

RESOLUTION ON E-BOOK ROYALTIES

WHEREAS, e-books are a growing percentage of sales, revenues, and potential royalties for authors;

WHEREAS, e-book self-publication (including self-publication of e-book versions of books that are out of print in hardcopy, and for which the electronic rights were never assigned to the print publisher or have reverted to the author) has become a viable way for some authors to make a living, which is threatened by print publishers' attempts to grab a larger share of e-book revenues;

WHEREAS, most book publication contracts have -- quite properly and fairly -- provided that authors are entitled to at least 50% of any revenues from licensing of subsidiary rights;

WHEREAS, there is an epidemic of "buyer's remorse" by print publishers who typically agreed to a 50/50 split with authors of revenues from licenses of subsidiary rights, but who are now ignoring those contracts or seeking to renegotiate them now that e-book rights are becoming more valuable;

WHEREAS, the NWU Grievance and Contract Division (GCD) and Book Division have received reports from NWU members who have had e-book editions of their books "licensed" by their print publishers without their knowledge or consent, who have been paid only the "book sale" royalty percentage for e-book licensing rather than the higher "subsidiary rights" percentage applicable to e-books under their existing contracts, or who have been asked to sign amendments to their contracts and/or new contracts reducing their share of e-book revenues from 50% or more to 25% or less;

WHEREAS, opaque, confusing, delayed, and incomplete reporting by publishers to authors of sales and revenues -- for example, royalty statements that do not separate e-book revenues from sales of hardcopy books -- makes it difficult or impossible for many authors to know that they have been paid less than they are entitled under their contracts;

WHEREAS, an "e-book" is not a book; end-user license agreements for e-books make clear that an e-book license is not a sale of a book; and neither authors nor print publishers intended that provisions for "book sales" in existing contracts would authorize or apply to e-book licensing;

WHEREAS, the similarity among the contract interpretations, proposed contract amendments, and proposed terms of new book publication contracts for a remarkable variety of print publishers raises substantial question of possible publisher collusion against authors; and

WHEREAS, these improper actions and demands by publishers have continued and grown even more common in spite of the NWU's analysis and advice offered to NWU members and other authors in ""E-Book Contract Amendments: An Overview from the National Writers Union" (2010), available at <http://www.nwubook.org/ebook-contract-amendment.pdf>;

Now, therefore, be it RESOLVED by the June 2011 NWU Delegate Assembly:

1. That the NWU Book Division and GCD, in conjunction with national officers and chapters, will undertake activities to make NWU members aware of their electronic rights; to educate writers, policy-makers, enforcement bodies, and the reading and e-book buying public about attacks on authors' rights; and to advocate to enable authors to defend their rights under existing contracts and their moral right to a fair share under future contracts of the revenues for licensing of their writing in e-book format.

2. An official position of the NWU on e-book rights and royalties will be developed by a joint committee of the Book Division and the GCD within six months from the time of the Delegates Assembly or by the end of 2011 and presented to the Delegates for adoption.

FISCAL IMPACT: Research is needed of (1) NWU members and (2) a variety of publishers, which would require the services of the GCD Coordinator up to \$2,500.

RESPONSIBLE PARTIES: NWU Book Division and GCD.

RESOURCES NEEDED: A portion of the GCD budget which has already been allocated.

CONTACT PEOPLE FOR THIS PROPOSED RESOLUTION: Susan E. Davis (sednyc@earthlink.net), Book Division Co-Chair and Natl. Contract Advisor; Edward Hasbrouck (edward@hasbrouck.org, 415-824-0214), Book Division Co-Chair; and Paul MacArthur (nwujwriter@yahoo.com), Asst.Natl. Contract Advisor and V.P., External Organizing.

SPONSORS OF THIS PROPOSED RESOLUTION: NWU Book Division and GCD