The Late Payment Regulation

Impact on the European Book Sector

On 12 September, the European Commission presented a proposal to **revise the Late Payment Directive**, replacing it with a harmonised **Regulation**. A major change in the proposal entails the introduction of a **mandatory maximum delay for paying invoices in B2B commercial transactions of 30 days, without possible derogations**. The intention of the Commission, which issued the proposal in the framework of its SME Relief Package, is to combat more effectively the phenomenon of late payments, which many SMEs have identified as one of their biggest challenges. The Federation of European Publishers (FEP) and the European and International Booksellers Federation (EIBF), the key associations representing the interests of European publishers and booksellers, are deeply concerned by this new proposal, as such one-dimensional and rigid payment provisions grant no room for flexibility or sectorial exception and would cause a **severe and unnecessary disruption to the normal business practices in the book sector**.

Both associations are jointly collecting information from their members from all over Europe. So far, the information received indicates that **payment terms between booksellers, distributors and publishers are longer than 30 days everywhere in the European Union**. In many cases, they are as long as 90 or more days (120 or more days is not at all uncommon). Furthermore, there is **unanimity** in considering that the proposal, if adopted in its current form, **would severely disrupt the entire book value chain, resulting in a huge drop in numbers and titles being published and sold in bookshops and contributing to the closure of many small and medium-sized bookshops due to loss of liquidity and overall working capital**. This in turn would **endanger many small and medium publishers**, who would see their main outlets no longer stock their titles or even disappear altogether.

Why are flexible and longer payment terms essential for the book sector?

The rationale for allowing flexibility and long payment terms in transactions along the book value chain is based on several elements:

- Flexible and long payment terms are part of the **freedom to contract** and do business and are often a key element of **normal business negotiations and agreements between publishers and booksellers.**
- In the case of the book sector, the power bargaining and asymmetry between a powerful "large debtor" and weak "small creditor" described in the proposal does not take place. In fact, the inverse scenario occurs: larger **creditors (publishers) grant smaller debtors (booksellers) more time to pay their invoices for efficient stock rotation management and essential cash flow.**
- Longer payment terms are **vital for booksellers to ensure a healthy and steady cash flow.** Bookselling is a **low-margin trade**, meaning that bookshops do not sit on large savings or funds; they rely on a balance of flexible payment terms, effective stock rotation and the possibility to **return unsold books for credit** to be able to afford renewed stock and meet consumer demand.
- This system allows booksellers to maintain a **larger stock for a longer time**, thus favouring a **bigger diversity** of the offer, which is in line with the huge diversity of titles published every year in Europe; it is especially useful for booksellers to maintain **backlist titles** in stock, and to **experiment with new authors**.
- The very **nature of the book** as a cultural product justifies and arguably calls for longer payment terms: **books are by no means fast-moving goods**; publications follow **longer cycles**, and sales do even more (most books only sell after 6 months in the bookshop), with the bulk of book sales being concentrated in the run up to or during Christmas.

FEDERATION OF EUROPEAN PUBLISHERS
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eibf
The voice of booksellers

  - Many titles are published during the so-called "*rentrée littéraire*" in September, but sales only pick up between November and December; asking booksellers for payment in October will severely limit their possibility to buy and stock these books and meet consumer demand.
  - For Christmas sales, books are usually ordered and delivered in October and paid for after the Christmas sales in January (i.e., payment terms of 90 days or more). This longer payment time is <u>absolutely necessary</u> for two reasons:
    - to allow the bookshop to accrue the necessary revenues needed to pay Christmas and previous stock invoices. Due to their low margins, bookshops are generally not in possession of enough funds to pay this sum in advance of Christmas sales;
    - to aid the distributor in avoiding logistical bottlenecks in the delivery of large quantities of books before the start of the Christmas sales period.
- This reflects the long-term **investments that publishers make on authors**, who get paid in advance but might need months or years to become successful, and **require the exposure** of their books in the highest possible number of outlets.
- The book sector is basically a **prototype economy**, with around **600,000 new titles** being published each year, which need to be showcased to readers; an independent bookstore usually stocks some **30,000 different titles.**

What would a 30-day payment cap mean for the book sector?

The foreseeable consequences of imposing a 30-day payment term with no flexibility would include:

- An overall **severe disruption to the entire book value chain –** from book publishing to distribution and retail.
- **Bookshops' cash flow would be severely affected due to stock rotation disruptions and payment inflexibility for new orders**. As a result, **they would be forced to order in smaller and more frequent lots**, with very negative consequences for logistics and more importantly the **environment.**
- When making smaller book orders, they would **primarily opt for new and bestselling titles** (what is more likely to sell within 30 days) and focus on **well-known authors**.
- Bookstores would also be forced to **return books earlier**, thus **reducing books' visibility in stores**, which would be particularly detrimental for titles that need more time to be discovered.
- **Eventually,** this would lead to a **reduction in the number/variety of titles** published and sold.
- Publishing houses would likely have to finance most of the stock, as **bookshops would no longer be able to afford their own stock.**
- **Smaller publishers would struggle** and could eventually shut down close **given lack of variety and diversity of titles**, as widely published bestsellers would be prioritised.
- **Many smaller bookshops would close due to lack of liquidity and financial constraints.**
- **Only the largest publishing houses and book chains** would remain **operational.**
- **Amazon's position would be strengthened**, as it will be able to cope with cash flow changes and also impose to publishers a high fragmentation of orders, if they choose so.

The current situation: an overview of payment terms

Information collected by FEP and EIBF from publishers and booksellers from all over the EU indicates that **the payment terms between booksellers, distributors and publishers are consistently longer than 30 days across Europe**. All the operators surveyed concur on the rationale for having long payment terms and on the negative impact that the proposed Regulation would have on their activity.

Country	**Payment terms bookshop to publisher/distributor (days)**
Belgium	30-90
Czechia	30-90 (+30-60 in off-peak season)
Denmark	30-70
Estonia	30-45
Finland	30-90
France	60-75
Germany	30-120
Ireland	60-90
Italy	60-180
Latvia	30-120
The Netherlands	45-60
Poland	90-120 (45-60 on consignment)
Portugal	30-90
Spain	95-120
Sweden	30-90

A look at a bookshop's cash flow: why payment flexibility is crucial

- Stock rotation

Stock rotation is a calculation which allows a bookseller to estimate how long the stock should remain in the bookshop based on the total revenues of the bookshop. It is calculated by dividing the income by stock value.

It, therefore, allows a bookseller to know how much time is needed to sell their entire stock within a given year. The ideal time frame is having the stock rotate every 3 months, i.e., 4 times a year.

Example:

<table>
<tr><th>Month</th><th>Jan</th><th>Feb</th><th>Mar</th><th>Apr</th><th>May</th><th>Jun</th><th>Jul</th><th>Aug</th><th>Sep</th><th>Oct</th><th>Nov</th><th>Dec</th></tr>
<tr><td>Ideal rotation</td><td colspan="3">Entire stock sold</td><td colspan="3">Entire stock sold</td><td colspan="3">Entire stock sold</td><td colspan="3">Entire stock sold</td></tr>
<tr><td>Book-shop</td><td colspan="4">Entire stock sold within 3.43 months</td><td colspan="3">Entire stock sold within 3.43 months</td><td colspan="4">Entire stock sold within 3.43 months</td><td></td></tr>
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As an example, the average French bookshop has a stock rotation every 3.43 months, which makes only 3 full stock rotations per year. For smaller bookshops it often takes longer than that.

- This means that most bookshops are far from the ideal number of 4 stock rotations per year, which explains why they need longer payment terms, as most books are slow-moving products.

- Returns

The possibility to return unsold books for credit is considered an essential part of the bookselling business. It allows booksellers to minimise financial losses whilst still investing in a wide offer of books for their customers. How, when, and how many unsold books that may be returned is agreed upon in the commercial contract between the bookseller and the publisher or wholesaler. Typically, there are two different types of contracts:

1. The right to return a number of books within a limited period of time
   a. these books are invoiced upon delivery
   b. once the books have been returned, the bookseller receives a credit which can be used to purchase new books
2. Consignment
   a. books remain the property of the publisher until they are sold
   b. booksellers are only invoiced *after* the books have been sold
   c. booksellers commit to an extensive system of regular reporting on book sales, which serves as the basis of the periodical invoicing
   d. both bookseller and publisher may request to have books returned

The credit received for returned books is an integral part of a bookshop's cash flow, closely connected to a delicate balance of in- and outflux, calibrated to keep a diverse and relevant offer of books in stock for customers. If payment terms were to be capped to 30 days, it would offset this carefully crafted balance, as booksellers would have to manage their stocks in a drastically different way. They would most likely have to place more orders with smaller quantities of books and might need to return books more often to receive the credit needed to invest in new titles.

Legal exceptions for book sector

The fact that the Late Payment Directive allows the parties to negotiate and agree upon payment terms, as long as these are expressly agreed and do not grossly disadvantage the creditor or constitute otherwise a manifestly unfair stipulation, has generally made it unnecessary to adopt specific legal provisions to accommodate for the specificities of the book sector in national legislation. There have been, however, a few exceptions in some EU Member States whereby the book sector's unique business model, determined by specific stock rotation cycles and the need for longer payment terms, has been duly acknowledged by legislators:

- **France**: as per LAW no. 2010-97 of 27 January 2010 (amended and updated in 2019) relating to payment deadlines for suppliers in the book sector and **in force as of November 2, 2023** provides that "*Notwithstanding the provisions of I of article L. 441-10 and of 5° of II of article L. 441-11 of the French Commercial Code, for the purchase, sale, delivery, commission or agency operations contributing to the manufacture of books, as well as for the supply of paper and other consumables dedicated to the printing, binding or publishing of books, the time period is defined by agreement between the parties*"
- **Spain**: a special provision on the Spanish Late Payment law (Law 15/2010) acknowledges the sector's unique business model. This provision (*Disposición Adicional Segunda*) states that "*The Government may determine, by decree, a special payment system for the book sector that takes into account the special circumstances of the sector in relation to operating cycles, stock rotation and the specific book deposit system".* Although the legal instrument referred to in the provision of the Law on Late Payment has not been further developed, the introduction of this provision shows that lawmakers are aware of the

existence of a singularity in terms of the sector's payment regime, which is articulated through specific contractual practices and clauses that respond to the peculiarities of the book publishing, distribution and retail cycles.

Impact on payment terms with other actors in book value chain

This may reflect on suppliers upstream on the supply chain but not as a norm on providers of intellectual input – namely, authors and translators. These have copyright-based contracts rather than carrying out commercial transactions with publishers. Authors receive advances in most cases and are then paid royalties upon the sales of their books; translators sometimes receive advances and in the majority of cases are paid at 30 days from invoicing.

Additional examples and case studies

- The Netherlands

Central Boekhuis (CB), the Netherland's the main distributor, logistics and invoicing entity for the Dutch book market, in collaboration with the Dutch Booksellers Association and the Dutch Publishers Association, estimates, based on a simulation with 2022 sales, that a maximum 30-day payment term for bookstores would lead to a significant limitation in their purchasing power and reduce their working capital by **€38.2 million**, while online bookstores would benefit by selling books directly from publisher stock at CB, particularly titles that are not available in physical stores anymore due to the limitation in purchasing capacity.

- Textbooks

The textbook market has an even more marked cycle than many other types of book markets. Sales in fact occur for the vast majority at the beginning of the school year (end of summer). Distributors usually stock their warehouses for the summer season in spring. Sales only happen later in the textbook season. This is, however, the only way to optimally balance logistical capacities and delivery capability. Short payment terms would introduce a strong imbalance in the system.

Conclusion

The book sector is characterised by the need for a highly diversified supply of titles and by particularly slow sale cycles. The role of bookshops is to make as many titles as possible available to the reading public by providing them with a large stock of new titles, while also keeping many backlist works in stock several months or years after their publication. In this context, the absence of sufficiently long payment periods would lead to a shortening of the shelf life of books in the bookshop and to the favouring of popular titles to the detriment of works with smaller print runs.

The rationale for supporting this sector is clear: books are an exceptional instrument for the dissemination of culture; they compete in a peculiar way and not like ordinary commercial products; they need to be as close as possible to the reader, the only way for them to find their audience. The number of references available is unparalleled in any other industry. Moreover, books have a thin and uneven profitability which requires a balance between titles with high sales and those with slow turnover. As a result, all the players in the book chain should be able to benefit from an exemption, whereby payment terms can be freely agreed between the relevant parties.

Who are we?

About EIBF: The European and International Booksellers Federation (EIBF) is a Brussels-based non-commercial organisation that serves as the voice of booksellers at a European level and on the global stage. Through its members, national booksellers associations, EIBF represents the interests of booksellers of all types, from brick and mortar and independent bookshops, to online sellers and chains.

About FEP: The Federation of European Publishers (FEP) is the umbrella association of book publishers in the European Union and the voice of the great majority of publishers in Europe. FEP represents 29 national associations of publishers of books, learned journals and educational materials of the European Union, the European Economic Area and other European countries.

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