

# Publishing Rights: An Untapped Opportunity

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Published online: 18 July 2017  
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**Abstract** Through its Rights Committee, the Book Industry Study Group develops, maintains and advocates for industry-wide best practices designed to support the transmission of a defined set of rights information between trading partners. A survey recently identified six challenges related to rights management. It further found that publishers and other stakeholders are looking to justify the return on investment in solutions offered by rights solutions providers.

**Keywords** Publishing rights · Rights and royalties · Rights management solutions · Rights workflows · Rights management ROI · BISG

## Rights: A Legacy of Persistent Challenges

BISG works to create a more informed, empowered, and efficient book industry. Its broad membership includes trade, education, professional and scholarly publishers, as well as distributors, wholesalers, retailers, manufacturers, service providers, and libraries. Within BISG, representatives of member companies use a committee structure to discuss and resolve pain points in the book publishing supply chain.

In partnership with other industry associations, BISG maintains and implements standardized best practices. BISG also develops and shares leading-edge research and information and creates education and events that help our members and the industry better understand market trends and issues.

In 2011, BISG commissioned a joint effort among the Copyright Clearance Center, the Idea Logical Company and Metacommet to conduct original research on

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rights management. The results were presented at a Making Information Pay event in May of that year. Key findings at the time included:

- Most companies surveyed lacked a comprehensive rights database. Research on rights almost always required retrieving the original contract documents.
- Companies that had built databases to hold rights data acknowledged that the data they maintained was still not complete.
- A number of those interviewed indicated that they stored contracts as searchable PDFs, but one vendor in this space indicated that half of all publishers were still working exclusively in paper-based documents.
- Publishers at the time saw a clear need for an industry taxonomy of rights, one that would help standardize the use of language to describe rights and rights transactions.
- Systems in place at the time were not robust enough to manage an evolving range of rights deals. The extent to which rights systems were not integrated with other systems, including royalties, was also an issue.
- At the time, rights management was not viewed as a strategic priority, making investments in systems difficult to justify to senior management.
- Rights were seen as a choke point. Inbound rights were difficult to access, and outbound rights took too much time and effort to process.

Noting that one respondent claimed it had doubled rights revenue simply by “responding faster,” the 2011 study argued that rights management should receive greater attention as a strategic issue and an opportunity.

In making a case for change, the authors noted at the time that:

- An increasing percentage of deals and revenues are effectively rights deals
- The global marketplace increases demand for rights information
- Micro-transactions will grow, spurring the need for more granular rights information
- Tapping into new markets will require more effective rights management

The Rights Committee used the results of this research to pursue two projects: the creation of a structured index of rights transaction terms, collectively called a Rights Controlled Vocabulary; and the development of a transactional specification to inform payments between rights trading partners. Industry support for these two efforts was initially high, but the two projects proved to involve unanticipated conflicts, and work on both was ultimately put on hold.

BISG then convened a Rights Summit that brought stakeholders in the publishing rights community together to discuss points of friction in the management of rights and rights data. The summit was organized to help BISG set priorities for future efforts of the Rights Committee on behalf of rights buyers and sellers.

Three main themes emerged from the summit:

1. *Proving ROI* Before standards could be refined or promoted, BISG needed to conduct research on the size and scope of the rights business in the U.S., so that

- it could determine the potential return-on-investment (ROI) for companies investing to improve their ability to manage rights.
2. *Creating Consistent Terminology* The industry needed a simpler, more consistent and more efficient way to communicate transaction specifics related to the sale of licensed content. This conclusion validated the work previously done by the Rights Committee, with additional direction around the need to develop terminology relevant to new or emerging licensing opportunities.
  3. *Increasing Clarity* Weaknesses in rights management were affecting both available data and discovery of opportunities. The summit cited several challenges: the lack of clarity around what rights are owned; how to sell outside of the traditional book deal; and how to handle small-scale rights deals in a less labor-intensive manner.

Because the summit reflected a conversation among 25 representatives of about 20 different companies active in rights selling and management, the Rights Committee elected to field a survey to a wider audience. The results of the survey are described in the next several sections.

## Summary of Key Findings

Through its Rights Committee, BISG develops, maintains and advocates for industry-wide best practices designed to support the standardized electronic transmission of a defined set of rights information between trading partners.

The Rights Committee works regularly to identify the most important problems facing the publishing industry in rights. It seeks areas of consensus where tools and best practices can be valuable. As part of this effort, the committee has commissioned reports and periodic surveys to better understand areas of greatest need.

The most recent survey revealed several trends of significant interest to rights holders, including publishers and authors, as well as those working to manage the value of rights in the international marketplace. The six primary trends are:

1. *The importance of rights transactions is growing*, as demand increases across international markets for both English-language and translated works.
2. *Failure to collect rights revenue is a growing problem*, as transaction volume grows and the systems in place to track agreements fail to keep up.
3. More than half of those responding to the survey agreed that *their organization is “currently missing out on meaningful rights revenue”* as a result of problems identifying rights holders and clearing rights.
4. *Paper-based workflows and reporting are costly and ineffective*, characterized by disconnected systems and a lack of standard approaches.
5. *The confusion about who controls which rights has grown worse*, particularly for backlist, acquired and divested works and imprints.

6. Recognizing these challenges, rights holders and rights buyers are *looking for technology and workflow solutions* that address multiple parts of the rights supply chain.

In the sections that follow, we consider these trends and provide additional detail drawn from the survey.

### **The Importance of Rights Transactions is Increasing**

As anticipated with prior studies and assessments, the Rights Committee survey found significant growth in demand for international rights. About 60% of those responding anticipated continued growth in the sale of digital rights in the U.S. market, while 71% of those responding expected growth in sales of digital rights in international markets.

Those responding also added comments confirming a growing market: “We do pass on many opportunities because of limited rights management,” said one publisher. Another reported, “I operate under the assumption that there is a lot out there for us”.

Those responding echoed other portions of the 2011 research report, particularly a need to better understand the rights marketplace. One respondent noted, “I’m interested in knowledge exchange and guidelines from the industry,” a clear call for the kind of support BISG can provide in this area.

### **Failure to Collect Rights Revenue is a Problem**

The value of rights income as a share of publishing revenues appears to be growing. Half of all survey respondents felt that rights revenue was either “critical” or “very important” to their companies’ bottom lines. By comparison, the portion that felt rights revenue was not significant to the bottom line was just north of 13% of those responding.

Comments from publishers illustrate how the marketplace is challenging their ability to keep up with rights. Said one, “We spend a significant amount of time chasing payments and royalty statements”. Another noted “We know we are failing to collect significant revenues due to a lack of resources. If there were a tool with a proven track record to help us here, we would explore using it”.

Potentially lost revenue and the opportunity to justify an investment led another publisher to comment: “If my company could quantify uncollected rights revenue, we would definitely invest in systems to track and obtain that revenue”.

## **The Time and Resources Required to Manage Rights Transactions are Impediments to Growing Rights Revenues**

More than half of those responding to the survey agreed that their organization is “currently missing out on meaningful rights revenue” as a result of problems identifying rights holders and clearing rights.

Limited access, incomplete knowledge, rigid storage platforms (including physical file cabinets) and new business models have all combined to impede publishers’ ability to grow rights revenues.

The problems appear to have several causes. One publisher noted, “Clearing appropriate rights to third-party material is massively time-consuming and a cost burden. It’s very difficult to obtain rights that are sufficient to exploit content and sell on to translating publishers”. In a similar vein, a publisher equated “lengthy process with lost sales”.

Another respondent pointed to “poor tools” as a problem. This theme came up repeatedly in responses to the survey, and the sixth finding provides greater detail on comments about finding appropriate rights management solutions.

Even publishers that have developed reasonable rights management solutions find themselves struggling with issues at acquired imprints. “We recently acquired a smaller publisher,” one response noted. “Their lack of a rights database hindered our ability to move forward with licensing deals”.

Shifts in business models have also affected rights management efforts. A respondent explained the challenge: “We’re not selling rights to components (chapters), and we’re not clearing rights quickly enough”. The potential for increasingly granular rights requirements (selling something other than a whole book) was seen as a potential tipping-point issue for investing in better rights management tools.

Respondents also pointed out that good rights data takes work: “Rights information can be managed more smoothly using open vocabularies and good data management. But, someone still has to enter the data properly”.

## **Paper-Based Workflows and Reporting are Costly and Ineffective**

The survey found widespread support for the idea that paper-based workflows continue to negatively impact rights management efforts. The absence of standard approaches, the persistence of paper-based filing systems and the use of stand-alone or disconnected systems to track rights were all cited as roadblocks.

Nearly two thirds of those answering believed that changing the way their organizations managed rights could increase business opportunities with potential licensees. Over 58% felt that improving the way rights were managed would also make communication with licensees “materially more efficient” for them.

The roadblocks were clearly noted: “Missing rights information; maintained using nonstandard processes and data formats” coupled with “disconnected systems that come from historically separate companies”. A third publisher talked about

“lots of detail and follow-up that could be streamlined. It’s a lot of paperwork with little centralized information. We are lost at sea a lot of the time”.

To the extent that rights management solutions exist, they are often perceived as working only for larger publishers. “There currently is no cost-effective way to digitally manage rights for a small publisher,” noted a respondent. “We are not going to maintain our own server, and other options are too restrictive or costly”.

For smaller publishers and perhaps at least some larger ones, a more standard approach might be useful. “[We would invest] if the industry adopts a standard that allows us to manage the cost of an implementation,” one respondent said. But, the ROI has to be demonstrated, even with a standardized vocabulary and approach.

### **Ongoing and Widespread Confusion About the Rights Publishers Control has Grown Worse**

The 2011 BISG study noted that rights management and exploitation were not seen as a strategic priority. While the value of revenues derived from rights transactions was considered important, those responding to the survey pointed out continued problems with governance, managing backlist titles, and managing rights obtained from divestitures and acquisitions.

Without access to standard processes or vocabularies, many publishers reported feeling that they are making up rules as they go. Many organizations echoed the theme that they “lack the internal resources to investigate rights”. One added, “We don’t have enough personnel to keep up with current workload, let alone search for new opportunities”.

Those responding also said that “clearing third-party rights remains a challenge”. A publisher talked about the every-day reality of getting backlist titles up to date: “It’s a lot of work to clear backlist titles for permissions, particularly to create ebooks”.

As noted earlier, divestitures and acquisitions can often compound the challenges publishers face in managing rights: “The difficulty comes when... the rights holder publisher has been bought and sold many times, so they don’t even know if they hold the rights”.

### **Rights Holders and Rights Buyers are Looking for Solutions**

Asked if they saw their organizations making a meaningful investment in how rights and royalties are handled, 40% of those responding said “Yes,” with a third “Not sure”. A bit more than a quarter said they did not think their organizations would invest in rights management solutions.

Many of those responding pointed out that investment would require a business case that included a clear ROI. One responded that investment is “critical”: “Rights for the next set of products we have in the pipeline have to be monitored and managed. The reporting stream must be cleaner!”

The survey also asked if the willingness to invest would be improved if a failure to collect significant rights revenue could be demonstrated. Here, half of those responding said “Yes.” Less than 11% said, “No.” A publisher asserted, “If my company could quantify the revenue lost to uncollected rights, we would definitely invest in better systems to track such revenue”.

Those responding to the survey were asked to name any specific rights-related areas or processes that would be priorities for investment and improvement. The most popular or frequently cited investment opportunities were:

- Rights licensing database; tracking rights income
- Upgrading a royalties database
- Systems consolidation
- New online systems to capture rights
- ERP investment to capture all revenue streams
- Digitizing older contracts

Various process improvements were frequently cited. One publisher talked about “Cleaning up data, establishing new relationships with licensors, improving digital asset management, and communicating with authors about backlist revitalization projects.” Another cited “Accessibility, as many older contracts are still in either hard copy or scanned PDF files”.

The lead times on some investments were cited in years: “We’re looking at rights management systems in the next two years. We want to make sure these systems integrate with finance and our digital asset management systems. Pushing data between systems will increase efficiency and compliance”.

The large number of supplemental responses to questions about potential investments suggests that a range of firms are actively considering rights management solutions. To help in this regard, BISG is conducting a follow-up survey of solutions providers to gather information about current capabilities. That work is described in the next (and final) section.

## **Moving Forward: Creating a Rights Management Roadmap**

BISG’s Rights Committee is collecting responses to a follow-on survey designed to capture the broad nature of the rights management solutions landscape. A range of vendors is expected to participate, with their responses demonstrating how vendor solutions differ in emphasis and coverage.

The next survey covers capabilities that are both:

- Core to rights and royalties management, and
- Critical in understanding distinctions between solutions offered by different vendors

The survey focuses on the practical differences among competing options. For example, it includes questions about business models and target markets, information that can help potential buyers understand whether a solution is

appropriate for their needs. A different set of questions solicits information about what is included or excluded across various solutions.

The survey will result in a vendor ‘grid’ or matrix that captures core capabilities and considerations for rights and royalties solutions providers. The document will provide publishers and other interested parties with a guideline that identifies solutions providers, outlines their strengths and product offerings, and documents any relevant limitations.

This information will be compiled and published ahead of a BISG program, “Managing Rights Across The Supply Chain”. Prior to the program, the Rights Committee will also complete work on a “rights management functionality checklist”. This document will provide publishers with a templated set of data points, organized under relevant higher-level headings, to assist them when evaluating vendor solutions more closely, likely as part of a request for qualifications (RFQ) or proposal (RFP).

The checklist itself will be more granular than the vendor survey, with functionality expressed at the level of data types or elements. It will serve as a companion to the vendor matrix, but the checklist itself will not reflect the capabilities of individual vendors. That information is best developed between potential clients and their short list of solutions providers.

The program will present the committee’s work and extend the discussion to consider:

- What rights and royalties solutions are available
- How publishers can examine their current practices to make best use of one or more of these solutions, and
- How to think through near- and mid-term needs, the required investments and the expected ROI.

While the Rights Committee expects that follow-on work will be shaped by the content of the program, a probable next step is the generation of a “rights management roadmap”. This may become a best-practices document that charts the steps publishers and other rights supply chain participants have taken to effectively manage their particular rights challenges.

Publishers, industry stakeholders and solutions providers who are members of BISG are invited to join the Rights Committee, which meets regularly on the second Wednesday of each month. Even when there is an in-person component, all meetings are held using web-based technology, giving members the opportunity to participate independent of location. For more information, navigate to [bisg.org](http://bisg.org).

Additional information, including several charts, may be found at <https://bisg.site-ym.com/store/ViewProduct.aspx?id=9211197>.