

## IPA Bangkok Congress

### « Fixed book price for a better competition”

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## Introduction

Good afternoon, ladies and gentlemen. My name is Catherine Blache and I work for the French Publishers Association for which I follow European and international issues.

I will present you the fixed book price regime with a focus on France. I will first describe how it works for paper books and its positive results on the book chain. Then I will explain why France and other countries decided to extend it to e-books. I will thus show you that fixed book price allows a fairer competition for the sale of books and e-books.

## I. Fixed book price on paper books

### A. Main principles of fixed book price

#### 1. Situation of price regulation in the world

Today, 16 countries recognize that **the book is not a product like others** through a **fixed book price regime**: **Argentina, Austria, France since 1981, Germany, Greece, Israel, Italy, Japan, Lebanon, Mexico, the Netherlands, Norway, Portugal, Slovenia, South Korea, Spain.**

**Historically, fixed book price systems used to be based on trade agreements between booksellers and publishers.**

Today, most of the systems are based on **laws**. The goal was to avoid any suspicions of cartels fixing prices.

Nowadays, there are also **discussions in Belgium, Brazil, Poland, Quebec, and Turkey** about establishing such a regime.

## **2. Rationale and principles of this regulation: the necessity to avoid a price war leading to the destabilization of the whole sector**

Debates usually result from the arrival on the market of players with a dominant position such as supermarkets or Internet retailers. Their goal is not to sell books. And they can afford to make big discounts on such products. **The consequence is the disappearance of a significant proportion of bookshops.**

For instance, the **Polish** book chain is currently asking for such a regulation as 300 booksellers closed over the last years, as a result of the discount practices of supermarkets. Besides, Amazon just opened an establishment there.

**The main idea is not to prevent competition. It is to create a level playing field for all retailers and to avoid the dominance of a single actor.**

The French Law inspired many fixed book price laws.

Practically speaking, the price of the book is not fixed by the retailer but by the publisher or, as it is the case in France, by the importer.

In France, retailers can only grant a maximum discount of 5% to consumers.

Fixed book price does not contravene the rules of the European Union nor those of the World Trade Organization (WTO). It fits perfectly with the objectives of the **UNESCO Convention on Cultural Diversity**.

Unlike subsidies, it is less likely to entail situations of dependence or bias from public authorities.

## B. A strong, diverse and modern network of booksellers

### 1. Stability of the industry

Thanks to this system, France managed to maintain an exceptional cultural diversity of the book offer and a stability of the industry with:

- 4.500 publishers
- **2.500 booksellers, i.e. 1 per 26.000 inhabitants.** This is one of the strongest and most diverse networks of booksellers in the world.

It ensures the equality of citizens in terms of access to books.

### 2. “There are no books without booksellers” (the motto of the campaign for the French law): Booksellers’ fundamental role of advice and discoverability:

- The demand for books is related to three facts which characterize this sector:
  - **First, the particularly huge amount of products available (600.000 titles in France) and the importance to have as many ways as possible for readers to discover them.**
  - **Second, each book is a prototype.** For trade books, market studies cannot help to know whether a book will be a best-seller. Large-scale advertising is usually unfeasible. So the publisher takes risks, in particular on new authors.
  - Third, the book is the cultural product with a strong **impulse buying.**
- **Need for the expertise, selection and advice: booksellers’ role for the discoverability of new authors and the long term life of the back catalogue.**

Publishers need to rely on bookshops. As opposed to discounters, professional bookshops have several thousand titles in stock and hire qualified booksellers. This generates costs.

*For instance, in Quebec, Canada, 30.000 new titles are published each year. On the one hand, there are 112 selling points (supermarkets, chains and other stores) not specialized in selling books: they market around 500 titles per year. On the other hand, the other 29.500 titles are made commercially available via the network of 300 booksellers.*

Booksellers greatly contribute to launching new titles and to maintain them on the market in the long run.

*In France, ½ of the turnover of booksellers is related to the sale of books published more than one year ago and **their market share is higher than the average for more specialized sectors, such as Humanities and social sciences.***

On the contrary, supermarkets and Web giants only aim at leveraging on the already existing successes of books actually due to booksellers.

*Ex.: “L'Inconsolable” d'Anne Godard en 2005, put on sale in January 2006:*

- January-march: creation of buzz by booksellers:*
  - . 80% of sales by booksellers;*
  - . 14% by chains of booksellers*
  - . 2.8% by online retailers*
- Mid-march: amplification of the buzz already created by booksellers*
  - . 50.5% of sales by booksellers*
  - . 34% by chains of booksellers*
  - . 9% by supermarkets and press points*
  - . 2.5% by online retailers*

⇒ **Therefore, the more numerous and different channels of commerce, the more books they promote, the more books they sell, not only in terms of numbers but even more in terms of the range of titles.**

- **Specific role of booksellers in the society and for town and country planning:**

Haitian-Canadian author Dany Lafférière stated that **“If a bookseller closes, it is the heartbeat of a city that stops.”**

## C. Cross-subsidization, a factor of diversity for the whole book chain

### - **Booksellers:**

**They can do cross-subsidization between best-sellers and more specialized titles targeting a smaller audience.**

There is still a competition among them, not on discount, but in terms of the variety of books showcased, the location, the advice or the **quality of services**.

### - **Publishers:**

They can do the same **cross-subsidization**.

### - **Authors:**

They benefit from this system as their **remuneration is based on a percentage of the retail price**.

## D. Devastating effects of discount practices in countries with free price and in other sectors:

In the absence of fixed book price, one can observe a “price war” and practices of loss leaders by retailers with dominant positions, such as supermarkets or Web giants.

**Sales of “best-sellers” and sales to libraries partly don’t go through booksellers anymore. Indeed booksellers can’t afford to offer the same discounts.** As a consequence they cannot finance the rest, i.e. the majority of books with a low turnover, and cannot make a profit.

**In the UK for instance, 1/3 of independent bookstores have closed** over the last 10 years.

**Some actors with dominant positions started to appear, first in the paper environment and then in the digital environment.**

As a comparison, there are 400 booksellers in Paris; 130 in London; 2.500 booksellers in France; 1.000 in the UK, for a population as big as in France.

The US lost half of its booksellers in 20 years (4.000 booksellers 20 years ago; only 1.900 today for a population 5 times as big as in France).

**Today, independent bookstores only represent 5% of the market in the UK and 6% in the US.**

As the market gets more concentrated, publishers face **an increasing pressure for growing rebates and possibly difficulties to remunerate authors in an appropriate way.**

### **E. No “best-sellerization” phenomenon in France = greater diversity of content bought by readers**

Without a strong and diversified distribution network, the market tends to focus on a few titles with huge discounts, to the detriment of more original or difficult titles.

**We don't have a big phenomenon of best-sellerization in France.** In 2005, the top 20 best-sellers in the book sector represented 1.7% of the sales in value; whereas they represented 16% of the market in the UK, and 20% in the DVD sector in France.

⇒ A fixed-price system results in the sale (and presumably) reading of a wider range of books.

### **F. Affordable prices for French readers**

In France, there is no inflation of book prices. Between 1998 and 2008, the price of books increased half as much as the consumer price index, and four times less than the construction price index.

In the UK, since the end of the NBA in 1995, **prices only went down on the best-sellers, i.e. 1% of the titles.**

**But prices increased for the rest of the offer,** creating a sort of two-speed market. Since 1995, **book price rises of +50% outstripped the cost of living** of +28%.

**In France, the book remains a non-expensive product: the average price is 11€** (the price of a movie theater ticket in Paris).

⇒ **This is also a positive system for the State:** the book is the cultural sector which gets the smallest amount of subsidies.

## II. The extension of fixed book price to e-books so as to maintain a distribution as diverse and healthy in the digital environment

### A. Fixed book price on e-books in Argentina, Austria, France, Germany, Greece, Israel, Norway, Slovenia, South Korea and Spain

The French law on fixed book price for e-books was adopted in 2011.

It applies to all online booksellers, including foreign ones, selling e-books published by French publishers to French consumers. Indeed **Amazon and Apple are based in Luxembourg and Google in Ireland.**

Such a regime also exists in **8 other countries: Argentina, Germany, Greece, Israel, Norway, Slovenia, South Korea and Spain.**

### B. Similar rationale: to avoid the concentration in the distribution of e-books.

**In France, there was a strong awareness of the risk that the nascent e-book market may be pre-empted by Internet distributors with a dominant position.**

Such Web giants are not booksellers.

They just want to sell the best-selling offer, which will allow them to sell other products at the same time.

One could observe the **downside effects of aggressive discounts on e-books by such actors in the US.**

Since 2007, Amazon started to sell e-books at loss (9.99\$) in the US via the Kindle. As a result, **the market of e-books certainly developed and Amazon obtained a market share of 90% in 2009.**

Last summer, Hachette revealed that Amazon had a 60% market share of their e-book titles in the US and [78% share in the UK.](#)

The aim of the French law was therefore to ensure that all retailers have the same access to the offer of e-books and that new ones can enter the market.

### C. Need to maintain physical booksellers in the digital era in order to actively promote books (different notion from merely making them available)

As the share of the global Internet players grows, the sales impact of small and independent retailers diminishes dramatically and **the market share of best-sellers increases.**

Marcello Vena of the Italian publishing group RCS Libri showed that 80% of the sales of the ebooks of his publishing group concerned 23% of the titles in 2011 and only 14% of the titles in 2014.

**In fact, online retailers cannot replace booksellers, who give personal advice to readers and actively promote new authors and books from the backlist.**

While 61% of book purchases by frequent book buyers in the US may occur online, only 7% of those buyers had discovered that book online.

Without physical booksellers, there is a risk that only discounted best-sellers would be promoted by Web giants.

### D. The risk of censorship by actors with a dominant position

**If there is only one actor selling e-books and if it refuses to sell some of them, on the basis of its own judgment, then readers no longer have access to the ideas and the culture they convey.**

Some large Internet retailers currently tend to delist e-books of publishers in the framework of their **copyright or commercial policy.**

For instance, two years ago, 1.200 popular French-Belgian comic e-books were excluded from an Apple comics application due to the presence of some nudity.

**The same event occurred to an application about hippies published by Gyldendal, Denmark's largest publisher, on the same grounds.**

There was a recent fight over discounts on e-books between Amazon who controls at least 1/3 of the US paper market and publishers Hachette in the US and Bonnier in Germany. Amazon retaliated by discouraging consumers to buy the paper books of these publishers.

These cases show a clear **danger for cultural diversity**.

**Preventing monopolies in the distribution of content is therefore also a matter of democracy.**

## E. The need for a regulation

**Competition law is not sufficient to prevent the downside effects of the emergence of actors with dominant positions.** It can condemn abuses of a dominant position, but only after such abuses have already occurred.

So one would have to wait until all the booksellers have disappeared. Moreover the costs of litigation and the fear factor may prevent individual publishers from using this tool against actors who may represent their main customer.

## Conclusion

As a conclusion fixed book price is a **cultural policy instrument** which allows booksellers to have the same access to books. It favors affordable prices on all books and in every bookstore, and therefore a greater diversity of the books bought.