

International contracts call

TO MARK World Copyright Day on Tuesday 23 April, the International Federation of Journalists (IFJ) and its European group, the European Federation of Journalists (EFJ), launched a campaign against unfair contracts.

"We were appalled by the extent of unfair contractual practices in the media industry," said Arne König, outgoing EFJ President. "Media or-

ganisations asked journalists, particularly freelancers, to assign their exclusive rights for multiple use of their works for small one-off payments."

You are encouraged to sign the petition at www.change.org/petitions/fair-trade-for-creators

For more on this campaign please visit www.ifj.org/en



Fairly frequently asked questions on copyright

THESE ARE main points from the Freelance Industrial Council document, online in full at www.londonfreelance.org/fl/1306faq.html

Did copyright law change in May?

No. There is no "licence to infringe copyright" and creators and users should stick to the current law and best practice for licensing and using copyright material.

How will the law be changed?

The ERR Act provides for several major changes to copyright law including licensing of "orphan works" and "extended collective licensing".

What are orphan works? How will they be able to be used?

Nobody will be able to use orphan works without permission or payment. The proposal on "orphan works licences" is that a government body (and, maybe, authorised collecting societies) should be able to issue licenses to use "orphan" works, under strict conditions. Some of the most important are:

- That the applicant will have to demonstrate that they have done a "diligent search" for all the authors

(and performers) of the work.

- The applicant will then have to pay a fee, as close as feasible to a market rate for a similar work by a known author, to the licensing body.
- The licences will specify what they can do and for how long.

Once the law is changed, if someone uses my work without permission, can they just claim they thought it was an "orphan"?

No. In that situation, one of two things must have happened:

- **Either** they have gone to the trouble of getting an orphan works licence;
- **Or** they don't have an orphan works licence – which will mean that they have "flagrantly" breached your copyright and you can ask the Small Claims Court for extra cash.

So what is "extended collective licensing"?

"Extended collective licensing" will be a scheme that may allow the British Library, for example, to pay one cheque to the Authors' Licensing and Collecting Society and another to the Design and Artists

Copyright Society as fee for putting online words and pictures, respectively, from their archive.

The collecting society will then distribute the money to you (and also to people who do not belong to it – the "extended" bit) in the same way as it does for photocopying.

But this will be able to happen **only if:**

- a collecting society shows it is representative of authors; **and**
- the authors represented by a collecting society democratically approve it making an application to issue a specific kind of extended collective licence; **and**
- the Minister consults on the application, and after weighing all the responses the Minister approves it.

So there is no chance of a publisher or broadcaster getting an extended collective licence for any "primary" publication of your work.

So everything is fine?

Far from it. The next – and far bigger – challenge is the government's overdue announcement of its plans to expand the "exceptions" to copyright (see below).

COPYRIGHT from p1

mitments were extracted from the Minister about safeguards for creators in any future changes to the law, and these ran to six pages of small print. The mean the least possible threat to journalists' livings.

The NUJ continues to play an active part in consultations on the eventual shape of these forthcoming Regulations, which will introduce licensing of "orphan works" and "extended collective licensing". The union's Freelance Industrial Council has prepared a "Fairly Frequently Asked Questions" document on what effect the government's proposals would have: see above.

Will there be more of this?

The Intellectual Property Bill 2013 had its Second Reading in the House of Lords on 22 May. There's little (yet) directly affecting journalists. The NUJ will be proposing amendments in favour of stronger rights

for designers, not least to avoid setting unfortunate precedents for copyright – especially in the area of the "exceptions" that allow use of works without permission from or payment to you.

And we were told on 28 May that "within weeks" the government will publish proposals for extending "exceptions" to copyright – rules that allow certain non-commercial uses without asking, or paying.

Freedom of expression and payment for expression

The anti-censorship group Article 19 in April issued *The right to share*, a statement declaring that the rights authors – such as reporters and photographers – have over our work exist "at the expense of freedom of expression". The International Federation of Journalists responded with an open letter to Article 19 Executive Director Agnès Callamard. It opens: "The IFJ

has always valued the work Article 19 does to protect press freedom and denounce attacks against free speech around the world... [You] appear to argue that the defence of freedom of expression is in opposition to other journalists' fundamental rights, for which we have been campaigning for decades – and which we regard as fundamental to citizens' abilities not only to express themselves but for that expression to be informed by professional, independent reporting."

The full text is linked from this story online at www.londonfreelance.org/fl/1306copy.html

To mock an author bird

Finally. Harper Lee, author of *To kill a mockingbird*, is suing to get copyright in the book back, reports the *Guardian*. She alleges that the successor to her late agent tricked her into assigning her rights away.

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The sins of the publishers...

Three members of an Australian family have won AU\$54,750 (£34,887 as we went to press) from publisher Allen & Unwin over use of their photographs in a book. Four of the five photographs were "pick-ups": various people (often not the photographer) may have said "OK, you can use this for your newspaper story"... but no-one ever gave permission for them to be used in a book. The judge ordered that any remaining copies of the book – which was reprinted about six weeks before the trial – be handed over for pulping. For the full story see www.londonfreelance.org/fl/1305pick.html

My NME's enemy...

To be caught out infringing contributors' copyright once is sad; to be caught out twice means you're IPC. Around a dozen years ago IPC decided to re-print interviews and images in a series of specials. Most contributors had retained copyright, and the publisher had to pay out for infringement. Now freelancers have discovered that back copies of *NME* are available on a website called ProQuest, for a fee. Again, the freelancers' permissions have not been obtained. ProQuest claim they have a licence from *NME*, but are removing work on request of the freelancers until such time as the matter is resolved. The NUJ is approaching IPC on behalf of members, and if non-members join now we will include them in any action. A few have already applied. Contact: freelanceoffice@nuj.org.uk