

COPYRIGHT

MANY, OR even most, of the problems which freelancers face these days involve copyright. Amid all the detail, you may lose track of the basic issues. So, boiled down from reams of specialist debate, here they are.

Note: this applies to the UK only, except where stated. Irish law is similar: for details contact the NUJ in Ireland. The law in joined-up Europe is very different, and much friendlier to authors.

0 What you create as a freelance, you own. Photo, news story, radio feature, crossword clue... if you made it, it's yours.

1 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.

2 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 Second Babylonian Clay-tablet Rights.

3 Publishers and producers are vigorously trying to get freelancers 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.

4 Some freelancers 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 freelancers 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.

5 The main reason for the publishers' rights grab 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?

Even if a publisher does not (yet) charge people to see its Web site, it can still make money. RBI's *New Scientist*, for example, increased its classified advertising rates by ten per cent because of its Web site.

6 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 your *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.

That's the really basic stuff. You can stop reading now. But there are more questions which people often ask...

7 Publishers and broadcasters sometimes claim that cashing their cheque means that you accept their terms. This is 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.

8 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", wherever it appears.

You do have moral rights in your book – so long as it contains the magic phrase "Moral Rights Asserted". You don't in a front-page newspaper story. But defending the integrity of your work *ought* to be especially important for news!

Remember: as a freelance you start out with economic ownership of *everything* you produce independently – even when you are denied moral rights.

9 Under British and Irish law, you do not own work which you produced "in the course of employment". And employees do not have moral rights in the UK. Why not?