

# mikeash.com: just this guy, you know?

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## I Do Not Agree To Your Terms

by [Mike Ash](#)

Apple introduced their News app at WWDC, and the other day they sent me an e-mail saying they want to include this blog in News.

The e-mail begins:

Dear Publisher,

We are excited to introduce News, an all-new app for iPhone and iPad coming with iOS 9. News delivers stories from the best sources, beautifully designed, and selected just for you.

We believe your RSS feeds feature great content, and we think Apple customers will agree. We are offering our many millions of users the opportunity to discover NSBlog by including your RSS feeds in News:

- <https://www.mikeash.com/pyblog/rss.py>

So far, so good. I assume they're sending this out to about a million people so it's probably no special honor to be chosen, but it's still nice of them to get in touch.

But, of course, the lawyers have to get involved. The e-mail continues:

When your RSS content is included in News, here are the terms that will apply:

- You agree to let us use, display, store, and reproduce the content in your RSS feeds including placing advertising next to or near your content without compensation to you. Don't worry, we will not put advertising inside your content without your permission.
- You confirm that you have all necessary rights to publish your RSS content, and allow Apple to use it for News as we set forth here. You will be responsible for any payments that might be due to any contributors or other third parties for the creation and use of your RSS content.
- If we receive a legal claim about your RSS content, we will tell you so that you can resolve the issue, including indemnifying Apple if Apple is included in the claim.
- You can remove your RSS feed whenever you want by opting out or changing your settings in News Publisher.

I don't know about that. It's probably within Apple's rights to put advertising next to my content, but I don't really want them to. I *definitely* don't want to indemnify Apple. Oh well, I guess I'll just ignore this e-mail.

But wait, there's more!

**If you do not want Apple to include your RSS feeds in News, reply NO to this email and we will remove your RSS feeds.** [emphasis Apple's]

Let me get this straight, Apple: you send me an e-mail outlining the terms under which you will redistribute my content, and you will just assume that I agree to your terms unless I opt *out*?

This makes typical clickwrap EULA nonsense look downright reasonable by comparison. You're going to consider me bound to terms you just declared to me in an e-mail as long as I *don't* respond? That's completely crazy. You don't even know if I received the e-mail!

I'm conflicted about this. On one hand, the whole reason I have an RSS feed for this blog is to make it easy to access it in a variety of ways. The RSS feed exists precisely so it can be used by programs like this, which take the content and display it to the user. I don't like the idea of showing ads next to my content in this situation, but I'm pretty sure I have no right to control that. If I didn't want people taking my blog and putting it in an app and showing it to people that way, I wouldn't have a feed.

On the other hand, Apple isn't just taking my feed and displaying it. They're shoving terms and conditions at me, and unilaterally assuming that I agree to them unless I take explicit steps to respond and say that I don't.

What to do about it? I could just reply **NO** like it says and be done with it. It would be a lot faster than writing this rambling blog post. But I don't actually want to withdraw from Apple News. I bet there's at least one of you

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[mike@mikeash.com](mailto:mike@mikeash.com)

E-mail me

who wants to read this blog in that app, and I wouldn't want to get in your way.

Instead, I wrote this post in order to accomplish two things.

First, I want everybody to know about the ridiculous stunt Apple is trying to pull here. I'd have been perfectly happy if they had just sent me an e-mail saying they were going to include my feed, and if I didn't like it I could e-mail to opt out. I'd even be happy if they didn't even give the option to opt out! After all, having an RSS feed in the first place is an implicit opt-in to that sort of thing. But trying to dictate terms on top of that while telling me that I automatically agree to them unless I opt out is unacceptable, even if the terms themselves are relatively benign. They should stop doing this, and telling people about what they're doing is the only way I know that might help to make that happen.

Second, I want to declare directly to Apple: I do not agree to your terms. You are, of course, welcome to use my content in any way already permitted by law. I believe that should suffice for your purposes, but if it doesn't, well, too bad. I have no idea if you'll ever see this declaration, but that's just like yours, so I think it's fair.

That's it. If you just come here for the technical content then I apologize for the rant. I promise to have a nice article for you all about Swift 2's nifty new features on Friday.

Did you enjoy this article? I'm selling a whole book full of them. It's available for iBooks and Kindle, plus a direct download in PDF and ePub format. It's also available in paper for the old-fashioned. [Click here for more information.](#)

Comments:

**Mark T** at 2015-06-15 18:04:11:

Well said, and thanks for making others aware of this. It's frustrating when Apple pulls stuff like this that makes it hard to like/defend them.

**Andrew F** at 2015-06-15 18:32:31:

Thanks, Mike, for drawing a line in the sand regarding idiotic legalese.

Retroactive opt-ins? Sorry. I'm willing to accept some degree of legal arrogance from large companies, but this crosses the line to "taking developers (and members of the community) for granted".

**IANAL** at 2015-06-15 18:34:59:

Sure doesn't look enforceable to me.

There was no "meeting of the minds" and hence no agreement.

**Akrome** at 2015-06-15 19:02:44:

IANAL, you are taking for granted one specific implementation of an agreement (I assume the U.S. one?). It's likely that the same mail has been bulk sent to content creators around the world, which may have different definitions and rules commas they can use to sneak their way through.

**Jay Tamboli** at 2015-06-15 19:29:41:

Have you filed this as a radar? ;-)

**Kevin Ballard** at 2015-06-15 19:37:12:

This is pretty weird. But upon re-reading it, it seems like the Terms they're saying applies doesn't actually really legally bind you to anything. It's not like a normal EULA where you're being granted a license. They're saying that these are the terms under which they (Apple) will operate, and if you aren't comfortable with them, you can opt-out. As you already said, you think it's within Apple's rights to display advertising next to your content (since you're publishing it as an RSS feed and therefore ceding control over the display). The only other term that looks a bit odd is the "indemnifying Apple" one, But it doesn't look like they're actually saying you need to indemnify Apple immediately against any future claims. Instead they're saying that if they *do* get a legal claim about your content, they'll forward it to you for resolution, and that if Apple is included in the claim they'll expect you to indemnify Apple at that time. But as you already pointed out, by making this opt-out, they can't possibly legally bind you to these terms. Presumably if you violate these terms they'll simply remove your RSS from News at that time (e.g. if you receive a legal claim that includes Apple and you refuse to indemnify Apple).

So, given all that, it's still a weird email. And I'm glad you posted this. They need to be called out when they doing weird things like this. But reading past the bad delivery, if I've interpreted this correctly they're not actually doing anything wrong, you just did a really bad job of explaining it. If I were you I'd leave it with this blog post and not worry about the terms; you're unlikely to ever get a legal claim against you, and if you do, well, you can decide at that time if it makes sense to indemnify Apple or if you'd rather have your RSS pulled.

**Walt French** at 2015-06-15 19:42:28:

Curious what terms sites like Google News, Google Search, Techmeme, etc offer before showing your page or links to it.

**Valeriy Van** at 2015-06-15 19:47:03:

Brilliant! Will be funny if this post will appear at News app.

**Anon** at 2015-06-15 19:59:23:

Classic apple unfortunately. For a company which claims to care about empathy, this kind of negotiating suggests a lack of internal alignment with their own stated aims.

A few years ago they reached out to me to hire my team, I was thrilled. Then their lawyers got involved. For consulting services they wanted me to sign a 10 page contract which is the same one they give factories—much of it was inappropriate to our engagement.

They wanted me to buy liability insurance worth 30% of their surprisingly low budget while also fully indemnifying Apple. Could I really be trusted to represent their interests if I threw all willingness to steward my own away because it's Apple on the phone? So I spent \$3k on a lawyer who made minor contract revisions (to mutually protect Apple and me) He and I followed up multiple times. Years later, Apple has yet to respond.

**Juan Pedro Fisanotti** at 2015-06-15 20:30:57:

Something quite similar (but worse) is done by some credit cards in Argentina. They send you a letter (real life, paper one) with a credit card on it. If you don't go to the bank to reject it, then they assume you have accepted it. One year later, they start demanding you to pay maintenance, and threaten you with legal actions if you don't. They even denounce you to entities who track good and bad "payers" (think of a system like a credit score index).

I spent months fighting until they finally canceled their demands and removed me from that bad payers index.

**Stepan Hruđa** at 2015-06-15 20:45:44:

It's almost a marketing email, maybe primarily to raise awareness about their service, rather than trying to enter any agreements with you. I don't think they need any of your permissions.

Your RSS feed is out there and anyone can pull articles from it. Apple built a crawler to go through publicly available feeds and allow users to subscribe to feeds, displaying the content in their app. You're not mad at Google because your blog shows up in their search engine results. With advertisements on the side. And they didn't even send you an email to ask if it's okay!

**Bernard** at 2015-06-15 20:49:36:

Making money by displaying ads next to other people's content without compensating them is a bit cheap, even for Apple.

I mean why would they want to show people ads next to their news in the first place? I thought Apple was all about elegant design and the great user experience, how does that go with ads?

Can you pay to get rid of the ads? Also without compensation for the creator of the content?

Would you, at least, find out how many people read your feed, and when?

**mikeash** at 2015-06-15 20:52:08:

**Stepan Hruđa:** The first two words of their terms are "you agree." How can you say they're not trying to enter any agreement with me? I agree they don't need my permission. I said so explicitly in the article. Which makes it all the more strange that they're sending me terms and expecting me to implicitly agree with them. I'm not mad at Google because they never tried to dictate terms, they just took what I offered as it is.

**Engineer** at 2015-06-15 20:55:46:

You agreed to their "terms" by making an RSS Feed publicly available.... they're merely making it clear what those terms mean. They're making it explicit in case you don't actually agree.

They aren't creating an agreement, an agreement already exists between you and the rest of the world where you are basically publishing an RSS Feed for people to read and aggregate. They're telling you what they're doing under that agreement.

**Guillermo** at 2015-06-15 21:00:49:

Just add a disclaimer at the end of the page. "If this content is use somewhere else than a browser the displayer takes full responsibility of any claim, and will share 80% of the direct or indirect profit with the owner of this blog."

**Alex** at 2015-06-15 21:01:53:

I don't see how this can result in a binding legal contract on your part in any legal system, unless you actively send an agreement about their terms.

So I guess that Apple either believes that it is too big to fail in court or their legal department is on their holidays and someone else gave their OK to this.

**Someone** at 2015-06-15 21:24:18:

So ... with their mail, Apple just admitted that they already have infringed your copyright?

**Jens** at 2015-06-15 22:22:38:

Why don't you report Apple to your attorney general, for infringing your copyright and for applying methods similar to those typically used by organized crime?

**Sebastian** at 2015-06-15 22:36:21:

> including placing advertising [...] without compensation to you

While <https://developer.apple.com/news-publisher/> says

"Monetization is made simple with iAd, Apple's advertising platform. Earn 100% of the revenue from ads you sell, and 70% when iAd sells ads for you."

That sounds like they also try to remove the 30% of ad revenue you would get otherwise when using News Publisher to publish your RSS-feed yourself...

**Stepan Hruda** at 2015-06-15 22:59:34:

**Mike Ash** IANAL, but...

in case you didn't immediately stop reading: I can totally see your point. To me, it still feels as a courtesy recapping the current state of things rather than a new agreement – they can already make your RSS content available, you are already responsible for having rights to the content you host.

Search engines are going to index your content unless you specifically opt out. To continue the Google analogy: it's like Google Maps sending you an email saying "you agree to have a picture of your house taken for Street View, if you want it blurred, reply NO"

**Fellow Traveller** at 2015-06-15 23:15:03:

The email from Apple does not constitute an agreement under U.S. Contract law. If that's all it took to create an agreement, you could send your "agreement" to Apple, via email to a random email associated with the company, and declare "by using my RSS feed you agree to pay a fee of USD \$50,000,000 per character. If you disagree, please send an email that says "no...."

**gus** at 2015-06-16 00:16:30:

Dude, some Apple attorney is paid like, \$175,000 a year to create these terms. You don't want to put 'em on the bread line do you? That's like, inhuman and prob. against the terms of service anyway.

**Zak** at 2015-06-16 00:21:22:

That is a great idea, Fellow Traveller. Mike, send an e-mail to random addresses at Apple, telling them that, by receiving the e-mail, they agree to owe you an iPhone, iPad, iWatch and iWhateverelse they sell for every additional mail they will receive. If they do not want that, they will have to opt out from your e-mail service.

Then you send each address that did not opt out a new e-mail every day. And soon, you can open up your own Apple Store. Yay!

**Dan** at 2015-06-16 00:48:07:

Agreed that Apple's approach here is both offensive and unenforceable. The initial concern, that syndication without explicit permission may result in copyright infringement, is somewhat valid. The rel="license" microformat is meant to help clarify this, but I'm guessing not enough people use it to give Apple enough interesting starter content for their News app. (The feed for this site doesn't have one.) It's difficult to say whether the presence of a publicly accessible RSS feed would be considered to be an implicit license to syndicate in a U.S. court. I can imagine an Apple lawyer getting nervous about the grey area.

Does anyone remember if Apple did something similar when launching their podcast directory in iTunes?

**mikeash** at 2015-06-16 01:02:44:

**Sebastian:** Yes, the difference between the e-mail they sent me and that page is weird. My guess is that either the 30% refers to opt-in advertising within my content, or the e-mail's "without compensation" is a CYA thing and they don't intend to invoke that.

**Stepan Hruda:** I wager the intent was a courtesy notification, but unfortunately they wrote it as a crazy EULA-like magic contract. I don't think they are actually claiming anything they don't already get under the law, but the way they word it is awful.

**gus:** If they're only making \$175,000/year in Silicon Valley then they're probably already in the bread line.

**Sabes** at 2015-06-16 01:10:58:

I wonder if Mr. CEO knows about these emails. These are the things that seems like they would piss him off.

**Crystal Hopper** at 2015-06-16 01:25:15:

Since you hold the copyright to your blog content you can license it under a Creative Commons-ish license that prevents people from commercially redistributing <http://creativecommons.org/licenses/by-nc-sa/4.0/>

**mirabilos** at 2015-06-16 08:12:11:

I just put this into my RSS feed:

<copyright>All content Copyright © by The MirOS Project or its respective writers. Permission to reproduce news and vlog entries and other RSS feed content in unmodified form without notice is granted provided they are not used to endorse or promote any products or opinions (other than what was expressed by the author) and without taking them out of context. Written permission from the copyright owner must be obtained for everything else.

Impressum: <https://www.mirbsd.org/imprint.htm></copyright>

(The last one is required by German law, it might not apply to you.) With this, they'd have a hard time doing \*any\* of the things, \*including\* putting advertisements next to my content.

PS: "JavaScript is required to submit comments" on your blog. That's discrimination against Lynx users. Please reconsider. Oh, by the way, I just tried this with Konqueror (same browser engine as Safari), and the "anti-spam measures" do not display, just "Computing hashcash...". So this is kinda... bad. I really have to boot the slow molasses that Mozilla Firefox is, \*then\* add ajax.googleapis out of all things to RequestPolicy's permit list (privacy, what's that?), and even then... does this work now?

**mirabilos** at 2015-06-16 08:17:43:

@Crystal Hopper: not necessary, you can just licence the RSS feed different from the main page (our main page content uses an actual Free licence, which the Restricted Commons ones aren't).

@Stepan Hruza: indexing and linking the content (and possibly reproducing small snippets thereof) is something totally different from not just reproducing the whole content next to advertising, but also requiring indemnification for that. The usual OSS licences require the person who \*takes\* the work to indemnify the \*author\*, they do a whole 180° on that. Loathable.

**Miki** at 2015-06-16 08:34:38:

hey.

I understand your reaction. I am no Facebook Twitter or Google user. I tried once to get a video off YouTube, video where it appeared I was shot without any notice or agreement.

It is impossible.

Internet companies give you no rights other than to agree. I didn't even try to put off stuff where I make some disagreeed appearance on Facebook.

Truth is you're no user of these services therefore you have no rights.

Shame Apple is no different.

**Fred** at 2015-06-16 13:31:15:

might be a stupid thought

but given the fact that one of your future posts includes infringing content, would the (assumed) massive increase of readers via News not lead to a much higher fine in case of conviction? At least cases for copyright infringement are affair often based on the number consumers.

**mikeash** at 2015-06-16 14:59:45:

**mirabilos**: I prioritize combating spammers over supporting browsers like lynx. If you don't like it you are free to not comment.

**Sebastian** at 2015-06-16 15:00:17:

mikeash: ups, I missread <https://developer.apple.com/news-publisher/> - its actually 70% for you and 30% for Apple. Similar to appstore and an acceptable deal imho.

I not understand why they not just linked or included this official terms. This are written by lawyers and contain way more details including how usage-statistics are provided, how to optimize the content/feed, etc.

It looks for me as someone just copy+paste the terms you have to accept when adding your RSS-feed yourself. But that someone also changed the ad-revenue split from 30% for Apple and 70% for you to 0% for you. Now I ask myself who gets the 70% then? I have doubts its Apple since it makes no sense to handle there A-publishers like that and everybody else different. It looks to me like someone else is trying to cash in here.

**mikeash** at 2015-06-16 15:14:12:

On the question of revenue sharing, a definitive answer is here:

[https://developer.apple.com/library/prerelease/ios/documentation/General/Conceptual/News\\_Publishing\\_Guide/FAQ.html#//apple\\_ref/doc/uid/CH15-SW6](https://developer.apple.com/library/prerelease/ios/documentation/General/Conceptual/News_Publishing_Guide/FAQ.html#//apple_ref/doc/uid/CH15-SW6)

You get money from Apple's ads if and only if you use Apple News Format. If you just use RSS, you get nothing.

**Stefan Youngs** at 2015-06-16 15:24:58:

Hey! Apple got you your 15 minutes of fame, so send them a big bunch of roses.

You would be a fool to opt- out of News. It will generate more readers than you could ever get in 5 lifetimes. Screw their legalese, it's just lawyer mambo jumbo all public companies have to load on us in the nanny state.

**Peets** at 2015-06-16 15:26:29:

Hmm, can they actually do that? Given that you produce the content, you set the copyright rules. The fact that Apple sends you an email does not constitute a contract, because that requires TWO people to sign up, so all you need to do is tweak your copyright statement to something that works for you - and you are (as far as I'm aware) not required to brief Apple on changes as long as you don't have a full contract, Apple is required to check your terms before it seeks to use your content or it is breaking the law.

I reckon Apple may wander into very dangerous territory here.

**stroth11** at 2015-06-16 16:22:17:

Here's is the best cultural commentary on the Apple user agreement - South Park's parody of the horror movie Centipede:

<http://southpark.cc.com/full-episodes/s15e01-humancentipad>

**Marc Robinson** at 2015-06-16 17:04:46:

Probably couldn't hurt to end every post with a copyright notice just for the sake of clarity. A lot of sites should do that.

**Chris** at 2015-06-16 17:42:37:

In what developed county would an emailed set of terms like this even be enforceable?

**Undisclosed** at 2015-06-16 17:47:16:

Another example of Apple being an arrogant, stinking pile to any entity that isn't a giant multinational.

If there were an iTunes App Store alternative that would allow one to make a living, I suspect just about every small developer and publisher out there would jump ship in a heartbeat.

**Anonymous** at 2015-06-16 17:47:17:

I am no lawyer, but I am pretty sure that if this went up to court, you are not bound by the "agreement" that Apple has set forth. What they are doing here is unilaterally assuming that you agree to their terms, despite the opposite being true.

The email says: "When your RSS content is included in News, here are the terms that will apply". You never agreed to any terms!

While I am sure that they have the right to create a RSS reader, that shows ads, and you, by creating an RSS feed, is implicitly granting rights to whomever reproducing it in their app to do so, but automatically assuming that you have agreed to their terms is insane. Pretend that these are the terms that they sent you:

You agree that you will:

1. Pay Apple \$1 mil.
2. Never sue Apple for anything.
3. Give up all rights to the content.
4. Become Apple's slave.

Nobody would ever agree, and they shouldn't assume that anybody ever would! A contract is a bilateral, not unilateral, agreement.

All this is to say that if Apple sued you for infringing upon this "agreement", there is no way that they can say that you have agreed to the "agreement".

Also, you should include a copyright notice somewhere, even though you reserve all rights by default. I couldn't hurt.

**Someone** at 2015-06-16 18:43:35:

So, if you never even see their mail, you could be included without your knowing in their service, sued for some of your content as well as Apple, and having to indemnify Apple ? It's so weird it's almost hard to believe.

**J Osborne** at 2015-06-16 18:59:45:

I'll note if this were sent via the USPS (as opposed to email) it would not only be unenforceable, but also mail fraud.

Er, I'll also note that I'm not a lawyer, and what little "training" I had was a pair of high school law classes over 30 years ago. Laws change. High school law classes don't teach the whole of the law (understatement!). Memory fades. Talk to a real lawyer.

**Gary Pomraning** at 2015-06-16 19:49:33:

You need to send them an email stating that they agree to pay you a certain amount per person reading and to respond back if they don't agree.

**Omar** at 2015-06-17 01:17:07:

The only comment here that seems remotely on-topic and valid is Kevin Ballard's. This isn't a legal contract and you're not bound by the terms for anything. Apple wants to include your content and they're telling you up front how they'll do that. The indemnification refers to someone suing you, for example, for libel or plagiarism, etc. Apple is just saying they don't want to be tangled up in your lawsuits, so they want to be indemnified against that type of action. They can't negotiate individual terms with every blog owner in the world, so yeah, this is a bit take-it-or-leave-it, and you make a good point when you ask what if you never received the email. But these seem like pretty simple terms. If you find them offensive, you should decline. Maybe you think Apple should stand as a co-defendant with every blogger in the universe, or that the news app is a charitable service. But neither is true. Whatever you decide to do, it's not worth getting an ulcer over it.

**Michael M. Mayer** at 2015-06-17 03:59:06:

As always, a well reasoned and proportional response. Well done, Mike.

**mikeash** at 2015-06-17 04:16:11:

**Omar:** I did decline. It's right here in the title. I'm not declining in the way they say I'm supposed to, but that's not my problem.

**Dave** at 2015-06-17 08:40:22:

The fact that some people are on here, painfully re-interpreting this kind of BS from Apple is just amazing. A real tribute to their marketing.

Would those same people defend this kind of e-mail from Microsoft, I wonder?

After 20 years as an Apple user, I finally switched away and haven't looked back. It ain't what it was. The company \*or\* the product.

**Someone** at 2015-06-17 08:45:36:

"If you find them offensive, you should decline."

@Omar : You can't decline something you never knew you agreed to by the simple fact that you never read or received their mail. You can't agree to having to refund Apple for a lawsuit entanglement due to them publishing your news without even you knowing about it ( because you never got the email ).

That's not how contracts work, nowhere in the world.

Either this is a huge misunderstanding, or Apple's lawyers did an overdose of LSD before redacting the terms of the "contract"

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