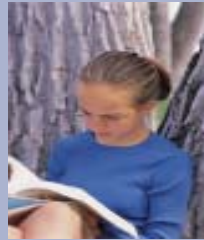




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## ASSOCIATION OF AMERICAN PUBLISHERS

## ANNUAL REPORT



FISCAL YEAR 2005/2006

## AAP Annual Report Fiscal Year 2005/2006



Photo by: Focused Images, Inc.

AAP Chairman Tony Lucki addresses the Annual Meeting

### Highlights of 2005/2006:

- In a legal action coordinated and funded by AAP, five major publishers sued Google over plans to digitally copy and distribute copyrighted works without permission;
- AAP's 2006 Honors went to *Good Morning, America* for their outstanding work in promoting American books and authors;
- Richard Nash, publisher of Soft Skull Press, won the Miriam Bass Award for Creativity in Independent Publishing;
- Anthony Lucki, President and CEO of Houghton Mifflin, began his second year as AAP Chairman;
- Book sales totaled \$25.1 billion in 2005, an increase of 9.9 percent over 2004;
- The R.R. Hawkins Award for the outstanding professional, scholarly or reference work was presented to two winning publications for the first time: Elsevier's *Atlas of Clinical Gross Anatomy* and Oxford University Press's *The Oxford History of Western Music*
- Get Caught Reading began its seventh year with 10 new celebrities and another popular photo-shoot on Capitol Hill;
- Turkish publisher Abdullah Keskin was the third recipient of the Jeri Laber International Freedom to Publish Award;
- Working as part of the Campaign for Reader Privacy, AAP scored some important victories in the Patriot Act fight;
- The International Freedom to Publish Committee issued strong protests over the persecution of writers in Turkey and in Cuba;
- Members of the former American Medical Publishers Association were welcomed into AAP and its PSP Division;
- AAP joined with higher education, library and university presses in issuing *Campus Copyright Rights and Responsibilities*;

## **CORPORATE MEMBERSHIP AT YEAR'S END STOOD AT 322.**

The following is a breakdown by category:

<b>MEMBERSHIP CATEGORY</b>	<b>TOTAL MEMBERS</b>
Regular Member Companies	178
Not-For-Profit Associates	59
University Press Associates	33
Affiliate Membership	52
<u>Total</u>	<u>322</u>

## **GOVERNMENT AFFAIRS**

AAP's Washington office is the industry's front line on matters of federal legislation and government policy. Washington keeps AAP members informed about developments on Capitol Hill and in the Executive Branch, to enable the membership to develop consensus positions on national policy issues. AAP's government affairs professionals serve as the industry's voice in advocating the views and concerns of American publishers on questions of national policy.

A separate report details legislation and regulatory actions affecting book publishers in 2004/05.

## **COMMUNICATIONS/PUBLIC AFFAIRS**

The Communications and Public Affairs program is AAP's voice, informing the trade press and other media, the AAP membership, and the general public, about AAP's work to promote the cause of American publishing and serving as the industry's spokesman on a host of issues. Through the program's regular publications, press releases and advisories, op-ed pieces, and other means, AAP expresses the industry's views and provides up-to-the-minute information on subjects of concern to its members. The Communications/Public Affairs program has primary responsibility for the AAP web site.

Photo by: Focused Images, Inc.



Pediatrician Barry Zuckerman tells publishers about the growth of Reach Out and Read, the program he helped create

AAP's public affairs activities include outreach and cooperative programs with such organizations as The Center for the Book in the Library of Congress, the Arts Advocacy Alliance (supporting the National Endowment for the Arts and other federal arts programs), PEN American Center and its International Freedom to Write Program, a host of literacy and reading promotion efforts including an early childhood literacy initiative, Reach Out and Read. The AAP website can be found at [www.publishers.org](http://www.publishers.org)

## **BOOKEXPO AMERICA**

AAP is a co-sponsor of BookExpo America (BEA), the premiere English-language book event. BookExpo 2005 was held in New York June 3-5. Among the highlights: welcoming remarks by author and comedian Billy Crystal, and a solo turn by comedian Bill Maher to benefit the Book Industry Foundation, which supports the work of the American Booksellers Foundation for Free Expression and Get Caught Reading.

At BookExpo 2005, AAP joined with ABFFE and the Freedom to Read Foundation in sponsoring a program featuring Congressman Jerry Nadler (D-NY) discussing the USA Patriot Act.

## **GET CAUGHT READING**

AAP continued its work to promote a love of reading with the Get Caught Reading/¡Ajá, leyendo! Campaign, with the addition of new celebrities including singer Alicia Keys, Queen Latifah, The Miami Heat, Batman, Marlo Thomas, Gloria Estefan, Maya & Miguel, George Foreman, Sue Bird, Swin Cash, Tim Duncan and Grant Hill among others.

On May 11, AAP sponsored another immensely popular “Get Caught Reading Day on Capitol Hill,” with members of the House and Senate actually lining up and waiting to have their pictures taken reading a favorite book.

AAP initiated efforts to air a Get Caught Reading PSA with Whoopi Goldberg on pro bono airtime offered via ABC Television. With an expected air date of early 2006 via ABC network television and local affiliates, the PSA will heighten awareness of the importance of books and reading.

AAP met with representatives from Starbucks, who plan to use the Get Caught Reading theme for a New York City reading initiative in May 2006. Also involved in the program are the NYC Board of Education’s Fund for Public Schools, the New York Public Library, and Jumpstart, an organization that pairs college students with young children for reading sessions in an effort to boost their literacy skills before kindergarten.

Booksellers, educators and librarians continue to utilize [www.getcaughtreading.org](http://www.getcaughtreading.org) as a resource to initiate Get Caught Reading campaigns in their communities, and order artwork via the Get Caught reading site. AAP also continued its partnership with the National Basketball Association. In addition, Get Caught Reading will have a presence at the New York Comicon Show in 2006 and continued its involvement with the Harlem Book Fair in July.

## **COPYRIGHT**

The AAP Copyright Committee coordinates efforts to protect and strengthen intellectual property rights and enhance public awareness of the importance of copyright as an incentive to creativity. The committee monitors intellectual property legislation in the United States and abroad, and serves as an advisory body to the Board of Directors in formulating AAP policy on legislation and compliance activities, including litigation. The committee coordinates AAP’s efforts to promote understanding and compliance with U.S. copyright law on America’s college and university campuses. Bob Bolick (McGraw-Hill) chaired the committee in 2005/2006.

The Family Entertainment and Copyright Act, which was enacted into law in April 2005 primarily to address the problem of digital piracy of movies, recordings and computer programs, contained a provision helpful to publishers. Although the statutory language that makes it a felony to engage in “willful pre-commercial online distribution” of an audiovisual work does not cover literary works, the legislation contained a provision calling for regulations to establish a pre-registration procedure to protect

works prior to commercial release. AAP submitted comments to the Copyright Office in the summer of 2005 urging that such protection be extended to literary works and the regulations issued late in 2005, apply that protection to literary works because such works also have a “history of copyright infringement prior to commercial distribution.”

The Digital Media Consumers Rights Act (H.R.1201), which AAP opposed in the previous Congress, was reintroduced in 2005. Carefully drafted to fall within the primary jurisdiction of the House Energy and Commerce Committee rather than Judiciary, the bill again threatens to gut the anti-circumvention provisions of the Digital Millennium Copyright Act (DMCA). The legislation’s sponsors often justify the bill’s provisions by pointing to digital rights management restrictions faced by consumers in their use of purchased e-books. A hearing on fair use was held by the House Energy and Commerce Consumer Protection Subcommittee in an apparent attempt to promote the legislation. AAP continues to oppose the bill.

The opening of the third round of the triennial rulemaking process mandated by the Digital Millennium Copyright Act (DMCA) began on December 1, 2005—the deadline for submitting proposals for temporary exemptions from the important provision of the DMCA, which prohibits the circumvention of technologies used to control access to copyrighted materials. AAP has again joined allied organizations representing the copyright-based industries in reviewing and responding to these proposals during the reply round, which ended in February 2006.

AAP participated in a number of *amicus* briefs concerning copyright issues in 2005/2006.

AAP participated in an *amicus* brief in *U.S. v. Martignon*, supporting reversal of a Second Circuit ruling holding the criminal anti-bootlegging statute for live music performances unconstitutional because (1) such performances are not “fixed” and thus not “writings” and (2) the protection against bootlegging is not for “a limited time.” The brief focused on the first holding, where the court ruled that Congress cannot enact “copyright-like” legislation under any other constitutional grant of legislative authority (such as the Commerce Clause) if the Copyright Clause itself does not authorize the statutory protection at issue.

In July, AAP signed onto an *amicus* brief in the U.S. Supreme Court’s review of the *Illinois Tool Works* case, urging the Court to reject the view endorsed by the U.S. Court of Appeals for the Federal Circuit that mere ownership of a copyright gives rise to a presumption of market power for purposes of a tying analysis under antitrust law. The case under review specifically holds that such a presumption exists with respect to patents, but states in *dicta* that such a presumption also exists with respect to copyrights.

AAP joined an *amicus* brief in *Kahle v. Ashcroft* opposing a request that the 9<sup>th</sup> Circuit remand the case to give the lower court an opportunity to determine whether changes that Congress has made from an “opt-in” to an “opt-out” copyright system (e.g., elimination of notice, registration and renewal requirements, and imposition of term extension) constitute the kind of change in the “traditional contours of copyright” that the Supreme Court, in the *Eldred* decision, implied might justify heightened First Amendment scrutiny of challenges to copyright laws enacted by Congress, such as the Copyright Term Extension Act.

After nearly six years of negotiated drafting, *Campus Copyright Rights & Responsibilities: A Basic Guide to Policy Considerations*, a cooperative effort of AAP, the Association of American Universi-

ties, the Association of American University Presses, and the Association of Research Libraries, was published in December 2005. Some 1,800 hard copies of the publication, which was endorsed by the American Council on Education and the Authors Guild, were distributed to universities along with a letter explaining its importance to the university community. The document is posted on the AAP web site, as well as on the websites of the co-sponsoring and endorsing organizations and can be downloaded as a PDF file.

In January 2006 the U.S. Copyright Office issued its report containing recommendations regarding the treatment of “orphan works” (works whose copyright owners cannot be located by third parties seeking permission to use them). AAP, along with AAUP and the Information Industry Association, had joined in submitting recommendations reflecting their interests as both users and owners of copyrighted works. At a Congressional hearing in March 2006, AAP praised the “minimalist approach” taken by the Copyright Office in putting forth legislative recommendations that are “relatively simple, uniform, flexible and self-executing,” stipulating that if the user of a copyrighted work has performed a “reasonably diligent but ultimately unsuccessful search” to locate the copyright owner, and that owner later turns up and sues for infringement, the user would be “entitled to have the benefit of limitations on the compensation and injunctive remedies” that the owner could obtain.

The Committee continued to monitor the Google Print Library Project in 2005. AAP disagreed with Google’s view that its Library Project activities in scanning copyright-protected books into its search engine database are protected either by fair use under Section 107 of the Copyright Act or the library privileges under Section 108 of the Act. After fruitless attempts to negotiate a mutually acceptable approach to the handling of such works in the Library Project, on October 19, 2005 five major AAP members filed suit in federal court claiming that Google’s plan to digitally copy and distribute copyrighted works without permission of the copyright owners violates U.S. copyright law. The legal action was taken after lengthy discussions broke down between AAP and Google’s top management regarding the copyright infringement implications of the Google Print Library Project. The suit, which was filed in U.S. District Court for the Southern District of New York, seeks a declaration by the court that Google commits infringement when it scans entire books covered by copyright, and a court order preventing Google from doing so without permission of the copyright owner. The lawsuit was filed on behalf of The McGraw-Hill Companies, Pearson Education, Penguin Group (USA), Simon & Schuster and John Wiley & Sons. The suit, which is being coordinated and funded by AAP, has the strong backing of the publishing industry and was filed following an overwhelming vote of support by the AAP Board.

After the revitalization of the Committee’s Online Piracy Working Group in 2004 under the chairmanship of Keith Titan (Random House) the group continued studying the extent and nature of online book piracy activities in 2005.

The Copyright Committee has been closely monitoring issues arising from the use of copyrighted works in digital formats on college campuses, including library e-reserves. The Committee has been working with the Copyright Clearance Center, which following substantial research on university and library views regarding “blanket licenses,” has implemented an “Electronic Course Content Service” to facilitate the authorized use of such materials.

The Rights and Permissions Advisory Committee (RPAC), which operates under the aegis of the Copyright Committee, sponsors educational programs for rights and permissions professionals. Bonnie Beacher

(McGraw-Hill) chaired the group in 2005/2006. The Committee brought a popular half-day seminar on “No Child Left Behind” and the “TEACH” Acts, originally held in New York, to Boston, giving many members of the publishing industry in the New England area an opportunity to attend the seminar without traveling to New York. In May RPAC hosted its Annual Conference in New York, gathering rights and permissions professionals from around the country. In addition to educational seminars and conferences, RPAC continues to maintain the AAP Imprints List, providing contact information and information on various imprints for those seeking permission. The list can be found at: <http://www.publishers.org/member/imprints.cfm>. RPAC members have also begun to update the *New and Updated Copyright Primer* for its third printing.

The Copyright Education Committee (CEC) has worked on abbreviating AAP’s FAQ’s on E-Reserves and creating other revisions for a new edition of the *Q & A on Copyright for the Campus Community*. The committee has also been in contact with Copyright Clearance Center to discuss joint copyright education and compliance activities on university campuses.

## **DIVERSITY/RECRUIT & RETAIN**

AAP’s Diversity/Recruit & Retain Committee continued its mission to attract more talented, diverse voices to the book publishing industry with its “Book Yourself a Career” campaign. The committee was chaired in 2005/2006 by Bridget Marmion (Houghton Mifflin). In 2005 AAP initiated advertising via Google Ad Words, resulting in a dramatic increase in traffic to the bookjobs.com web site, which continues to serve as a comprehensive database of jobs and internships in the industry as well as a “one-stop-shopping” resource for information about book publishing. The jobs database includes job and internship listings from nearly 300 book publishers of all types – large and small, consumer, professional, and educational. The website has a wealth of information including types of publishers, information about various companies, types of jobs in publishing, matches between college majors and particular job departments, publishing programs, and events in the industry.

The DRRC continued its college outreach initiative in 2005 to publicize the website on college campuses, with a focus on those schools with high academic standards and a diverse student population.

In 2006 AAP will initiate a retiree mentoring program entitled PRIME (Publishing Resource Information Mentoring Exchange) to provide ongoing mentoring support by publishing retirees to those in publishing who may be making a transition from one segment of the industry to another.

## **EDUCATION PROGRAM**

AAP’s education program is designed to provide educational opportunities for publishing industry personnel. The most popular of these is the intensive “Introduction to Publishing” course, which was held in New York in November 2005. Among other educational programs: “Finance for Editors” and AAP’s Tax Seminar, featuring speakers with expertise in finance and taxation.

## **ENABLING TECHNOLOGIES**

AAP’s Enabling Technologies program works to foster the development and implementation of technologies facilitating print and digital publishing. AAP’s director of digital policy Ed McCoyd oversees

a variety of initiatives serving the interests of all segments of the industry.

The work of the **Higher Education Critical Issues Task Force** is detailed in the Higher Education section of this report. Other initiatives include:

### **ISBN-13**

The International Organization for Standardization (ISO) is expanding the International Standard Book Number (ISBN) from a 10 to a 13-digit code. To give publishers adequate time to prepare for the change, AAP successfully advocated within ISO to delay the implementation date of the 13-digit ISBN (often referred to as “ISBN-13”) to January 1, 2007. (The change was originally proposed to occur as early as 2005.) On the first day of 2007, ISBN registration agencies (including R.R. Bowker in the U.S.) will begin issuing a 13-digit ISBN to publishers, rather than the 10-digit ISBN that is currently issued.

In August 2005, AAP sent a letter to more than 7,000 school districts across the country to alert them about the change, the reasons behind it, its implications, and publishers’ efforts to facilitate the transition. Information was also posted on AAP’s Web site at [www.publishers.org/isbn-13](http://www.publishers.org/isbn-13), and AAP worked with school district depositories on implementation issues, coordinated with ISBN-13 outreach and communications efforts by the Book Industry Study Group (BISG), and gave ISBN-13 presentations to school district representatives at the annual meeting of the National Association of State Textbook Administrators (NASTA).

### **PLUS Initiative**

AAP formed a task force in 2005 to review and provide input on the glossary being created by the PLUS (Picture Licensing Universal System) Coalition, a group working on standards to facilitate picture licensing worldwide. The glossary will be of terms that publishers and other parties can choose to use in photograph and other image licenses.

One of the goals of the effort is for codes identifying defined terms in the glossary to be incorporated into picture licenses and, through their association with the glossary, help avoid contract disputes that can arise from subsequent confusion over the meanings of terms in an agreement. PLUS will also create a template for putting licensing provisions in a certain order to foster machine-readability. The AAP task force consists of photo researchers, rights and permissions professionals, and other representatives from publisher members of AAP.

### **FREEDOM TO READ**

The mandate of the AAP Freedom to Read Committee is to protect the free marketplace of ideas for American publishers. The Committee serves as the publishing industry’s early warning system on issues such as libel, privacy, school and library censorship, journalist’s privilege and the right to protect confidential sources, Internet censorship, government regulation of protected speech, third-party liability for protected speech, and efforts to punish speech that “causes harm.” The Committee coordinates AAP participation in First Amendment cases, sponsors educational programs, plays an active role in Media Coalition (a trade association of business-oriented groups concerned with censorship issues), and works

with groups within and beyond the book community to advance common interests in the area of intellectual freedom. Lisa Drew (Lisa Drew Books/Scribner) chaired the Committee in 2005/2006.

### **The Patriot Act and the Campaign for Reader Privacy**

Section 215 of the USA Patriot Act, especially as it applies to library and bookstore records, continued to be a source of deep concern for publishers and for the larger book community. Over and above the issue of library and bookstore records, publishers had serious business concerns about Section 215. In addition, the issue of National Security Letters (NSLs) came to the fore as it became evident that these warrant-less administrative subpoenas were being widely used by the FBI to bypass even the limited protections of Section 215.



Photo by: Judith Platt

AAP President Pat Schroeder joined ALA, ABA and PEN representatives in a Capitol Hill meeting with Senator Larry Craig (R-ID), an ally in the reader privacy fight

Working with allies in the book community, publishers did a remarkable job raising awareness of the threat to reader privacy. A high point in the fight came on June 15, 2005 when the House voted 238 to 187 in defiance of both the Republican leadership and the White House to approve Congressman Bernie Sanders' amendment to the Justice Department appropriations bill cutting off funds for FBI searches of bookstores and libraries under Section 215. (The amendment was stripped from the final appropriations bill). The House and Senate passed very different versions of the legislation, with the Senate bill containing much stronger civil liberties protections. The House/Senate

conference in November ignited a firestorm of protest when it failed to restore even basic protections, and a bipartisan group of Senators vowed to fight for a better bill. The stand-off continued into the new year, when intense pressure from the White House cracked the bipartisan coalition in the Senate. Following a White House-brokered "compromise," the Senate approved the legislation on March 2, 2006 with 10 Senators voting against it. The new law made 14 of the 16 provisions permanent, and created a four-year sunset for the other two (including Section 215). Despite some modifications, the reauthorizing legislation did not include the most important changes to Section 215 sought by the Campaign for Reader Privacy—a standard of individualized suspicion and provisions allowing meaningful challenges to the order and the accompanying gag order. Even the modest improvements in the reauthorizing legislation, however, were undermined in a "signing statement" from President Bush on March 9 in which he reiterated the "unitary executive branch" privilege, in effect asserting that the White House will withhold information whenever it deems necessary. AAP joined its sister organizations in the Campaign for Reader Privacy in a statement deploring the President's remarks and vowing that the fight will continue.

### **The Press Under Siege**

Over the past several years, publishers have watched with growing unease the erosion of fundamental protections for investigative journalists and authors. A number of high profile cases have underscored an increasing willingness on the part of federal authorities to subpoena journalists and to hold out the threat of civil and criminal contempt for refusal to identify confidential sources. Although journalists have fairly strong protection against compelled disclosure in state courts (31 states and the District of Columbia have reporter's shield laws on the books, and another 18 recognize some degree of common law privilege) this protection has never been codified for federal proceedings. Over the past several years, more than two dozen subpoenas have been issued to obtain reporters' source notes and other materials.

These incidents have underscored the need for federal legislation that would provide journalists with a degree of protection against compelled testimony in federal court. AAP Freedom to Read counsel worked on a task force to develop draft legislation, the “Free Flow of Information Act.” Introduced in both the House and the Senate with bipartisan sponsorship, the Act would provide some measure of protection for reporters in shielding confidential sources in federal court proceedings, and would specifically cover book publishers and authors. AAP will lobby hard for passage of the Act in 2006.

### **In the Courts**

AAP joined a coalition of media groups in asking the U.S. Supreme Court to review the contempt orders imposed on New York Times reporter Judith Miller and Time Magazine reporter Matt Cooper for refusing to testify in the grand jury investigation of the Valerie Plame leak.

- In the hope of obtaining a general rule limiting the press’s liability for accurate reporting on government investigations involving matters of public concern, AAP joined in filing an *amicus* brief in support of the *New York Times*, asking the U.S. Supreme Court to review the troubling ruling by the 4<sup>th</sup> Circuit reinstating a lawsuit by biological weapons expert Stephen Hatfill for defamation and “intentional infliction of emotional distress” over a series of columns in which Nicholas Kristof castigated the FBI for its handling of the investigation into the anthrax killings in the fall of 2001 and its failure to pursue a “person of interest,” later identified by Hatfill himself as the “person.” The Supreme Court denied the petition and sent the case back for trial.
- AAP joined with more than 30 press organizations and media companies in asking the Supreme Court to review the contempt citations against two reporters who refused to comply with subpoenas for information on confidential sources in a civil action brought by Wen Ho Lee, a former researcher at the Los Alamos National Laboratory against the Departments of Energy, Justice and the FBI, alleging that his rights under the Privacy Act were violated through leaks of information in his government files.
- In May a federal judge in South Carolina issued a permanent injunction barring enforcement of a state statute criminalizing the digital communication of work considered to be harmful to minors, including “depictions of nudity and sexual content.” The South Carolina victory was the latest in a series of successful legal challenges to state Internet harmful to minors laws spearheaded by Media Coalition. AAP was one of the plaintiffs in the South Carolina suit, *Southeast Booksellers Association v. McMaster*, brought in November 2002.
- Joining with 13 co-plaintiffs, AAP went into federal court in Salt Lake City in June to challenge Utah’s newly enacted Internet harmful to minors statute. The statute requires the state attorney general to compile a “blacklist” of Internet sites that contain harmful to minors material. Internet service providers would then be required to block access to the sites and web site operators would be required to rate their sites and control minors’ access to material that might be considered harmful to minors. The complaint charges that the statute “imposes severe content-based restriction on the availability, display and dissemination of constitutionally protected speech on the Internet.”

- AAP joined *amicus* briefs supporting two separate challenges to Section 205 of the USA Patriot Act dealing with the issuance of National Security Letters— administrative subpoenas issued without judicial oversight that give the FBI virtually unlimited power to obtain electronic communications transactions. The first case involves the government’s appeal of a ruling by a federal judge in New York, which held NSL’s to violate the Fourth Amendment’s ban on unreasonable searches and the gag order to violate the First Amendment. The second challenge was brought by the ACLU on behalf of an ALA member in Connecticut who received a National Security Letter and sought to have the mandatory gag order lifted to enable the recipient to participate in the final, critical days of the debate over reauthorization of the Patriot Act. On September 9, finding that the government could not support its allegation that the gag order was necessary (and underscoring the importance of judicial oversight even when national security is involved), a federal judge in Connecticut lifted the gag order, but stayed the ruling pending the government’s appeal. Both cases are now before the 2<sup>nd</sup> Circuit Court of Appeals, which heard oral arguments on November 2.
- AAP joined in filing an *amicus* brief in support of U.S. author Rachel Ehrenfeld’s request that a federal court in New York declare a British court’s default libel judgment against her unenforceable. The judgment, involving substantial damages, an injunction against U.K. publication of Ehrenfeld’s book *Funding Evil*, and a “declaration of falsity” against the book, arose from a libel action brought in the U.K. by Saudi businessman Khalid Bin Mahfouz although Ehrenfeld’s book was never published there. The *amicus* brief cites “the growing and dangerous threat of ‘libel tourism’—the cynical and aggressive use of claimant-friendly libel laws in foreign jurisdictions with no legitimate connection to the challenged publication.”
- AAP welcomed a ruling on September 16 by the Ontario Court of Appeal in *Bangoura v. Washington Post*, a case with far reaching implications for freedom of speech on the Internet. The September 16 ruling overturned the decision of a lower Canadian court that would have allowed a libel suit against *The Washington Post* to proceed in Canada based on the fact that an article accessible through the *Post*’s online archive allegedly defamed someone who was not even a resident in Canada at the time it was written. The Ontario Supreme Court recognized that the refusal of U.S. courts to enforce foreign libel judgments that do not meet the standards established in *New York Times v. Sullivan* is “rooted in the guarantees of freedom of speech and of the press under the First Amendment of the U.S. Constitution.”



Photo by: Focused Images, Inc.

AAP President Pat Schroeder

### **Educational Programs**

At BookExpo America in New York, AAP co-sponsored a program featuring Congressman Jerry Nadler (D-NY) who spoke about the need to amend the Patriot Act and restore federal judicial oversight to the process of obtaining records, including library and bookstore records, under Section 215.

At the ALA Annual Conference in Chicago, AAP co-sponsored “Intellectual Freedom: A Casualty of War?” exploring the history of intellectual freedom in wartime, the extent to which the current war has had an impact on free speech and dissent, and strategies for the book and information communities to help maintain our liberties during “perilous times.” Featured speaker was University of Chicago Law Professor Geoffrey R. Stone, author of *Perilous Times: Free Speech in Wartime from the Sedition Act of*

*1798 to the War on Terrorism*, joined by First Amendment legal expert Floyd Abrams.

While the First Amendment places a heavy burden of proof on libel plaintiffs in the U.S., these same safeguards do not exist in other parts of the world. American publishers find themselves increasingly threatened by “libel tourism”—disastrously expensive litigation brought by wealthy plaintiffs in plaintiff-friendly foreign jurisdictions with no substantial connection to either the publication or the parties involved. The emergence of the Internet as a publishing medium has further complicated this situation. To give publishers a better understanding of these issues, the Freedom to Read Committee joined with the Media Law Resource Center and Bloomberg News in co-sponsoring a symposium on *International Libel & Privacy: Navigating the Minefield*, on February 28 in New York.

## HIGHER EDUCATION

AAP’s Higher Education Committee serves the needs and interests of AAP members who publish for the post-secondary educational market. The Higher Education Executive Committee was chaired by John Isley (Pearson Education) in 2005/2006.

AAP continued to fight widespread misunderstanding and misinformation about the price of college textbooks. Early in 2005, the Public Interest Research Group (PIRG) issued its second report on college textbooks, *Ripoff 101, Second Edition*. Filled with misrepresentations and inconsistencies, the report claimed that publishing practices were unnecessarily driving up the price of college textbooks, that college and university faculty were opposed to new editions and supplemental learning materials, and that students were being “ripped off” by being forced to purchase these materials at inflated prices. The report also attacked the practice of selling textbooks at market prices overseas. Following release of the report, AAP President Pat Schroeder exchanged correspondence with PIRG, questioning their charges, and again offering to work with PIRG to develop impartial research and to provide PIRG with sources of independent data. Mrs. Schroeder and a representative from Zogby International, a nationally recognized polling company, subsequently met with PIRG at the AAP Washington office.

In an effort to communicate with college and university faculty, administrators, and students, AAP and member publishers participated in a series of forums on textbook pricing hosted in the spring by the Georgia University System Board of Regents at which a student, bookstore manager, faculty member and publishing representative gave short presentations and participated in a discussion with the audience. Many issues were raised at the forums, but most apparent was the range and diversity of opinions surrounding the issue of textbook pricing.

In April Mrs. Schroeder spoke on behalf of the higher education textbook industry before the New York City Council’s Higher Education Committee, identifying potential ways of helping students pay for textbooks.

Prompted by the *first* PIRG report, several members of Congress had signed a joint letter to the General Accountability Office (GAO) requesting a study of textbook pricing. In August 2005, GAO released its report, attracting nationwide media interest. While AAP endorsed the key conclusions of the report – that the college textbook employs new technologies to enhance the educational experience for instructors and students and that publishers are assuming roles that traditionally belonged to postsecondary institutions – the Association expressed ongoing concern that pricing analyses included in the study did not provide a balanced picture of the industry.

As 2005 progressed, PIRG's attacks moved from public relations initiatives to a push for legislation. As a result, an onslaught of textbook-pricing legislation was introduced in 22 state legislatures. Working with higher education publishers, the Association began tracking and then working to revise or defeat ill-conceived legislation.

In October, higher education publishers and AAP participated in two meetings mandated by state legislatures in Hartford, Connecticut and Richmond, Virginia, to discuss the cost of college textbooks with professors, bookstores, students, college and school administrators, and state government representatives. Publishing industry representatives discussed their role in the textbook market, outlining the industry's commitment to providing a wide range of textbook choices, providing faculty and students with textbook information, and sponsoring on-campus educational programs.

The central focus in the forums, hearings, GAO report, legislation and media interviews was on methods of addressing the cost of textbooks. Recommendations included a ban on sales taxes for textbooks, a requirement that texts be used for a certain amount of time, an initiative to increase the number of textbooks available through campus libraries, the creation of book vouchers for low-income students, and tax credits for learning materials.

At the federal level, textbook pricing and rental program bills were introduced in connection with the reauthorization of the Higher Education Act, a process that will continue into 2006. AAP will continue to monitor these bills in the coming year.

The "accessibility" issue also gained momentum in 2005, with legislators in several states introducing textbook accessibility legislation that would create a patchwork of state rules and regulations, hindering, rather than improving, student access to materials. Many of the bills mandated that publishers provide instructional materials to postsecondary institutions in specified digital formats that would require expensive conversions. Ed McCoyd, AAP's director of digital policy, and the Critical Issues Task Force (CITF) worked with representatives from colleges, organizations for the disabled, and legislators to determine the best ways to meet college students' accessibility needs while protecting publishers' rights.

### **Higher Education Critical Issues Task Force**

The Higher Education Critical Issues Task Force (CITF) consists of representatives from publishers of textbooks and other instructional materials for the postsecondary educational market in the U.S. The CITF works exclusively on issues involving the provision of accessible instructional materials to students with disabilities in postsecondary education.

Under various federal and state laws, colleges and universities must provide disabled students with equal and effective access to instructional materials. While educational institutions sometimes provide services such as human readers, another approach is to make the materials available in specialized formats (such as Braille, audio, or digital text). Consequently, a number of states have passed additional legislation – known as "e-text" laws – requiring that when instructional materials are adopted for use in a course in which a disabled student is enrolled, the publisher will deliver the material to the college in an electronic format which can be either used directly, or converted into another specialized format for use by the student with a print disability. Many publishers voluntarily provide e-text to campuses in states without such legislation as well.

Fulfilling electronic file requests often presents publishers with difficult challenges: in some instances the publisher may not have electronic text of an older title produced through methods which did not require the creation of a digital file; the publisher may not possess the necessary copyright licenses to distribute the book electronically (if the author, illustrator, or photograph licensor, for example, withheld electronic distribution rights in licensing publication rights to the publisher). Converting a production file into the specific format requested can also be very costly. In addition, publishers have concerns about whether the electronic files will be secure against unauthorized reproduction and use by students for whom they were not intended.

The CITF's efforts in 2005/2006 included:

- Announcing the Alternate Formats Solutions Initiative, an AAP effort in conjunction with disabled student services (DSS) professionals, organizations for the disabled, students, and others to develop national solutions to improve print-disabled students' access to postsecondary course materials in a timely manner. Rick Bowes, an accessibility expert, is spearheading the 12-month effort.
- Hosting a stakeholders meeting sponsored by the Association on Higher Education and Disability (AHEAD) E-Text Solutions Group to discuss key issues involved with the provision of accessible instructional materials.
- Working with the New York State Education Department to provide upstate and downstate training sessions for campus DSS professionals on the requirements created by New York's postsecondary e-text legislation (known as "Chapter 219") and the implementation guidelines developed by the CITF, DSS officials, the Education Department, advocacy organizations, and others.
- Sending a delegation to the spring meeting of the Washington Association on Postsecondary Education and Disability (WAPED) to present AAP's proposed implementation guidelines for Washington State's postsecondary e-text legislation and to discuss colleges' and publishers' issues with DSS representatives from around the state.
- Responding to legislative proposals in Georgia, Minnesota, and Oregon.
- Giving talks and participating in roundtable discussions at the AHEAD annual conference in Milwaukee.

## **INTERNATIONAL SALES COMMITTEE**

The International Sales Committee represents a broad cross-section of the AAP membership with interests in overseas markets, focusing on issues relating to the export of mass market paperbacks. Composed of export sales directors from AAP member houses and chaired in 2005/2006 by David Wolfson (HarperCollins), the group's major concerns are piracy, export on-line, distribution and currency issues associated with export sales to the U.S. military, overseas schools, hotels, bookstores and airports. The group works to facilitate publisher/bookseller/distributor dialogue at major book fairs. In addition to the International Sales Committee's bi-annual meetings, members continued the series of meetings started in 2002, with former Frankfurt Book Fair Director Volker Neumann and Frankfurt Book Fair Marketing Director Thomas Minkus. These meetings have kept communication with Frankfurt open and permitted AAP members to have input into future fair changes.

## INTERNATIONAL COPYRIGHT PROTECTION

AAP's International Copyright Protection Program works to combat the problem of international copyright piracy, increase fair access to foreign markets, and strengthen foreign copyright law regimes. The program inaugurated a number of new initiatives in 2005/2006 while continuing activities begun previously. Deborah Wiley (John Wiley & Sons) chaired the International Copyright Protection Committee in 2005/2006.



Photo by: Focused Images, Inc.

ICPC Chair Debbie Wiley reports on global anti-piracy initiatives

In carrying out its overseas anti-piracy campaign, AAP and the regional representatives of member publishers worked closely together and in cooperation with local government authorities. As a consequence, book pirates in six Asian territories felt the long reach of AAP's anti-piracy campaign in a series of raids, educational activities and policy initiatives coordinated by the Association.

In the People's Republic of China, AAP worked in partnership with the Publishers Association, U.K. (PA), to conduct research in March on photocopying practices affecting sales of university textbooks. The survey revealed extensive copying at university-run textbook centers. AAP and the PA brought the survey's results to the attention of government authorities and there are ongoing efforts to bring the unauthorized practices under control. In July, AAP and the PA conducted a market survey of street stalls and book markets in Beijing to reveal the extent of book piracy of trade bestsellers. These findings were incorporated into a program held in Beijing in September, cosponsored by AAP, PA and the Publishers Association of China, to highlight opportunities and challenges for publishers in China. AAP and the PA followed up the seminar with additional research in October on textbook piracy. Throughout the year, AAP also explored the growing phenomenon of trading Internet files containing book content. AAP was also engaged in a number of policy initiatives involving China, participated in the U.S. Ambassador's Intellectual Property Rights Roundtable in Beijing in January, and co-sponsored a number of seminars focusing on law reform, especially Internet regulation, throughout the year.

In South Korea, AAP worked with government authorities and the Korea Reprographic and Transmission Rights Center in raids on several premises in March, which hit illegal operations with proximity to 20 universities primarily in the vicinity of Seoul and resulted in the seizure of hundreds of illegal copies. Supported by U.S. Government policy, AAP succeeded in securing a letter from the Korean Minister of Education directing all universities in the country to formulate and implement plans to crack down on illegal copying on campuses. Continuing into the fall semester, AAP remained involved in both educational and enforcement initiatives, continuing to press for adherence to the Minister of Education's letter. In September AAP's investigators and law enforcement personnel raided the notorious Woosung Munhwasa copy shop in Seoul. The owner confessed that over the previous three years his copy shop illegally produced copies of more than 10,000 copyrighted books. The 909 books confiscated in the raid included titles from major publishers including John Wiley and Sons, Thomson Learning, Pearson Education, McGraw-Hill, Blackwell and Oxford University Press. A criminal complaint has been filed. A few days later another raid, conducted against Jip-Hyun-Jeon copyshop, yielded several confiscated illegal copies of major publishers including a number of university presses. Criminal complaints are being prepared.

In Taiwan, AAP and member company representatives (working through the local AAP group, the Taiwan Book Publishers Association) and local police, under the supervision of the Ministry of Justice, raided pirate operations in Taipei City, Taoyuan, Taichung and Tainan in March. As a follow-up, the TBPA worked with a newly formed government group, the Intellectual Property Right Protecting Corps, in raids on several copyshops in March and April resulting in the seizure of hundreds of books belonging

to a wide range of AAP members. Again, Taiwan geared up for the fall university term by undertaking a number of actions in September. In the five locations raided, officers seized 29 titles and 179 infringing copies of titles belonging to publishers Thomson Learning, Pearson Education, McGraw-Hill, John Wiley & Sons, Elsevier and others. Interestingly, the shop pirated roughly equal numbers of English and Chinese books, showing that this problem is not limited to English titles. Cases are pending.

Ongoing cooperation between local AAP publishers and the Hong Kong Customs & Excise Department resulted in a series of raids throughout the spring. In May, authorities seized more than 150 copies at shops located throughout the city, in Causeway Bay, Shaukeiwan and Tsuen Wan. Authorities also confiscated two machines and made three arrests. The Hong Kong government's efforts to combat piracy continued into the fall, working not only with rights-holders on enforcement actions but adapting them to the increasingly underground nature of Hong Kong's photocopy facilities. Government authorities also initiated a reward scheme in October in the hope of increasing the number of underground targets. In August, law enforcement authorities confiscated four copiers, five binding machines and made seven arrests at four copyshops, seizing illegal copies valued at more than HK\$82,000.00. In mid-September, officers seized 179 copies of books, 4 copiers and arrested 3 persons in an underground copying facility housed in a residential unit. The same day, authorities searched two more shops where they found HK\$120,000 worth of illegal commodities including machines and arrested the two shop owners. The October raid further underscored the seriousness of underground photocopying. In its post-raid press briefing the Customs and Excise Department revealed that 1,510 infringing photocopies of textbooks and 3 machines were confiscated in two residential premises totaling about HK\$200,000.

In line with the enhanced enforcement and monitoring required to combat underground photocopying, C&E investigated an additional twelve photocopy centers territory-wide the following day, confiscating 962 illegal copies of books and 3 copiers in several cities. In addition to these highly successful enforcement actions, AAP has been engaged with the Hong Kong Commerce, Industry and Technology Bureau, as it looks toward revisions in its criminal piracy and fair use statutes.

In Malaysia, in the first of a series of raids planned for June and July, on June 23 AAP lawyers working with local authorities seized 53 master copies (used for making hundreds of photocopies) and several copy machines from an illegal operation in Kuala Lumpur. AAP, in collaboration with local Malaysian authorities, conducted four raids in July and one in August. AAP initiated a reward scheme in Malaysia earlier in the year and it is producing results. Acting on a tip, authorities raided a facility on July 21 seizing 201 books and illegal copies and two photocopy machines from two small premises. Less than a week later, officers hit three more locations, conveniently located in the vicinity of the National University of Malaysia for better student access. Officers found a combined total of about 100 infringing copies and originals. Finally, an enforcement action in Kajang resulted in confiscation of 320 copies of books and two large Canon photocopy machines. AAP also has been engaged in ongoing educational efforts to keep university administrations and students—as well as copyshops—informed about the illegal nature of commercial-scale photocopying.

The Philippine government's attention to the problem was initially generated by the conviction of a notorious medical pirate through an AAP-sponsored legal action in 2004, which continued into 2005. Despite the sentencing, the pirate operation continued at full speed during the appeals process and the owner was seen by AAP member representatives out making sales. As a result, in August police raided the operation, known as Multilinks Book Shop, seizing 21 boxes of original books, mostly medical

textbooks, three copy machines and a computer. The owners were arrested and the case immediately passed on to the prosecutor. AAP has been pushing for resolution of both the first conviction and the second pending case.

In Singapore, AAP cosponsored a seminar on legal reform in January and has participated in a number of educational initiatives for copyshop owners, as well as ongoing programs by the Intellectual Property Office of Singapore. AAP continues to coordinate enforcement issues with the Singapore Police.

In Thailand, pushing for legal reform, AAP worked with U.S. government officials to craft appropriate language to be put forward during the U.S.-Thailand Free Trade Agreement (FTA) negotiations. AAP members are faced with the ongoing problems of an overly broad fair use provision in Thailand, which it is hoped can be corrected as the FTA negotiations continue. AAP and its members also began work on an educational program aimed at Thai students.

In addition, AAP and its member companies were active in education, policymaking, and related initiatives in such countries as India, Pakistan, Vietnam and Indonesia. AAP worked throughout the year on legal reform and enforcement issues at the political level worldwide, with a notable increase in efforts in Central and South America, Canada, South Asia and the Middle East.

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## **INTERNATIONAL FREEDOM TO PUBLISH**

AAP's International Freedom to Publish Committee defends and promotes freedom of written communication worldwide. The IFTP Committee monitors human rights issues and provides moral support and practical assistance to publishers and authors outside the United States who are denied basic freedoms. The committee carries on its work in close cooperation with other human rights groups, including Human Rights Watch and PEN American Center, and maintains its own web site at [www.IFTPC.org](http://www.IFTPC.org). Hal Fessenden (Viking Penguin) chaired the Committee in 2005/2006.

Three years ago the Committee established the Jeri Laber International Freedom to Publish Award, to be

given annually to a book publisher outside the United States who has demonstrated courage in the face of political persecution. The award, which carries a \$10,000 cash prize, is named in honor of human rights activist Jeri Laber, one of the IFTP Committee's founding members, who continues to direct its work as a consultant to AAP. In 2005 the Committee's third annual award went to Turkish publisher Abdullah Keskin of Avesta Publishing House, the first publisher in Turkey to publish in the Kurdish language and at a time when it was prohibited to do so. More than ten of Avesta's books have been banned. Mr. Keskin has been frequently tried and fined. The award was presented in April 2005 at the PEN Gala in New York.

In December 2004, in an effort to encourage and increase the diversity of literary works being published in the U.S., the Committee offered U.S. publishers a unique opportunity to bring the work of three gifted Iranian authors to an American audience. In consultation with a distinguished group of scholars and writers in the U.S. and Iran, the IFTP Committee commissioned partial translations and a *precis* of several Iranian literary works and secured funding which enabled it to provide \$10,000 each to U.S. publishers contracting for English language rights for each work. The money was used to assist in additional translation costs and for promotion and publicity. The project was completed at the end of 2005. *Strange Times, My Dear: The PEN Anthology of Contemporary Iranian Literature* was published by Arcade Publishing in 2005; Shahmoush Parsipour's *Tooba and the Meaning of Night* will be published in March 2006 by the Feminist Press; and Mahmoud Dowlatabadi's *The Empty House of Solouch* is being published by Melville House.

IFTP Committee members undertake (at their own expense) missions to meet with writers, publishers, human rights activists and others in areas where freedom of expression is seriously threatened. Committee chairman Hal Fessenden and member Wendy Wolfe (Viking Penguin) undertook such a mission to Turkey in late 2004. In a return visit to Istanbul in November 2005, Hal Fessenden and committee member Bill Strachan, along with representatives from International PEN, Human Rights Watch, and the International Publishers Association, attended a 3-day conference at Bilgi University in Istanbul. Sponsored by the Initiative for Free Expression, the conference was aimed at supporting writers and publishers in peril, including Orhan Pamuk, Ragip Zarakolu, Fatih Tas, and others who are facing ongoing trials for violating various articles of the new penal code generally defined as "insulting or undermining the Turkish State." The International Freedom to Publish Committee will send an observer to the upcoming trials.

## **POSTAL**

AAP's Postal Committee coordinates activity in the area of postal rates and regulations, monitors developments at the U.S. Postal Service and the independent Postal Rate Commission and intervenes on the industry's behalf in formal proceedings before the Commission. The committee also directs AAP lobbying activities on postal issues. Paul DeGuisti (McGraw Hill) chaired the Postal Committee in 2005/2006.

## **PROFESSIONAL/SCHOLARLY PUBLISHING**

The Professional/Scholarly Publishing Division is composed of AAP members who publish books, journals, looseleaf, and electronic products in technology, science, medicine, business, law, humanities, the behavioral sciences and scholarly reference. Professional societies and university presses play an important role in the division. Marc Brodsky (American Institute of Physics) chaired the division in 2005/2006.

AAP announced an agreement, effective November 1, 2005 under which the membership of the former American Medical Publishers Association (AMPA) came into AAP as members of the Professional and Scholarly Publishing Division. The agreement brought more than 60 new publisher members into AAP/PSP, in addition to a number of publishers who previously had belonged to both organizations. The arrangement, reached through discussions involving the AAP Board of Directors, the AAP/PSP Executive Council, and the AMPA Board, was seen as benefiting both constituencies by combining education and advocacy activities—AMPA’s specifically in the area of medical publishing, PSP’s in the broader arena of professional and scholarly publishing—within one infrastructure.

A new committee, the American Medical Publishers Committee, has been created within PSP to work on issues of specific concern to medical publishers, such as FDA regulations, the NIH open access policy, and developments in digital health care information and patient advocacy. Issues with broader applicability, such as piracy, digital rights management, and globalization, will be addressed jointly within PSP.

The 2006 PSP Annual Meeting, held in Washington, DC in February, built in the theme *Competitors and Collaborators: Changing Landscapes*, and two pre-conference sessions—one specifically designed for medical publishers and sponsored by the new PSP American Medical Publishers Committee entitled *Texts vs. Tools: Publishing in the Coming Age of Digital Healthcare*; the second, sponsored by the PSP Electronic Information Committee, entitled *Getting Your Content Found: When and Where Users Need It*.

In 2006, for the first time, PSP awards judges chose two winners for the R.R. Hawkins Award: Elsevier’s *Atlas of Clinical Gross Anatomy*, by Kenneth Moses, MD, John C. Banks, PhD, Pedro B. Nava, Ph.D. and Darrell Petersen; and *The Oxford History of Western Music* by Richard Taruskin, published by Oxford University Press. Additional awards in 30 categories were presented to publishers of outstanding books, journals, and digital products covering a wide range of academic disciplines at the Annual PSP Awards Luncheon on February 7.

Among the division’s educational activities in 2005/2006: the PSP Journals Committee sponsored a roundtable discussion, “What’s the point of XML?” and the ninth biennial Journals Boot Camp was held in Chicago.

The PSP Public Issues Task Force has developed and maintains a PSP *Issues Glossary*, an online reference and research tool for PSP members. This glossary is available through a new link on the home page of the PSP web site ([www.pspcentral.org](http://www.pspcentral.org)).

The PSP Executive Council directs an ongoing campaign to improve relationships between the PSP communities and user and scholar communities. The campaign explains the role that PSP members play and the value they add to the dissemination of scholarly information. In 2005 the Executive Council established the American Medical Publishers Committee whose goals are to educate, advocate, engage in outreach and philanthropy and frame issues of relevance to medical publishers, including promoting a positive image of scientific and medical publishing, chaired by Maureen DeRosa (American Academy of Pediatrics) and Thane Kerner (Silverchair).

In a long and drawn-out process, PSP, in partnership with author and other publishing organizations, confronted the Office of Foreign Assets Controls (OFAC) within the U.S. Treasury Department about its unconstitutional and illegal practice of demanding that publishers seek licenses to process manuscripts from certain embargoed countries. A year of negotiation with OFAC and other government entities yielded little progress until PSP and its partner litigants filed a lawsuit against OFAC's practice. Soon thereafter, before ever formally responding to the court about our filed complaint, OFAC issued regulations freeing publishers to carry on with publishers' review, editing, marketing and other normal business activities. PSP is still negotiating details of the new OFAC regulations with the government before withdrawing the lawsuit.

Early in 2006, PSP wrote to the Senate and House Appropriations Committees expressing deep concern over moves to mandate the NIH public access policy and to shorten the time-frame within which authors must submit manuscripts. At present the NIH policy, which is voluntary, calls for medical researchers who receive NIH funding to make their findings available to the general public by submitting their articles for posting to the NIH PubMed Central database within twelve months of publication in a peer-reviewed journal. The PSP letter to Congress was submitted in anticipation of appropriations hearings later in the spring at which NIH Director Elias Zerhouni, in line with recommendations made by his Public Access Working Group, was expected to push for making submission of NIH-funded research to PubMed Central mandatory rather than voluntary and for shortening the required time frame for submission from twelve to six months. In addition to the proposed changes in the NIH public access policy, PSP publishers are concerned about how NIH is using the deposited articles. Among the questionable practices that have occurred are removal of publishers' copyright notices and publishers' brands, changes in bibliographic and DOI (Digital Object Identifier) information, and processing the publishers' version through PDF converters labelled "author version."

In other countries, PSP has cooperated with international publishing associations to find the right balance between fair use of intellectual property and rights holders' needs to be able to realize a fair return for their works. The Division has worked with the Publishing Association of the UK and the International Scientific, Technical and Medical Association to produce the first international annual Journals Statistics Survey.

## **RESOURCES FOR THE BOOK PUBLISHING INDUSTRY**

AAP publishes a variety of resources for the book publishing industry, including a Survey on Compensation and Personnel Practices in the Book Publishing Industry, which is widely regarded as the most comprehensive and reliable source of data in this area. AAP's Compensation Committee, composed of senior compensation and human resources professionals, met throughout the year to create job descriptions and manage the survey process.

AAP also publishes Industry Statistics for all segments of book publishing, on a monthly and annual basis. Committees in the areas of Consumer, Trade, Higher Education, and Professional Publishing met throughout 2005 to revise the program and develop a seamless system for the distribution of electronic monthly reports.

AAP is also working in concert with the Book Industry Study Group on methods in which statistics throughout the industry and methods in which they are communicated are more streamlined.

## SCHOOL DIVISION

The School Division is concerned with publishing for the elementary and secondary school (K-12) market. The division works to enhance the role of instructional materials in the education process, to maintain categorical funding for instructional materials and increase the funds available for the purchase of these materials, to simplify and rationalize the process of state adoptions for instructional materials,



Photo by: Focused Images, Inc.

U.S. Education Secretary Margaret Spellings (c) with School Division Executive Committee member Marjorie Mayer (Scholastic) and Scholastic CEO Dick Robinson

and to generally improve the climate in which educational publishers do business. The division serves as a bridge between the publishing industry and the educational community, promoting the cause of education at the national and state level, and working closely with an effective lobbying network in key adoption states. Julie McGee (Harcourt Education) chaired the Division in 2005/2006.

This was a challenging and difficult year for AAP's K-12 publishers, due in large measure to events in Texas, the nation's second largest textbook market.

The sudden and unanticipated resignation of AAP's long-time Texas lobbyist at the beginning of the year could not have come at a worse time—just two weeks before the start of the legislative session, which was to consider legislation that could have substantial adverse impact on school publishers. An extensive search resulted in the selection of a new, highly qualified lobbying team. By the time the new team was in place, the legislature was already in session and dealing with such thorny issues as the elimination of categorical funding, elimination of the adoption cycle, and implementation of a program to provide students with laptops at the expense of needed instructional materials.

Another challenge facing AAP members in Texas in 2005 was instructional materials funding. The previous legislative session had deferred appropriating the \$327 million needed to purchase materials adopted under Proclamation 2001. In addition, Proclamation 2002, under which schools were due to buy new instructional materials for classes starting in the fall of 2005, needed funding of \$387 million. While the funding for Proclamation 2001 was agreed to early in the session, funding for Proclamation 2002 was in doubt for much of 2005, notwithstanding the fact that publishers had, in good faith, printed these textbooks in anticipation of school purchases in the spring of 2005. Further complicating the situation was the fact that Texas' educational funding system had been found unconstitutional and there were major differences between the two bodies of the Texas legislature over how to deal with this issue. AAP priorities such as instructional materials funding and reform of the adoption process were caught up in the broader school finance battle.

AAP, working with the lobbying team, succeeded in having instructional materials funding raised to a high priority, and in August \$295.5 million in funding was approved to pay for Proclamation 2002. Publishers noted with concern, however, a rider passed attached to the budget by the Texas legislation that directs the State Board of Education to defer issuing future proclamations until the legislature implements state textbook procurement reforms.

Developments in California, Florida, and the other significant instructional materials states were less problematic in 2005.

In Florida, AAP lobbying efforts were able to produce a \$13.6 million (6 percent) increase in funding for instructional materials.

The used book pilot program AAP helped establish several years ago continued to demonstrate that schools achieved minimal (less than 1 percent) savings by purchasing used textbooks while at the same time losing many of the benefits, such as professional development, that accompany new program purchases.

In California, the largest state purchaser of instructional materials, funding for instructional materials remained stable, although K-12 education suffered a cut of \$1.8 billion. Due in large measure to AAP's lobbying efforts, funding for instructional materials in California has increased 35 percent over the past four years.



Photo by: Focused Images, Inc.

School Division Executive Director Steve Driesler

AAP efforts were also effective in two other states: in Georgia, where ill-conceived legislation that would have mandated an electronic version of every adopted textbook was defeated; and in New York, where funding for instructional materials was increased and initiatives that would have allowed schools to use their instructional materials dollars to buy computer hardware were derailed.

In December 2004, President Bush signed into law major changes to the Individuals with Disabilities Education Act (IDEA). The IDEA establishes a new National Instructional Materials Accessibility Standard (NIMAS) that K-12 publishers must use to create an electronic file of their core instructional materials to assist in making these materials more accessible to students with print disabilities. IDEA also established a national repository for these files to facilitate getting the files out to schools that need them for their disabled students.

AAP played an important role in helping craft these instructional accessibility provisions and continues to work on two national advisory panels established to oversee implementation of both the NIMAS file format and the National Instructional Materials Access Center (NIMAC). Steve Driesler, AAP School Division's Executive Director and Rick Ferrie (Pearson Education), who chairs the Division's Serving Students with Disabilities Committee, are the industry's official representatives on both advisory panels.

In 2007, ISBN numbers will be increased from the current ten to thirteen digits. This change has potential implementation problems for publishers, their customers, and the supply chain. To ease this transition, the School Division launched a major effort to educate customers about this coming change and to work to make this transition as smooth as possible. The Division did a nationwide informational mailing to school district administrators, purchasing directors, information technology (IT) directors and other school system officials, and has held a number of meetings with textbook depositories and State Textbook Administrators (NASTA) on this matter.

In the fall of 2005, AAP held another of its Education Summits in Washington, D.C., bringing together publishers, educators, public officials and academic experts to discuss ways to improve middle and high school education in this country.

While AAP strongly supported enactment of the Reading First program as part of the No Child Left Behind Act, the Association was an early voice raising concerns with then-Secretary of Education, Rod Paige, about the unfairness of a perceived "approved list" of reading programs eligible for Reading First funding. During the more than five years since the establishment of Reading First, AAP has continued to express concern over potential conflicts of interest with program reviews, the arbitrary way in which programs were reviewed, and now that few new programs are being reviewed at all by the Technical Advisory Centers established to help implement NCLB, the concern that better products that have been developed are being ignored.

Over the past year, the Reading First Program came under increased scrutiny in Congress and in the press, and the Department of Education’s Inspector General launched an investigation into publishers’ allegations of unfair treatment. Also, the Chairman and Ranking Member of the Senate Education Committee have asked the U.S. Comptroller General for an investigation into Reading First. Although the results of these investigations remain to be determined, it is evident that AAP’s concerns were well founded.

## TRADE PUBLISHING

AAP’s Trade Publishing Group comprises publishers of fiction, general non-fiction, poetry, children’s literature, religious and reference publications, in hardcover, paperback, and electronic formats. Robert Miller (Hyperion) chaired the Trade Executive Committee in 2005/2006.



Photo by: Focused Images, Inc.

Trade Executive Committee Chairman Bob Miller (l) talks with Sony Pictures CEO Michael Lynton

The committee’s major areas of attention in 2005 included the ongoing development of a non-fiction book club with *The View*, on ABC Daytime Television, for which AAP will serve as a clearinghouse for titles publishers would like *The View* to consider. *The View* nonfiction book club plans to feature entertaining, upbeat, informative books, on topics that coincide with the various interests of the five hosts and the viewing audience, including beauty, health, fashion, celebrity, relationships, literary non-

fiction, and others.

In 2005, AAP began work with the National Endowment for the Arts, providing the NEA with proposed communications illustrating the support publishers may provide to organizations working with the NEA on local “city reads” programs via the NEA’s umbrella “Big Read” campaign; “The Big Read” is intended to foster and facilitate “city reads” programs across the nation.

AAP works to increase awareness of Latino books through its Publishing Latino Voices for America Task Force, which produced the Aja! Leyendo campaign; the committee also produced a Publishing Latino Voices brochure featuring selected Spanish-language titles, and English titles written by Latinos, which was distributed to booksellers and librarians during Hispanic Heritage Month. A series of sessions for the Spanish and Latin American market were also presented in concert with PLVA at BookExpo America 2005. AAP also met with the Spanish embassy to discuss partnering with them on the America Reads Spanish campaign.



Photo by: Focused Images, Inc.

AAP President Pat Schroeder with Patty Neger, the book segment producer of *Good Morning America*

AAP expanded its Adopt-A-School program with the New York City Department of Education. The program has expanded to include an additional 25 schools since its launch in 2004, giving publishers the opportunity to support city schools by providing specific resources that schools request through AAP, including books, guidance in developing literary publications and yearbooks, author visits and events, field trips to publishing houses, and participation in career fairs at schools.

The Trade Group also works on the “AAP Honors” program, nominating and electing a candidate from outside the publishing industry who has helped promote American books and authors, to be honored at the AAP Annual Meeting. Selection of the 2006 honoree reflected the impact of the media’s influence throughout the nation on books and reading. The Honors went to *Good Morning, America*.

AAP also maintains an ongoing presence at local events such as the Harlem Book Fair, and provided support via Get Caught Reading campaigns to the 2006 New York Comicon fair.

### **Trade Libraries Committee**

AAP’s Trade Libraries Committee comprises representatives of major book publishing houses who have partnerships with organizations including the American Library Association, Friends of Libraries U.S.A (FOLUSA) and *Library Journal*. On June 21 AAP announced the launch of a unique new website, *Authors @ Your Library*, ([www.AuthorsAtYourLibrary.org](http://www.AuthorsAtYourLibrary.org)), which for the first time links publishers and librarians to simplify the process of scheduling library events. *Authors @ Your Library* is a free online matchmaking service for librarians who want to schedule successful author events, and for publishers who are seeking enthusiastic audiences for their authors.

Other library activities included research on state funding and support initiatives, and exploring ways in which publishers might advocate for library funding in select states through lobbying efforts. AAP partnered with NYPLA, assisting their lobbying efforts for 2006. At the federal level, expressing the publishing industry’s support for America’s libraries, AAP sent letters to the Chairman and Ranking Member of the House Appropriations Subcommittee on Labor, Health, Human Services and Education urging full funding for the Library Services and Technology Act (LSTA) and the Improving Literacy Through School Libraries Program, in line with the President’s budget request.

AAP continues to work with librarian associations including PLA and ALA on initiatives supporting the library community.

### **SMALLER AND INDEPENDENT PUBLISHERS**

AAP’s Smaller and Independent Publishing Committee held a seminar in conjunction with AAP’s Annual Meeting on March 15. Attendees at the program, which was held at New York University’s Kimmel Center, had the option of registering for the morning, the afternoon, or both. The half-day option was designed to fit the needs of smaller publishers as well as designers, marketers and finance professionals from larger houses. The morning program focused on improving sales through the creation of the right cover and using that cover to maximize marketing opportunities. The afternoon program focused on the financial side of the business. The Committee was chaired by Gene Gollogly (Booklight, Inc.) in 2005/2006.

AAP also awarded the third Miriam Bass Award for Creativity in Independent Publishing. Created in memory of the many contributions that Miriam Bass made to the industry in her career working with independent publishers, the award carries a \$5,000 prize funded by Rowman & Littlefield and National Book Network. The 2006 award went to Soft Skull Press publisher Richard Nash.

### **THE YOUNG TO PUBLISHING GROUP**

The Young to Publishing Group continued its expansion in 2005, growing to 1000 members, an increase by almost 300 from 2004 from publishing houses around the country. YPG satellite chapters in Boston and San Diego grew as well, and the Brown Bag Lunch series in New York featured speakers from across the industry. The YPG group hosted several social events in 2005, and continued to publish the popular YPG Newsletter.

## 2006 ANNUAL MEETING HIGHLIGHTS

New York again proved a congenial setting for AAP's intensely-programmed General Annual Meeting. Some 200 publishers and their guests filled the refurbished Hudson Theater at the Millennium Broadway Hotel on March 14 to hear a diverse group of guest speakers address the question "Where Have All the Readers Gone? And Where Can We Find New Ones."

The program kicked off with a lively and informative dialogue between AAP Board member Bob Miller (Hyperion) and **Michael Lynton**, CEO of Sony Pictures, on the synergy, similarities and differences between publishing and the movie business. Although the session was entitled "What the Book Business Can Learn from the Film Business," Lynton noted that the DVD business is taking a "leaf" from book publishers regarding the value of the backlist and catalogue selling. Both men agreed on the severity of the piracy problem—Lynton remarked that crime organizations that once smuggled in narcotics have switched to pirated DVDs because they're more profitable—and the need to bring every possible resource to bear in fighting copyright piracy.



AAP vice-chairman Richard Sarnoff (l) and New York Attorney General Eliot Spitzer

Photo by: Focused Images, Inc.

U.S. Secretary of Education **Margaret Spellings**, during the q&a following her remarks, expressed an interest in working with AAP on plans to create a National Literacy Day. American Reading Company CEO **Jane Hileman** stressed the need to fundamentally re-think what we're doing in schools to get kids reading, citing the 20,000-title rotating library system her company makes available to schools to catch students' interest. Pediatrician **Barry Zuckerman** said the Reach Out and Read program, which he helped create, is currently reaching 2 million children at 2,700 sites, distributing 3.5 million books and is expected to grow by 30 percent next year. A wide-ranging dialogue between AAP Vice Chairman Richard Sarnoff (Random House) and his old friend, New York State Attorney General **Eliot Spitzer**, gave attendees a fascinating look at the man who may well be New York's next governor. Asked about the "perceived malaise of the Democratic party," Spitzer said: "We seem to have lost our ability to articulate what we stand for."



Photo by: Focused Images, Inc.

Sony Pictures CEO Michael Lynton

One of the meeting's high points was presentation of the AAP Honors to *Good Morning America*. Book segment producer Patty Neger spoke of the importance of getting their audience fired up about reading. Executive Producer Ben Sherwood and GMA co-anchor Robin Roberts were also on hand, and although absent awaiting the birth of his first grandchild, co-host Charlie Gibson sent a warm note of thanks. The award comes with a \$5,000 donation in the winner's name to a charity of their choosing. *Good Morning America* designated Literacy Partners, Inc., a not-for-profit organization that provides free community-based adult and family literacy programs, to receive the gift.

Princeton University President **Shirley M. Tilghman** spoke forcefully about the essential role of America's colleges and universities in insuring social and economic mobility, in serving as patrons of the arts, and in providing through broad liberal arts education the best counterweight to propaganda. National Endowment for the Arts Chairman **Dana Gioia** discussed the NEA's Big Read program, due to roll out nationwide in May, which will have cities and localities throughout the country all reading the same

book. Speaking about the crisis in literacy, which he defined as an ability to interact with text, and the disturbing regression of reading among the privileged middle class, American Library Association President **Michael Gorman** said we are “on the verge of having the first economically prosperous underclass in history.” **Stephen Dubner**, co-author of the wildly successful *Freakonomics*, urged publishers to encourage more collaboration in writing book between writers and those who have something interesting to say.

Photo by: Focused Images, Inc.



NEA Chairman Dana Gioia in a dialogue with ALA President Michael Gorman

### The Business Meeting: FY 2006/2007 Budget Approved

The membership approved an operating budget of \$11.3 million for fiscal year 2006/2007, with \$ 9.1 million allocated to Core. The lion’s share (\$4.5 million) of the Core budget will be devoted to the defense of copyright at home and abroad, including the ongoing litigation against Google; \$0.9 million was allocated to Higher Education; and \$2.2 million to the two divisions (\$1.4 million for School Division and \$ 0.8 million PSP). A shortfall of \$3.6 million will be drawn from cash reserves.

### Strong and Independent Publishers Convene at NYU

Nearly 100 were in attendance at the annual Smaller & Independent Publishers Annual Meeting held at the Kimmel Center at New York University on March 15. AAP President Pat Schroeder opened the program by welcoming the “Strong” and Independent Publishers, and then led into presentation of the Miriam Bass Award for Creativity in Independent Publishing. This year’s award was given to Richard Nash, Publisher of Soft Skull Press (see *Monthly Report*, December 2005) and presented by Spencer Gale, Vice President, National Book Network. (NBN and Rowman & Littlefield fund the award, which is co-sponsored with AAP). Gale noted that “Soft Skull Press provides daringly provocative food for the brain.” In an endearing thank you, Nash said the \$5,000 award came just in the nick of time—it would be his contribution to the cost of his wedding in May!



Photo by: Focused Images, Inc.

The *Good Morning America* team enjoying the AAP Honors spotlight

The SIP Annual Meeting featured seminars with the usual energetic audience participation. Centered on a theme of *Becoming a GREAT Publisher: Wearing All Your Hats Well*, sessions ranged from “Picking the Best Title” and “Designing the Right Cover” to “Maximizing Cash Flow” and “Measuring and Creating Profitability for Publishers,” to a session on finding subsidies through grants supplied by cultural organizations and foundations. The program ended with “Financial Success Stories,” where Margo Baldwin, President & Publisher of Chelsea Green, spoke of their current success-in-the-making with *Crashing the Gate: Netroots, Grassroots, and The Rise of People-Powered Politics*, by political bloggers Jerome Armstrong and Markos Moulitsas Zuniga, which was recently featured in a *New York Times* editorial.

## Association of American Publishers, Inc.

### Consolidated Budget

*Fiscal Year April 1, 2006 - March 31, 2007*

	<b>2006/2007 Budget</b>	<b>2005/2006 Est. Actual</b>	<b>2005/2006 Budget</b>
<b>TOTAL AAP</b>			
Dues / Assessments	\$5,846,000	\$5,617,865	\$5,385,000
Other Receipts	1,664,500	2,322,854	1,595,900
Portfolio Income, Net	<u>267,000</u>	<u>217,000</u>	<u>205,000</u>
Total Available	\$7,777,500	\$8,157,719	\$7,185,900
 Expenses	 <u>(\$11,351,230)</u>	 <u>(\$7,544,380)</u>	 <u>(\$7,294,580)</u>
<b>NET</b>	<b><u>\$3,573,730</u></b>	<b><u>\$613,339</u></b>	<b><u>\$108,680</u></b>
<b>TOTAL CORE</b>			
Dues / Assessments	\$4,139,000	\$3,740,500	\$3,715,000
Other Receipts	1,147,500	1,751,554	1,080,400
Portfolio Income, Net	<u>267,000</u>	<u>217,000</u>	<u>205,000</u>
Total Available	\$5,553,500	\$5,709,054	\$5,000,400
 Expenses	 <u>(\$9,128,955)</u>	 <u>(\$5,249,280)</u>	 <u>(\$4,969,280)</u>
<b>NET</b>	<b><u>\$3,575,455</u></b>	<b><u>\$459,774</u></b>	<b><u>\$31,120</u></b>
<b>TOTAL DIVISIONS</b>			
Dues / Assessments	\$1,707,000	\$1,877,365	\$1,670,000
Other Receipts	<u>517,000</u>	<u>571,300</u>	<u>515,500</u>
Total Available	\$2,224,000	\$2,448,665	\$2,185,500
 Expenses	 <u>(\$2,222,275)</u>	 <u>(\$2,295,100)</u>	 <u>(\$2,325,300)</u>
<b>NET</b>	<b><u>(\$1,725)</u></b>	<b><u>(\$153,565)</u></b>	<b><u>(\$139,800)</u></b>
<b>SCHOOL DIVISION</b>			
Dues / Assessments	\$1,200,000	\$1,315,665	\$1,200,000
Other Receipts	<u>170,000</u>	<u>170,000</u>	<u>170,000</u>
Total Available	\$1,370,000	\$1,485,665	\$1,370,000
 Expenses	 <u>(\$1,377,775)</u>	 <u>(\$1,547,300)</u>	 <u>(\$1,509,800)</u>
<b>NET</b>	<b><u>(\$7,775)</u></b>	<b><u>(\$61,635)</u></b>	<b><u>(\$139,800)</u></b>
<b>PSP DIVISION</b>			
Dues / Assessments	\$507,000	\$561,700	\$470,000
Other Receipts	<u>347,000</u>	<u>401,300</u>	<u>345,500</u>
Total Available	\$854,000	\$963,000	\$815,500
 Expenses	 <u>(\$844,500)</u>	 <u>(\$747,800)</u>	 <u>(\$815,500)</u>
<b>NET</b>	<b><u>\$9,500</u></b>	<b><u>\$215,200</u></b>	<b><u>\$0</u></b>

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Hyperion

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