

RIHA Resolution on Copyright

As agreed at the RIHA General Assembly, Rome, 8 November 2008

1. Statement

Copyright seeks to protect the rights of authorship while securing the dissemination of knowledge. It protects the form of expression of ideas, but not the ideas, information or concepts expressed (...) A regime which is unduly protective of the interest of existing rights holders may therefore inhibit, or even stifle, the development of original material.

British Academy, Copyright and Research in the Humanities and Social Sciences, 2006

RIHA, the International Association of Research Institutes in the History of Art, is concerned that recent developments in technology, legislation and practice have meant that the various copyright exemptions that exist to promote the advance of creative and scholarly work are not being applied to achieve their intended effect. RIHA strongly believes that neither copyright nor licensing rules should inhibit the development and diffusion of original scholarly research, regardless of the way in which it is published or otherwise disseminated.

RIHA calls upon copyright holders and other stakeholders including publishers, galleries, museums, and collecting societies, when dealing with scholarly research, to:

- Subscribe to the definition of scholarly research as stated in section 2 of this document
- Apply the existing copyright exemptions in keeping with their intended purpose
- Refrain from demanding or refusing unnecessary permissions, or granting these permissions on unreasonable terms.

RIHA further calls upon collecting societies and monopoly copyright holders, when charging for the use and reproduction of images in scholarly publications, to charge solely the marginal cost to the institution of making the specific reproduction for delivery to the researcher, rather than the costs of creating and maintaining a collection of images or of making provision for a profit margin on transactions.

2. Definitions of research

For the purpose of clarity, RIHA proposes the following definitions of research*:

Scholarly research

A type of non-commercial research whose principal objective is public benefit rather than private profit and/or the recovery of the costs of the research. Scholarly research may include the initial stages of collecting material as well as subsequent stages which involve the analysis and publication of the results. The presentation of the results will be without charge to the recipients or will be at a charge which can only be expected to cover the reasonable costs of production and distribution, including the reasonable profits of a commercial publisher.

Commercial research

Research whose principal objective is profit rather than public benefit. Commercial research normally includes a charge to the user that covers the cost of the research as well as its dissemination, and includes a profit margin.

3. Recommendations

RIHA urges copyright holders and other stakeholders to respect of the following British Academy recommendations (paraphrased):

Recommendation 1

Copyright must provide reasonably broad and practically effective exemptions for research and private study, and for criticism or review.

Recommendation 2

With regard to the exception for research and private study under the 1988 Copyright Act:

- a) 'Research' should be treated as distinct from 'private study' and should not only encompass the initial stages of an academic project but also subsequent analysis and publication
- b) Research should be treated as non-commercial where the taking of copyright material is fair, and where any charge to the user would only cover production and distribution of a publication (including reasonable profit of a commercial publisher)
- c) Research funded by a research council or charity is by definition non-commercial
- d) In the case of commercial research, charges should be reasonable and abuse should be restrained.

* The definitions of research are based on the findings and recommendations of the British Academy report *Copyright and Research in the Humanities and Social Sciences* (2006) and the *Guidelines on Copyright and Academic Research*, issued as a supplement to the report. RIHA also notes that the *Joint Guidelines on Copyright and Academic Research* (2008), published jointly by the British Academy and the Publishers Association, offers valuable clarification of some of the issues touched on in the 2006 report. All three documents can be accessed and downloaded at <http://www.britac.ac.uk/reports/copyright>

Membership of RIHA

Bibliotheca Hertziana, Max-Planck-Institut für Kunstgeschichte, Roma

Center for Advanced Study in the Visual Arts (CASVA), Washington DC

Ústav dějin umění, Akademie věd České Republiky (Institute of Art History, Academy of Sciences of the Czech Republic), Praha

Clark Art Institute, Williamstown

Courtauld Institute of Art, London

Deutsches Forum für Kunstgeschichte / Centre Allemand d'Histoire de l'Art, Paris

Istituto di Storia dell'Arte, Fondazione Giorgio Cini, Venezia

Getty Research Institute, Los Angeles

Institut za povijest umjetnosti (Institute of Art History), Zagreb

Fundació Institut Amatller d'Art Hispànic, Barcelona

Institut National d'Histoire de l'Art (INHA), Paris

Istituto Nazionale di Archeologia e Storia dell'Arte, Roma

Koninklijk Instituut voor het Kunstpatrimonium/Institut royal du Patrimoine artistique (IRPA-KIK), Brussel/Bruxelles

Instytut Sztuki, Polskiej Akademii Nauk (Institute of Arts of the Polish Academy of Sciences), Warszawa

Międzynarodowe Centrum Kultury (International Culture Centre), Kraków

Kommission für Kunstgeschichte, Österreichische Akademie der Wissenschaften, Wien

Kunsthistorisches Institut in Florenz, Firenze

Magyar Tudományok Akadémia (Institute for Art History), Budapest

Rijksbureau voor Kunsthistorische Dokumentatie (RKD), (Netherlands Institute for Art History) Den Haag

Schweizerisches Institut für Kunstwissenschaft (SIK), Zürich

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Visual Arts Research Institute, Edinburgh (VARIE), Edinburgh

Warburg Institute, London

Zentralinstitut für Kunstgeschichte, München