

ERRor message

NOVEMBER's London Freelance Branch meeting was in the Houses of Parliament. Copyright was on the agenda again, and in particular the government's latest attempt to change copyright law through the Enterprise and Regulatory Reform Bill (also known, aptly, as the ERR Bill).

Opening the discussion was Creators' Rights Alliance chair (and *Freelance* editor) Mike Holderness. We also heard from Saskia Walzel, senior policy advocate at Consumer Focus, Rosie Brooks of the Association of Illustrators, from Naomi McDonald of the Musicians Union, Lib-Dem Peer Lord Clement Jones and our host, Viscount Bridgeman.

The ERR Bill seeks to grant the Secretary of State the power to change "exceptions" to copyright – uses of your work that don't need your permission – without effective Parliamentary debate. It also includes plans for "extended collective licensing" and proposals for a mechanism to licence "orphan works."

Mike noted the jargon around the ERR Bill, and its "complexity and devilish detail." It is, he said, "as if a there's a kind of 'anti-sub' at work to make it more confusing." The proposals in ERR would, said Mike, allow the British Library to write "one cheque to the ALCS and one to DACS and with that get the rights to put out-of-print books online," and would allow the BBC a "similar arrangement" for its archive.

Saskia noted that various collecting societies in Scandinavia are now allowed to "do" extended collective licensing (ECL), but only after demonstrating that they are democratic organisations with a broad membership. They had to "consult members and get their agreement... go on recruitment drives to get around 80 per cent of sector on board". Saskia thought the UK's collecting societies would need three years to reach this standard.

Lord Clement Jones advocated putting the ERR Bill's proposals on exceptions "before Parliament one at a time," and allowing the membership of collecting societies to vote on whether that body should be allowed to take on ECL. He had "about 25 questions" on the ERR Bill, and suggested that he hoped ECL wouldn't go ahead. On the following Wednesday, he spoke as lead LibDem Lord on this section of the Bill, and asked "Will the Government examine the whole issue of moral rights in the context of giving better protection to individual creators?" Those would be the rights to be identified as author, and to defend the integrity of your work.

Rosie said cartoonists and illustrators are being "railroaded into unfair contracts for fear that they'll lose work – bullied into signing rights away." If creators "can't make a living" then the "market fails." Naomi identified "metadata stripped out of

recordings" as a serious problem in the music industry. "It should be illegal to strip out the metadata," said Naomi.

Mike noted "the creative economy is vaunted as a springboard for growth out of recession, but this is not possible if there are no dedicated professionals" working in the said creative economy. The ERR's proposals will, he concluded, affect not just those trying to make a living, but also our friends sticking up photos online for free. We as journalists are not just arguing for our own rights: with so many people posting their work online this is now about the rights of "every citizen". Please write to your MP about the ERR bill – see www.londonfreelance.org/fl/1210copy.html

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The august setting for the November meeting
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New fronts in copyright battles

WHAT'S HAPPENING in the world of authors' rights? How long have you got? We're reduced to summarising the main points, as new fronts open in the battle to get a fair deal for people like us who produce the lifeblood of that much-vaunted "information economy". So, from the local to the global:

● **In the UK**, we expect the aptly-named ERR Bill to be debated in a House of Lords Committee in early January. The NUJ will support the Creators' Rights Alliance in probing government intentions by helping several Lords present amendments. See the meeting report above.

We also expect the government to publish proposals on extending "limitations and exceptions" to copyright – uses that can be made of your work without permission or without even payment, respectively – just before Xmas.

Meeting the new Minister, Lord Marland, in mid-November, we strongly put the case that at the very least any changes should be intro-

duced one at a time, with sensible research on the impact of each.

● **In Europe**, the EU civil service – the Commission – announced on 5 December that it is re-opening debate on the exceptions allowed in EU law: the leaked announcement is open-ended. We vividly recall a meeting with the responsible Commissioner, Michel Barnier, at which he promised that he would do nothing to undermine authors' rights.

We are also aware of the very powerful pressure by a Famous Web Search Engine on other Commissioners. The Society of Audiovisual Authors, formed by collecting societies dealing with the film business, produced an advance petition – at www.ipetitions.com/petition/support-authors – the authentic original is, like Barnier, French.

● **Worldwide**, pressure is mounting at the World Intellectual Property Organization (WIPO). At the meeting of the snappily-titled Standing Committee on Copyright and Related Rights in mid-November,

a US professor acting, allegedly, for the African countries was pushing for the first explicit mention in an international treaty of the so-called "fair use" provision of US law. She wants it bolted onto the side of the proposed treaty on exceptions allowing your work to be made available to blind people, which already exist in the UK and EU. There's more on this at www.londonfreelance.org/fl/1211wipo.html

The reality of "fair use", as we put it to Lord Marland, is: "You are now entering the US legal system. Please deposit \$1M to find out whether the use was fair or not". None of the African countries has it in their law. In fact it appears only in US law – and in the dreams of a Famous Web Search Engine.

Needless to say, we are working hard to make sure that only exceptions that are truly in the public interest are allowed, and that their scope is clearly defined in law, not left to expensive court action.

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Newquest pay quest

Many journalists working for Newsquest titles have received only one pay increase of two per cent in the past four years. By comparison, inflation has risen by an average of three per cent each year. Newsquest journalists in York lost a day's pay for attending a 10-minute union meeting in November. Watch www.nuj.org.uk for details of further action. As ever, the chapels would appreciate it if freelancers engaged to work on any strike days found themselves unavailable. Anyone suffering hardship as a result of being unavailable should contact the chapel.

Atex anecdota?

WE HAVE heard that some version of the content management systems Atex – used by among others the *Guardian* and *Observer* and the *Indy* – now refuses to allow editors to send copy to press without author data. The same has long happened in WoodWing, as used by Reed-Elsevier. Subs and editors – is this the case for the content management system you use, or are we looking at customised versions? Let us know, in confidence, via editor@londonfreelance.org. Newspaper proprietors have long claimed that writers and photographers can't possibly have a legal right to a credit or byline because it's "too hard" for them to keep track of it all – a position rather undermined by these observations.