**COPYRIGHT**

**A briefing for members of the National Union of Journalists**

**ANY OF** the problems that freelances face involve copyright. Some of these problems stem from editors and publishers being frightened that copyright is complicated, or believing myths about it. It is not complicated: everything you need to understand is here, unless your question resembles “I did some work in 1955...” Note that this advice applies to the UK only. Irish law is similar; but check. The law in joined-up Europe is very different, and much friendlier to authors.

Why would you want to understand these principles? Because doing so can increase your income: by a third, one survey* says.

©What you create as a freelance, you own. Photo, news story, radio feature, cross-word clue... if you made it, it’s yours.

©What you own is the “expression”: the actual arrangement of words in the article, or objects and people in the photo, or whatever. There is no copyright in facts or in ideas. If an editor or producer commissions you to produce work based on a particular idea, in law this has no effect on your ownership of the work. You make it, you own it.

©Standard practice is that what you sell to an editor or producer is a licence to use your work, once, in one territory, in one medium. Examples are First British Serial Rights, World Wide Web Reprint Rights... or Japanese (second edition) translation rights.

©Publishers and producers are vigorously trying to get freelances to “assign” our rights – for no extra money. “Assign” is jargon for “sell outright”. This means that they want the freehold in your work, for the price of a month’s rent.

Publishers with smarter lawyers may generously allow you to keep copyright in your work, then demand a licence to do anything with it, anywhere, forever. This means that they want a 999-year lease, for the price of a month’s rent.

©Some freelances ask why they shouldn’t hand over their reviews for What Fridge? – will they be worth anything in a couple of months’ time? We say: if not, why is the publisher going to all this trouble to get the right to re-use them for free? If you license only first use rights you can get extra money – perhaps from syndication to Quel réfrigérateur?

And you can get money from businesses that photocopy your work. To do this, UK freelances need to register with ALCS* (for writers) or DACS* (for photographers, illustrators, etc.). This is free to NUJ members. Contact the Freelance Office* for forms.

©The main reason for the publishers’ rights grabs is new technology. They want to put stuff on the World-Wide Web, and sell content to database archives. These are clearly separate editions, with separate income to the publisher – so you should negotiate a separate payment for that use.

Databases syndicate your work to individual readers. If they pay $3 for a single article, shouldn’t you get a share?

Publishers complain that they’re spending money to give work away on the Web: but they want you to “assign” rights so they can keep all the proceeds from advertising and from future pay-per-view schemes.

©Wherever possible, do not “assign” your rights. Ask the editor or producer what they actually want to do with your work. Negotiate a specific payment for each use. See the Freelance Fees Guide* for suggested rates and the Rate for the Job* for what’s been paid.

Put what you agree in writing – use the Confirmation of Commission form*. This stops your client claiming an “implied licence”.

©If you find unauthorised use of your work, contact the Freelance Office* for help objecting in writing and taking it further if need be.

©Some publishers and broadcasters claim that cashing their cheque means that you accept their terms. Nonsense. Under British law, cashing a cheque cannot do anything except increase your bank balance. The NUJ’s Freelance Industrial Council advises you always to challenge such cheques.

©The “Moral Rights” are the right to a by-line or credit, and the right to object to distortion of your work.

In UK law, you do not have either right in work which appears in newspapers or magazines, nor in work which reports “current events” anywhere. Publishers often demand you “waive” – give up – moral rights anyway, maybe in case the law changes later. Resist.

©You do have moral rights in, for example, a book – so long as it contains the magic phrase “Moral Rights Asserted”. Remember: you still own everything you produce as a freelance, even if you don’t have moral rights. That is, they are separate from the economic rights.

©You do not own work which you produce under a contract of employment (as against a freelance or casual contract). Employees do not have moral rights in the UK.

* For links, documents and more on authors’ rights see www.londonfreelance.org/ar