



protecting  
and promoting  
authors' rights

ALCS

Changing Business, Changing Contracts:  
The Global Fair Contract Initiative for Authors  
The situation for authors in the UK in 2016

Presented by:

Nicola Solomon, Chief Executive, Society of Authors

Friday, June 17, 2016

2:00pm 3:00pm



# The SoA

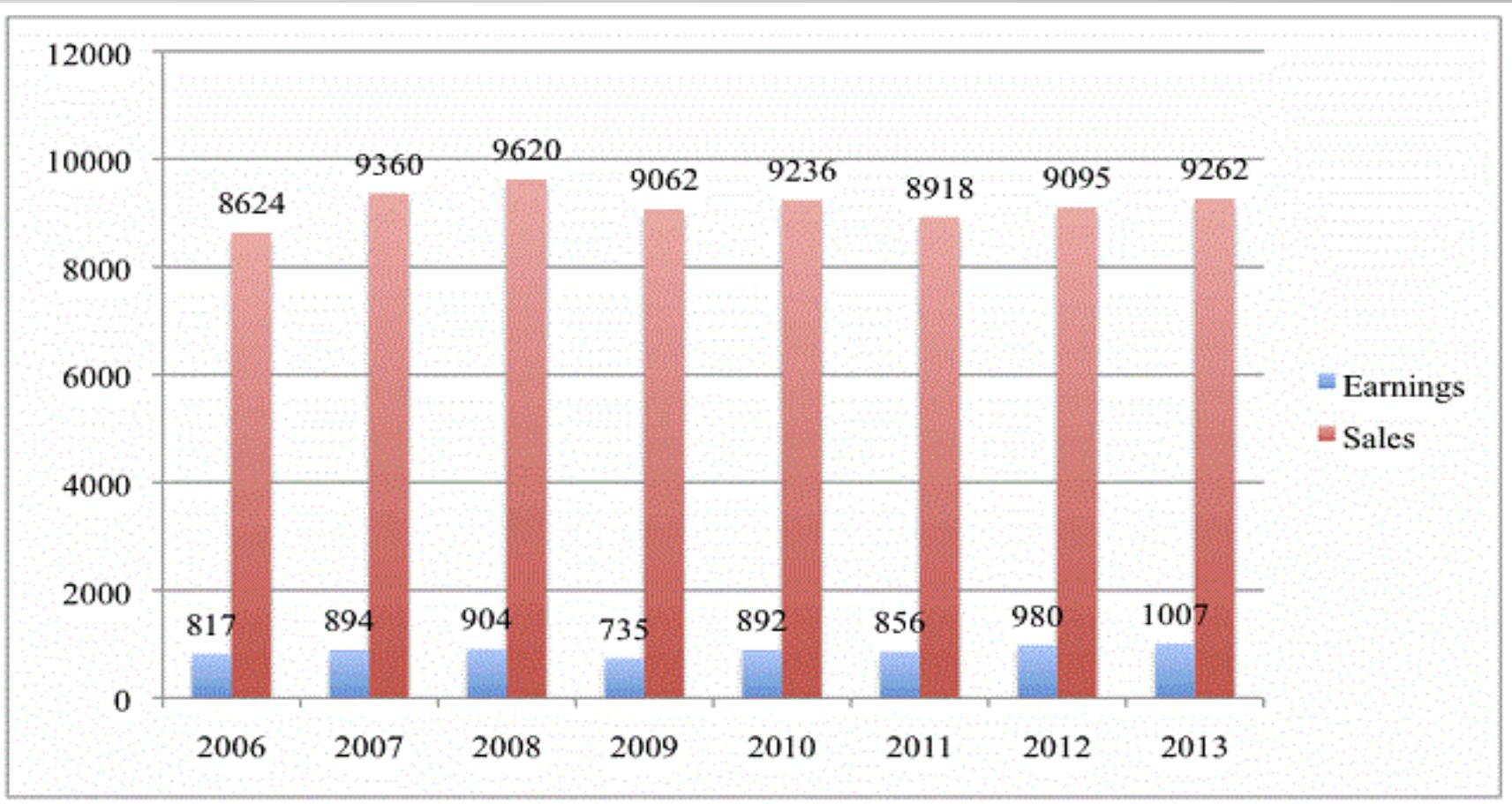
- The SoA protects the rights and furthers the interests of all types of writers
- A membership organisation representing over 9,500 professional writers from all sectors and genres

*I #NeedTheSoA cos I'm new to this. And scared. And confused. And u put your arm around me and said everything will be fine.*

@callaghansstuff

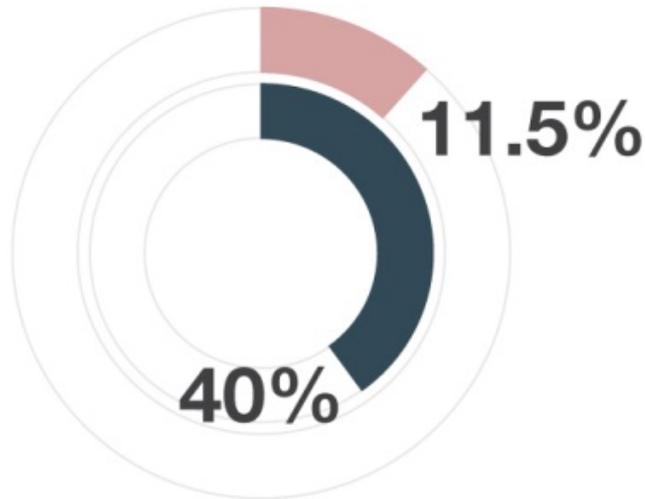
# Publishers' earnings

## The World Picture



Data source Publishers Lunch. Figures on the chart are in U.S. dollars.

# The professional author



## Earning a living solely from writing



**2005** - 40% of professional authors earned their income solely from writing

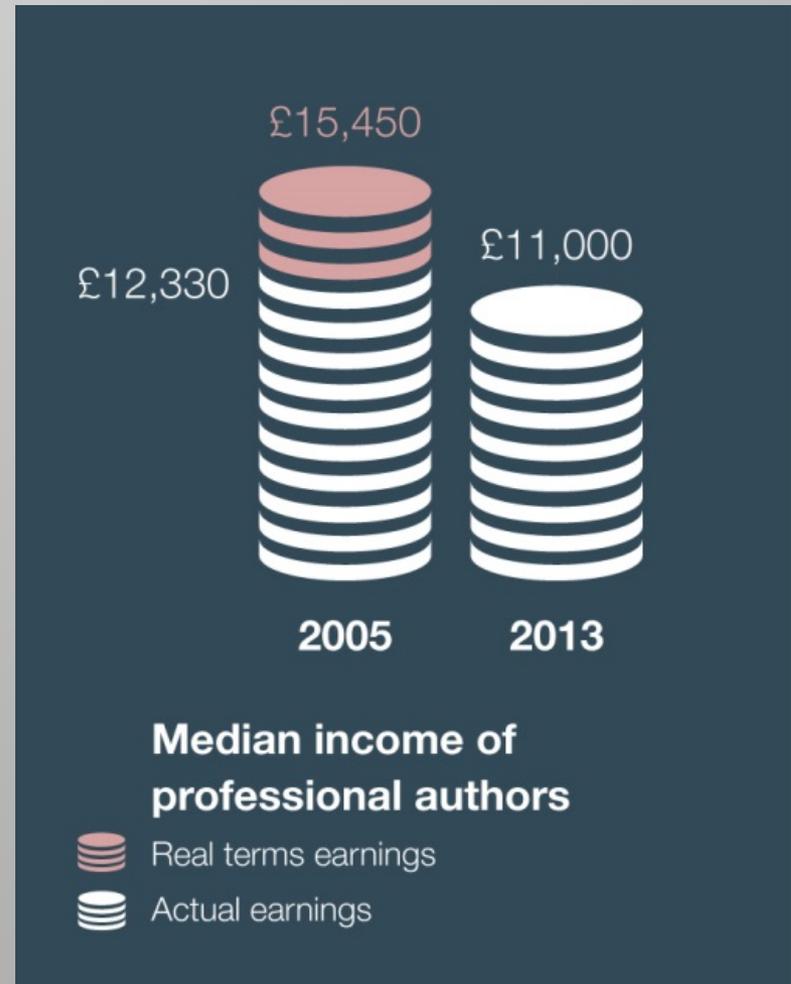


**2013** - 11.5% of professional authors earn their income solely from writing

- In 2005 40% of authors earned their income solely from writing
- By 2013 this had dropped to just 11.5%

# The professional author

- The typical (median) incomes of professional authors have dropped from £12,300 (\$18,382) per annum to £11,000 (\$16,440)
- This is a drop in real terms of 29% since 2005



# The professional author

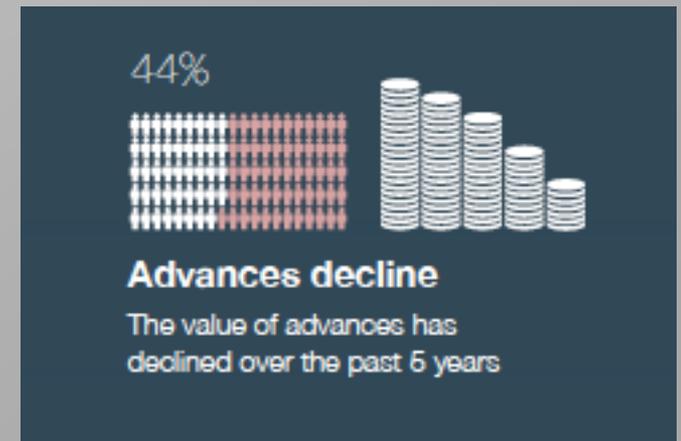
- Figures indicate that single people living in the UK need to earn at least £16,860 (\$25,200) to achieve a Minimum Income Standard (MIS) of living
- The typical professional author falls way below that standard



# Advances

Advances are in decline across the board

- 2/3rds of all respondents had received an advance at some point in their career
- The number of authors receiving advances has been in decline since 2006
- The size of advances is falling with 44% stating the value of their advances had declined Over the past 5 years

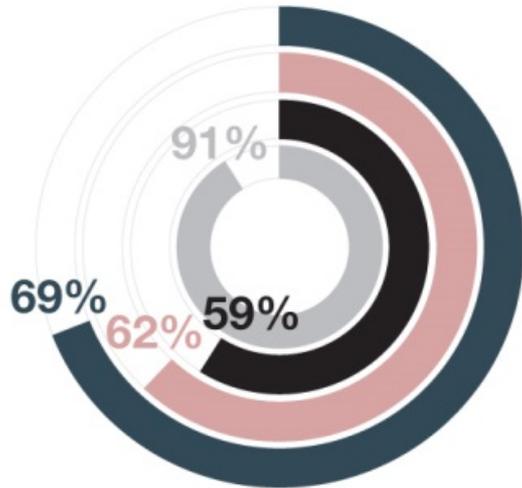


# Buy-out contracts



- 46% of authors have signed a buy-out contract at some point in their careers
- 30% of authors had seen an increase in such contracts over the past 5 years

# Contracts and rights



## Writers retaining copyright

% of writers who retain copyright  
'most of the time'



- Retaining copyright puts authors in a much stronger position in terms of negotiating where and how their works can be used
- The best contracts *clearly* set out which rights authors are retaining or transferring

Unlike France, in the UK writers have no protection from unfair contract terms. The law assumes equality of bargaining power.

# It pays to read the small print

- **57%** of respondents had signed contracts that included a 'rights reversion clause'
- Of these, 38% had used or relied on the reversion clause and of whom **70%** went on to earn more money for that work

# EU Study: Contractual arrangements applicable to creators: Law and practice of selected Member States

## EU Policy Department 2014

- The UK is lacking the legal frameworks which protect creators in other EU countries.
- EU creators are often subject to onerous contracts and do not receive a fair share of the reward for their creativity.

*"European authors are in a difficult position .... This patchwork of national provisions also prejudices exploiters of copyright works due to the uncertainties they face in an industry that is becoming more and more global.*

- *The legal provisions in most Member States pay very little attention to the remuneration of the author;*
- *The weaker position of the author in the enforcement of the protective legal provisions is largely ignored;*
- *Once agreed upon, contracts govern a dynamic and evolving situation usually without any adaptive or corrective measures included;*
- *The obligation of an explicit determination of the scope of transfer of rights proves inefficient in preventing an all-encompassing, and time-unlimited, assignment."*

[http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/juri/dv/contractualarrangements/contractualarrangements\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/juri/dv/contractualarrangements/contractualarrangements_en.pdf)

# CREATOR:

- C - Clarity, clear written contracts which set out the exact scope of the rights granted.
- R - fair Remuneration. Equitable and unwaivable remuneration for all forms of exploitation, to include bestseller clauses so if a work does far better than expected the creator shares in its success even if copyright was assigned.
- E - an obligation of Exploitation for each mode of exploitation. Also known as the 'use it or lose it' Clause.
- A - fair, understandable detailed Accounting.
- T - Term. Reasonable and limited contract terms and regular reviews to take into account new forms of exploitation.
- O - Ownership. Authors, including illustrators and translators, should be appropriately credited for all uses of their work and moral rights should be unwaivable.
- R - All other clauses be subject to a general test of Reasonableness:
  - including a list of defined clauses which are automatically deemed to be void and a general safeguarding provision that any contract provision which, contrary to the requirement of good faith, causes a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the author shall be regarded as unfair.

# Working together

- Agreeing Best Practice through the International Authors Forum- the ten principles
- Media and Public information and support- January 2016 campaign
- Negotiations with Publishers: individual and collective
- Lobbying for legislative change: at National, EU, WIPO level
- Education: ensuring authors understand the terms in their contracts

# 2016 Campaigns

- Festival Fees and terms (Clarity and Remuneration):
  - Public campaign: *For too long, authors have been persuaded to give our services to the public for free – even though the public is paying in good faith to see us. We are the only people at festivals who are not paid, and yet without us the festivals could not exist. Writing is a vocation but it is also a profession, and it is time we all stiffened our spines, dug in our heels and said no* Amanda Craig
  - Meeting Festivals
  - Minimum Practice Guidelines



# Exposing “Exposure”

exposure

ɪkˈspəʊʒə, ɛk-/

*noun*

noun: exposure

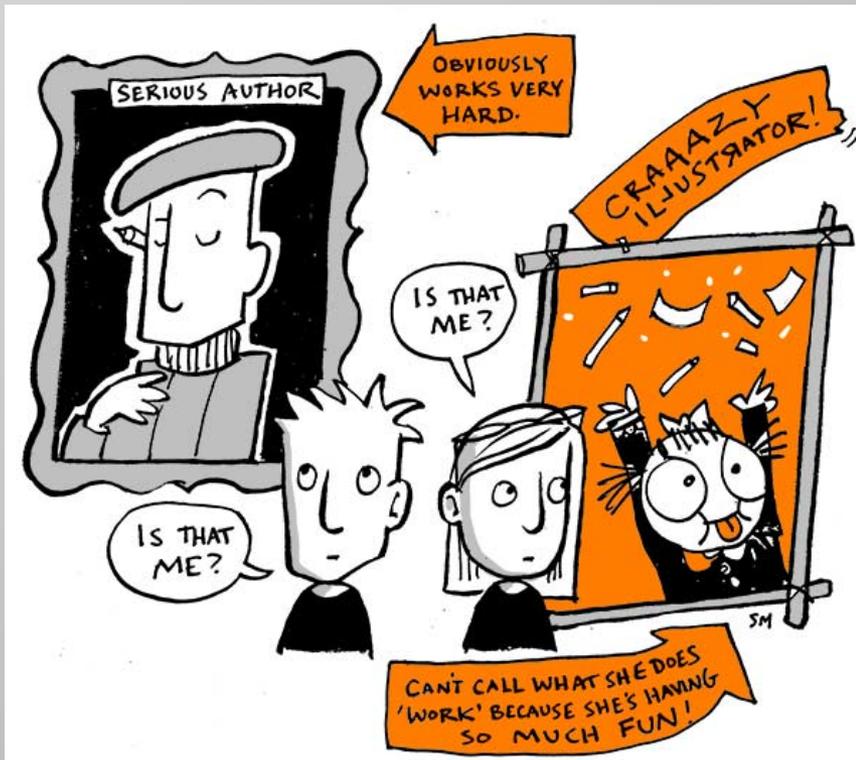
- the state of having no protection from something harmful.
- a physical condition resulting from being left outside in the cold without adequate protection.
- the action of placing oneself at risk of financial losses, .
- the revelation of something secret, especially something embarrassing or damaging.

# Credits (“Ownership”)

- Name the Translator
- Pictures Mean Business



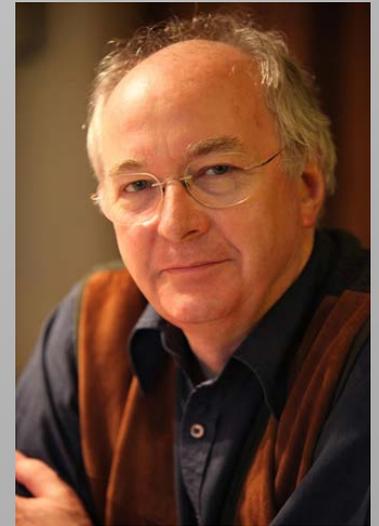
Haruki Marukami  
(Jay Rubin)



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# Summary

*“New media and new forms of buying and lending are all very interesting, for all kinds of reasons, but one principle remains unchanged: authors must be paid fairly for their work. Any arrangement that doesn't acknowledge that principle is a bad one, and needs to be changed. That is our whole argument.”*



Philip Pullman: President of the SoA

*@Soc\_of\_Authors because your advice has unstuck me often & your support in campaigns has been outstanding & you're a force for good!!*

Susie M @wrathofgod