

Writers claim now!

Hoping that this reaches you in time... the deadline for writers of all kinds to submit a list of your newspaper and magazine articles up to 2005 to the Authors' Licensing and Collecting Society is 31 December 2008. See www.alcs.co.uk for details of the payments for photocopying that will ensue.

Bailiffs ahoy!

COLLECTING payment from people who use photos (or other work) without permission is a problem for UK journalists. Photo agencies Getty and Corbis seem to have decided that the way forward for them is to issue invoices for the (large) amount they first thought of, then send in debt collectors.

This doesn't get them good publicity. In fact it got Getty a full-page writeup in the *Guardian* for demanding £6000 from a church whose volunteer had used "a couple of images sourced from Getty" on its website without payment or permission.

The church didn't pay. If the case had gone to court, it would have stood a good chance of getting away with paying only what the pictures would have cost if it had asked properly to start with. This is a flaw

in copyright law on which the NUJ is campaigning in Westminster and Brussels.

But freelance *Guardian* writer Wendy Grossman says "Letters demanding large sums are scary, and it's not surprising if many recipients settle." Getty was very reluctant to talk to her: and neither it nor Corbis would answer her questions concerning how much of the money they recovered was going to photographers. (The agencies distribute images in which photographers retain rights, as well as grabbing all-rights contracts.) The *Freelance* is asking them again.

Wendy told the *Freelance* that "abusive enforcement tactics are in fact counter-productive – because they cause people to lose respect for the law. We need copyright law

that people do respect, and that means proportionate enforcement."

That's the opposite of the effect of the actions of German outfit DigiProtect. According to BBC Radio One's *Newsbeat*, it has sent letters to "thousands of internet users" claiming that they have downloaded pornographic films from a "peer-to-peer" file-sharing network, which then makes their copies available for other users to download. If they had done this, they'd certainly have broken copyright law. DigiProtect is demanding £525 to settle out of court. Sixty-year-old "Mary" from Bedfordshire told the BBC: "it was such a shock. I didn't even know what a P2P network was before this," she said. "I didn't sleep for a week."

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Little Orphan Anomie

OFTEN BIZARRELY, debate continues on what, if anything, should be done to permit copying of copyright works – such as articles and photos – whose copyright owners cannot be found: "orphaned works". As reported in the October *Freelance*, the UK government's Intellectual Property Office has seriously considered two options.

One would be to introduce an "exception" – on the same principle as the rule that organisations of blind people can make Braille copies without asking or paying. This, however, goes against the principle, enshrined not just in EU and international copyright law but also by the World Trade Organization, that such exceptions must not "interfere with the normal exploitation of the work". Anyone, even a library, scanning a book and putting it on the internet would definitely interfere.

The other would be to apply the principles of *Bona Vacantia* – the UK legal rules governing the assets of people who die without a will or relatives. The catch: those assets go to the government, and it seems likely that the government would want to keep fees it charged for using orphaned works.

An option not being considered in the UK or elsewhere in Europe, that the *Freelance* has heard, is that of the US "Shawn Bentley Orphan Works" Bill. This has as we understand it, run out of time. Though passed unread by most Senators, it has not passed the House of Representatives and cannot be carried

over to the next Session of Congress, which starts on 3 January.

A proposal has gone to the UK government from some writers' and publishers' organisations calling for (sorry, more jargon) "extended collective licensing". Under this scheme, someone wanting to use a

they wanted to make of the work. If the author showed up, the fee would go to them. Unclaimed fees would be spent for the benefit of authors in general – for example on welfare, or education campaigns about the value of copyright.

The NUJ has set out its current position in responding to the EU *Green Paper on copyright in the knowledge economy*, a consultation document that raises the question of orphaned works: read the response via www.londonfreelance.org/ar. Besides the above essential principles that users must obtain and pay for a licence in advance, and that fees must be for the benefit of authors, this adds that if anything is to be done about old orphaned works, at the same time something must be done to stop works being orphaned in future.

It would be ridiculous to allow works to be used when their author cannot be identified, while there are authors who do not have the right to be identified. That'd be us, journalists in the UK and Ireland. The right to be identified must be universal, and enforceable. And governments and the EU need to support the development of a system of voluntary, smart databases, to which would-be users can submit not just texts but also thumbnails of photos and snippets of music, and get back an answer: "to use that, you need to ask here".

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- Your concise comments on the Green Paper response are welcome: preferably send in email orphan@londonfreelance.org

Ding-dong! The wicked witch is dead

Maggie's End, by NUJ freelance Ed Waugh and Trevor Wood, is a dark comedy that begins with the death of Margaret Thatcher. Inspired by reports that the New Labour government plans to give Baroness Thatcher a state funeral when she dies, the play examines the legacy of Thatcherism and how New Labour has travelled from its traditional roots. Sponsored by NUM North East, RMT, Unite and the GMB to mark the 25th anniversary of the miners' strike: **April 6-18** at the Shaw Theatre, Euston Rd, London NW1, tickets £15, £11: call 0871 594 3123 or email shawboxoffice@newendtheatre.co.uk



Orphan Little Goody Two-Shoes from the 1768 edition of the book. So we're fairly safe in assuming that the anonymous engraver died more than 70 years ago.

work would have to show to a collecting society (such as the writers' ALCS or the image-makers' DACS) that they had genuinely tried hard to find the author (or other copyright owner). They would be charged a fee proportionate to the normal commercial licence fee for the use