

Sep 2015

FREELANCE

For fair contracts

LONDON FREELANCE Branch held its July meeting in a House of Lords Committee room. Why the Lords? We'd fully expected the Commons still to be embroiled in coalition negotiations. We blame the pollsters. Everyone else does.

Our topic was: what can be done about unfair contracts? Our host was Tim Clement-Jones, international lawyer and LibDem peer; and our other speaker was Stephen Doughty, Labour MP for Cardiff South and Penarth and Shadow Business spokesperson.

Copyright campaigner Mike Holderness introduced the issues. The law of England and Wales – and Scotland too – is based on fiction. In the official picture, Mike sits down across a table from Rupert Murdoch, negotiates a fair bargain and shakes on it. Economists maintain that any contract is fairly made unless there is an actual, loaded gun pointed at one of the parties' heads. In practice, freelance journalists and other creators are presented with contracts and told that if they don't sign, they don't work. There is no negotiation. Occasionally, clients are foolish enough to put this in writing – and if you have an example, please send it to contracts@londonfreelance.org – we will respect your anonymity.

Two of the many things wrong with these contracts are that they declare what will be paid for work and that they demand that freelancers "waive" our rights to be credited for our work and to defend its integrity. In some of the worst cases, having thus grabbed the right to change work, clients then demand that the freelance "indemnify" them against the costs of any court case caused by the changes.

Some of the things we want are a right in law to fair remuneration and a list of contract clauses that are automatically deemed unfair. We want unions such as the NUJ to have the right to negotiate minimum terms collectively. And we want unions to have the right to bring cases over un-

fair contracts, because freelancers are so often afraid to bring cases in their own names for fear of never working for that client again.

Mike introduced Tim Clement-Jones by noting that he had spoken



Tim, Lord Clement-Jones
image: lordclementjones.org

to dozens of Parliamentarians about authors' rights and all had at some point asked "and what does Tim think?" Tim noted that his party's election policy document on "the creative industries" included a commitment to review the law on unfair contracts. "Too often", he said, creators "are presented with 'take it or leave it' contracts." We are "in a particularly weak position when negotiating with the very big battalions – not only the big US players but our own BBC." Advice from lawyers "is pretty unaffordable – hundreds of pounds an hour to get advice on a contract which is important to you" but not worth that much by itself.

"The right of attribution can be waived," he went on, "so that you can't even say that it's your work – it's effectively that of the entity to which you've assigned the copyright."

We need to learn from the experience of other countries and learn from the best of what they have to offer. Could the doctrine of "undue influence" be applied when one party is in a dominant position?

Could we enact a right to fair remuneration – it works in Germany? The "moral rights" to identification and integrity are unwaivable in France and Germany – why not in

UK law? These issues, Tim noted, affect many more people than those of us who want to earn a living from words, images and sounds: "all the internet platforms like Flickr have terms which are absolutely standard and deprive the creator of rights."

So what is to be done? Perhaps a Private Member's Bill could be presented as part of "a really serious campaign in the course of this parliament." Tim also raised the possibility of a Parliamentary Inquiry. It could start by asking: "How can we meet the challenge of a thriving creative economy when the scales are so heavily weighted against creators?"

Stephen Doughty immediately picked up on this: he has previously worked with Ian Wright MP, who had just been selected as Chair of the Business, Innovation and Skills Committee, which could possibly conduct such an inquiry.

Stephen has worked with the Musician's Union and regularly meets with writers and musicians and photographers working at BBC Cardiff. "For me," he said, "these concerns



Stephen Doughty
image: stephendoughty.org.uk

boil down to an imbalance of power which currently exists in these relationships." The Labour Party would be busy – not least with the Trade Union Bill launched that week: but Stephen would be keen to hear more from us on this issue.

London Freelance Salon – book now while stocks last

Making a living online

FREELANCE SALON is an NUJ event that goes beyond the traditional orthodoxies of discussing pitching to editors – though that still has its place. Salon is a forum to discuss how to make journalism pay, in new ways, via speakers who've done something a bit different and made it work. The theme for the launch

event on **Thursday 15 October** is "Online Publications: stories of growth and opportunity". Booking is exclusive to NUJ members until **Friday 11 September** and costs £10.

The evening will include networking, with fellow freelancers and some industry clients over a glass of wine (or water or orange juice) and some

snack foods. The percentage of freelancers in the union is growing fast, as we all know. Even those of us who have regular work have to be on the lookout for new ideas on how to develop our careers and shape an assortment – sometimes a ragbag – of

See SALON on p 3

LFB meetings
14 September
Dorothy Byrne, head
of News at C4
12 October
Graham Hayday on
'sponsored content'
See back page &
www.twitter.com/NUJ_LFB