

Feature article

Some effects of the end of the Net Book Agreement

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Abstract

The predicted effects of the collapse of the Net Book Agreement are compared with what has actually happened in the book trade, including: numbers of booksellers; stockholding in bookshops; discounting; book output. The situation in America is addressed. Changes in the trade as a whole are discussed. Changes in library supply in higher education are examined, particularly the price war between suppliers, and the continuing provision of services together with larger discounts. The move to consortium buying is considered. The development of electronic delivery of materials is discussed.

Introduction

The Net Book Agreement was a simple agreement between most significant publishers that their books should be subject to a minimum or net price in bookshops and other retail outlets, assuring the bookseller that the value of his stock would not be undermined by price cutting by other retailers, drawn up as a result of the chaotic state of the book trade at the end of the nineteenth century. It was examined by the Restrictive Practices Court in 1962, and found not detrimental to the consumer, but by the 1990s, growing numbers of publishers and booksellers were abandoning it, until its final collapse in late September 1995. It was formally abrogated by the Restrictive Practices Court in March 1997 ("NBA passes into history books", 1997). The collapse of the Net Book Agreement has had considerable effects on book supply to both public and academic libraries, apart from its effect on the book trade in general.

Predicted effects of the collapse of the Net Book Agreement

Mr Justice Buckley, presiding over the Restrictive Practices Court in its examination of the Net Book Agreement (NBA) in 1962, (Barker and Davies, 1966, p. 34) predicted four effects of the abrogation of the NBA:

the number of stockholding booksellers in the country would be reduced; the stocks held by surviving booksellers would be less extensive and less varied; although in rare cases purchasers might be able to buy particular titles more cheaply than if the Agreement remained in force, the retail price of most books would be higher; fewer titles would be published, and those which failed to find a publisher... would include works of probable literary or scholastic value.

Three years after the collapse of the NBA, it is interesting to examine if those predictions have been fulfilled. The findings are based partly on research carried out at Liverpool John Moores University during 1997-1998.

Numbers of booksellers

The number of stockholding booksellers has fluctuated since the demise of the NBA; between the end of 1995 and April 1997, there have been 239 withdrawals from membership of the Bookseller's Association, and 195 new enrolments, but this could not be considered a serious drop in numbers (Newton, 1998).

Stockholding in bookshops

Barker and Davies' account of the "trial" of the NBA estimates that there were between 700–800 stockholding booksellers in 1962, which included bookshops as units within department stores, the independent bookshops, and the chains. These could carry between 9,000–60,000 titles, while a stock of around 20,000, considering there were about 250,000 titles in print, (Barker and Davies, 1966, p. 432) was considered "respectable". Nowadays, with more than 600,000 titles in print, the average "respectable" stock can be anything between 100,000–250,000 titles. Ottakers, a comparatively new chain, has grown rapidly, having opened 14 new shops in 1996, so there would seem to be no disincentive to entering the booktrade, especially as Ottakers is the only specialist out of all the chains using discounting on a wide scale (Keynote, 1997).

Discounting

Dr Frank Fishwick's latest report (Fishwick and Muir, 1998) indicates that supermarkets tend to be the biggest discounters of books, stocking between 20–35 mass-market paperbacks priced at about £4, compared with the average selling price for paperbacks of £6.10, but they are not necessarily the biggest sellers of books (see Table I).

The case against retail price maintenance (rpm), rests mainly on the idea of price competition as an efficient means of resource allocation. Under competitive conditions the market will ensure that the price paid by any consumer for any product is the lowest possible, given the resources available in the economy and the demands of all consumers for all products. Believers in this idea would not make predictions on the effects of abolition as they would say that the market itself would resolve any problems.

Table I Retail outlets for books, 1997

	Percentage
W.H. Smith	28
Specialist bookshops	20
Bookclubs/mail order	10
Other mixed goods stores	8
Secondhand bookshops	8
Supermarkets	4
Airports	1
Other/do not know	21

The Registrar of Restrictive Trading Agreements (the Registrar), argued in agreement with this, that the removal of a price restriction in the context of a competitive industry would lead to price reductions, but the court held that the NBA acted, not as a determinant of minimum price, since the price of any book is fixed independently, but as a device to preserve retail price stability. The court felt that price cutting would be selective rather than widespread, and general stores would use cut-price books as a form of loss-leadership, thus transferring demand from one outlet to another, rather than expanding the market. It was also argued that booksellers would find it almost physically impossible to cope with changing prices on all their stock, although it had already been argued that price-cutting would be limited and selective. We are of course witnessing this effect now. Indeed, Asda's trading director claimed much of the credit for bringing down the NBA in 1995 ("a field day for the media as NBA goes", 1995).

Larger booksellers and retailers like Asda enjoy greater gross margins because of their greater bargaining power, whereas smaller booksellers would be unable to carry cuts in their already smaller margins, and may be forced out of business, thereby strengthening even more the bargaining power of the bigger retailers (National Heritage Committee, 1995). Indeed, once W.H. Smith decided to abandon the NBA and make its deal with Random House and Harper-Collins, there was little point in any of the other publishers continuing support for the NBA.

The American approach

This conflict of interest between small and large retailers is a situation that has been addressed in the USA (where no rpm exists for books), by the introduction of the Robinson-Patman Act 1936. The Act was enacted during the Depression in response to the growing power of grocery chain stores, especially the Great Atlantic & Pacific Tea Co., which is still in business. It was feared that A&P, as it is known nowadays, was using its buying power to obtain better deals from its suppliers than its competitors, small grocery stores, then undercutting their prices to drive them out of business.

The Robinson-Patman Act prohibits discrimination in price on the same or similar products sold to similar customers across state

lines, where the effect of the price discrimination is to lessen or impair competition or tends to create a monopoly. The Act also prohibits a seller paying for anything but services rendered, or for services rendered by the customer in connection with the resale of the suppliers product (e.g. a publisher helping a wholesaler to become established with retailers) unless such support is offered to all customers in a comparable, proportional way. It also makes it illegal for a customer to accept any deal or price cuts that he knows violates the Act (Mutter, 1995). The onus is on the competitors to prove that unfair, illegal, price discrimination was agreed on by the supplier and customer; cases are usually taken up by the Federal Trade Commission, the main federal government body charged with overseeing the various US fair trade laws.

The American Booksellers Association and 26 independent booksellers are currently involved in a case against the chains of Barnes and Noble and Borders, with allegations of: extra discounts; shared markdowns and extra discounts on small orders unavailable to smaller stores; special terms for new stores or expansions or for non-returnable purchases; claims of massive overbuying and underselling of titles, with returns 50 per cent higher than independents ("ABA launches lawsuit against B&N and Borders", 1998). "Sale or return" is well established as a trade practice in the United States as it is here, although it seems to be used more in America (Fishwick, in National Heritage Committee, 1995, p. 78). As Mutter says, "the corner grocery store is a thing of the past in the US", but the law is still able to assist smaller bookshops against unfair competition.

Book output

The NBA has certainly not stifled book output, as Table II demonstrates. A total of 18,487 new books were published in 1961 (Barker and Davies, 1966, p. 921) rising to 101,504 in 1996, dipping slightly to 100,029 in 1997.

It could be argued that many of these titles must represent near duplicates, which can benefit the consumer so little, that if publishers were to reduce their title output, they could save money with longer print runs of titles produced, bringing down unit and production costs together with prices. The controlled duplication of proven formats such as romantic fiction and thrillers would continue as long as demand lasted (Allen and Curwen, 1991).

Table II New books published 1970-1997

Year	Number
1970	22,755
1975	35,608
1980	48,158
1985	52,994
1990	63,980
1995	95,064
1996	101,504
1997	100,029

Source: Figures 1960-1990, Allen and Curwen, 1991; 1990-1997 *The Bookseller*, 20 February 1998

Book output has increased dramatically in recent years, although figures recently released by Whitaker show that the number of books published in 1997 was less than the number published in 1996, the first drop in title output for some years ("Book output falls", 1998). It is too early to predict if this will be a continuing trend. The decline affected most categories of books, but the largest falls were in school publishing and computer publishing. The largest rise was in law publishing.

The Bookseller indicates a trend in the trade sector towards publishing fewer titles; fiction output has dropped by 244 titles from 1996 to 1997, but the largest falls in output were in school textbooks; 580 fewer were published, and output in education fell by 115 titles. Education publishers have warned that cuts to school budgets were leading to industry consolidation and limiting the breadth of publishing offered. There have been fewer changes to schools' curricula. In the non-trade sector, the move away from non-print media is likely to have an effect on output figures, the range of material on offer might not shrink, but the method of delivery might, and the book trade is in another period of change ("Publishers' output goes down", 1998).

Changes in the trade

The book trade has changed dramatically since 1962, stockholding booksellers and retail chains of booksellers have grown vastly in numbers and changed dramatically in style, holding much larger stocks in infinitely more attractive surroundings. There is now a move to more specialised bookshops: science fiction, detective fiction, children's and other genres. One bookseller's reaction immediately after the

collapse of the NBA, Tom Dalley of The Bookshop, located directly opposite a W.H. Smith branch on Camberley High Street, was “We’ll have to specialise. We can live without a lot of publishers’ stock – we needn’t stock 90 per cent of HarperCollins’ titles any more or 90 per cent of Penguin’s hardback list – it’s incredible what you can do without” (“End of collective action as price war starts”, 1995).

Changes in library supply

In some ways the situation has changed even more in the library supply sector. Under the NBA, libraries operating according to the Library Licence, i.e. open to the public for reference purposes and displaying a notice to that effect, were eligible to receive 10 per cent discount (and no more) off the price of books from suppliers. In the absence of further cash inducements, suppliers offered services such as approval collections, delivery services, processing to library specification and others, for free or at cost. The collapse of the NBA has presented the opportunity to acquisition librarians to negotiate for higher discounts while, despite predictions to the contrary, retaining services for little or no cost.

Library supply in higher education

At the North Western Regional Library System’s meeting: “Life after the NBA”, (North Western Regional Library System, 1995) soon after the NBA’s demise, the speaker for higher education libraries painted a gloomy picture for book acquisition, suggesting higher prices for academic titles to offset the price fall of best-sellers, and little likelihood of increased discounts from the wide range of suppliers used, necessary because of their expertise in tracing obscure titles needed in single volumes, quickly. In addition, the library did not require “shelf ready” servicing, so had little to bargain with to claim larger discounts.

However, libraries in higher education have turned to consortium buying in order to maximise their spending power, and have been examining library supply to enhance their services. The Higher Education Purchasing Consortium Wales has just awarded a £1.83m contract to Dawson Book Division to supply eleven university and college libraries in Wales, including the University of Glamorgan and the University of Wales in Aberystwyth, Newport, Cardiff and Swansea, but not Bangor or the

North East Wales Institute. The contract was thought to have been won on the basis of processing requirements, service levels and technologies, together with a discount of up to 23 per cent, for certain items (“Dawson wins Wales contract”, 1998).

Research (Fishwick and Muir, 1998; Smith, 1997) and the National Acquisitions Group (1996)) has concentrated on public library acquisition practice, but the National Acquisitions Group (NAG) carried out a small, additional survey of eight, selected academic and special libraries as part of its larger survey of services provided by suppliers (National Acquisitions Group, 1996), to determine if they required their suppliers to carry out any of the services detailed previously, and what their expectations would be after the demise of the NBA.

Three academic libraries used additional services, and three did not. Information services, electronic ordering, lamination, insertion of barcoded labels and security tapes, delivery of urgent materials to specified locations, were all services used and valued by at least one institution. One institution used “information services about books which may be of interest to us including some supplied on approval” (National Acquisitions Group, 1996, p. 26).

The Head of Collection Management of one university felt that “services without which a sale could not be made, e.g. invoicing, or which might lead to a sale, e.g. bibliographic research” should remain freely available to all, as a basic service, and would not expect to take advantage of other services, especially if a charge was made (National Acquisitions Group, 1996, p. 26). Another felt that the single copies of specialist material which made up the bulk of their orders did not leave the supplier with sufficient margin to offer higher discounts, with or without added value services.

One university stated that none of their suppliers were required to provide any of the services listed, another said that their use of supplier services was very limited “in common with most academic libraries”, while indicating that they used a range of selection services, including: bibliographic research services; EDI ordering facilities; the management of library standing order records and arrangements for the replacement of faulty and damaged copies.

Overall, NAG’s additional survey showed that academic libraries made use of some services, and others might be taken up, but

payment for services would be resisted, especially those identified as necessary marketing aids. Research carried out at Liverpool John Moores University in 1997–1998 indicated that other universities have found that they have been able to negotiate discounts ranging from 13 per cent overall, to 23 per cent on selected items, while retaining services free or at cost. They required fairly comprehensive levels of servicing, which they did not anticipate being able to undertake inhouse, because of low staffing levels (Ansell, 1998).

Public library supply

Dr F. Fishwick's research at Cranfield on the effects of the abandonment of the NBA has just been published (Fishwick and Muir, 1998), which examines the effects on public library supply. He estimates that five suppliers accounted for more than 65 per cent of public library acquisitions in 1995, and none had significant business outside library supply, although he does not indicate what proportion of their business might be with higher education institutions.

The predicted effects of the absence of retail price maintenance were that: an open price war would be unlikely; there would be covert increases in discount; there would be a trade-off of discount against recovery of suppliers' servicing costs; where lower prices led to budget savings rather than increased volume of business, library suppliers would face lower turnover and profits.

Surprisingly, Dr Fishwick reports that there has been an open and fierce price war, with less attempt to recover servicing charges than had been expected. Suppliers have survived by cutting costs and increasing efficiency. This is corroborated by Holt Jackson's year-end results for 1997, in which gross profits have fallen by 11 per cent, but a reduction in overheads resulted in an operating profit improved by 11 per cent. The average number of staff employed at Holt Jackson was reduced from 246 to 215 over the year, resulting in a payroll cut of £200,000, and overall administrative expenses were reduced by more than £350,000, thus enabling the company to improve its operating profit. Mr Kevin Holder, the chairman and chief executive, estimated that the amount libraries had to spend had fallen by about 10 per cent over the year, which closely matches Dr Fishwick's estimate of a drop of 11 per cent for combined libraries'

budgets for the year. ("HJ looks to improvement", 1998.) Despite Holt Jackson's improvement in operating profits, the combined operating profits of suppliers fell from £2.68m in the last year with rpm (1995) to £1.47m in 1997 (Fishwick and Muir, 1998).

Dr Fishwick's research shows that over half of the seventy five library authorities in the 1997 survey obtained discounts of 21 per cent or more, but does not indicate if these were members of consortia. There seems to be no correlation between the level of discount and the size of expenditure, suppliers failing to gain large contracts have been willing to secure smaller contracts at equivalent discounts, perhaps aiming to get market share and turnover at any cost.

It seems that few if any customers were paying the full cost of servicing, and it would appear that libraries in both the public and higher education sector are using their discounts to cut spending rather than to buy more books.

Electronic delivery of materials

There are other factors developing in the higher education sector, which were not considered a high priority by the NAG research (National Acquisitions Group, 1996), but which may now be of more significance, and that is the provision of material electronically. The higher education libraries were eager to order electronically, via EDI (Electronic Data Interchange) or FTP (File Transfer Protocol) and this facility was a major factor in choosing suppliers.

The electronic environment is producing further developments which could make sales of academic textbooks and campus bookselling a minority market. A consortium of the universities of Stirling, Napier, and the South Bank, together with Blackwell Retail and Blackwell Information Services is bidding to set up a national database of digitised copyright material, containing chapters, courses and parts of texts for students. Blackwell Retail is understood to be bidding to manage the payment scheme for the project.

The project, Higher Education Resources On Demand (Heron), is being led by Peter Kemp, director of information sources at Stirling University, and has presented its bid to the Computers in Education Initiative, with the intention of developing the project until it becomes self-funding within three years.

Scottish On-Demand Publishing Enterprise (Scope) has also been developing a project with both individual lectures and publisher material on its database, piloted through the Stirling University branch of John Smith, booksellers, raising awareness of on-demand publishing, but threatening the use of books by students in the UK. It now has agreements with 55 rights-holders, and has negotiated contracts with publishers to make copyright clearance as quick and simple as possible. Some material may not be suitable for on-demand publishing, particularly if it has been brought together from a wide variety of rights holders, which would make the cost of copyright clearance prohibitive in terms of staff time and royalty fees.

Charging for the service is, for the moment, a series of problems, from working out pricing policies across a range of institutions, and passing the charges on to students, or, more importantly, recovering charges from them. Most publishers in the Scope project have agreed a standard rate of 2.5p per page, although some publishers believe that differential rates, based on usage, should be introduced, while the Publishers' Association recommends that the standard rate should be 5p per page ("Shake-up for academic sector", 1998).

Conclusion

The predicted changes in the book trade with the collapse of the NBA have not all occurred: the number of booksellers has fluctuated slightly; stockholding has increased or specialised; discounting has occurred, mainly of bestsellers, and mainly in supermarkets, expanding the market rather than diverting it; book output has increased since the collapse of the NBA, only dipping slightly in 1997.

Bigger changes have been seen in library supply, where library suppliers have entered into price wars, cutting costs and increasing efficiency to survive, rather than introducing realistic pricing for servicing to counterbalance the increased discounts expected by public and academic library clients.

Electronic delivery of material is in its early stages, but there can be little doubt that this is how material is going to be presented and delivered in the future, wherever information needs to be exchanged.

References

- "ABA Launches lawsuit against B&N and Borders" (1998), *The Bookseller*, 27 March, p. 6.
- Allen, W. and Curwen, P. (1991), *Competition and Choice in the Publishing Industry*, Institute of Economic Affairs, Hobart Paper 116.
- Ansell, E. (1998), *Reactions in Library Supply to the Collapse of the Net Book Agreement*, M.A. Dissertation, Liverpool John Moores University.
- Barker, R.E. and Davies, G.R. (1966), *Books are Different: an Account of the Defence of the Net Book Agreement before the Restrictive Practices Court in 1962*, Macmillan, Basingstoke.
- "Book output falls" (1998), *The Bookseller*, 20 February, p. 18.
- "Dawson wins Wales contract" (1998), *The Bookseller*, 3 April, p. 7.
- "End of collective action as price war starts" (1995), *The Bookseller*, 29 September, p. 9.
- "A field day for the media as NBA goes" (1995), *The Bookseller*, 29 September, p. 20.
- Fishwick, F. and Muir, L. (1998), "The cost of cut-throat competition", *Library Association Record*, 100(5), May, pp. 244-45.
- HJ looks to improvement (1998), *The Bookseller*, 13 February, p. 10.
- Keynote Report (1997), *Book Publishing*, 13th ed., Keynote.
- Mutter, J. (1995), "Towards a level playing field – the American approach", *The Bookseller*, 8 April, p. 22.
- National Acquisitions Group (1996), *The Value to Libraries of Services Provided by Library Suppliers: Developing a Costing Model*, National Acquisitions Group, BNB Research Fund Report No. 77, National Acquisitions Group.
- National Heritage Committee (1995), *The Net Book Agreement: Together with the Proceedings of the Committee, Minutes of Evidence and Appendices*, 4th report, HMSO.
- "NBA passes into history books" (1997), *The Bookseller*.
- Newton, N. (1998), "Gone but not forgotten", *The Bookseller*, 20 February.
- North Western Regional Library System (1995), *Life after the NBA: A One-day Seminar for Librarians and Suppliers*, Organised by the North Western Regional Library System at the Muriel Stott Conference Centre, John Rylands University Library, Manchester, 13 November.
- "Publishers' output goes down" (1998), *The Bookseller*, 20 February, p. 5.
- "Shake-up for academic sector" (1998), *The Bookseller*, 30 January, p. 5.
- Smith, G. (1997), "Public library book purchasing without the Net Book Agreement and Library Licence", *Taking Stock*, Vol. 6 No. 1, pp. 1-7.