

# Contracts Made Simple

## *Unit 1: Riches in those Rising Royalties*

*All clauses in a contract are negotiable, though some more than others of course. Publishers expect professional writers and illustrators to make changes to the contract. Like the old adage goes, if you don't stand up for yourself, will they really respect you in the morning...?*

### **Michael Barker**

Journalist Michael Barker has managed to make articles on theoretical Bolivian biochemistry interesting, so contracts and money are easy topics.

The Australian Society of Authors, Copyright Council, publishers, rights managers, authors and even agents - where hasn't he sourced this information from?!

So first I've got to warn you, I am NOT a lawyer. I gathered this information from interviews with 3 agents, 5 publishers, 20 published authors, 2 lawyers specializing in book contracts and I also researched over 40 websites. My job is to make contracts understandable. This is what I've learnt:

- Before a contract is signed is the moment of most power. Use it.
- Negotiating contracts is NOT A FIGHT. This is part of the business of writing. If you want respect (and more money), either get an agent or learn to negotiate.

So, let's get straight to the top money topic...

### **Royalties: The Clause**

***The publisher shall pay to the Author 10% of Recommended Retail Price (RRP) on all full price copies.***

This is a standard contract clause, especially with Trade publishers. Trade publishers are the high profile, high prestige publishers we all see in the bookshops such as Penguin, Scholastic, Allen and Unwin, Pan Macmillan, HarperCollins, Random, etc.

In Trade publishing the book royalties generally start around 10%. (Although sometimes publishers offer new writers 7.5%.) The Australian Society of Authors (ASA) suggests this as a rough guide to rising royalties:-

- 10% for first 3,500 books. (Or first print run)
- 12.5% for 3,500 - 5,000. (Or next reprint)
- 15% above 5,000. (You'd probably have to be John Marsden to get it, but ask anyway.) Definitely ask for 15% on any copies sold over 15,000.

So why does the royalty rate go up? It's called rising royalties (or escalating royalties) and here's why you should ask for them.

## Profits on Print Run Two

When a publisher first produces a book, there are large costs. They take a gamble on your talent and their love of the book and they back that gamble with money. To get a book on the shelf, they have to pay in advance the following people:

- Editor (to liaise with the author, edit the manuscript and project manage the whole book)
- Line editor (usually a freelancer who does the spelling and grammar edit)
- Proof reader
- Publicist
- Designer (to lay out the pages)
- Cover artist (to create the front cover)
- Printer
- Sales reps.

The first print run of a book in Australia (unless you are a mega star) is generally between 2,000 - 6,000 copies.

However, if a book sells out the first print run, then many of the above costs are already covered. For instance, publishers don't have to pay the designer, the cover artist or the people to edit any more. They just press the reprint button, pay the printer and the sales reps and the next batch of books arrive.

So publishers make more profit on the second print run and the author should share in that profit. That's why rising royalties are fair.

## Big Warning: NET vs RRP

An author is generally paid on Recommended Retail Price (RRP). This is the price the book is sold in the shops. For instance if your book costs \$20 and you have a 10% royalty then you get \$2 per book sold.

However, some publishers may offer to pay on NET - the price they actually receive for the book. NET is about half of RRP and not what you want to accept. Think of it as the wholesale price. Publishers sell a book to a shop and give them a 40% discount - which of course is what the book shop owner needs to pay their own costs and make a profit. So your \$20 book would be sold at NET price to the bookshop for \$12 and that is what the royalty would be paid on. Meaning you get only \$1.20. Beware of NET. There are better ball games in town.

## Educational Publishers vs. Trade Publishers

If Trade publishers are the ones we see in the bookshops, Educational publishers are the ones which sell directly to schools. (Some Educational publishers are Rigby, Nelson, Pearson, Macmillan Education, etc.). NET is more common in offers from Educational publishing. Often these publishers are locked into series and overseas deals with big USA or Asian publishers. There are some benefits in these deals even if NET is paid. Because a book is part of a series and these series are sold internationally, often more books are sold. They also tend to stay in print longer too. Weigh up the potential for profit and make your decision with this in mind.

## Standard Author/Illustrator Splits

- If you are creating a picture book, the royalties are generally split 50/50.
- In chapter books, sometimes the illustrator is paid royalties or sometimes they are paid a flat fee. So watch out for this and negotiate accordingly.

## ACTION ACTIVITY

Go down to your local weekend market about half an hour before closing time. Time to practice negotiating. Pick a box of fruit/vegetables/ fish - whatever you would like to take home. Now start haggling. Here are some negotiating points.

- Act reluctant. You don't REALLY need the fruit.
- You are buying a box, so should get a bulk discount.
- It is the last of the fruit, therefore it's been picked over by others.
- You're doing the seller a favour, less for them to pack up.
- They close in half an hour, it will all go off before the next market.

***The boring legal disclaimer. I am not a lawyer, though (as you can tell) I have been talking to a lot of them. Anything in this tutorial is by way of general advice only. For professional legal advice, please see your own lawyer or agent.***