Windfall payments add up

ONE OF THE biggest problems that freelances face are the unfair contracts imposed on us. To try to fix this, Germany passed a law – the Urhebervertragsrecht – that allows German freelances to go to court to review such contracts. Even if the original wasn’t terrible at the time, under the so-called “windfall clause” they can ask for more if the work was an unexpected success.

The film Das Boot was certainly one of those. Released in 1981, it tells the story of a submarine and its crew.

A full 16 years later, on 21 December 2017, a Munich court has awarded Jost Vacano, its director of photography, about €438,000 euros as fair remuneration with €150,000 on top for interest. He is also entitled to 2.25 per cent of future net proceeds. For future TV broadcasts, he may demand reimbursement of fees in accordance with the collective bargaining agreement of the public broadcaster WDR.

The European Federation of Journalists continues to push for a similarly sensible proposal to be included in European Union law. This would at least set a new standard against which UK law would be judged.

Freelances at Nautilus magazine

FREELANCES in the US have even poorer provision for enforcing their rights than elsewhere. There is, at last, a move to set up relatively affordable Small Claims procedures – in the shape of a Bill before the House of Representatives, the would-be Copyright Alternative in Small-Claims Enforcement Act (CASE Act). The Electronic Frontier Foundation is opposing it in case, you know, people have to pay for copyright infringements.

In the meantime, nineteen contributors to Nautilus magazine have resorted to publishing an open letter to its publisher: “As of December 13, we are writers and editors awaiting payment from Nautilus magazine for a collective debt totalling $50,000. Some of us have been waiting to be paid for more than a year.”

They asked supporters to Tweet out #paynautiluswriters – saying “Hopes were high when Nautilus magazine was founded four years ago as a ‘New Yorker version of Scientific American’ featuring well-researched and thoughtful articles on science and philosophy.” Nautilus was “created with a grant from the John Templeton Foundation… [the publisher] promised to pay upon completion of a pending merger with the American Association for the Advancement of Science, or AAAS,” they write. The grant was not renewed and that merger never came about.

On 1 February, Shannon Stirone Tweeted: “the National Writer’s Union has reached a payment agreement with… Nautilus. Never doubt the power of a group fighting for what is right. Thanks to everyone for their continued support!” At the same time Evelyn Lamb noted that “Several writers have been paid in full already.”

It would of course be better for freelances in the US to have a proposed deal on citizens’ rights still stands if the UK crashes out of the EU with “no deal”! The European Parliament still threatens to veto the final EU-UK withdrawal deal over citizen’s rights.

Subsequent noises have not been encouraging. Speaking to journalists during her visit to China, Prime Minister Theresa May said that EU nationals arriving during the two-year post-March 2019 transitional period will be “registered” at the border, an issue over which a clash with EU negotiators is expected. Figures released in January showed a sharp rise in EU nationals in UK immigration detention. Der Spiegel in December documented recent cases of discrimination and harassment against EU nationals in the UK. These include a professional driver having the validity of his German driving licence questioned, loans and tenancies refused and unlawful requests to check passports. France 24 TV reported on a French sculptor advised by a Post Office clerk check her PR application to “give up” as she was “without regular, full-time paid employment.”

To Twitter for pay

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