

Margaret Haig

From: John Downs Photography
Sent: 19 December 2015 00:22
To: Section52CDPA
Subject: Repeal of section 52

Categories: Blue Category

Sir

It is with great concern that I read of this legislation, and note that it is clearly written by a department that has no working knowledge of the photography or publishing industry.

I am a professional photographer specialising in Interior design/ home decor magazines.

I will deal in particular with one part mentioned in the consultation document:

"Photographers, image agencies and users of 2D images (such as publishers) have said they will need to check every image to ensure that the user or the licensee does not run the risk of copyright infringement, although the Government believes that they would prioritise the images which they actively license, rather than checking the whole archive."

When I photograph a house for a magazine I will typically shoot 40-50 images. Every one of those images will contain furniture, artwork, vases, fabrics and any number of items that may or may not be protected by copyright. The very nature of the homes that are featured in magazines means that they will contain a high proportion of high quality objects, making it more likely that copyright will be an issue.

To check each item in 50 photographs, locate the copyright owner and obtain permission to publish is completely unworkable. Often the owners do not know who designed particular pieces and even if they do, there is no guarantee that the designer will reply to correspondence.

There are dozens interiors magazine in the UK alone, many more worldwide, and if an on-trend designer is contacted by many magazines for permission to publish, the designer is unlikely to be able to keep up with e mails and phone calls.

I understand that an amendment was originally in place to exclude photographs of 3d objects from the legislation but it was lobbied against by certain industry groups. The legislation is clearly (and rightly) intended to give protection to 3d designers from unauthorised copying of their work, but to include photographs moves away from the intent of the legislation. A photograph is not a copy of a chair, it is a 2 dimensional representation of a chair and cannot be sold to the detriment of the original designer. In many cases, particularly in the case of young, relatively unknown designers, being featured in a magazine is a great benefit to their career, anything that inhibits this would have a detrimental effect on both young designers and the magazine industry.

It is my belief that there should be exceptions made for editorial use of photographs (as is the case with human faces: permission is not needed for the editorial publication of a photograph of a person, but permission *is* needed to use their image for commercial or advertising use).

I have attached a sample photograph that is typical of a magazine shoot with items highlighted that may have copyright issues. Bear in mind that this is one of dozens taken on one day and it contains at least 7 items that would need to be checked. It may be agued that they are "incidental use" but it could also be argued that they are central to the point of the photograph: to illustrate the way the objects give character to a room.

As a sole trader photographer I simply do not have the time or, more importantly , the funds to defend myself in court against multiple actions over issues such as this. If exceptions are not made for editorial use I, and many other photographers will have to consider whether it is worth the risk to work in this field any more.

Yours Sincerely
John Downs

