



Explaining usage based pricing to clients

When it comes to pricing commercial photography services there are basically two options available. The old method is a *time* based pricing system, where photographers charge an hourly rate for their services - like a builder, mechanic or dentist. The newer method is a *usage* based payment model, where photographers (who retain copyright) charge a fee that takes into account how their photos will be used by the client. Personally, I prefer usage based pricing, because it's a more flexible system that gives a fairer representation of the true value of photographic services.

However, for many photographers (myself included), explaining the usage pricing model to clients can be quite challenging – particularly if you encounter a client who says, ‘Why can’t I just pay you once for your time and use the photos for whatever I like?’ I find the best way to respond to this kind of query is to clearly explain the distinction between a photo as an individual object (e.g. a framed print that might hang on the wall at the client’s office) and the *reproduction rights* for that photo (i.e. permission to make thousands of copies of an image in order to effectively promote the client’s product or service). These are two entirely different photographic ‘products’ (for want of a better word), and unfortunately commercial clients often fail to see the true value of the latter. It’s our job to correct this misconception.

In my experience I've found that the best way to explain the difference in value between a photo and the *reproductions rights* for a photo is by switching sides and using the client's own business to illustrate my point. For example, here's an excerpt from an email I recently sent a Yoga instructor who was struggling to comprehend why I wasn't simply charging her ‘by the hour’:

You may be wondering why my photography pricing fluctuates depending on your usage requirements...

Let's say I decide to book a two hour one-on-one Yoga session with you. According to your website that would cost me \$200 – which seems like a fair and reasonable price.

But what would you charge me if I wanted to book a two hour one-on-one Yoga session with you and film it for my business that creates instructional fitness videos? I'm then going to take that video footage and produce 50,000 DVDs that I plan to sell for \$20 each. I'm also going to put the video up on my website for 5 years so anyone with an internet connection can download it for \$12.

Would you still charge me \$200 for this two hour one-on-one Yoga session? Would that be a fair price given that I intend to use your expertise and experience to generate hundreds of thousands of dollars in revenue for my instructional fitness video business?

As you can see, when we're dealing with reproduction rights the time based payment model doesn't give a fair representation of value. That's why photographers, musicians, illustrators, models, actors, film directors and many other creators have adopted a usage based payment model that takes into account how their work is actually used by businesses, rather than just how long it takes for the work to be produced.

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<http://www.copyright4clients.co.nz>

Welcome to Copyright 4 Clients

The Advertising and Illustrative Photographers Association is a not-for-profit incorporated society with more than 240 members working in commercial photography around New Zealand. Founded in 1978 our aim is to promote excellence in photography and the on-going development of professional industry standards, both by photographers and users of photography. **Visit the AIPA site at www.aipa.org.nz** Many of our members work with advertising agencies and design companies who are used to licensing photography. But many businesses hire freelance photographers direct and may be unsure what to expect from working with a photographer. This basic guide assists potential clients to understand photographic practice and copyright.

Why use a professional photographer?

As cameras grow in digital sophistication it is becoming easier for everyone to get pleasing results for apparently little cost. However, using an amateur to take an important picture can be a false economy. The impact a professionally taken image has on a client's market is far stronger than that of a quickly grabbed snap from a digital camera. Professional photography will sell your product or your company, amateur photography will not.

Photographers are not just technicians. A professional understands how to capture images that are right for a client's business and convey the message required. Their experience enables them to obtain successful results in any situation. It is as important for the photographer as it is you that the images are right for your business and convey the message you require. As a proportion of your media/print budget, the cost of getting the original imagery as good as it can be is tiny.

How do you find the right photographer?

Not every professional photographer can do every type of photography. A photographer who takes family portraits and weddings is not necessarily the one to shoot a picture of your Board of Directors. A quick and easy way to find a photographer to suit your needs is to use the search function at

www.aipa.org.nz Professional photographers nearly all have websites where you can see their style and areas of expertise before you contact them. Their website is an ideal first stop but every experienced photographer will have a portfolio to demonstrate their work, this is their main representation and shows their skills and experience in a proven package. We strongly suggest you ask the photographer to bring in their portfolio so you can see the quality of the images in an enlarged form as well as meeting them. A good relationship with the photographer is very important for both you and your business.

How do photographers charge?

There are no set rates in commercial photography. The type of assignment and specialisation will generally dictate the fee - photographers will also take into account a number of other factors to determine the cost including:

- Where the work is to be used - e.g. on packaging, annual reports, billboards, national press, website
- The length of time the work is to be used by you
- The territory or territories in which the work is to be used

If you have a tight budget discuss this with the photographer who can advise if it is realistic and what you can expect for your proposed budget. Be aware that if other professionals are needed (i.e. models, stylists, set builders, etc) these will be charged on top of the photographer's fee, as will film and processing or digital capture. The photographer will estimate these extra costs for you. There is a misconception that if the images are shot digitally, rather than on film, that this is a cheaper way of producing images. This is not true. In order to produce high quality digital images a lot of time and skill is necessary after the shoot, in preparing the images for presentation to the client and ultimately for reproduction. In addition, a professional photographer has to invest heavily in good equipment. This equipment needs to be replaced/upgraded frequently to ensure it meets the standards required to produce professional results.

Who owns the copyright in the images?

In the same way that musicians control who can reproduce their music, professional photographers retain copyright in order to control who can reproduce their images. Shops, hairdressers and pubs all need licences to play music - professional photographers, like musicians, keep ownership of their work and issue licences to enable people to reproduce their images. This is why it is important that you discuss your requirements and fully brief your photographer, including details about where and how you would like to use the images. The photographer will give you a licence that will reflect the agreed media - i.e. on a website, in a brochure etc, the time period and territories.

Why don't I get the right to use the images wherever I want?

It is rare for a client to insist on unlimited use of the images created by the photographer, as this can be a costly affair. The price of the job includes the agreed media – an unrestricted licence would include every possible media

including billboards, videos, TV, CD's, t-shirts, etc - worldwide for the term of copyright, which is 50 years after the photographer dies. If professional models are needed for the shoot their charges also reflect the use to which the image is to be used. The price for this type of licence would be enormous and you would be paying for use you do not need. This is like buying a car to make one journey when you could have hired a car at a fraction of the cost.

What if I want to use it for things I don't have a licence for?

Should the licensed work exceed your expectations and you wish to extend the use of the images then you can easily negotiate this with the photographer. All professional photographers will negotiate extra use.

If I've paid for the film, processing or digital files why can't I keep all the work?

if you buy a copy of a book, computer software or a CD, making that purchase doesn't give you the rights to make copies of it or broadcast to the public. That right remains with the copyright owner. There is a difference between the medium (e.g. transparency/negative/digital file) and the content (the image) but one is of no use without the other. If you were to claim ownership to the negative this doesn't mean you own its content. The image on the film (or digital equivalent) is the copyright of the photographer and without a licence it would be illegal to reproduce it. If you need further reproductions they can be done by your photographer in a professional manner and to a high standard.



Thanks to the Association of Photographers (UK) the original creators of Copyright 4 Clients - www.copyright4clients.com

Copyright Guidelines for Publishers and Editors

- 1.** Remember, copyright is the cornerstone of a creative society, the only means by which those who create original material can continue to benefit from the full value of their work.
- 2.** Never seek to buy ownership of copyright from non-staff contributors. This is bad practice.
- 3.** It is good practice for a contributor to retain copyright and sell licenses for the use of his or her material.
- 4.** Always be clear about which rights you are buying, bearing in mind the needs of your organisation and the fact that most contributors will want to strike a deal provided the terms are right.

5. Be prepared to negotiate extra payments for extra rights, beyond basic first use of the material (see below).
6. Allow for the fact that not all contributors may want you to syndicate their material for them. Some can strike better deals on their own.
7. Wherever possible, put the terms you have agreed in writing so as to minimise confusion and avoid disputes.

Extra Uses

Contributors license you to use their work, for which they are paid a fee. Extra uses of their work, for which extra fees are paid, include:

- storage in a publicly accessible archive or database
- publication on a CD-ROM
- re-publication by the company in print
- re-publication on a directly connected website
- publication on another website
- syndication, either through spot sales or through subscribers



Thanks to the National Union of Journalists (UK) the original creators of these guidelines - www.nuj.org.uk

Links

Advertising and Illustrative Photographers Association

An extremely useful resource for all photographers and users of photography.

Ministry of Economic Development Responsible for Intellectual Property (Copyright, Designs, Patents and Trade Marks) in New Zealand

Copyright Council of New Zealand

World Intellectual Property Organisation



New Zealand Photographic Additional Usage Guidelines

TERRITORY	1ST YEAR	2ND YEAR	3RD YEAR	4TH YEAR	5TH YEAR
New Zealand	BUR	100% of 1st year	75%	50%	25 - 50%
Single Additional Country	150 - 300%	150 - 300%	100 - 200%	50 - 100%	50 - 100%
e.g. Australia	150%	150%	100%	50%	50%
e.g. China	300%	300%	200%	100%	100%
Pacific (Australia, NZ, & Pacific Islands)	200%	200%	175%	100%	100%
Single Continent/Territory (North America, Europe, Asia, etc)	300%	300%	200%	125%	100%
Worldwide	500%	500%	400%	250%	250%

NOTES

Base Usage Rate (BUR) refers to the creative fee or photographic fee negotiated for the shoot. This fee takes into consideration how the work was initially licensed (i.e. for use in certain specified media). The guidelines above assume that the licensed purpose remains the same for the additional usage.

If the client intends to re-use the work for purposes over and above those specified in the initial license the percentage multiplier should be increased accordingly. Likewise, if the purposes required for the additional usage were to diminish the percentage multiplier may need to be reduced to reflect this change. These guidelines apply to New Zealand clients hiring New Zealand based photographers.