Whose Book is it Anyway? is a provocative collection of essays that opens out the copyright debate to questions of open access, ethics, and creativity. It includes views – such as artist's perspectives, writer's perspectives, feminist, and international perspectives – that are too often marginalized or elided altogether.

The diverse range of contributors take various approaches, from the scholarly and the essayistic to the graphic, to explore the future of publishing based on their experiences as publishers, artists, writers and academics. Considering issues such as intellectual property, copyright and comics, digital publishing and remixing, and what it means (not) to say one is an author, these vibrant essays urge us to view central aspects of writing and publishing in a new light.

Whose Book is it Anyway? is a timely and varied collection of essays. It asks us to reconceive our understanding of publishing, copyright and open access, and it is essential reading for anyone invested in the future of publishing.

As with all Open Book publications, this entire book is available to read for free on the publisher's website. Printed and digital editions, together with supplementary digital material, can also be found at www.openbookpublishers.com.

Cover image: Photo by Toa Heftiba on Unsplash at: https://unsplash.com/photos/DakD.jpg

Cover design: Anna Gascoigne.
Three years on the Board of Management of the Society of Authors (2012–2015) offered me opportunities to appreciate what writers worry about, issues of which they ought to be aware — and their comprehension levels for both. Copyright hovered between, and we discussed whether we should campaign to have its basic principles added to the primary school curriculum. The principle that an author should possess the rights for work they have created is neither hard to explain nor, once broadly understood, hard to deny — and a classroom demonstration is easy to organise. After the weekly story or news-writing session, take the written contribution of one child and announce you are going to photocopy and sell it at the school gate, with the entire proceeds going to the person making the copies. The resulting outrage will likely be long remembered — and have lasting implications for everyone’s future willingness to credit a creator. While the principle of copyright is relatively easy to grasp, authors often struggle to understand how it functions in contracts, and routinely find that getting published can mean being asked to sign their copyright over to the publisher for minimal returns. Encouraging authors to understand copyright, and
other legalities arising from writers’ desire to share their work, raises many issues from individual responsibilities and organisational ethics to business and financial interests. The UK Publishers Association’s Code of Practice on Contracts lays early emphasis on the importance of publishers ensuring their authors are clear about their legal responsibilities and future commitments:

(4) The publisher should be willing and take any opportunity to explain the terms of the contract and the reasons for each provision, particularly to an author who is not professionally represented.¹

In 2016, Clé, their Irish counterparts, for the first time organised a seminar for Irish authors on how to understand contracts.² The literary agent Carole Blake was a strong believer in authors understanding what they were committing to when they decided to publish their work, and her bestselling book offered a substantial chapter — sixty-five pages with a supporting bibliography — on contracts and how to interpret the seemingly archaic wording of what was being proposed or agreed.³

Until relatively recent times, copyright has been just one of many aspects of publishing little understood by authors. Writers were similarly ignorant about how to influence their cover designs — frustrated to find themselves collectively cover-badged within genres to which they did not feel they belonged in order for the publisher to make a consistent and visible appearance within a specific market — and their marketing, but while they routinely grumbled at Society of Authors meetings they largely left it to the publishing professionals to do what they thought best. If they spotted trends within the industry, and tried to produce something similar for a publisher, they were generally late and jostling within a very crowded market — hence the much over-announced ‘next Harry Potter’. Publishing rights consultant Lynette Owen confirmed her belief that ‘I do think there is still a lack of understanding by some published authors — and I have often been surprised by authors who

² Lynette Owen, ‘Author-Publisher Contracts: A Workshop for Authors’, Dublin, Ireland, 10 March 2016.
make assumptions without going back to check the terms of their contract.  

Traditional publishers however routinely filled the gap on their behalf. Although officially the contracts given out by traditional publishers require authors to indemnify them against associated legal risk, in practice publishers employed lawyers to the check content received, and the industry has a long-standing track record of choosing to support authors. Examples include Penguin’s extremely expensive and sustained backing for Salman Rushdie after publication of *Satanic Verses* and, as I experienced during my first job in the industry, Heinemann Educational Books assuming temporary responsibility in 1983 for housing and maintaining Ngugi wa Thiong’o, when he was forced to live in exile from his native Kenya. Those who have a literary agent benefit from additional handholding. Literary agent Lizzy Kremer of David Higham Associates commented:

> Our ability to offer contractual guidance based on the law and on industry precedent and on our insight into the commercial realities of the Industry today features high on the list of reasons why authors appoint agents, although it is our negotiating power and experience as much as our legal insight that enables us to be as effective as we are in these matters.

Literary agent Gordon Wise of Curtis Brown, also the immediate past President of the Association of Authors’ Agents (AAA) commented along similar lines:

> I wouldn’t say that clients come to us seeking formal legal advice in isolation, but they certainly come expecting a package that includes experienced advice and negotiating power in relation to contracts, and assistance and someone to help lead the charge when things go wrong. Few agents are formally legally trained and would not claim to be, but good and established and reputable agents are experienced in the vast array of customs and practices under which publishing agreements operate and why they are drafted in the way they are, and look to see how to evolve them intelligently as technology and market practices change — without the Author losing ground. Some large agencies, like

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4 Interview by the author with Lynette Owen, 2017.
5 Interview with author.
6 [http://agentsassoc.co.uk/](http://agentsassoc.co.uk/)
ours, have access to in-house legal counsel but that is not a resource that can be offered in a bespoke hands-on way to every client as the lawyers are working across the needs of the company as a whole, but they are available for troubleshooting and advice, for strategic work on major deals, and for general overseeing of contracts processes and monitoring publisher requests for changes to boilerplate. Should a major legal situation arise we would discuss with the client what need there might be for third party advice. But we have a team of contracts managers who vet every contract and are in regular contact with the publishers’ contracts teams.\footnote{7}

Other agents I spoke to took a similar line; Heather Holden-Brown of the HHB Agency commented that authors regularly need to have explained the difference between licensing publishing rights as opposed to copyright, and the meaning of specific clauses such as ‘reversion of rights’.\footnote{8} Several agents said they recommended that authors who want specific legal advice should join the Society of Authors: although a range of services are offered by the Society, the benefit of legal guidance over contracts that comes with a subscription remains the most common reason for joining, as well as the most frequent source of member enquiries. The Society vets over 1,000 contracts a year, and staff who undertake this work make up about a quarter of the workforce. The Society also lobbies collectively on behalf of members (e.g. with the BBC and the Publishers Association) and informs members about wider legal changes that are intended to protect authors such as the so-called ‘transparency triangle’ in the European Union digital single market proposals. Published sources (e.g. Society of Audiovisual Authors, 2016)\footnote{9} suggest that authors earn more when such safeguards exist — although the position will become more complicated after Brexit. They also collaborate with the Association of Authors’ Agents, as Wise confirmed:

We do of course recommend to authors that they join the Society of Authors, which has excellent legal services for members and a body of specialist knowledge in relation to publishing IP, and the AAA often

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\footnote{7}{Interview with author.}
\footnote{8}{Ibid.}
\footnote{9}{Society of Audiovisual Authors, ‘Audiovisual Authors’ Remuneration — From Remuneration to Transparency?’, 12 September 2016, http://www.saa-authors.eu/en/blog/150-audiovisual-authors-remuneration---from-remuneration-to-transparency}
works in tandem with The Society of Authors to ensure that authors' contracts are legally sound and respect authors' rights.\textsuperscript{10}

Times are however changing, and authors are having to become more aware of their legal responsibilities themselves. For some, this increased awareness has come from their experience of making work freely available in order to build a market presence, being less concerned about piracy and more concerned about visibility. Based on his research at Kingston, Masters student Philip Dyson commented:

From the consumer point of view, readers and creative consumers in general sample, or ‘stream’ lots of creative content, either through cheap subscriptions like Netflix or Spotify, or do it for free. But when they find an artist that they do really like, they will go out of their way to pay for this content, e.g. by buying the CD, book, or whatever other format the artist works in) and in the case of some authors they will pay through the roof for related paraphernalia. The point being that consumers do not want to pay for content in general, but rather for specific content that they want. A good example is Justin Bieber, who is famous not because of a record label but because he could post his music videos on YouTube for free, which enabled him to build up his fan base. When looking at copyright issues with digital technology, the music industry has played a big part in my research, and it’s interesting how publishers in this sector are adapting. For example, independent music publisher Kobalt\textsuperscript{11} have completely streamlined their business model, while offering rigorously transparent information for their musicians — they even have a financial tracking app that enables artists to see how much money they are making, where they are making it and how much the publisher is making, all from their phone.\textsuperscript{12}

How publishing companies manage the situation has also prompted authors to take more responsibility themselves. While large publishing companies continue maintain in house legal expertise, an industry-wide need to reduce costs and hence preserve margins has prompted a discernible shift in some companies away from employing in-house contracts staff, with the process increasingly managed through the issuing of standard contracts wherever possible, and these being passed on to authors by their commissioning editors. While this cuts down the

\begin{itemize}
\item \textsuperscript{10} Ibid.
\item \textsuperscript{11} www.kobaltmusic.com
\item \textsuperscript{12} Interview with author.
\end{itemize}
number of people with whom the author has to deal, it arguably has
the side effect of making it more difficult for authors to raise issues that
concern them since to do so they would have to negotiate with the editor
who agreed to publish their work, and to whom they might therefore
feel indebted.

 Literary agents too are finding that the costs of offering legal support
are rising all the time. Literary agent Andrew Lownie commented:

Authors do appreciate legal expertise. I’ve a little experience having
gone to law school but I use experts. I’m finding my bills for legal
and contractual advice are becoming very large — £600 today for just
one author (whose commission earnings are not much more) to sort
out incorrect royalties and sloppy contracts. We are cutting back on
publishing controversial books in the agency’s publishing imprint. This
is because of the costs — even though we sometimes share them — and
the time involved.13

This was confirmed by Heather Holden-Brown:

We do have one or two go-to legal advisers who sometimes we would use
to advise an author. That said, sometimes we would put them in direct
touch as we are not lawyers and it may be appropriate that the legal
adviser works with the author and the author pays for their services.14

While trade authors are thus moving towards greater awareness of their
contractual obligations, academic authors have had to take responsibility
for their output for much longer. Academics imbued with the principle
of ‘publish or perish’ and seeking publication in peer-reviewed journals
are routinely offered a set of editorial instructions according to which
their material must be organised before submission. Each journal has
different requirements; many now offer pre-submission editorial
intervention for which the author must pay (e.g. editorial support and
copyediting). The growth of open access (OA) within journals publishing
has arguably had the unexpected side-effect of making academic authors
aware of the costs of reviewing submissions and editorial preparation
for publication, reinforcing their personal responsibility for what they
submit (e.g. being required to negotiate with their institution or funding
council to pay for the OA that will enable immediate dissemination).

13 Ibid.
14 Ibid.
Once they have formatted it appropriately, and decided they are ready to offer their work for consideration, academics are required formally to assume responsibility for despatch; having pressed the ‘Submit’ button themselves, they now regularly receive an ‘Are you sure?’. In the process they assume responsibility for what is despatched, including the (lead) author’s responsibility for managing content on behalf of others. Prosecutions for misrepresentation of ownership or falsification of data fall upon the individual (not the institution), well publicised and generally career-ending.

The question of who takes responsibility for securing and managing the legal ownership of writing, as well as the wider issue of whether the content is appropriate, is particularly interesting in the context of self-publishing. This article is predicated on my growing understanding, fuelled by a programme of research into the processes and practice of self-publishing over the past eight years, that the decision to self-publish often sparks the author’s interest in, and understanding of, the legal responsibilities and associated opportunities created by sharing content. Nowhere is this more evident than in the attitudes of the self-publishing community (a word not lightly used) towards copyright.

Background: An Assumption of Ignorance on the Part of the Self-Published

As self-publishing grew in the early twenty-first century, it was treated with disdain.\(^\text{15}\) At industry conferences (e.g. Writing in a Digital Age, a series of conferences organised by The Literary Consultancy, 2012–2014 at the Free Word Centre) there was an ongoing assumption that authors were either of the published or self-published variety, and the publisher’s role was to distinguish between the two, rather like the child’s fishing game in which players with magnetised rods tried to locate all the similarly equipped fish.

The range of those who dismissed self-publishing was broad: traditional publishers; the traditionally published; those aspiring to traditional publication; retailers; the literary press; academia — who in

my case considered a research interest in self-publishing a remarkably poor use of time.\textsuperscript{16} But their collective disdain ignored two significant associated human truths:

- Firstly, that finishing a piece of writing that has long burned inside you feels good, even if it goes no further. Writing prompts reflection, consideration, reordering and crafting — all of which tend to deliver a positive experience, even if the associated work remains unpublished.
- Secondly, that in the process of self-publishing, authors learn about publishing in general; they gain feedback and metrics related to those who read their material (e.g. how long they read for, which points they linger over, where they stop) — and they are empowered by this information.

The resistance to self-publishing was not total, although arguably only because the literary mainstream failed to exclude self-published authors, rather than because they offered such authors opportunities for participation. While most literary prizes did not allow self-published submissions, the literary press declined to review self-published titles and the professional press (largely paid for by publishers’ advertising) mostly avoided discussing the potential impact of these developments, more mainstream journalists (and particularly those working for local presses) found that stories of those who had successfully self-published appealed to their readers and gave them more stories to tell (author gets published; this is what they wrote about; here’s who’s reading it; plucky author beat the traditional system; these people said it was impossible/encouraged them; here’s how they did it; now you can do it too — and here are ten top tips).\textsuperscript{17} The first self-published book to win a major prize (Siobhan Curham’s \textit{Dear Dylan}, which won MIND Book of the Year in 2010) got much more publicity than previous winners for just these reasons: there was more story to tell. With technology and publishing services increasingly available to support the process,


publishing services companies started establishing themselves to serve the market (e.g. White Fox and Reedsy), and high profile self-published authors were in plentiful supply to interview.¹⁸

My investigation into self-publishing began in 2007. I began by looking at the trends in general¹⁹ and then progressed to qualitative interviews with fifty-seven self-published authors, mostly of print books although sometimes with an accompanying ebook; this was published by a traditional publisher as The Naked Author.²⁰ A quantitative survey of self-published authors followed, with options for additional comments.²¹ Three traditional assumptions were quickly challenged:

1. **Self-publishers are poorly educated, too untalented to get published and are mostly retired hobbyists.** Rather they emerged as educated, busy and affluent. My cohort was twice as likely to be in full-time employment as retired. They were also generally educated (76% had a degree; 44% of them at either Masters or PhD level) and from a professional background, hence with resources to spend on their projects.

2. **Self-publishing delivers no satisfaction.** My questionnaire checked for this repeatedly and found that whatever issue posed (What is your overall satisfaction level with self-publishing? Would you do it again? Would you recommend self-publishing?), the associated responses were very positive; supporting comments noted profound satisfaction levels whatever the final format achieved. Publishers have tended to sniff at poorly produced books and assume that only publication that matched their own professional standards would deliver satisfaction. What rather emerged was that the completion itself mattered, not wider production standards

¹⁹ Baverstock, ‘Big Audio-Visual Dynamite’.
or significant dissemination; even stories of manuscripts lost or compromised in production were not accompanied by dissatisfaction with the associated process.

3. **Self-publishing means ‘going it alone’**. Assuming that vanity lay at the root of all self-publishing, its detractors were confident that self-aggrandisement would pre-empt legal awareness among those insufficiently talented to secure the support of a traditional investor; ‘going it alone’ would mean just that — and hence careful attention would not be paid to the legal obligations associated with publishing. Perhaps unsurprisingly, given that those involved were busy and affluent, they also tended to have the resources to complete what they had begun, and I found they regularly commissioned services from industry suppliers: editorial, marketing and increasingly legal advice (19% of my cohort had sought professional legal advice).

Meanwhile, new services were emerging to cater for the needs of those who wanted to develop their writing (with or without the goal of publication) and the digital economy offered many new ways of sharing and encouraging wider involvement in literary composition. Writing development agencies such as Rebecca Swift’s The Literary Agency22 (founded 1996) and Cornerstones Literary Agency23 (founded 1998) provided support for writers with a story to tell and the freedom to develop their work without a prescribed goal. The market was extended through writing holidays, writing conferences, strands for writers within literary festivals (pioneered by Catherine Lockerbie, Director of the Edinburgh Book Festival), and even publishers and agents joined in, offering paid services to writers (e.g. The Faber Academy24 and the writing courses run by some literary agencies such as Curtis Brown Creative).25

Meanwhile independent editors have found they like working for self-publishing authors, particularly those who have done it before, and who tend to appreciate their services, pay their going rate punctually,

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22 https://literaryconsultancy.co.uk/
23 http://www.cornerstones.co.uk/
24 https://www.faberacademy.co.uk/
25 http://www.curtisbrowncreative.co.uk/
and not try to negotiate ‘fixed contracts’ as is the increasingly common and much resented practice within the wider industry. All these trends have significant long-term implications for the availability of the publishing services economy on which the traditional industry has long relied. Publishers may in future find that services on which they previously depended are being accessed and used by others (notably self-publishing authors), and are therefore no longer available to publishers as and when they need them. If, as has been widely understood, the difference between a published and a self-published title is the involvement of an editor, the irony may be that publishers have a reduced supply of editorial services available to them, and hence their ability to present effectively edited manuscripts as a unique identifier of their involvement is threatened.

The Growth of Contract Checking and Legal Services for Independent Authors

Taking responsibility for publishing your own work can present difficulties. Gordon Wise again:

At Curtis Brown, we probably see more authors come to us who have self-published via KDP rather than third parties having been involved, and we’re familiar with the KDP terms (although famously, of course, these can change!). But it’s certainly true in the world of self-publishing, where the ‘vanity publishers’ of old seem to have migrated, that there seem to be the most liberties taken with authors’ rights in terms of contracts served on unwitting authors, and this area is worryingly unregulated. The Society of Authors sees a number of very unreliable contracts from this quarter. And from ‘publishers’ who are probably offering little more than an author could get for themselves through using KDP and a reputable freelance services bureau or other provider.

In this uncertain environment, there is a notable emergence of self-publishing agencies offering a supportive and expert service. For

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27 Interview with author.
example, SilverWood Books (founded 2007) highlighted the need for authors to be aware of the legal responsibilities that accompany publishing. Helen Hart, MD comments:

At SilverWood, we try to help authors recognise their responsibility to protect themselves. Ignoring legal issues, especially those related to seeking adequate copyright permission, can have expensive long-term consequences. We have always included a brief article about copyright on the SilverWood website (in our ‘Learning Zone’) and regularly draw attention to it by sharing the link on social media, and also during individual conversations with authors.

However, we’re seeing an increasing number of manuscripts flagged by an editorial assistant or copy editor with comments about permissions and copyright, so last year we took more formal steps.

Now, whenever the SilverWood team identifies that an author has included quotations or images that they haven’t generated themselves, we send the author a one-page factsheet containing general information and links to formal resources. We also send a copyright permissions form that the author must complete. This specifically focuses the author’s attention on the issues surrounding copyright and the need to seek and record formal permission for the use of copyrighted material.

All authors who’ve received our form have completed it, and most have expressed gratitude for having their attention drawn to a matter they might otherwise have overlooked.

Although it is the self-publishing author’s responsibility to ensure they have gained permission, many do not realise it is necessary. There is still a common misconception that if material is on the internet, it’s fine to use it. Authors who choose to work with a company like SilverWood have the advantage of being able to access experts who can offer guidance, and help the author make informed decisions.28

Particularly noteworthy has been the emergence of a market among authors for paid-for advice on legal issues, for example Kevin Stewart, until 2008 Director of Group Contracts at Hodder Headline, moved to an external contracts consultancy and now works for Contracts People.29 Similarly, Clare Hodder, Rights Director of Macmillan, established her own consultancy practice in 2014 (Clare Hodder Consulting).30 Contract checking has long been The Society of Authors’ most accessed member service, and in 2012 the society formalised what they meant

28 Ibid.
29 www.contractspeople.co.uk
30 www.clarehodderconsulting.org.uk
by self-published authors (who are qualified to join if they have self-published and sold 300 or more copies of a single title in print form or 500 or more copies of a single title in ebook/digital form within a 12 month period; those who have sold fewer are able to apply for Associate membership). The Alliance of Independent Authors31 (founded in 2011) sees legal advice as one of the main services it provides. Its director, Orna Ross comments:

In the past, income for authors rested on the existence of strong copyright legislation and adherence. As we take digital reading into a future of Blockchain32 and Cryptocurrency,33 it is likely to rest elsewhere. For now, it is undoubtedly true that the pressing problem for most authors, self-published or trade-published, is not piracy but obscurity.

We recommend our members not to choose DRM.34 If a book is being pirated, the majority of those downloading it wouldn't have bought it anyway. And any self-respecting pirate can remove it and have a DRM-free version of your ebook file in no time. One thing we do recommend to those troubled by piracy is benefitting from the US Digital Millennium Copyright Act, which criminalises technology/services designed to get around Digital Rights Management (commonly known as DRM) controlling access to copyrighted works, for example, www.DMCA.com offers take-down notices when authors find that their sites are offering their books.35

We publish a guide: ‘How authors sell publishing rights’,36 to present our members with information and leave them to make up their own minds. Each indie author is the expert in his or her own publishing life.37

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31 http://allianceindependentauthors.org/
32 www.blockchain.com is a leading software platform for digital assets.
33 ‘A cryptocurrency is a digital or virtual currency that uses cryptography for security. A cryptocurrency is difficult to counterfeit because of this security feature. […] A defining feature of a cryptocurrency, and arguably its biggest allure, is its organic nature; it is not issued by any central authority, rendering it theoretically immune to government interference or manipulation’, Jake Frankenfield, ‘Cryptocurrency’, Investopedia, 10 December 2018, https://www.investopedia.com/terms/c/cryptocurrency.asp
34 Digital rights management (DRM) offers a variety of technologies that can be used to restrict access to, and hence usage of, proprietary hardware and work that is copyrighted. DRM seeks to control how such copyrighted work is used and modified, but therefore also restricts it being read, recommended and more widely disseminated.
35 A commercial service ‘providing website owners with a secure system that protects their valuable content from theft or copyright infringement’, https://www.dmca.com/
37 Interview with the author, 2017.
The last sentence is particularly significant. Self-publishing authors can become particularly well informed if they read all the information available on new possibilities for sharing material and building an audience. Ross comments further:

There are new players in the giveaway frame, such as BookFunnel\(^{38}\) and InstaFreebie\(^{39}\) and they have added a new way of distributing free books, and a new purpose: to enable authors to build their database of followers by effectively trading email addresses for free books. While the jury’s still out on the long-term benefits of the latter approach, as we discover how many of these subscribers will unsubscribe — as is their legal right — or not bother to read their freebies, we are airing a debate about the pros and cons of giving away work.

The response of their members has been varied. Alli member Jan Ruth sees sharing material as an opportunity:

I chose to promote my latest title in this way partly as an experiment, because this time I wanted to split the performance between my own efforts through Twitter and my Facebook Author Page, and Book Blast. I did it this way because I wanted to achieve something long-term; I wanted to attract readers who would hopefully stay engaged and add to my slowly growing audience, my personal readership.\(^{40}\)

Another Alli member, Michael Jason Brandt, however uses the same platform to make the case against making work available freely:

The vast (vast, vast) majority of free downloads never get read, so giveaways don’t actually accomplish what they’re intended to do: spread the word, get reviews. On top of that, many authors pay money to advertise these giveaways, and spring for shipping in the case of hard copies, so they’re actually paying people to get a free copy and not read it.\(^{41}\)

Of course author experimentation with formats and free samples is nothing new. In 2000 Stephen King experimented with publishing

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38 https://bookfunnel.com/
39 https://www.instafreebie.com/
The Plant in online instalments, with the proviso that he would stop writing if the level of readers paying their $1 per instalment fell below 75%. The trust element failed, and the finished version, if it indeed exists, remains uncirculated. Along similar lines, Alison Flood reported in The Guardian that best-selling author Paolo Coelho ‘has long been a supporter of illegal downloads of his writing, ever since a pirated Russian edition of The Alchemist was posted online in 1999 and, far from damaging sales in the country, sent them soaring to a million copies by 2002 and more than twelve million today.’ Flood quotes Coelho:

‘The good old days, when each idea had an owner, are gone forever. First, because all anyone ever does is recycle the same four themes: a love story between two people, a love triangle, the struggle for power, and the story of a journey. Second, because all writers want what they write to be read, whether in a newspaper, blog, pamphlet, or on a wall,’ he said. ‘The more often we hear a song on the radio, the keener we are to buy the CD. It’s the same with literature. The more people ‘pirate’ a book, the better. If they like the beginning, they’ll buy the whole book the next day, because there’s nothing more tiring than reading long screeds of text on a computer screen.’

In 2012 he announced he was launching a new programme on The Pirate Bay, and ‘exhorting readers to download all his work for free.’

But Coelho was already a best-selling traditionally published author when he began experimenting with flexing his rights. A much wider range of self-publishing authors are becoming much better informed in the process of experimentation in the publishing of their own work, and given that the self-publishing community habitually circulates information about routes to success, this increased awareness is surely likely to spread.

43 http://www.thepiratebay.se.net/
Academic Publishing

Within academic publishing the picture is more complex, but self-publishing can still create additional opportunities.

Some form of open access is now routinely demanded by most universities and funding bodies. But open access is not just one thing; providing unhindered access to content (which is what OA means) can come in many forms — which could include self-publishing. It therefore behoves academic authors to establish the official requirements of their organisation and funding body (most have developed their own specific institutional guidelines) and to consider what is in their best interests. Kate Pool, Deputy Chief Executive of the Society of Authors comments:

As part of their OA requirements, some funding bodies and universities now seem to favour a Creative Commons licence, although in The Society’s view they are never a good option and a standard, limited, non-exclusive licence would generally be far more appropriate in every way. The Society’s concerns about Creative Commons licences are summed up in a recent edition of The Author but centre on the licence being granted to everyone worldwide, and CC being irrevocable and impossible to terminate, with further complications in that if a work includes quotations or images from other sources, it is very likely that the right holders of such items will not give consent for Creative Commons use.

Summarising, she stresses the need for authors to assess their intentions:

If they want high academic penetration and/or access to REF or other funding, or are using material generated during the course of their academic work, as students or teachers, they will need to be mindful of existing institutional restraints/conditions and will in any case want to go with a highly regarded publisher in their field, if they are given assurances about rigorous peer review, even when the publishing terms are (as they will be) dire. If a specialist author simply wants to get their work ‘out there’ and to keep as much control as possible over it into the bargain, then self-publishing may be the preferable option. If you self-publish you can of course choose how widely/narrowly you make the work available.

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45 Society of Authors, ‘Creative Commons Licences’, The Author, 2016, 78–79.
46 Interview with the author.
47 Ibid.
Implications for the Wider Creative Economy

The increasing numbers of informed authors has significant implications for the wider creative economy.

As self-publishing grew in the early twenty-first century, those involved became increasingly confident; much less constrained by publishing traditions, they could write what they liked rather than what they were asked to provide — and were regularly sustained by direct, unmediated feedback from their readers with whom they felt a real connection. Given the acknowledged difficulty in establishing a new author’s profile within an already overcrowded market, advice from traditional investors has often been for authors to stick to a single genre — often to the frustration of those who felt they had more than one kind of material within them. Now self-publishing authors increasingly experiment across platforms and new genres have begun to emerge, such as the generic, and often redemptive, memoir tacking an area of interest to many but without a celebrity author (e.g. Lisa Genova’s *Still Alice*) or characters developed from established titles (e.g. E. L. James’s *Fifty Shades of Grey*, which was first self-published online before its success led to its being re-released by Vintage Books in 2012). What is more, the desire of these authors for self-determination mirrored developments within other creative areas, as this quote by pop star Ed Sheeran demonstrates:

I think the moment you start trying to please a fan base is when you start going downhill. I’m going to always, always write about what I want, even if it doesn’t necessarily cater to most of them.  

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48 Elizabeth Perle, ‘Ed Sheeran on Writing His New Album in “A Couple Of Weeks” And Why No One Cares About His Personal Life’, *Huffpost UK*, 21 May 2013, https://www.huffingtonpost.co.uk/entry/ed-sheeran-i-genuinely-do_n_3304554. Although Sheeran’s principles are clearly stated, his options are arguably much more open as a highly successful pop star. It is also fairly clear that he actually has a sharp eye on commercial concerns e.g. from this 2017 GQ profile: ‘It is the perfect demonstration of how his mind works: he admitted that Irish folk music “isn’t the coolest thing”, as his label feared, but told them it that it was going to be “f***ing massive” because there are 400 million people in the world who will say they are Irish even if they aren’t. For Sheeran, there is no conflict between the demands of creativity and commerce.’ (George Chesterton, ‘How Ed Sheeran Became the Biggest Male Popstar on the Planet’, *GQ*, 2 February 2017, https://www.gq-magazine.co.uk/article/ed-sheeran-new-album-divide) That song was also released on St Patrick’s Day — in various ways it was very carefully tailored to a certain fan base.
The self-published did not necessarily always seek to market their work, either conventionally or at all. I found self-publishing authors might decide to finalise their work without immediate dissemination; to hold their story in a format that, while far from traditionally perfect, offered the chance for subsequent revisiting. Some authors wrote live (e.g. publishing daily instalments on a blog or live within a chat room), seeking immediate feedback; new methods of sharing emerged (countable downloads, charity-based projects, collective funding through seeking external investors, auctioning opportunities for a named individual to have their name or organisation incorporated within a work). The marketing and dissemination could come later, if the author so desired; the important thing for the short term was ensuring that the work existed. This prompted my definition of self-publishing\textsuperscript{49} as ‘the process of assuming personal responsibility for the finalisation and production of content’.\textsuperscript{50}

The existence of better informed and more confident self-publishing authors will likely have consequences for the creative economy.

1. Informed Authors

Authors who have self-published are changed; they are more aware of the processes and details involved in producing something special and more aware of the risks and opportunities of making work available. In the process they gain metrics about their market and information on how adjusting prices and changing jackets can impact on a customer’s sensitivity to ‘pricing points’ and willingness to pay; they become aware that slight tweaks can cause a disproportionate response. So if, as now regularly happens, they subsequently find that publishing is vastly more complicated than they had previously realised, and that they would rather devote their energies to writing and so take up an offer of professional representation from a traditional agent or publisher — they still approach the negotiation empowered. Armed with statistics and a confidence that comes from understanding why their market appreciates their work, they are likely to be more effective and less grateful negotiators.


\textsuperscript{50} Baverstock, \textit{The Naked Author}, p. 32.
What is more, a confidence in their connections with readers may overtake their awareness of their legal responsibilities. The Group Contracts Director of a major publishing house commented that while she would hope authors with self-publishing experience would be more knowledgeable, rather than less, about the book publication process, in fact ‘the only anecdotal evidence I can give was an author who self-published in the US but we took her on for ebook and print publication in the UK. We struggled to convince her about the importance of the editorial process (she wanted to release her book in the US without any editorial filter, even a copy-edit, as she “Didn’t want to keep her fans waiting”) and she didn’t understand the necessity of having territorial restrictions in place so wasn’t prepared to stop US copies getting into territories she had granted exclusively to us.’

2. Competition for Reader Attention

Publishers and authors are now competing for reader loyalty. Selling through specialist retailers (bookshops) in the past distanced both publishers and authors from eyeball to eyeball contact with their customers; publishers have only recently been able to establish a direct relationship with their readers and purchasers, because of their new ability to get involved in online distribution.

But their access is not unique. Readers can also now approach authors directly, through their websites, social media presence and literary festivals, which have grown hugely in recent years. Against the background of a less deferential society, readers now regularly feel empowered to speak to, if not challenge, their favourite author — rather than write a respectful letter to their publishing house and hope it gets passed on. In the process the writers understand how their work is appreciated and what their readers want. A commonly quoted reason for self-publishing is a desire to provide the kind of books the author had themselves wanted, and equally common are expressions of responsibility towards both the craft of the writer and the preferences of their previously underserved readership.

51 Personal conversation with the author.
3. Self-Publishing Authors Display the Characteristics Needed by Publishers Today

This blend of proactivity and personal responsibility is precisely what publishers now need from their authors. The diversification of the media has led to an exponential expansion in the information and entertainment options available to the market, and a consequent lack of predictability about how people spend their leisure time. Amazon has disrupted the standard selling model and authors who not only understand their market, but know how to reach them, are extremely useful. Publishers have always appreciated the ‘marketable author’; now the self-determination and resilience that enables writers to self-publish effectively are being sought by traditional investors. Publishers are actively seeking author entrepreneurs, who can not only write but are sufficiently proactive and motivated to work in partnership with their investors. As agent Heather Holden-Brown commented: ‘Self-published authors are probably better at knowing opportunities and the commercially-minded ones learn how to take them. It’s interesting that some authors, having discovered self-publishing, prefer it as they have control, potentially make more money and are not competing against other authors on a publisher’s list.’

In conclusion, within the publishing industry, rights have emerged as the key area for future development; knowledge of rights is crucial if an author or publisher is to take proposed content and cross-sell it from one market to another, traversing boundaries and reaching out to new markets — and in the process establishing a wider and hence more sustainable platform for future delivery from which other content and associated products can be sold.

Self-publishing is having a significant impact on the traditional publishing industry; it’s now routine for the weekly bestseller lists in US and UK to feature authors who began by self-publishing. Professional publishers are noting areas in which self-publishers have been successful — often previously overlooked or significantly underestimated — and signing up those authors who, through a process of trial and error, have a measurable connection with their readers, possess significant business and legal understanding, and demonstrate resilience — and hence require less hand-holding. These are exactly
the kind of invested partners the traditional industry needs in order to plan for the future, when to survive customers must be found beyond the comfortable cultural homelands of regular book-buyers that have been relied upon in the past. Those offering publishing services are finding that self-publishing offers a much wider, and significantly more profitable, market for their professional capabilities than the traditional industry alone.

In short, rather than delegating responsibility to others, today it behoves all authors to understand their markets and know their legal responsibilities and their rights. Those who look after these things for you will probably look after themselves first. Or as Bertolt Brecht has Polly Peachum say in *The Threepenny Opera*: ‘The law was made for one thing alone, for the exploitation of those who don’t understand it.’

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