term of copyright for literary works from Life + 50 years to Life + 70 years. This extension would give New Zealand authors the same term of copyright as New Zealand's trading partners and provide more certainty for organisations like CLNZ and for content users as to whether a work is in or out of copyright.

DW: What are the current hurdles for authors whose works have been infringed? What proposed changes to the Copyright Act could be introduced to make this easier?

PB: For authors, there is a severe lack of access to justice for copyright infringement. CLNZ has already proposed to MBIE that a small claims process be provided, similar to that which already exists for physical property rights.

DW: Will there be any changes to the way 'orphan works' are dealt with?

PB: We hope so! We'd like to see something in New Zealand similar to the UK system which requires people to undertake a diligent search to find the author of a work, but if that search is fruitless, there's a process for obtaining permission to use the work.

DW: What advice can you give authors about how they can be involved and have their voices heard?

PB: Do what you do well....write! Write to your local MP and tell them how important copyright is to you. Get active on social media. As a writer, copyright is what gives you the choice about how and where your work is used. From my perspective, the law needs to support your choices and people who want to use what you write should support your choices too.■

THE VIEW

from Across the Ditch

James Kellow, CEO of Harper Collins and Board member of Australian Publishers Association (APA) recently gave an informative presentation on how the APA responded to the Australian copyright review. Publishers Association New Zealand CEO, Catriona Ferguson reports.

When it comes to copyright review, Australia is a year ahead of us. The Australian Copyright Act review was announced in November 2016 and their campaign ran through 2017, focusing initially on Parallel Importation Rules. James Kellow, who spoke in Auckland in September, offered many excellent suggestions and examples on how to build a unifying and bipartisan campaign as well as on how to create a compelling case for industry led solutions.

Copyright is undoubtedly a complex area and one of the first pieces of work that APA undertook was to run a couple of focus groups exploring what the general public knew about the subject. As it turned out, that was very little. But what the APA did discover was that consumers were concerned about jobs and if a change to copyright legislation meant job losses then they might be able to pick up some public support.

Another vital component was building unity across the sector and finding some common ground with libraries, booksellers and writers. This meant that APA was able to speak confidently on behalf of other organisations and

present a unified front to government.

Following on from this they developed their campaign; this included further research, bringing in PR and lobbying support, developing social media campaigns including the #BooksCreate campaign and working with festivals, booksellers etc. to create a public push that other organisations and individuals could get firmly behind.

Here at PANZ we are in the middle of planning our own strategy and looking at ways to engage with the forthcoming copyright review. Some of the ideas and fresh ways of working that Kellow discussed were invaluable. His thoughts around cross-sector collaboration were particularly helpful and a good reminder on the importance of creating unity. PANZ is already in discussion with some key organisations such as Copyright Licensing New Zealand and WeCreate and we hope to be able to develop these conversations further. We are also at work on a copyright manifesto which lays out our position and highlights priorities. ■

* This is a version of an original article which appeared in an edition of PANZ news.

The Copyright Symposium

Held at Te Papa in October, representatives of the creative industries, government policy influencers and an impressive coterie of copyright lawyers, QC's and academic chairs gathered to discuss key issues.

NZSA CEO Jenny Nagle reports back.

The money: Andrew Brown QC outlined ways income is derived for the arts: through performance, licensing schemes, subsidiary rights sales and sales income. As the education sector is a voracious user of copyrighted materials he outlined the Copyright Act exceptions, Section 44 (3) and the importance of CLNZ licensing providing supplementary income for artists and writers. It is the unequivocal exclusivity of copyright that underpins all. The book trade contributes \$360 billion to the GDP and 3,500 employees.

Copyright Term: Anthony Healey from APRA outlined issues around Copyright Term. New Zealand law states Life Plus 50 years. One issue for our Copyright Act review may be a proposed extension to the copyright term to Life Plus 70. This would simply harmonize our law with other countries: Europe, USA, Australia et al have Life Plus 70 and to standardise this simplifies licensing in NZ and internationally.

Permissions: Sarah Powell, Rights Specialist for the Auckland War Memorial Museum talked about digitising the historic collections and the problems of orphan works – they currently hold 9500 untraceable items. As an organisation that contributes to the creative commons they want clarity and consistency around rights statements and cultural permissions.

Fair Use v Fair Dealing: Andrew Brown QC led off the Fair Use v Fair Dealing debate. Part Three of the Copyright Act trades off the right of the copyright owner with activities carried out in the public interest. The Berne Convention has a three-step test for exceptions: special cases only; that using the work does not conflict with normal exploitation of the work; and that it does not

unnecessarily prejudice the author's interests. Under 'Fair Dealing' work can be used free for research and private study, education (3% or three pages of a work), by the Crown and libraries and archives and under the Marrakesh Treaty. This is our current system. Under 'Fair Use', which is US copyright law, any use is potentially 'fair' as work can be used for 'technological innovation' and 'where exceptions have become outdated due to societal and technological changes'. Even though cases taken through US courts were found to "challenge the boundaries of Fair Use" such as the mass digitisation of books (*Authors Guild v Google Inc* and *Harper & Row v Nation Enterprises*) – nothing could be done to remedy these infringements. Jordan Carter from Internet NZ declared himself the 'fox in the hen house' at this point, arguing for Fair Use, saying it promoted 'creativity', while failing to articulate how taking another's work and using it for free, would achieve that.

Andrew Brown QC

Safe harbours: Chapman Tripp's Matt Sumpter sailed us through 'Safe harbours' – areas of commerce ring-fenced from civil liability such as ISP's not being liable for on-line infringements. It was enacted in 2008 as a digital amendment to the Copyright Act so that the tech companies are protected. This uncomfortable compromise undermines authors' rights. Under Section 21, (ss92 B-E) ISP's and on-line intermediaries such as Google cannot be prosecuted. Piracy is a threat to the creative industries and ISP's are best placed to tackle infringement. We hope for some reform options with the review of the Act such as ISP's pulling their weight to tackle infringement. Under Section 92B copyright owners can issue a take-down notice to ISP's, but this is time-consuming and costly. Dr George Ford from the Phoenix Centre, USA, asserted Safe harbours must be held accountable for "wilfull blindness". He outlined crime and trafficking embedded in the dark web and the futility of current law enforcement efforts when Safe harbours protect and host these sites. Paul Muller, CEO of the Australian Screen Association asserted that their creative sector is the third most productive behind construction and finance generating \$122 billion. Despite that the economics of film funding are grim: out of 94 films co-funded by Screen



Dr George Ford

Australia, only two earned out more than 65%. This is due to the massive illegal downloading, streaming and film piracy through “safe harbours” where ISP’s escape copyright law and divest responsibility.

Challenges to Copyright in the Digital Age: Damon Vaughan, CEO of Recorded Music NZ, pointed out that 339 million delist notices were sent to Google in 2016 and while so much material is illegally downloaded Fair Value is not being returned to the creators. Site blocking has had some success in Australia with 78 sites blocked last year. When this occurred, commerce increased on the legal sites. Online intermediaries remain the biggest threat – Facebook, You Tube and Google – who in 2016 were collectively issued 104.2 million takedown notices or three per second. They enacted 0.0002% of those

notices. Those statistics present a salutary tale about not being able to close the stable door once the horse has bolted, and any proposed change to our current legislation must be robustly challenged. ■

JENNY'S TAKE-AWAYS

- International harmonization of extending the Copyright Term makes sense.
- Safe harbours must not be extended, rather ISP’s must be held accountable for the material peddled on their site. If Safe Harbour legislation is watered down further there will be a tsunami of on-line infringement.
- There is nothing ‘fair’ for content creators in Fair Use legislation. We currently have Fair Dealings exceptions, which some already think generous, but it upholds content ownership. In effect, Fair Use gives anyone the right to illegally download your writing, painting, film, software game and do what they want with your work. In any other situation, that would be theft.
- In Copyright Act review discussions we will hear loose, unqualified statements like “copyright stifles innovation and creativity” with this view promoted by the tech giants viz Google and You Tube.
- We know the corollary to be true: that investing in arts, culture, technology and education and protecting the rights of the creative sector produce not only a rich, just and civilised society, but is proven to generate export earnings, GDP, jobs and truly encourage and stimulate innovation and creativity.



Copyright:

a complex subject in a busy world

Tom Hill explains how CLNZ is working to clearly and effectively educate students, teachers and authors alike on copyright.

It's fair to say that copyright is not a concept that can be explained quickly or succinctly, except in terms that are usually unhelpfully broad. No wonder then that all kinds of misconceptions and blind-spots exist, and no wonder too that international technology corporations that have grown powerful through nudging at its boundaries now find fertile ground to gut copyright throughout the world. But ideas that are complex and subtle are no less valid for being so, and an idea under attack by powerful vested interests merits careful and objective consideration.

CLNZ is a small organisation whose staff is devoted to administering copyright licensing of printed material in a way that equitably and efficiently balances the interests of our license-holders and content creators. Like any organisation worth its salt we aim to maintain a clear understanding of our stakeholders' needs, and so earlier this year I undertook a programme of meetings with many of them, with a particular focus on license-holders, who are important as the main source of revenue CLNZ distributes to authors and publishers.

During these positive, cordial, and constructive meetings it became clear that that CLNZ is regarded by many as a 'source of truth' in the copyright space; that is to say that we are viewed as an authoritative and trusted source of information on copyright. At the conclusion of the meetings CLNZ was presented with various questions including these: how should we achieve our goals of explaining copyright clearly yet meaningfully, thereby addressing the misconceptions around it, and how should we fulfil our role as a source of truth on copyright? If we could answer these questions effectively then interested Kiwis would be far better equipped than before to fully consider the merits of copyright.



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While there are no simple answers to these questions CLNZ is now taking steps to fill the information vacuum on copyright. Our first step has been to develop copyright guidance source material. This material is aimed at tertiary teaching and research staff, tertiary and higher-secondary students, and also secondary teaching staff. At more than 20,000 words, it is intended to be comprehensive. As one of the largest freely-available legal resources in New Zealand it will occupy a unique space, unlike the specialized and often expensive legal resources on copyright.

We have given considerable thought to how this body of information should be best and most effectively presented. The solution to this seems to be use of website knowledge base software, which allows the presentation of large documents in easily-digestible articles, with good search functionality and linking. While it's probably correct to state that the 'knowledge base' is not a term most of us are familiar with, the basic architecture is common and should not prove a barrier to use. The CLNZ knowledge base will cater not only to the aforementioned user groups, but also to publishers with a separate set of guidance material to be launched concurrently.

CLNZ also seeks to present this material in a way that allows it to be inserted into secondary and tertiary education institutions' teaching staff and student induction and risk management programmes, through the development of website-based e-learning modules. These modules have been professionally designed to efficiently and effectively communicate to their audiences key copyright principles.

In addition to going some way towards answering the questions that arose from the aforementioned meetings, CLNZ hopes that these measures will make a positive contribution towards greater understanding of the rights of NZ Author readers. ■

Commons Interests

Elizabeth Heritage makes the case for Creative Commons copyright licences.

I work as a freelancer in the book trade and New Zealand media. In 2014, I got a part-time job at Creative Commons Aotearoa New Zealand (CCANZ), and was introduced to some innovative ideas about copyright. Creative Commons provides standard copyright licences that anyone can use to grant blanket permissions for others to copy and adapt their work, thus helping creators take advantage of the giant copying machine that is the internet.

This essay was originally published in full on *The Pantograph Punch* and if you look at *The Pantograph Punch*'s terms of service (www.pantograph-punch.com/page/terms-of-service), you'll see that my essay is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike copyright licence. That means that I and *The Pantograph Punch* have granted permission for anyone to copy, adapt and reuse this essay on the grounds that you:

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- Through my work at CCANZ, I have

been introduced to the various capital-O Open movements: Open Government (<http://creativecommons.org.nz>), Open Educational Resources (<https://oeru.org>), Free Cultural Works (<http://freedomdefined.org/Definition>), Remix Culture, Free and Open Source Software (https://nzoss.org.nz/info/open_source_software), Open Access to Research (<http://creativecommons.org.nz/research>), and Copyleft (<http://copyleft.org>). 'Open' in this sense generally refers to works that are not only accessible online and free of charge, but also fully editable by anyone; that is, the copyright in those works has been openly licensed, for example under Creative Commons. One of the Open resources you probably use most often is Wikipedia: its content is free and anyone can edit it. (And now you know what that Creative Commons Attribution-ShareAlike licence is at the bottom of each page.)

One of the things I've learned from my work at CCANZ is that what people want more than money from their work is recognition. I've seen people despair as others make a copy of their work without asking; not because they wouldn't have gladly granted permission, but because their work got passed off as someone else's. It is for this reason that all six of the Creative

Commons copyright licences require attribution. Leaving aside the legally binding terms of the licences, acknowledging the work of others is just good manners.

The main way I am involved in the Open movement in my CCANZ job is by arguing that if a work has been publicly funded, it should be publicly accessible at no extra charge. This seems to me to be a no-brainer, but you'd be surprised how often taxpayers, public servants and academics are double- or even triple-charged for works (such as research, teaching resources, data sets, reports and so forth) that have already been paid for by the state/taxpayers. For example, there's an interesting piece by Mark Wilson on the serials crisis in New

Zealand academic research publishing where he states, "in New Zealand research institutions spend about as much on journal subscriptions and database access as the entire Marsden Fund (the only 'blue skies' research fund) awards to researchers — more than \$NZ50 million annually. The University of Auckland alone spends more than \$AU9 million per year on journal access."

Happily, all of this is starting to change: research institutions across the world are challenging publishers like Elsevier, and, separately, thousands of universities have open research repositories. In New Zealand, you can get Open government data from <http://data.govt.nz/> and all kinds of Open taonga

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from <http://digitalnz.org/> (use the ‘usage’ filter), and so far we have two Open Access scholarly publishing houses: Tuwhera at AUT and ePress at Unitec.

At its most radical, the Open movement challenges the idea that individually owned intellectual property can even exist at all. Because we are all influenced from birth by the art and culture around us, the argument goes, the creative works that we produce are necessarily part of that historical flow and should be held in common in the public domain for the good of humanity. Nothing is absolutely original and everything is in some sense a remix, or a derivative work. Cast in this light, licensing your work under Creative Commons or waiving your rights altogether becomes – in theory at least – a noble act. The downside is that you don’t get paid: or, more accurately, you have to find other ways to get paid, such as crowdfunding, having a day job, or selling advertising on your site. And, as long as we live in a capitalist society,

“

...you'd be surprised how often taxpayers, public servants and academics are double- or even triple-charged for works that have already been paid for by the state/taxpayers.

”

that is a very significant problem. It’s not just Open creators who need an answer to this quandary. Using the full powers that copyright law grants you by default (aka ‘closed copyright’) is no guarantee of income. Plenty of creators reserve all their rights and still fail to sell enough copies of their work to make a living.

When I am not at CCANZ I am a freelancer in the New Zealand publishing industry. Generally this is very rewarding and I get to work with a range of really intelligent and creative

people. However, I have also had to find ways to work productively with those who espouse rigidly ideological views on both sides of the copyright debate. For example, at the 2015 Publishers’ Association of New Zealand conference, Creative Commons was referred to contemptuously as the ‘freetard jihad’. On the other side, particularly where Open overlaps with the digital

technology sector, there’s a vein of smugness that can get quite toxic. It’s a combination of tech utopianism with a point-blank refusal to acknowledge that (a) some



people and institutions have very good reasons for keeping their copyright closed; and (b) not everyone has the time, resources or inclination to, for example, learn how to run a new operating system.

All of this has made me really take to heart the lesson that's currently being written in fire across the US: when two sides of a debate become so isolated and entrenched that they are no longer able even to see each other, everyone loses.

My favourite part of my CCANZ job is going into workplaces and classrooms to present workshops on copyright and Creative Commons. Through the dozens of talks I've given I've noticed some definite patterns. The part where people always become anxious and annoyed is when they learn that their employer may well have a claim to own the copyright in a lot of what they make. New Zealand copyright law states that, unless agreed otherwise, an employer owns all copyright in works the employee creates 'in the course of their employment.' Unfortunately the law does not then go on to fully define that phrase; so, as with all things legal, it comes down to argument.

Generally, though, I've found that people are pleased to discover the powers the law grants them over their own work and irritated that everyone else also has these rights. In other words, we tend to want to reserve our own work to ourselves while simultaneously doing as we please with everyone else's creations.

I think this is because of, on the one hand, what behavioural economists call 'loss aversion,' and what I've come to think of as 'digital entitlement' on the

other. Loss aversion describes an irrational preference that seems to be hard-wired into all humans: we would rather avoid losing a thing we have than gain a thing of equal or greater value. Digital entitlement is, as defined by me, the attitude that being a citizen of the internet grants you the right to any cultural good you fancy for free at any time. (It is of course impossible to talk about digital entitlement without mentioning millennials, and Simon Sinek has some interesting theories about millennials, entitlement, digital technology, and instant gratification.)

I believe also that this instinctively proprietorial way of thinking arises because capitalism has taught us that anything – even ideas – can be property. It also gives rise to what I've come to term the dream of monetisation. In my work for CCANZ I've seen people cling to their 'all rights reserved' copyright because they're convinced that one day it will make them a fortune, despite the fact that – at least in terms of content creation – the digital revolution has ushered in an age of abundance. No matter what you have written, there is a pretty good chance that someone else has already made something very similar and better – and made it available for free online.

All of these experiences have informed my thinking about how I manage my own copyright as I develop my career as a book reviewer and writer. Writing that I do for CCANZ in the course of my employment (there's that phrase again) is available to everybody for free and with a Creative Commons Attribution licence. Writing that I do for magazines and journals tends to be

available to readers in print for a subscription fee – and sometimes online for free – with all rights reserved, although it's often unclear whether the rights are reserved to me or to the magazine. For this I am generally paid a set fee so small that I cannot bear to calculate the hourly rate, and sometimes the editor will suggest that they just send me an extra copy of the print publication in lieu of any money at all. And then there are the times I am asked to write for free.

I am pretty conflicted about this. On the one hand, under Open philosophy, I should be glad to contribute my work to the Commons for the greater good. On the other hand, under capitalism, I protest the devaluation of my labour and, as a feminist, I know it's very bad for our reading culture to only be hearing from people rich enough to write for free.

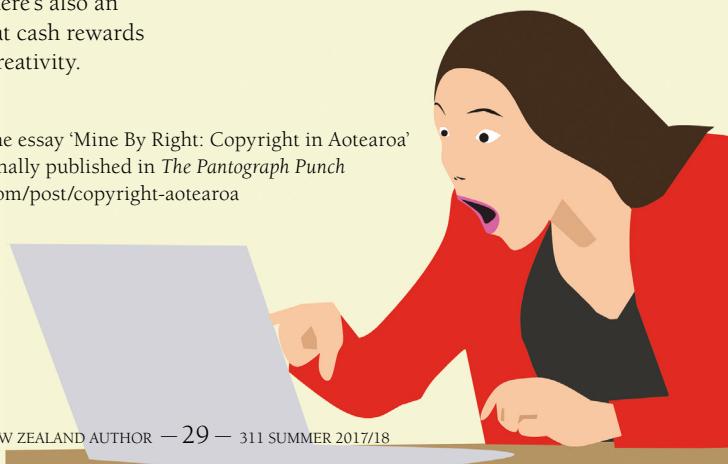
Then again, sometimes I get an idea in my brain so loud and persistent that I have to write it down just to shut it up – and publishing online is so ridiculously easy that I may as well just do it myself if I can't interest a magazine editor in buying the publication rights. In amongst all of this, there's also an interesting argument that cash rewards actually disincentivise creativity.

* This is an excerpt from the essay 'Mine By Right: Copyright in Aotearoa' by Elizabeth Heritage originally published in *The Pantograph Punch*
<http://pantograph-punch.com/post/copyright-aotearoa>

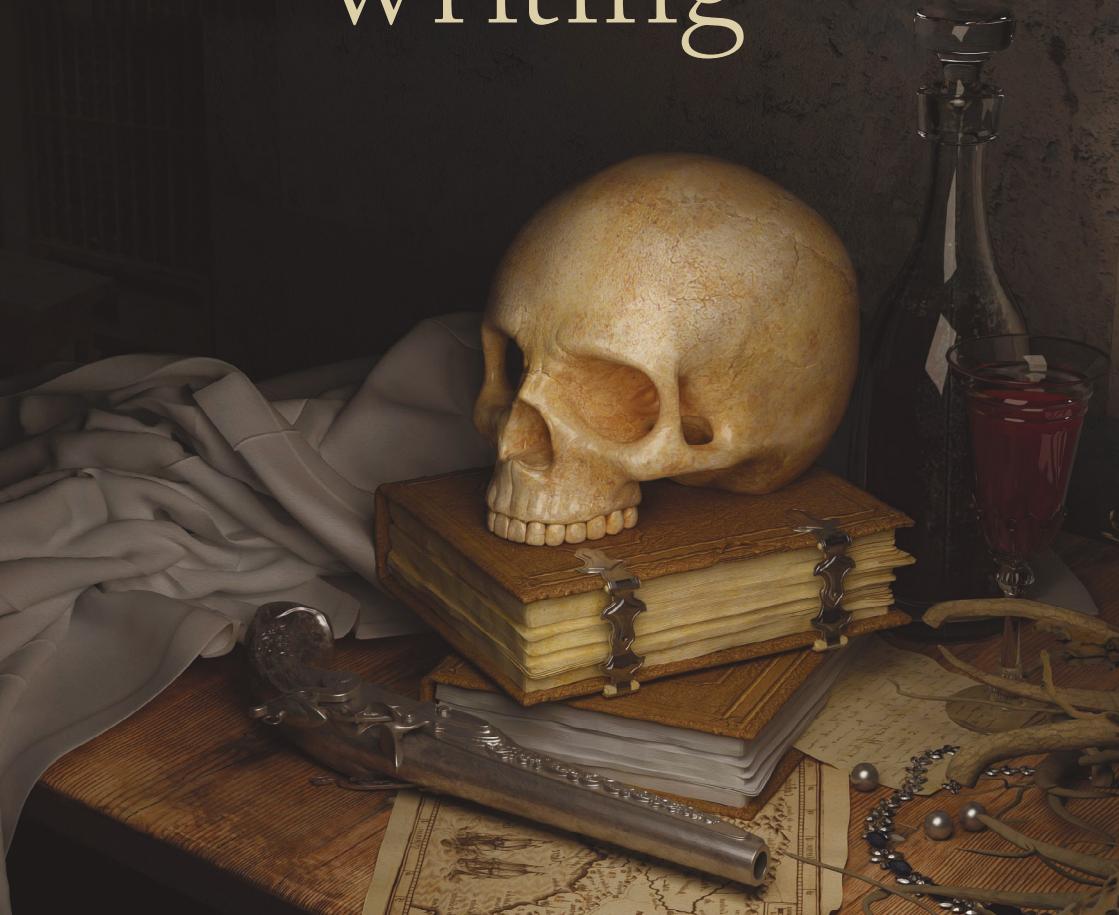
I still keep writing, though, and I keep publishing because one of the upsides, if you like, of digital entitlement is that I believe that what I have to say is worth reading. I believe my words are worth your time, if not always your money.

Given the choice, then, I generally favour the Creative Commons Attribution-NonCommercial licence for my own work. It seems to me to be a fair balance between making sure people can share my writing, and thus hopefully gaining me more readers, and calming my inner compulsion towards loss aversion by reserving my commercial rights. You can apply a licence to your own work for free at <https://creativecommons.org/choose/>.

I must admit that I myself am not immune to the dream of monetisation. Even though I know the chances of Benedict Cumberbatch ringing me up and saying he wants to make and sell audio recordings of my book reviews are so close to zero as to make no difference, I still can't quite bear to let go of the commercial rights to my work. You never know: one day they might be my ticket outta here. ■



What crime writing taught me about writing



Carmen Radtke's debut novel, The Case of the Missing Bride (Bloodhound Books) was published in the UK this past September. Here, she discusses how little is too little when it comes to writing mystery and crime.

Agatha Christie got me hooked on mysteries when I was an impressionable 12 year old. Hot on the heels of Miss Marple, Tuppence and Hercule Poirot followed Lord Peter Wimsey and Nero Wolfe (not to forget his dazzling sidekick Archie Goodwin). Writing a mystery should have been a cinch, right? Suffice to say, being a lover of an artform or genre does not an expert make. Each story decides on the format it wants to be told in, and each story also dictates its own voice.

In *The Case of the Missing Bride*, my debut novel, these caveats made it easier and at the same time harder for me. Because the novel was inspired by a true event – a group of impoverished single women from Melbourne, who were travelling across the sea to Canada to be married off but, instead, vanished during a stopover - the setting and the period were a given. I didn't know anything else about these brides (and I could not imagine any scenario where their disappearance had a harmless explanation), but I knew that I wanted them to be remembered, and I wanted them to experience the joy that in all likelihood was snatched from them.

That planted the story firmly in the categories historical and classic mystery,

with hopefully enough suspense to keep the reader intrigued, but no wholesale slaughter, or any hard-boiled or noir traits. Why? The setting. A ship in 1862 prohibited me from having any overt crime. Everything – the murder and the sleuthing – had to take place in secrecy. This also demanded that my heroine, Alyssa Chalmers, needed a male sidekick or two, to overcome the limitations placed on any young single woman in Victorian times. She can't go anywhere unattended, to keep up propriety, and to keep her safe from unwanted attention (another topic that hasn't changed much since then and that I wanted to explore implicitly). It also added to the subplot of budding romances. But everything needed to be subtle and subdued. The question was, how little is too little when it comes to mystery and crime?

Although the expectations of writers and readers shift and evolve, the ground rules of the genre are clear cut, and only a master or a fool would dare break them. We need a crime, or crimes, antagonist, sleuth and clues. Clues! They need to be strewn with a gentle hand, planted early enough to engage the reader, and be mysterious yet clear enough to give the reader a sporting chance on unmasking

the culprit for themselves.

Those were the perils that dogged me. I knew the culprit as soon as he popped up in my imagination; I knew his motive, his means, everything. What I didn't know was how to weave it into my manuscript without being obvious or venturing outside the limits the setting demanded.

So I did what every writer should do: I went for help. My first step was to apply for a manuscript assessment through New Zealand Society of Authors. They selected *The Case of the Missing Bride* and paired me with Paddy Richardson, who gave me much needed feedback and encouragement.

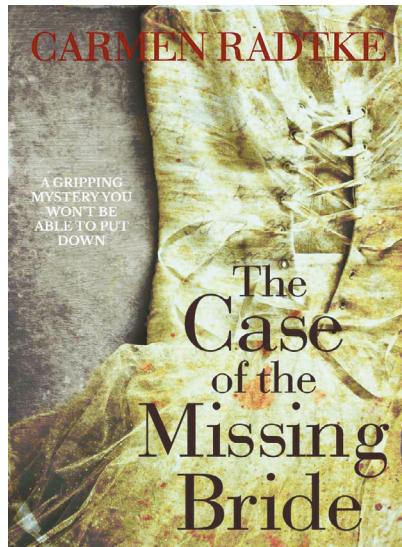
I went back to my laptop and cranked up the suspense, but still in keeping with the period and the setting – by now the *Artemis' Delight* had become a character in itself. I added more clues and ramped up the claustrophobic conditions of a ship in a storm. Then I submitted the manuscript to the Malice Domestic competition in the United States and *The Case of the Missing Bride* became a finalist, in a year without a winner. Close, but no cigar.

I approached agents, and that is when I learned a lesson all the research,

“

I learned a lesson all the research, plotting and studying masters of the genre hadn't taught me: it's not just what you write and how well you write it, if the selling point isn't strong enough, you're in trouble.

”



plotting and studying masters of the genre hadn't taught me: it's not just what you write and how well you write it, if the selling point isn't strong enough, you're in trouble.

For *The Case of the Missing Bride*, it was the setting. It should have been set in the UK. Or the US. A ship was too contained. Or the period was wrong. Finally, after long periods of soul-searching and resignation, thriller publisher Bloodhound Books loved the manuscript and signed it as their first foray into the historical mystery genre.

Since its release, I've learned another important lesson about fiction writing: whatever you do, keep all bits of your research, especially if you write about existing places. An American reader is still trying to pin down the exact origin of a character, and the family tree. I left him with hopefully enough clues that he can figure a solution. I, alas, am stumped. ■



Weekend Warriors

*Is an entire weekend spent at a writing workshop too much or just right?
Helena Wisniewska Brow attended the weekend-long Kahini Kapiti
Writers' Retreat to find out.*

Eleanor Catton once said: “I think that, in principle, a workshop is such a beautiful idea – an environment in which writers who are

collectively apprenticed to the craft of writing can come together in order to collectively improve.” I love this idea of a writers’ workshop: that the generally



solitary craft of writing can be a communal task, and the benefits of that effort shared amongst all who take part. But a workshop that takes a weekend? Could that stretch a 'beautiful idea' to its limits? Or is it true that you can never have too much of a good thing?

The Kahini Kapiti Writers' Retreat is not a retreat in the quiet, semi-spiritual sense of the word – let's face it, when writers gather there will be talk, and plenty of it – but it's everything a writers' workshop should be, only longer. Day-to-day routines give way to a weekend immersed in language, creativity and community.

The annual retreat is the work of poet and short fiction writer Kirsten Le Harivel, the Oceania director of the international writers' organisation Kahini (www.kahini.org). Le Harivel is also a fellow graduate of the 2013 Victoria University's Master of Arts in Creative Writing and, for three of us

from that same class, this year's Kapiti retreat was an ideal opportunity to reconnect – with each other, as well as with the writing urge that had brought us together in the first place. We could stretch our workshopping wings, even get the ball rolling on some new work.

Le Harivel had gathered 60 published and unpublished writers from around the country at a comfortable but unfussy lodge five minutes walk from Waikanae Beach. We could take a 7am yoga class, attend a free-writing session, or share our work at open-mic evening events – if we wanted to. No problem if we didn't. But the workshops were the main attraction and the 2017 teaching line-up included six established New Zealand and international writers: Hera Lindsay Bird, Nalini Singh, Helen Lehndorf, Jordan Hartt and Vivienne Plumb. Each writer taught morning workshops – three in fiction, two in poetry, one in memoir writing, and one cross-genre. The

problem was deciding which to attend.

For my friend and poet Claire, who's working on a series of poems about her recent ancestors, Queenie Rikihana-Hyland's workshop, 'Nga Maumahara: Dialling up the T line – tapping into the energy of our tupuna to write about their deeds' was a good fit. "Participants in my group read from works in progress, and these readings were just outstanding," Claire says. "It was a privilege to hear writers generously sharing their work, some for the first time: such fascinating stories, many heartbreaking, all dynamic and original. It was also valuable for me to see my own project in the light of others, not for the purposes of comparison, but simply to open up the range of possibilities available to me."

A developing interest in writing short fiction, meanwhile, tempted Kate to stray from more familiar non-fiction territory and try Vivienne Plumb's 'Conceiving Changes' workshop. "We started on Saturday with exercises for characterisation, setting, dialogue, interspersed with examples, examples, and examples," Kate says. "A group brainstorm generated a very long reading list and publications that accept short stories. Then, on the Saturday evening, we reviewed each other's pieces that were submitted prior to the workshop, and provided feedback to each other on Sunday."

For me, Jordan Hartt's workshop on 'Writing New Work Inspired by Water' appealed simply because I'd heard Jordan, who is the US-based director of

Kahini, was a great teacher. Of course, he's also a great writer – the author of a collection of narrative poems and other published work. But he is undeniably a seasoned workshop facilitator, teaching eleven writing retreats annually every year, most of them in the Americas. From the beginning, he gained the confidence of participants, settling the nerves of first-time workshop attendees and challenging those who had experienced the process before. By lunchtime on Sunday, each participant had a fully-workshopped piece of writing to take home, a feat that thrilled most of us, but didn't seem to surprise Jordan at all.



Queenie Rikihana-Hyland and Hera Lindsay Bird at dinner with writers' retreat attendees.

If the idea of a late summer weekend spent immersed in language – the written *and* spoken kind – excites you, then Kapiti in 2018 is definitely a beautiful idea. My friends and I may well see you there. ■

* The 2018 Kapiti Writers' Retreat runs from 23-25 February. Find out more here: <http://kahini.org/the-2018-kapiti-writers-retreat/>

* The NZSA 2nd National Writer's Forum will be in Auckland September 15 and 16. Info to follow in the new year.



The Postcard is Never the Place

Chief Creative Officer of DDB New Zealand, Damon Stapleton boasts more than 100 000 followers for his blog Damon's Brain, so he's working on converting his creative insight into a non-fiction book.

Here, he turns his focus to the relationship between information and experience in storytelling.

I had been walking through Chinatown in San Francisco with my new friend Alexander Kalchev. I'd never been to San Francisco before, yet I had visited these streets many times before in my head when, as a young man in South Africa, I used to read Jack Kerouac on the Greyhound bus between Durban and Johannesburg, trying to make being broke a romantic pursuit. Now, I was finally visiting Beatnik Central.

We stumbled onto the City Lights Bookstore where Jack Kerouac, Allen Ginsberg et al had spent a lot of time. It is a strange feeling when you actually see something that's been in your head for years. There are little gems you find in reality, hidden details that fill in gaps or give you new insight into the stories you have read. Direct experience.

There was a time when we got our inspiration from going out there and finding stories, ideas and things. Today, of course those things come to us. They are piped in. The information comes to

us on a screen but I am not sure the experience does. And the reason that is important is experience interprets information. Experience transforms information. Information needs experience to become a story.

We walked further down the road and found the American Zoetrope Building. *The Godfather* and *Apocalypse Now* were edited inside this building with its bright green facade created by time. As I looked at it, I could imagine a younger George Lucas drinking coffee on the street and Francis Ford Coppola with a half smoked cigar in his mouth looking out of one of the windows with a very harassed editor behind him drowning in the pieces of *Apocalypse Now* still to be edited. The place and the building had given me a feeling – a feeling I would not have been able to have had I merely Googled the address, a feeling and a story that information alone would not have supplied. The direct experience of things it would seem has a strange side effect: Inspiration.



Left: Chinatown
in San Francisco.
Below: The American
Zoetrope Building.

Photos: Damon
Stapleton

Inspiration was something I had experienced the day before too when I heard Keith Reinhard speak. Reinhard, the Chairman Emeritus of DDB, has been in advertising for six decades. Let's just say he has forgotten stuff you and I will never know. He had been kind enough to come and speak to a few of us about advertising and his journey through it. There was a joy in his stories and I found his talk really inspirational. And, I believe I felt the way I did because I was in the same room as him. If I had watched him on a screen I would not have experienced his gentle warmth, intelligence and sense of humour to the same degree. I got a sense of him as a person and that made what he said better.

Inspiration and direct experience of life are vital ingredients for creativity. We need both to do anything interesting. Without them, you will reach the sea of sameness very quickly.

Fortunately, in San Francisco, I was given two very large doses to point me in the right direction. First, from a place



that had better stories than me and second, from a man who had better stories than me. And now, their stories have become my story. The lesson I learned from San Francisco and Keith Reinhard is that being there is everything. It is how inspiration happens. That's how stories begin. The postcard is never the place. It's a lesson those in the business of writing should never forget. ■

ON FOOT

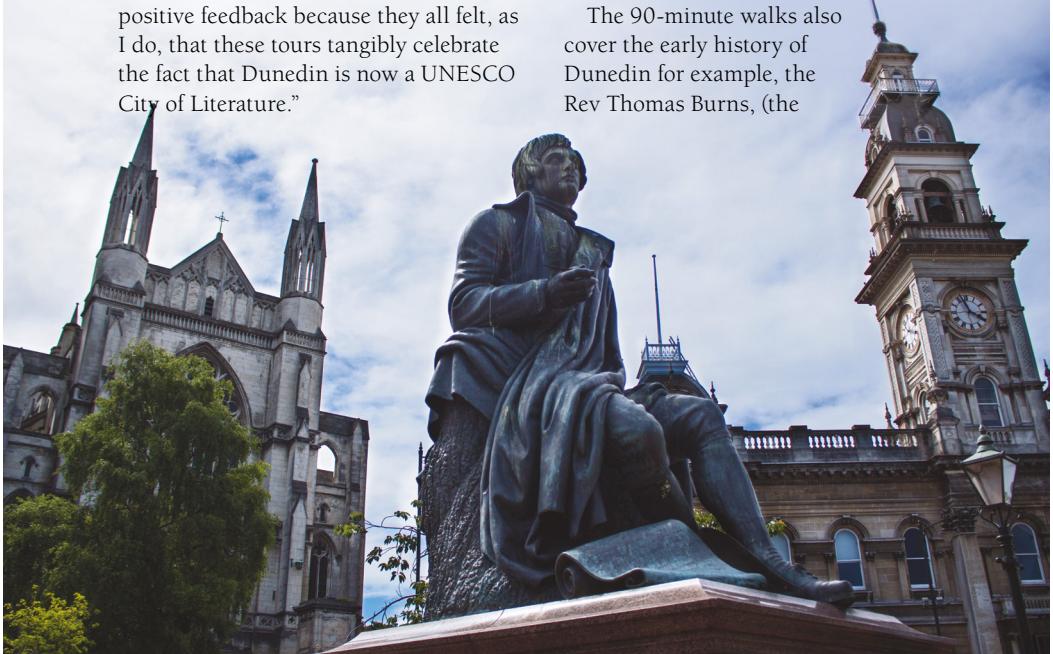
The Many Steps to Literary Walking Tours

To celebrate the fact that Dunedin is now a UNESCO City of Literature, Beverly Martens created Literary Walking Tours to take literature fans through the University of Otago campus.

Developing a new venture conducting literary walking tours through the University of Otago campus took Beverly Martens the best part of a year. "Dealing with numerous delays and 'red tape' was definitely frustrating but everyone I met throughout the process gave me such positive feedback because they all felt, as I do, that these tours tangibly celebrate the fact that Dunedin is now a UNESCO City of Literature."

The aim of Marten's Literary Walking Tours is to showcase Dunedin's literary past and present by sharing informative and anecdotal stories about the famous New Zealand writers that have been based in Dunedin such as Charles Brasch, Janet Frame, James K Baxter and Hone Tuwhare (to name just a few).

The 90-minute walks also cover the early history of Dunedin for example, the Rev Thomas Burns, (the



nephew of Scottish bard Robbie Burns) who emigrated here in 1848 and became Otago's most influential early religious leader, as well as the first Vice Chancellor of the University; through to Thomas Bracken, who wrote the words to *God Defend New Zealand*; and Dr Thomas Morland Hocken, an early and very avid book, pamphlet and artwork collector, which later formed the basis of the Hocken Library. "I move from this historic perspective through to the recent literary past while walking through the older part of campus with its Grade I historic buildings. For example, James K Baxter's only novel, *Horse*, references the Gothic Archway (where exams results used to be posted up on the baize glass-framed notice-boards) while scenes from the 1990 Janet Frame biopic *An Angel at my Table* were filmed in the old Quadrangle," says Martens. "It's a lot to cover but I tailor it to suit the interests of my guests."

Her strongest support came from the Dunedin City Council's Arts Collaboration group, chaired by City of Literature director, Nicky Page, who provided Martens with unflagging encouragement and advice. "Having someone of Nicky's calibre to sound out ideas with was just brilliant," says Martens. "In fact, the whole process has really strengthened both my literary and business networks."

Another integral part of setting up the tour was a nine-week Co-Starters business course organised (and co-facilitated) by Antony Deaker from the DCC Enterprise team. Participants were budding entrepreneurs from Dunedin's burgeoning creative tourism

sector with the course covering all the realities of running a small business including financials, marketing, and legal along with compliance requirements such as health and safety.

"What people come away with is a new perception, and appreciation, of how much the earlier writers and benefactors of Dunedin continue to inform the present literary landscape especially with the lasting influence of our Arts Fellowships," says Martens. "Just one example is the significant collaboration between Ralph Hotere and Hone Tuwhare who were (respectively) the Frances Hodgkins' and Burns' Fellows at Otago in 1969. From that, Ralph not only illustrated four of Hone's books, but also incorporated Hone's poems into some of his paintings."

Of course, this enviable situation is due to one man to whom we all owe a huge cultural debt – Charles Brasch. "Not only did he found *Landfall* magazine back in 1947 (and edit it for the first 20 years), but he and his cousins also funded our enduring arts fellowships (albeit anonymously) ensuring the whole nation gets the lasting benefit of the work these produce in Dunedin during a year free of financial worry," says Martens.

The Literary Walking Tours run up to four times a week during the summer season i.e. October to April, and by appointment during the Winter months. The normal cost is \$30 per person but Martens offers all NZSA members a \$5 discount. To make a booking or for general enquires email info@literarytours.nz or visit www.literarytours.nz ■

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REJOINED: Leslie Van Gelder, Paolo Rotondo, Victoria O'Sullivan, Anna Kirtlan, Michael Morrissey, Ian Grant, Rochelle Savage, David Grant, Keith Butler, Linda Collins-McLeod, Cassy Cochrane, Judith Farley, Francesca Riley, Isabelle McNeur, Adele Broadbent, Eva Ng, Tamara Wharerau, Cilla McQueen, Lindsay Wood, Pamela Collins, Joanna Danilo.

NZSA membership gives you access to a wide variety of benefits and a range of discounted services. A full list is also available at [authors.org.nz](#)

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NZ Author – quarterly magazine

Literary Bulletin – fortnightly enewsletter

Professional Development Leaflets in the members' area of the website

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Members Consultancy Service

We have an advisory committee whose members respond to contract queries. Our contracts consultancy service can be used after a minimum of three months' membership.

Advocacy

The main aim of NZSA's advocacy is to represent the professional interests of writers. To this end we actively lobby the government, publishers, broadcasters and others to ensure that writers are treated fairly and adequately rewarded for the use of their intellectual property.

Model Contracts

A number of model contracts are available in the members' area of the website.

DISCOUNTED BOOKLETS

Booklets [Digital Publishing Guide](#), [Writers and Tax](#), [Marketing Your Book](#) and [The Business of Writing](#) (which explains a standard publishing contract) and other booklets are for sale to members at a reduced rate. NZSA also stocks a selected range of industry specific discounted books.

MEMBERS-ONLY WEBSITE PAGES

The Members-only section of the NZSA website is a source of information on all aspects of the publishing process and includes a range of contracts and guidelines for you to download. This is where you go to find the Calendar of Opportunities, read back copies of the Literary Bulletin and *NZ Author* and to download leaflets.

REGIONAL BRANCHES AND HUBS

Our eight regional branches (Northland, Auckland, Hamilton, Central, Wellington, Top of the South, Canterbury and Otago/Southland) offer the opportunity to network with other writers, attend workshops, take part in seminars and social events, learn aspects of the craft of writing, enter branch competitions, hear speakers and participate in decision-making about NZSA.

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Mentorship Programme

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One writer with a finished manuscript (beyond first draft) is selected to be mentored by the publisher Hachette Australia.

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NZSA/Peter and Dianne Beatson Fellowship opens in August each year (exclusive to members)

NZSA/Auckland Museum Research Grants opens in August each year (exclusive to members)
 Keep an eye on the Literary Bulletin for any additions to this list.

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Members have a dedicated profile page on our website. Profiles can include your photo, bio, list of genres, writing skills, book-cover image, book title and blurb.

Monthly New Books Bulletin

Members can have your latest book promoted free of charge in our Monthly New Books Bulletin. This monthly list of new publications is emailed to NZSA members, posted to the NZSA Facebook page and emailed to key stakeholders in the literary community such as libraries. It is also emailed to all members of Booksellers NZ.

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Members can promote their book launch in the fortnightly Literary Bulletin.

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Members can promote events and opportunities on our website.

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