

## Tax: don't panic!

Some members may have been alarmed by headlines such as "Freelancers might be taxed as employees after High Court ruling – IT contractor hit with £99,000 bill" (that one from [www.theregister.co.uk](http://www.theregister.co.uk) on 10 September). Almost all can stop fretting. That ruling concerned a computer contractor, Jon Bessell, who had formed a company – which for three years sold his services to the Automobile Association and (practically) no-one else. If, like him, you have only one client, you'll have provided for income tax, either by being taxed at source or by putting money aside. If you have lots of clients, control your own work, etc, the ruling doesn't apply: [www.londonfreelance.org/feesguide/GeShiTxt.html](http://www.londonfreelance.org/feesguide/GeShiTxt.html) has details.

## US Customs can impound your laptop

Journalists taking their gadgets to the US – laptops, camera or mobile phones – should be aware that Customs and Homeland Security can "search, copy data from and and confiscate your laptop without prior cause" following a court ruling in April. This appears to extend to digital camera memory cards, mobile phone SIM cards and any other gadget you can think of that can store data. Don't expect to see any of these ever again if confiscated. Consider taking making back-ups and taking other precautions before you go to the US with any of your kit.

## STORIES NOT IN THE PRINT EDITION

# Why keep your rights?

**SOME WHO enter freelance journalism via online outlets say either that they know little of copyright, or feel that the medium itself renders freelance copyright ownership obsolete. It doesn't. It means money when your work is re-used, elsewhere, for profit. If you let go of your rights, all that money goes to your first client. Phil Sutcliffe spells out how, as a writer, he wins from re-use of printed work online.**

WHETHER the original commission is for an online or a print outlet, retaining copyright is the first step to ensuring, first, that you get income from any future use of the material by anyone; and second that, online, your "moral rights" to be identified as author and to defend the integrity of the material are retained.

Online, you have a legal advantage – the Copyright, Design and Patents Act 1988 excluded moral rights in newspapers and magazines, but not online, because it barely existed back then.

So how do I earn extra money, having almost always retained my copyright – via a degree of obstinacy and the good luck of generally dealing with decent people? These are some of the ways.

First, there are the negotiated agreements. I have written a lot for *Q* and *Mojo* music magazines. In the past the freelance group there negotiated a collective agreement for album reviews to be used on the mags' own websites for a one-off extra payment on top of the print fee. This ranged from 17 per cent down to a minimum of 10 per cent.

Trying to respond to the developing online business, we have a provisional agreement to switch to an initial basic fee for the licence to

put print material online – with bonus payments for the next three years if certain targets are achieved for "hits" – on the online versions. These would potentially double the basic online bonus fee to about 14 per cent of the original print fee.

Features are not included in the agreement. A higher percentage fee will have to be negotiated for an online license as and when. Incidentally, for writing direct for the mags' websites the same minima are being applied as have been negotiated for the printed mags.

Next, there's re-use of printed articles by quite separate websites. Much of what I've written over the past 30 years is on a commercial (if small-business) online archive. I was able to give them permission to put it up because I'd retained my copyright. I earn money from this outlet through an initial one-off global fee of £500 for uploading my material and licensing its display by the library; and from a share of subscription and advertising income.

After five years that share of income remains minimal and the agreement states, quite reasonably, that I don't get a cheque until it totals £100. Even so, in the future it could take off and provide useful income. It may be that the authors' collective percentage of this income will need to be re-negotiated – but at the moment this income pays the salaries of the two staff.

Further, like many other sites, this archive sells downloads of individual articles to non-subscribers for £2 (or £3 for pieces over 5000 words). Unlike many other sites, the library pays the writer 40 per cent of the gross fee.

Then the archive licenses use of authors' material to other websites. For instance, a site in San Francisco

pays \$250 per feature. Yahoo pays them not much for shortish excerpts published as "blogs" – I get £50 a time. Another site pays the library \$400 per thousands words.

My favourite was the sale of a piece I wrote in 1980 for *Sounds* magazine, under an NUJ agreement with Morgan-Grampian that confirmed freelance copyright retention. This process is clearly online syndication. The writer gets 50 per cent of the purchase price negotiated by the archive. The licenses sold are non-exclusive – they don't prevent further sales and they don't prevent the archive continuing to display the piece.

Yet further, the archive syndicates pieces back to print – usually to books – and gets reasonable prices. It has published two anthologies itself. The writer gets 50 per cent if it's a book syndication fee or a negotiated fee where the archive is itself the publisher. This seems reasonable when the archive has provided the shop window and done the business – again, it is acting as a syndicator, and traditional print syndicators take similar cuts.

In my field of work, the traditional idea of time-limited licence to use work – such as using it in a monthly magazine for one month – has so far proved impossible to negotiate, for me or for the archive on my behalf. Once it's up, it stays.

So it's important not only to hang on to the actual copyright in your work, but also to decline offers to buy an "exclusive" licence, because that would cut off all the sources of income I've mentioned. Others, both writers and photographers, have achieved time-limited usage deals – a good thing because they involve repeat fees.

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## Muso machinations

PHOTOGRAPHERS covering gigs and music at venues all over the UK are increasingly concerned about so-called "agreements" issued at the moment of entry to a concert. These are slowly becoming more and more bizarre in their terms. Many are out-and-out copyright grabs – and never for any money. Those who refuse to sign are told they will be refused entry.

Spurred on by an outrageous set of demands issued by Lenny Kravitz's management (see September *Freelance*), the photographers' sub-committee of the NUJ's Freelance Industrial Council decided "enough was enough". The PSC is

working with several music photographers on a model agreement, and a set of guidelines to outline a better relationship between bands and photographers. These are now at an advanced draft stage, and informal talks with musicians and managers are expected soon.

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## Juicy excerpts:

- "All photographs to be used are subject to the prior approval of the Artist. Photographer shall not authorize or permit any use of any Photographs in any manner or media without prior written consent of Artist."

- "Photographer hereby grants to Artist the irrevocable right in perpetuity to use the Photographs in any and all manner and media, now or hereinafter known, without payment, or other compensation..."

- "Photographer agrees to indemnify and hold harmless Artist and Artist's management, agents, representatives, licensees, successors and assigns... from and against any claims, losses, damages and expenses (including attorneys' fees) incurred by any of the Indemnified Parties arising from or relating to any use of the Photographs"