TESTIFYING to the May London Freelance Branch meeting was NUJ General Secretary Michelle Stanistreet, key witness at the Leveson Inquiry into the culture, practice, and ethics of the press. The union gained Core Participant status, which means sight of inquiry documents before they’re placed in the public domain and the right to apply to cross-examine witnesses. Michelle told how the inquiry team resisted the NUJ being a Core Participant, believing that individual journalists would provide the necessary testimony on the experience of working in the newsroom. But it soon became clear that “while there was no shortage of proprietors to talk to, actually getting working journalists to talk in the courtroom” was much harder. Then News Corp, Associated Newspapers and the Met tried to block the NUJ from presenting testimony for journalists who wanted anonymity. News Corp’s submission dismissed the anonymous witnesses as “malcontents” or “just casuals”. Despite these efforts, Michelle presented testimony gathered from a dozen journalists on “the almost endemic scale of bullying in some newsrooms.”

This, very different to testimony from newspaper owners, has, Michelle feels, been an “an eye opener” as “competitive equals whatever from Rupert Murdoch to negotiators – especially conservatives – to stop you sitting down across a table and law should do nothing, say lawmakers – whether good or bad, whether you accepted or declined? Can you send examples of messages pressuring you to sign “standard” contracts? For example, hints or direct statements from commissioners that you won’t get work exchange: but rest assured that we will treat all communications about contracts in strict confidence until or unless we have your specific authorisation otherwise.

So, in particular, we would like you to tell us:
• Can you send examples of contracts you have been offered by clients – whether good or bad, whether you accepted or declined?
• Can you send examples of messages pressuring you to sign “standard” contracts? For example, hints or direct statements from commissioners that you won’t get work.

Leveson’s “Module 4”, on the future and press regulation, will be the big one for the union. The NUJ’s Delegate Meeting three years ago decided that the Press Complaints Commission (PCC) was beyond reform and called for its abolition. Now the PCC is winding up. The Union’s “briefish document on our policy and future model” to succeed the PCC was submitted to Leveson in April. It advocated “something more akin” to the successful Press Council in Ireland, on which journalists are well represented.

Michelle notes that some UK “employers who refuse to talk to us” will nonetheless send delegates to Ireland to “talk in a civilised way with the NUJ people on the Council.”

LFB’s Tim Gopsill described the phone-hacking scandal and “Leveson” as a “collective wake-up call” about journalistic ethics, which the NUJ could use as a recruitment tool. Michelle says “so many students are doing essays on ethics – it’s already in their minds that the Union stands for these things.” Sarah Kavanagh reports the NUJ’s “Leveson team” getting three or four quote requests a week from such students.

The NUJ’s counsel will want to question David Cameron and George Osborne in the coming weeks. The inquiry is likely to go on until just before the Olympics. There may still time to email Michelle suggestions for questions – in confidence – to leveson@nuj.org.uk © Matt Salusbury
The Rate for the Job

ONE OF our speakers at a recent LFB meeting opened by asking to be the first to fill in (anonymously) the Rate for the Job sheet circulated at that event. And this month we have rates for teaching, tip-offs, royalties for calendar photography and editing entire books.

Thinking about work for a company you’ve not dealt with before? Simply look at the Rate for the Job to find out what companies in similar niches have paid. Then aim higher. You can submit rates online, in confidence, at any time, at www.londonfreelance.org/rates – please give not only the basic rate (e.g. for FBS, First British Serial rights) but extra payments negotiated for extra uses, like the Web – or for print if it’s a Rate for the Online Job. These are shown as (eg) £400 + 100. We now record rates paid in Euro as well. Rates marked X are, in the editor’s fallible opinion, below par. Treat all rates as minima, even perhaps the happy © few.


Photography: calendars, various (Infocado) 4 stock pix UK rights 1 year, 7.5 per cent royalty with advance of £260; Press Gazette £75 XX, TRVL.com (i-Pad app travel mag) per photo US$15.

Shifts: Japanese publisher, edit 80,000-word book £4000; Economics subbing day £160; Sunday Times supplements subbing day (plus holiday pay) £144 X; Closer subbing day £130 X; Radio Times subbing day (plus holiday pay) £120 XX; Archant local papers reporting day exams paid £85 XX.

Teaching: City Mine(d) half-day radio/audio workshop £250.

Tip-offs: Daily Mail £100; Print News £30.

Words, per 1000: Guardian G2 £500; Daily Telegraph motoring £500; Times £337.50; Geographical £300; thewriter.com £300; Gemalto (computer security company) £300 X; Digital Arts (IDG) 3000 words @ £800, online included £267; Q magazine “page rate”, elaborate licence, freelance keeps ©, £185; TRVL.com Euro 200; Kent Life article + provide photo contacts, all rights £130 X; Sunday Herald exclusive, FBS, no expenses £90 XXXX; Time Out £80 XXX.

Words, other: themenewblackmagazine.com 350-600 words £200; Daily Telegraph foreign news 300 mid-page sidebar + web, £60 XXXX; Practical Boat Owner, 2000 words + pics, anywhere in the world and for all time irrevocably waive rights £200 X.

The Trireme

This month’s divinely-inspired Trireme Award for “the worst terms since I was last chained to the oars” goes to religious magazine WEC, whose job ad for a chief sub editor: “This position is non-salaried as all WEC personnel look to God to provide their personal needs.” A contributor to the NUJ’s subs’ email list (www.londonfreelance.org/uksubs) pointed out that God should provide this magazine with a sub-editor if they need one, so why do they bother advertising?

Photo © a member of the Trireme Trust

Defend Public Lending Right

YOU HAVE UNTIL 30 July to respond to the Department of Culture Media and Sport consultation on the “transfer” of Public Lending Right to “another body”. Currently, the office of Public Lending Right in Stockton-on-Tees does a very efficient job of distributing over £6 million a year in payments to authors whose books are lent via public libraries.

As part of its “bonfire of the quangos” the government wants to end Public Lending Right’s autonomy and give its functions to some other organisation: they would prefer this to be the British Library.

Unfortunately, the BL’s track record for author-friendlyness is not reassuring. See, for example, www.londonfreelance.org/fl/0709bl.html on the long-running saga of what happens to copyright fees paid for British Library Direct articles, and www.londonfreelance.org/fl/1007bl.html for its plans to “digitise a range of in-copyright material – with the express permission of the publishers” but with no mention of the numerous freelance creators who hold copyright in their to-be-digitised articles. You may wish to raise these concerns, and the need for a fair system, in Questions 1 to 3 on page 12 of the DCMS consultation, which is at www.culture.gov.uk/consultations/9019.aspx

UNFAIR CONTRACTS from p1 unless you sign: examples of clients who are willing to negotiate would be useful too.

● What work have you lost in the last year? How does it compare to last year? What are the reasons for the work disappearing?
● What new work or fields of work have appeared?
● How have rates changed?

Please send your information to freelanceoffice@nuj.org.uk with the subject line “Freelance survey”

Gateway to what? Can the British Library be persuaded to put authors’ interests at the heart of its mission? Photo © Matt Salusbury

The closing date for this year’s entries is Saturday 14 July.

These details will feed into a continent-wide campaign, with the EFJ – the federation of journalists’ unions in Europe – seeking the support of Members of the European Parliament. The UK Creators’ Rights Alliance (CRA), of which the NUJ is a leading member, has also offered support to the European Composers and Songwriters Alliance in its complaint to the European commission authority over the imposition of contracts on their members. The CRA has also allied with the UK consumer watchdog Consumer Focus to combat unfair contracts – see www.londonfreelance.org/fl/1204copy2.html – and the EFJ is extending this contact Europe-wide. Please sign the online petition at www.change.org/petitions/fair-trade-for-creators and spread the word about it. © Mike Holderness

● And please remember to report Rate for the Job regularly; see above.
POLICING the Olympics, and how this affects journalists, was the subject of a briefing by Acting Assistant Metropolitan Police Commissioner Chris Allison and Commander Bob Broadhurst – “Gold” (senior) commander for the Olympic police operations in London. Allison is “Gold for the whole lot”.

The briefing, organised by NUJ LFB and the NUJ Freelance Office, was the result of the Met contacting the NUJ asking to come to brief journalists, a testament to the effectiveness of years of work in this area by Freelance Officer John Toner.

Both officers emphasised that having a Press Card alone won’t get you through the fence around the Olympic Park and into the sporting events. For that you need accreditation from LOCOG or another Olympic body. The Commander reminded journalists that the Met “are not running this event”. Access to the events themselves is “LOCOG’s gig” they control accreditation. And when it comes to “breaching venue security, the press do not have immunity from prosecution.”

The policy will be in considerable force outside Olympic venues, but there will be “minimal policing presence inside… mostly LOCOG do security” and bag searches. The Met is contributing to the training of LOCOG security (G4S), which includes “dealing with media.” Chris Allison said Olympic security staff have no extra powers under the London Olympic Games and Paralympic Games Act 2006 but “security, G4S plus military, volunteers… they have the same powers as anybody when you go onto private property.”

For journalists unable to access Olympic venues, there’s still plenty to cover. There are post-torch parties on open spaces “almost every night” in the immediate run-up to the Games as the Olympic Torch passes through many London boroughs. There’s also “the small issue of Notting Hill carnival in the middle of it.” Expect intensive policing of these “parallel events”: the Met see these as being a potential terrorism “soft target”. Broadhurst assured his audience that “we are not editors” and that he would brief his officers (and the 2000 officers from other forces in London for the Games) not to hassle the “40,000 non-accredited media reporting on London” and remind them about the Press Card.

There’s a longer report online.

Your Press Card alone won’t get you through the Olympic Park fence.

© Mike Holderness

Bow down before us

WHO’D A THUNK it? When the Ministry of Defence wrote to the residents of the old match factory in Bow, East London, to inform them that for their safety and security they were to be blessed with an array of A5 anti-aircraft missiles on the building’s tower, did they not take a

The military on the roof, if you look very closely.

Photo © Brian Whelan

look at the building? Had they done so, they might have guessed that they’d be delivering this security-sensitive missile to more than one journalist.

The site was the scene of a key moment in the history of Britain when the 1888 “match girls’ strike” marked the forcible entry of women into the trade union movement. The women who made matches for Quaker businessman Theodore Bryant were charged for the materials they worked with – sounds familiar to freelances! The final straw was when management insisted they denounced a pamphlet by feminist Annie Besant decrying their conditions – which included “phossy jaw” abscesses that glowed in the dark.

Fast forward 124 years and the factory is flats: and its water tower handily overlooks the complex of electric fences and military checkpoints that is an East Ender’s view of the Olympic Games. One resident, at the time of writing, is Brian Whelan, one-time newspaper reporter, now an editor for Yahoo! – and star of the morning news shows when he Tweeted the MoD letter.

Then it all got appallingly complicated. The building’s management, it seems, would prefer to host a tranquil apolitical yammer of yuppies, the better to let flats to corporations like Ford. Brian got a notice to quit. The letting agent claimed to have a tape of him giving up the tenancy. They didn’t. The case continues. Prior to their deployment on the roof the Bow match factory, only a small number of A5 missiles had ever been test-fired.

Brian told the Freelance: “I moved to a building I thought would be

safe, with 24-hour security, after years of writing about the far right in the UK and Ireland. It seems I’ve actually moved into the most dangerous building in east London. The MoD have done their best to make me seem like a fringe resident with no support – but the feeling in the local community is overwhelmingly opposed to this plan and we are getting organised. The Olympics should be an opportunity to showcase the greatest sporting talents from across the globe, not for showcasing military hardware and cracking down on civil liberties.”

The old Abbey Mills sewage pumping station: the new razor wire suggests some Olympic function or other.

Photo © Mike Holderness

Essex police video order overturned

Mr Justice Eady ruled in the High Court on 17 May that the BBC, Sky News, ITN, Hardcash and NUJ freelance Jason Parkinson (pictured) need not hand over to police photos of the October eviction of travellers from Dale Farm, Essex. Eady said: “The interference caused by such orders cannot and should not be dismissed mainly because a small proportion of that which is filmed may be published… The judge [in Chelmsford Crown Court] should have feared for the loss of trust in those hitherto believed to be neutral observers if such observers may be too readily compelled to hand over their material.” Jason said the ruling sent a message that “we will not be forced into the role of unwilling agents of the state.”

Image © David Hoffman
Supping the waters of Liffey

IRELAND’S government in March published proposals to change copyright law – and, even more so than those under consultation in the UK, these appear designed largely to serve the interests of Google. Like the UK, Ireland proposes to legalise “private copying” (good) but without the “fair compensation” demanded by EU law (bad).

The Irish government recognises that it cannot bring in so-called “fair use”, the vague US legal doctrine much beloved of Google because it means anyone objecting to copying of their work has to raise hundreds of thousands, or more, to get a court to decide whether the use is in fact “fair” (see “Prof vs prof” below). So it proposes making Ireland’s law just a bit vaguer, and lobbying to change European law. Both the NUJ and the European Federation of journalists have responded to the proposal, the latter pointing out that its claim to promote “innovation” is meaningless without support for those who actually innovate – such as journalists – over those who would organise all the world’s information without asking and sell ads alongside it. Look out for the responses at www.londonfreelance.org/ar

Google wants more photos for free

GOOGLE is targeting freelancers to take part in its new business photography service – and offering terms that prove they’re still not interested in respecting copyright.

Not content with threatening the copyright system, making millions of books available of online without permission of authors or publishers, Google has turned its attentions to photographers with its Business Photos scheme.

Google Places wants small businesses to register and upload panoramic images of their workplaces. It’s a natural extension to Google Maps and Street View. And through Business Photos, the world’s biggest search engine is using photographers to obtain images for their business listings service for the ground-breaking price of, well, nothing.

In a nutshell, Google asks photographers to shell out around £1500 for specialist 360-degree panoramic gear and editing software, to contact prospective business clients directly, to hand the images produced over to Google for free, and to give away copyright to the business owner.

Oh, and any liability issues fall at the photographer’s feet too.

It’s a business-model only Google would try and pull off. But at the time of writing Google had already signed up 22 UK photographers.

Google Places is free, Google aims to rake in cash from local business by persuading them to sign-up for extras. They are using freely-obtained – and quite expensive – photography to drive the venture. A single 360-degree panoramic image should cost between £250 and £500.

So is copyright hard?

Without the protection of copyright law, freelances would have little to sell. So it’s important.

The idea that copyright is hard to understand mostly benefits lawyers. The Freelance reports developments in the field as they come up: naturally, these tend to be at the edges of the subject.

So with this issue we present our cut-out-and-keep guide.

We believe it answers almost your day-to-day questions.
MANY 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. Again, check.

Why would you want to understand these principles? Because doing so can increase your income: by a third, one survey* says. We have highlighted some of the non-obvious terms clients and contracts may use.

What you create as a freelance, you own. Photo, news story, radio feature, crossword 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 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 – that is, your permission 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 their 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.

Often, they don’t pay their lawyers enough to think about what they actually need. So the lawyers do what lawyers do when they’re confused: they put in everything, including but not necessarily limited to the kitchen sink. Or, ironically, they “borrow” the text of someone else’s contract, often intended for computer programming.

Some freelances ask why they shouldn’t hand over their reviews for What Fridge? After all, 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 in translation 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.

One reason for the publishers’ rights grabs is that they want to put stuff on the Web, and sell content to database archives. The Web often is, and databases clearly are, separate editions, with separate income to the publisher – and you should be able to negotiate separate payments for these uses.

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 – as well as from old-fashioned syndication to other publishers.

So 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.

By long-standing tradition, if your work is syndicated – used in another publication – at your publisher’s initiative, then you get half the fee.

Put what you agree in writing – use the Confirmation of Commission form*. This stops your client claiming what is called an implied licence: that is, one inferred from your actions.

If you find unauthorised use of your work, contact the Freelance Office* for help objecting in writing and taking it further if need be. If a stiff letter doesn’t do the trick, from the autumn of 2012 we expect there will be a Small Claims Court capable of dealing with copyright claims up to £5000 at reasonable cost.

There is a guide to tracking down online pirates in the online Freelance Fees Guide*.

The Moral Rights are the right to a by-line or credit – to be identified – and the right to object to distortion of your work – to defend its integrity. In UK law, you do not have either of these moral rights in work which appears in newspapers or magazines, nor in work which reports “current events” anywhere. Publishers often demand you waive – that is, 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 initially own everything you produce as a freelance, even if you don’t have moral rights. The moral rights 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). There are no moral rights in work done in employment in the UK.

* For links, documents and more on authors’ rights see www.londonfreelance.org/ar
So you’ve understood the basics of copyright in your own work: see over*. Now you want to know when it’s OK to use other people’s work.

Maybe you’ve just been commissioned for a rush “cuttings job” biography. Of course we couldn’t possibly recommend anything other than thorough original research and talking to sources directly… but these things happen. And the rules setting out what you can do are surrounded by enough urban legends to build an edifice of ghost law.

We have highlighted some of the terms you may come across in discussion.

Copyright exists in words and pictures and sounds – not in facts or ideas, but in their “expression”. So it is in general OK to read a source document, understand it, and write what it says in different words.

There are no “magic numbers”. There is no rule about quoting 3 per cent being OK; there is no rule about quoting 23 words, or four notes, or any specific amount.

All this briefing has to say about “quoting” pictures is: always get a licence. The exceptions are usually an issue for broadcasters’ lawyers, very rarely for journalists.

Copyright in interviews likely belongs to the person who recorded them and/or wrote them up. As one broadcasting lawyer says: at the least, if you point a microphone at someone and they answer your questions, they give you an implied licence to use their words. But if the interview was recorded in the course of employment, or the interviewer gave in to a rights-grab, it belongs to the publisher or broadcaster.

Don’t be bullied. Spin doctors and PRs for music and film stars may sometimes make threatening noises about something being absolutely protected by copyright when they’re desperate to suppress it. UK law is clear that if what your client/puppet said is a matter of genuine public concern, it can and should be quoted.

Attributing quotes – saying who and where you got them from – is a good idea, and courteous. You’d want other journalists to do it when they lift your quotes. The law encourages attribution, and requires it when, for example, you quote a book in a review. Doing so may make people less likely to think “lawyer!” But doing so does not, by itself, stop the use you make of the material being a breach of copyright.

The main legal test in the UK is whether the amount you quote diminishes the market value of the original. After all, that’s what’s going to impel someone to sue. So, like everything else in the US/UK “common law” system, an awful lot the decision on the amount of damage depends on what the judge had for breakfast, if it goes to court.

This is called the fair dealing test in UK law, which specifically defines the purposes for which you can quote. The relevant exceptions to the copyright in the material you quote are quite clearly defined. They allow you to use quotes for the purposes of reporting news and current affairs, or of criticism and review. The news exception does not allow you to use photographs.

The US concept of fair use does not apply anywhere outside the US. (It is loosely defined: everything depends on the judge, if it goes to court.)

There may be no copyright in facts, but in the UK there most certainly is in collections of facts, particularly trainspotters’ collections of facts like bands’ gig lists and, er, locomotive numbers. Mentioning that locomotive D666 was scrapped on Friday 13 June 1997, or that the Dead Goths played Dunstable on that dread day, is OK. Reproduce a significant chunk of the list, and you’re in trouble. Reproduce it complete with mistakes, and you have no defence.

You’re on much rockier ground with unpublished material than with, say, borrowing quotes from published interviews. The law on confidentiality may be more relevant than copyright. If you’re quoting from correspondence that fell into your hands, for example, you need to ask whether a court would find that what you do is in the public interest – and not just interesting to the public.

Be particularly careful with material by people outside the UK. Most have stronger rights than authors do in the UK. French and German authors, for example, have an absolute right to be credited and could in theory drag you over to French or German courts for forgetting to identify them.

It is a very, very bad idea indeed to sign a contract indemnifying a publisher or broadcaster against legal fall-out from your work. That means that if you foul up – or, in some contracts, even if they foul up in the editing process – you pay. Bye-bye house! It is anyway a good idea to look into getting the professional indemnity insurance* that the NUJ offers for members.

What if this doesn’t answer your question? Probably, then, your question was “and what is the magic rule?” And, once more, the answer is: there isn’t one. There isn’t even much legal precedent in the UK. It’s a judgement call.

Had your idea ripped off?

So you’re annoyed that your story has been written up by other papers? Once more, with feeling: there is no copyright in the story itself – it’s all facts (and ideas). If they have not ripped off a substantial part of your words, grin and bear it. Anyone who re-interviews your sources can use the new interviews.

And if a publisher or broadcaster has ripped off your story or programme proposal, that’s a matter of confidentiality, not copyright. See the Code of Practice for Submission of Programme Proposals* developed by our sister union BECTU.
Defamation defences due

WE AT THE Freelance were pleasantly surprised to find we’re Establishment enough to be added to the Ministry of Justice’s mailing list for the publication of the Defamation Bill on 10 May.

It proposes that defamation claimants would have to demonstrate “serious harm” to their reputation. Section 9 addresses “libel tourism”. This practice, of bringing to the London courts cases that wouldn’t stand an earthly elsewhere, has already led New York State and US Federal legislatures to rule that UK judgements cannot be enforced there.

The proposal is that actions should only be brought if the court is satisfied that “England and Wales is clearly the most appropriate place”. There’s also qualified privilege for accurately-reported statements made in a press conference anywhere in the world.

The Defamation Bill introduces some new defences: the statement “complained of” being “substantially true”; honest opinion (with some complicated qualifications); and a defence of “responsible publication on matters of public interest.” There’s also a defence for a “peer-reviewed statement in scientific or academic journal,” which was at issue in the high-profile case of science writer Simon Singh vs the British Chiropractic Association.

Section 5 gives “website operators” a defence if they can prove “it was not the operator who posted the statement on the website”. Another internet-age clause specifies a time limit for bringing libel actions starting from the date of “first publication”.

This would overturn the 1849 ruling in Brunswick vs Harmer that each viewing is a new “publication” (see www.londonfreelance.org/ft/111libe.html). The clock would, however, be set for “subsequent publications” in a different medium.

The Bill was timetabled for a Second Reading debate on 12 June. Liberal Democrat Justice Minister Lord McNally was reported in the Independent as saying the bill could become law “as soon as next year”. What it doesn’t address are the costs of defending libel actions.

Agency ‘caught with a hand in the cookie jar’ over Morel pix

HAITIAN photographer Daniel Morel’s case against Agence France Presse, alleging that it lifted his photos of the January 2010 earthquake in his country, grinds on. Among papers filed with the Southern District Court of New York in early May is a 16 March 2010 email in which Eva Hambach, AFP’s deputy photo editor for North America, writes: “AFP got caught with a hand in the cookie jar and will have to pay.”

Barbara Hoffman, representing Morel, in the papers reminds Judge William H Pauley that if he finds that if the infringement of Morel’s copyright was “wilful” he can award damages of US$150,000 per photo — a total of over $120 million. The maximum in “statutory damages” under the US system, if the court does not make a finding that the infringement was “wilful”, is $30,000 per work — in this case per photo.

AFP and co-defendant Getty Images continue to argue that they were allowed to distribute Morel’s photos under the terms of service of Twipix, on which he posted them — with the complicating factor that the agencies appear to have downloaded and distributed illegitimate copies made and posted to Twipix by one Lisandro Suero, a resident of the Dominican Republic. Morel’s lawyers point to a document entitled Copyright 101 on Getty’s website, reminding readers of the common misconception that if “an image is on the internet, it’s in the public domain and I don’t need permission to use it.”

The court has not yet said when it will respond to the “motion for summary judgement” to say whether there will be a full trial. Given the agencies’ stance to date, the Freelance would be extremely surprised if there were not.

Some mileage left in travel writing

TRAVEL writing was the focus of London Freelance Branch’s April meeting. Our speakers were former Indy on Sunday travel editor Kate Simon, who now runs her own free-lancing operation, and former Metro travel editor Keiran Meeke, now editor-in-chief of i-Pad travel magazine TRVL, at www.trvl.com.

Kate says that while travel desks are shrinking, they’re more relevant than ever on freelances”. But “getting the attention of editors is hard: they’re notoriously self-important and very busy. Even the mighty Telegraph has lost staff off its travel desk.” Nowadays, says Kate, the best travel writers have to supplement their travel work with “another skill: architecture, nature, wildlife, food and drink.”

Kate warns that travel assignments are often used as rewards in-house for “non-writing journalists… a little perk on top of your salary… Sometimes the secretary goes. They’ve never written before in their life. It devalues the business for everyone.” Kate recalls one travel editor briefly with Independent on Sunday who told her to “fix me up with a ski-ing holiday” – the travel PRs who ‘d paid for it “threatened a law suit after he produced no copy”.

Kate warns you can’t just pitch to an editor with “I’m going to Singapore, would you like something?” Your pitch and your piece need to be different, to “give a snapshot of an experience,” she advises. And she feels “we should be proud of travel writing and we must maintain or right to be paid for what we do.”

Keiran Meeke now believes the “whole model for newspapers is broken” when it comes to the internet. Newspapers are generalists, but “the internet is specialised, people want to do one thing on the internet, and do one thing well.”

TRVL is a free-to-download i-Tunes app magazine. It covers “one destination per issue… but readers have a choice of 50 destinations.” Reports are 3000 words, with 40 photos and two videos. After its first year, the magazine was an estimated three months away from reaching a readership of a million, at which point it expects to start making money through advertising.

Now Keiran is working to “build a stable of writers who know their destination.” He believes “the future is in being total experts in what you do… You need people who are real experts at seeing a place you don’t live in.”

© Matt Salusbury

There’s a longer report online.
LONDON FREELANCE BRANCH MEETINGS

Worth investigating!

INVESTIGATIVE journalism is – provisionally – the theme of the LFB meeting on Monday 9 July. We expect to have as our speakers some eminent working investigative journalists.

The very provisional list of speakers includes LFB’s own Mark Watts, editor-in-chief of investigative website Exaro – www.exaronews.com – which also commissions (and pays) freelances. Additional speakers could, depending on their diary details, include members of either the Panorama team or the Sunday Times Insight team. Watch the LFB website (see below) and the LFB Twitter feed at www.twitter.com/NUJ_LFB for the names of speakers as they are confirmed.

There is no LFB meeting in August, a month in which LFB traditionally takes the nearest freelance equivalent to a holiday.

This issue went to press on Wednesday 6 June. Your deadline for the (online-only) July issue is Sunday 1 July.

Make Journalism Pay – diarize 17 November!

LONDON FREELANCE Branch is hosting a conference on New Ways to Make Journalism Pay – Part Two later this year. The date is now confirmed – it’s Saturday 17 November 2012 and we also have a confirmed venue – it’s the London Welsh Centre/Canolfan Gymry Llundain, 157-163 Gray’s Inn Road, London WC1X 8UE. (Nearest Tube is King’s Cross, and it’s just down the road from the NUJ headquarters.) And media columnist Professor Roy Greenslade has apparently already given the event a plug in his blog.

The programme is still being put together: possible themes for sessions include panels on pursuing freelancing through social media, smartphone apps, collective endeavours, working in slow times, diversifying outside the sort of journalism we would usually do, going into consultancy, PR work for local “SMEs” (small and medium-sized enterprises) and working for overseas clients, especially in those lucrative emerging markets such as Indian and Brazil.

The November conference is inspired by the well-received event held by LFB in in January 2010 – which was so successful that we had a full house and had to turn people away. See www.londonfreelance.org/fl/1002ways.html for a full report.

Since then, journalism has continued to change and evolve – and things have remained very difficult.

We hope soon also to run a report on the NUJ Brussels Branch version of New Ways to Make Journalism Pay, held in that city in June, which featured speakers with successful online media start-ups in the Continent of Europe, and we’ve heard that a similar event is being planned by NUJ activists for Paris.

See also the http://newmodel-journalism.com blog which is run by two NUJ freelances prominent in the original NWTMP 2010 gig. The blog now actually makes some money from advertising.

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LONDON B&B Wimbledon / Putney area in photojournalist’s home. Details: southfields.bed@btconnect.com

WANT TO TRY your hand at writing fiction? The Complete Creative Writing Course at the Groucho Club offers courses in creative writing and also in screenwriting. Courses start in April/May. Cost: £195-£315 including VAT for six three-hour sessions. Also intermediate and advanced levels at other venues. For full details go to www.writingcourses.org.uk

LFB meetings are 7pm to 9pm at Friends House, Euston Road, which is accessible to people who use wheelchairs. If you need the Branch to pay for care for a child or dependent so you can attend a meeting, call a Branch officer. For updates on meetings see the Branch calendar web page www.londonfreelance.org/lfb/meetings. Volunteer minute-takers are needed for LFB meetings for the rest of the year. For details of the NUJ London Photographers’ Branch meetings, see lon donphotographers.org

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Participants in the 2010 New Ways to Make Journalism Pay event Photo © Tony Rizzo