Copyright law will have a disastrous effect on design publishing

https://www.dezeen.com/2015/12/10/uk-copyright-law-2d-images-...
A new copyright law in the UK will "wipe out" design book publishing and cripple design education, according to author and publisher Charlotte Fiell.

Fiell, an editor at London design publisher Laurence King and the author of over 30 design books, has written an open letter to the UK intellectual copyright office to complain about the new law, which will restrict the way that 2D images can be used in publications, image libraries and museums.

“It will have a highly detrimental effect on not only illustrated publishing in this country, a culturally important export business, but also the teaching of design and ultimately the UK's creative industries as a whole,” Fiell wrote in the letter.

It has been signed by key figures from the design scene including London Design Museum director Deyan Sudjic, Kingston University professor Penny Sparke and Royal College of Art professor Jeremy Myerson.
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"As design historians, design writers and design educators, we the undersigned urge the government to reconsider the imminent implementation of this legislation with regards the use of 2D images of designed objects in publications," wrote Fiell, who is one of the world’s most prolific and successful design writers.

New legislation regarding the use of images of “works of artistic craftsmanship” is being introduced next year as part of the Enterprise and Regulatory Reform Act.

The legal reform will extend copyright protection on mass-produced artistic works from 25 years to the length of the author’s life,
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While the main intention of the law is to protect mass-produced products from copycats, it could also mean 2D images of designed objects will be subject to the same copyright rules as 3D copies. This would mean publishers will be forced to pay licensing fees for images of designed objects.

“What we’ve got here is an unintended consequence of probably well-meaning legislation, but it could have a disastrous effect on design teaching and general debates about design too,” Fiell told Dezeen.

“Protecting designers’ rights is all very well, but if it’s going to stymie design history and research and publishing, then it’s not such a good idea,” she added.

The law was originally going to be introduced in April 2020, giving a transitional period of five years for publishers to adapt schedules and plans. However the government now hopes to introduce the law in 2016 after receiving complaints that the five-year period was too long.

“You’re just going to effectively wipe out the illustrated book market,” said Fiell who, together
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“The ultimate effect will be that you have a contraction of publications, and eventually it will hit design education because there will be less research done.”

The law would also apply to publishers’ back catalogues, meaning reprints would require a new round of image licensing to comply.

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Fiell suggested that letting design brands or estates decide whether or not to license images to publications could also be a form of censorship.

“When you’re thinking of
to write and show things, then it’s censorship.”

“There’s a simple fix, which is to have what’s known as a carve-out clause that says yes this governs 2D copies or representations, but not if they’re used in publications or for review purposes,” she added.

According to the consultation document, the government will make no distinction between a 3D or 2D copy.

“It’ll be up to a judge to decide whether it is a work of artistic craftsmanship or not, which could open publishers up to a huge amount of legal costs,” said Fiell.

“The thing that I am concerned about is that design history is a relatively new discipline,” added Fiell. “Designers are a really important topic, and being able to talk about that material of culture, and try and look at the past to learn for the future is hugely important.”

The act is currently undergoing a consultation period, which began in October 2015 and continues until 23 December.

Charlotte and Peter Fiell, described by their own website as “arguably the bestselling design writers


A copy of Fiell’s open letter to the Intellectual Property Office can be read below.

Section 52 consultation, Copyright Directorate, Intellectual Property Office, 4 Abbey Orchard Street, London SW1P 2HT

Repeal of CDPA s 52/Clause 66 of the ERR Bill

Despite concerns having been raised by members of the Faculty of Law at the University of Cambridge as well as by various representatives of the publishing industry that produce design books in early 2013, the IPO and the government decided to press ahead with the repeal of section 52 of the Copyright Designs and Patents Act 1988, with it eventually receiving Royal
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Apropos of the repeal, it is not a question of transitional arrangements being made or extended, but rather the need for a proper “carve out” clause to be added to the legislation. Photographs of designed objects when used in publications – whether in books, magazines or online – should not, it could be
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copies. There is an enormous difference between a photograph of a design being used for review purposes and a knock-off copy of a design manufactured for commercial ends. As it stands the legislation is so lacking in clarity that at the moment photographs of any manmade object could potentially fall under the legislation’s categorisation of being a “2D copy” of a “work of artistic craftsmanship”.

Making photographic representations of designed objects used in publications an exception to the new copyright legislation would appear to be permissible under EU law, as the extent of copyright protection may be determined by each Member State according to Article 17 of the Design Directive and Article 96(2). Given this, it is surely in the best interests of the British government and those they serve to urgently address the concerns raised, as otherwise livelihoods will be threatened both in the UK’s illustrated publishing and design teaching sectors, and ultimately design education in this country will lose its pre-eminence as a result.

Rather than protecting the interests of designers, the
will in the long run erode the standing of designers, as their work is less likely to be promoted and reviewed in publications. Unless a "carve out" clause relating to the use of imagery in books and journals is inserted into the legislation, the repeal will undoubtedly constitute a form of economic censorship that will have devastating consequences for the future of design in this country.

We are grateful for any help you can give in this matter.

Yours faithfully,

Charlotte Fiell (design historian, author and editor)
Peter Fiell (design historian, author and editor)
Prof Jeremy Aynsley (professor of Design History, University of Brighton and chair of the Design History Society)
Dominic Bradbury (design journalist and writer)
Prof Cheryl Buckley (professor of Fashion and Dress History, University of Brighton and editorial chair of the Journal of Design History)
Annette Carruthers (honorary senior lecturer, School of Art History, University of St Andrews and design author)
(fashion historian and liaison tutor at the Royal College of Art)

**Prof Clive Edwards**
(emeritus professor of Design History, Loughborough University)

**Mary Greensted** (design writer and former curator of Cheltenham Art Gallery & Museum)

**Joe Kerr** (head of programme, Critical & Historical Studies, Royal College of Art)

**Perilla Kinchin** (design author, editor and publisher)

**Dr Grace Lees-Maffei**
(reader in Design History, School of Creative Arts, University of Hertfordshire and managing editor of the Journal of Design History)

**Prof Peter Lloyd**
(professor of design, University of Brighton and membership secretary of the Design Research Society)

**Dr Nicolas Maffei** (senior lecturer of Graphics, Norwich University of the Arts and design historian)

**Prof Jeremy Myerson**
(Helen Hamlyn professor of Design, Royal College of Art and former director of the Helen Hamlyn Centre for Design, Royal College of Art)

**Dr Catharine Rossi**
(senior lecturer in Design History, Kingston University)

**Prof Seymour Roworth-**
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“Milan is a breeding ground for people who can copy our products...”

“Re urge to support the design copyright bill.”

UK government comes over copyright law delay

Design brands attack UK design copyright bill

Retaile urge to support the design copyright bill campaign

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This legalisation is an example of yet more badly thought out and counter-productive UK (EU?) government. The effect will be the opposite of what it intended. It will do lasting damage to design education and the design Industry itself.

Even objects half glimpsed in the background of photos would attract fees in a complex escalating tax on the publishers. Everything man-made is somewhere designed by someone and would attract fees. This moronic ruling will finally kill off the few remaining decent design magazines and even the blogs. Copying a design is one thing, showing a picture of it is quite another.

Wouldn't it depend on whether or not the magazine or book publisher took the photograph that they publish?

This legalisation seems to have disastrous effect on design publishing...
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