

Book Exchange

Pay Attention Now or Pay the Penalty Later

Diane Grandy, an industry consultant and Chair of the Book and Periodical Council Freight Committee, discusses with Mark Glionna, CCS (Certified Customs Specialist) Vice President - Client Relations of Universal Logistics, the impact of AMPS, a new Canada Customs program that has rolled out \$7 million in fines in its first nine months.

When Canada Customs put the new AMPS (Administrative Monetary Penalty System) into effect in October 2002, most booksellers were unconcerned about the impact it would have on their businesses.

After just nine months, over 9,000 penalties and \$7 million in fines have been levied—most of these to importer/exporters at the border or front end component of the program. With post-audit or back-end review assessments also underway, it's time to pay attention.

Whether you are importing one book at a time from an American wholesaler or ordering larger quantities from US publishers that do not have a Canadian agent, or exporting to foreign customers, you are at risk.

Now is the time to learn about the program and invest the time and resources to prevent costly and escalating penalties.

American Free Trade Agreement) Certificates of Origin to maintaining proper books and records.

DG: How are penalties issued?

MG: Basically in two ways: 1. At the border or at the time of release of the goods, penalties can be issued by Customs Border Services and are generally for incorrect information or false declarations on commercial documentation. 2. During a post audit or CAR (Customs Assessment Review), penalties can be issued for uncorrected declarations of H.S. Tariff Classifications, Country of Origin and valuation reported to Canada Customs. Many of these reviews are underway, but the reality is that not enough have been completed since October 2002 when AMPS started. They have only scratched the surface on this area.

DG: Why do you think that they will audit the book industry?

MG: Because their goal is to improve the collection of trade data, they have stated their intention to review all industries.

DG: What do you think are the biggest areas of concern for booksellers?

MG: Valuation is the biggest. If corrections to values on commercial documents are not submitted to Canada Customs within 90 days of the error being detected, escalating penalties can be levied. This applies to overage and shortage corrections as well. In many cases the commercial invoice presented at the border does not mirror the reality of the actual trade payable invoice. For example, pricing and quantity errors are common. Promotional copies and POS material are often under-valued as well.

Tariff Classifications can also pose problems. Many people don't realize that there are multiple tariff classification numbers for different book types, i.e. activity, hardcover, paperback, educational, books with toys or CDs, etc. As well, there are related products such as video, audio, calendars, etc.

Failure to correct tariff classification, valuation and origin can result in escalating penalties as follows: First infraction - \$100 or 5% of total

ChatterBOX

How was your store penalized under the Administrative Monetary Penalty System (AMPS)?

We ran afoul of AMPS when VHPS shipped us an order of textbooks accompanied by a commercial invoice that contained obviously incorrect information. According to VHPS documentation, every book in the shipment was worth only \$1; in reality, the goods invoice, which didn't accompany the shipment, was for the amount of \$14,400 US. We were notified of the problem three days later. We obtained, and forwarded to our customs broker, a corrected version of the commercial invoice from VHPS, and the shipment was cleared.

When advised that this breach would be penalized under the AMPS program, I explained to the customs officer that it was impossible to anticipate that VHPS would send misleading paperwork. She encouraged me to talk to VHPS, who attributed the error to their new software (information I passed on to the officer. This effort produced no relief from

Customs. We were penalized \$4239.00 or 20% of the Canadian value of the shipment for a first infraction of article C019.

You may appeal for mitigation to the customs office that applied the penalty within 30 days—but it took so long for Customs' letter to reach us that it ruled this option out. You may also appeal the penalty altogether to the Appeals Board in Ottawa within 90 days, which is what we did. The AMPS Master Penalty Document suggests that the article we have been charged under has been misapplied and that the penalty may, therefore, be too severe. We are currently waiting for the response of the Appeals Board. While VHPS has sent CCRA a letter explaining their role in this matter, under the law, the importer is made responsible for the sins of the exporter.

Chris Compton
York University Bookstore,
Toronto, ON

DG: What is AMPS?

MG: Canada Customs put AMPS or Administrative Monetary Penalty System into effect on October 7, 2002. It was designed to enhance compliance levels for importers, exporters, carriers and brokers in order to improve trade data used to negotiate trade contracts and agreements with other countries.

Of the 240 conventions listed in the master document, 153 are against importer/exporters.

DG: Why should we be alarmed? Aren't books duty free?

MG: They are, however this program is administrative and not duty driven. Penalties are most often levied against the importer/exporter and cover everything from NAFTA (North

value of shipment; Second infraction - \$200 or 10%; Third infraction - \$400 or 20%. Whichever is greater!

As you can see, \$100 is an enormous added cost for a single volume shipment. At the same time, the escalating percentage penalties from recurring infractions could result in larger costs on higher value shipments. Unfortunately, at present, there is no volumetric provision built into the program. The Canadian Society of Customs Brokers (CSCB) is currently lobbying to have this included.

DG: Does this mean that we must keep and examine the customs paperwork as well as the payable invoices for every transaction?

MG: Absolutely! To avoid penalties the discrepancies must be reported to Canada Customs by you or your broker within 90 days of having reason to believe the information reported at the border was incorrect.

DG: What else can we do to avoid penalties?

MG: First of all, assign AMPS compliance responsibility to a co-ordinator or team within your organization. These people should be educated starting with a review of the Master Penalty Document found on the Canada Customs website, www.ccr-aadrc@gc.ca. Attend information seminars presented by the government. Contact your custom broker for more information. They will be familiar with you and your business and can help you review suppliers, products, tariff classifications and Country of Origin information.

Second, you must do a walk-through of your internal systems including purchasing, receiving, customs/traffic, accounts payable and finance. The values reported to Customs must flow through your payments and financial statements. Ensure that processes are in place to identify discrepancies and report them to Canada Customs within the specified timeframes.

Taking these actions now establishes voluntary compliance and may provide grounds for appeal in the future.

DG: How will we know that we have received a penalty?

MG: You will receive a Notice of Penalty Assessment (NPA) by registered mail identifying the infraction, the penalty level and the amount to be paid.

The danger here is that the notice will not be addressed to a particular person and looks like an invoice from Canada Customs. This may be inadvertently forwarded directly to accounts payable and the issue may not be properly addressed to avoid future and escalating penalties for the same infraction. Staff should be educated to bring these notices immediately to the attention of the AMPS co-ordinator.

DG: What should I do if I receive an NPA?

MG: Contact your broker for clarification and to investigate grounds for appeal. If you decide to appeal you can pay the fine now and get a refund if you are successful. If you opt to delay

payment of the fine and your appeal is denied, you will owe the fine plus interest at the prescribed rate from the penalty issuance date.

DG: How long do I have to appeal?

MG: If you have received a notice in error, i.e., a penalty issued to the wrong party, or third level infraction instead of first, you must appeal for a correction within 30 days of the date of issuance.

If you wish to appeal on any other grounds, a formal appeal or redress, which goes to adjudication, must be filed within 90 days of the date of issuance. Since this is relatively new and untested legislation, you can appeal on a number of grounds. For example, you could argue that a penalty is punitive instead of corrective and ask for a reduction in the amount of the fine.

DG: What new things are happening in the future with AMPS?

MG: There is one controversial penalty, C003, which was tabled early in the program with the intention of re-instatement within one year. It includes nine data elements required on every customs transaction. At present an error in any one of the nine would result in a \$100 penalty. Your suppliers easily make mistakes in fields like quantity, tariff classification or Country of Origin ... although the importer gets the penalty!

To enhance compliance across the Book Industry, we have asked BookNet Canada to consider including the tariff classification and the Country of Origin in the ISBN specific bibliographic information being standardized through their Supply Chain Initiatives for the Book Industry.

DG: Why Country of Origin? Isn't that fairly straightforward?

MG: Today, an increasing number of books being shipped from the US are actually printed and therefore have Country of Origin in Australia, Singapore, China, and Italy, for example. Shipments with multiple titles often have multiple origins, yet many commercial documents state US origin only. If C003 is re-instated as is, then this would result in a \$100 fine per shipment.

DG: We rely on our foreign suppliers for so much of our customs information. How can we ensure their accuracy?

MG: Because you, as an importer, are ultimately responsible, you can protect yourselves from vendor mistakes in the following ways: 1. Educate your suppliers by providing examples of proper

documentation and instructions to ensure complete and accurate information is included in the customs paperwork accompanying your shipments. 2. Consider adding disclaimer wording to your purchase orders and contracts. This will encourage compliance and provide leverage for possible recovery of fines.

DG: If we have a full-time customs broker, can't we just leave AMPS compliance up to them?

MG: If you are relying on your broker to look out for your best interests under AMPS, you should be discussing your expectations with them, so that both you and your broker have clearly defined roles regarding all compliance issues. The customs broker knows the regulations but needs input from the importer/exporter on

product specifics, vendor relationships, internal systems, etc., in order to make declarations that are compliant with Customs law.


DG: Do you think AMPS is here to stay?

MG: Yes, there is every indication that AMPS is here to stay. Likely, we will only see changes within AMPS addressing issues such as penalty amounts deemed as punitive instead of corrective. Elinor Caplan, Minister of Revenue, is conducting a six-month review of the program to determine whether it is making a difference in compliance. Better statistics and, of course, the huge penalty revenue dollars will make a good case for continuing the program.

DG: Any last comments?

MG: There is no doubt that preparing for AMPS will have a cost to all book importers. Internal compliance resources and discrepancy reporting processes cost money that most do not spend now. Escalating penalties, however, will prove much more severe.

Vice President - Customer Relations of Universal Logistics, Mark Glionna is also a Toronto Regional Committee Director of the Canadian Society of Customs Brokers (CSCB); in his role as Director he is Customs Verification & Services Chairman and AMPS Backgrounder Committee Chairman (joint CSCB & Canada Customs committees).

Established in 1949, Universal Logistics provides customs brokerage and transportation services for over 100 book publishers and retailers. Their specialized logistics services for the book industry have earned them the recommendation of Canada's Book and Periodical Council for eight consecutive years. For more information, you can reach Mark Glionna at 905-882-4880 or visit their website www.universallogistics.ca. 

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