

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/fi/1111libe.html). The clock would, however, re-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.

Who watches the wardens?

Attempts by Heritage Wardens to prevent photography in Parliament Square apparently continue despite the improvements promised in February – see www.londonfreelance.org/fi/1204traf.html

Citizen journalist Rikki Blue stood his ground in a Budget Day encounter with Wardens, which you can see at www.london.indymedia.org/videos/11961. A spokesman for Parliament Square's managers, the Greater London Authority, later told Rikki: "The behaviour of one of the wardens shown in the video clip falls well below the standards required by the GLA. It was clearly not appropriate and the byelaws were not being interpreted correctly. We apologise for this lapse and action will be taken to address this."

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 copy-

right 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 Twitpix, on which he posted them – with the complicating factor that the agencies appear to have downloaded and distributed illegitimate copies

made and posted to Twitpic by one Lisandro Suero, a resident of the Dominican Republic. Morel's lawyers point to a document entitled *Copy-right 101* on Getty's website, reminding readers of the common misperception 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 freelance 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 reliant than ever on freelancers". 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 trav-

el 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 iTunes 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."

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• There's a longer report online.



Kate Simon (left) and Keiran Meeke (above) gave hope to travel writers.

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