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# **Copyright contracts and earnings of visual creators:**

A survey of 5,800 British designers, fine artists,  
illustrators and photographers

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## Executive Summary

1. It is widely asserted that the environment in which artists work is changing, rapidly and radically. In common with other creators, they are increasingly perceived as the first source of content within a digitised global communication infrastructure.
2. While the intrinsic human needs of expression may persist, the modes of expression and the boundaries between the arts are blurring. At the same time, artists are becoming part of the creative class, the labour force of the new digital economy.
3. This study offers a detailed picture of the conditions under which visual creators worked in the UK in 2010, using a survey, supplemented by focus group research and legal analysis.
4. In particular, the study focuses on sources and distribution of earnings from copyright and non-copyright sources (using the creator's household as a key unit of analysis), on sources and distribution of earnings by genre and media (including digital formats), and on contractual practices relating to copyright (such as taking legal advice, negotiating terms, assigning rights and being credited).
5. The study also attempts to capture trends over time, specifically those associated with the information revolution, i.e. the arrival of the World Wide Web (the first mass market browser was released in 1994). For this purpose, a number of questions were asked within the survey about perceived changes in working conditions. A specific sub-sample of visual creators was created who had worked in best selling media in certain weeks in 1994, 1999, 2004 and 2009.
6. Visual creators for the purposes of this survey are those who are categorised as authors of artistic works under copyright law, *and* who are commercially exploited in secondary markets (and therefore a recipient of payments from the collecting society DACS, the Design and Artists' Copyright Society). The major groups are photographers, fine artists, illustrators and designers.
7. The research was conducted to independent social science standards without any prejudice to results. DACS generously sponsored the research and gave access to anonymised payment data (enabling the researchers to validate their methodology).

## Earnings Analysis

8. Visual artists have precarious careers, with typical earnings well below the UK national median wage of £21,320. In 2009/10, the typical photographer earned £15,000 (median), the typical illustrator earned £15,723 (median) while the typical fine artist earned only £10,000 (median).<sup>1</sup>
9. An important characteristic is the risky nature of working lives in cultural occupations. The distribution of income is highly unequal. Despite low mean and median earnings, the rewards can be high. The top 7% of visual creators earn about 40% of total income (they earn at least £50,000, with £120,000 per annum being the norm) while the remaining 93 per cent earn 60% of the total income, giving a Gini Coefficient of 0.59, compared to a Gini Coefficient of 0.36 for the UK working population.<sup>2</sup>
10. Careers typically are sustained by a portfolio of other activities. Close to half of visual creators (44%) earn all their income from visual creation. 35% had a formal second job.
11. Households (including partner's income) seem to function as a risk pool. A typical visual creator contributes £20,000 (65%) (from self employed artistic as well as other income) to a household income of £34,000 (median). Visual creators who earn more than half their income as artists (main income artist sample) contribute £25,000 (71%) (from self employed artistic as well as other income) to a household income of £35,000 (median).
12. Visual creators, however, are not of the same sort. The median income of designers (£23,000) is higher than that of the general working population worker in general, yet still low compared to similarly qualified professionals. Credited photographers, illustrators and cartoonists publishing in national media (magazines and newspapers) earn a median of £27,000, while visual artists publishing in local newspapers earn a median of only £6,396. Fine artists distributed through galleries typically earn £12,000 (median). The average household income of photographers is £77,244 (mean), indicating the presence of some very high earners in these households.
13. In employed occupations, earnings typically peak just before retirement. For visual creators (who are mostly self-employed) the earnings peak happens disturbingly early: in the 35-44 year age bracket. Photographers, illustrators and cartoonists credited in national media, as well as designers are able to sustain their income to a higher age.

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<sup>1</sup> The median or mid point is the preferred measure for comparing earnings data, as the average (mean) can be skewed by the presence of very high or low earners in the population. Statistical terms are explained in the glossary.

<sup>2</sup> The Gini Coefficient is a measure of equality; Gini = 0: every earner in a population earns the same (perfect equality); Gini = 1: one earner in a population earns everything (perfect inequality).

14. The results of the survey are in line with the findings of earlier studies of the creative sector: the labour market shows a pattern of low median earnings and high earnings inequality. Reasons identified in the academic literature include winner-take-all demand dynamics in cultural industries, over-supply of creators, and lack of bargaining power (low levels of unionisation, absence of legal advice).

## Changing Contractual Practice

15. The survey also examines whether the terms under which artists work are getting worse. There is a common perception that digitisation has prompted changes in creative labour markets. In particular, it is widely assumed that exploiters insist on “grabbing rights” (i.e. broadly conceived assignments of rights), that visual artists are not able to negotiate, that they are paid less and less, and that they are compelled to waive their moral rights.<sup>3</sup>
16. This study suggests a much more equivocal picture. In place of a straightforward narrative of decline, the results of the survey suggest that in most fields there has been less change over the last decade than one might have expected: that, terms of exploitation are most often about the same. Thus, 71% of the sample say that attribution practices have stayed the same; 61% that assignment practices are the same; 76% that the percentage of moral rights waivers is about the same (at 17% of the visual creators surveyed have waived moral rights).
17. That is not to say that there are no discernible changes in particular occupations and media. Respondents and interviewees identify some important shifts. Perhaps surprisingly, it seems there are changes in practice that are, from the creators’ perspective, both positive and negative.
18. The most positive change is identified amongst the fine artists. Fine artists report a slight decrease in assignments and an increase in authorial attribution (9% see an increase, 8% a decrease). There is no real change perceived as to the use of moral rights waivers (7% seeing an increase and 8% a decrease). Half (50%) see their personal bargaining position as having improved, with only 6% perceiving a weakening.
19. The story with designers is also quite positive. 41% of designers report that their individual bargaining position has improved over the decade, with 18% finding their position is worse. 26% say that attribution of their works has increased, while 13% say that it has decreased. 23% say moral rights waivers have decreased, whereas 8% perceive an increase. On the down side, 31% say assignments have increased, compared to 15% who think they have decreased.

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<sup>3</sup> Moral rights include the right to be named as the creator, and to protect the work against derogatory treatment. Their legal basis is discussed in the section on contractual behaviour (p 67).

20. Illustrators occupy a middle position. 51% say their bargaining position has improved over the decade, whereas 23% see themselves as in a weaker position. 16% think attribution has increased, compared with 8% who perceive a fall in the practice of giving authorial credit. 27% say income from secondary use has increased, while only 14% say it has decreased. Nevertheless, 23% say moral rights waivers have increased, with only 6% saying they have decreased. Furthermore, the practice of taking an assignment is said by 37% to have increased, with only 5% seeing a decrease.
21. The most disturbing changes are in relation to photographers. About half of all photographers (49%) say their bargaining position has worsened, with only 22% reporting improvements. A significant percentage of photographers (40%) report an increase in assignments (compared with 6% who think they have decreased). Moreover, 24% report an increase in moral rights waivers (compared to 3% who identify a decrease), and a decline in the practice of attribution. 31% of photographers see attribution as decreasing over the last decade, and only 8% increasing. 28% say income from secondary use has decreased, while only 16% say it has decreased.
22. These shifts are not easy to explain. The focus group research and comments in response to open-ended survey questions revealed a large number of factors that might explain the changes in relation to photography. The three that stand out are: the competition/price pressure posed by the widespread availability of amateur photography via the Internet; second the growth in the use of picture libraries; and third the economic pressures on the newspaper and magazine trades.
23. The Internet has become the main channel of exploitation for 18% of the visual artists surveyed, and the second most important medium overall (after specialist magazines).

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## Introduction<sup>4</sup>

In 2010, the UK collecting society for visual creators DACS<sup>5</sup> commissioned a study of copyright contracts and artists' earnings from a team of lawyers and social scientists at the Centre for Intellectual Property Policy & Management (CIPPM) at Bournemouth University and the Centre for Intellectual Property and Information Law (CIPIL) at the University of Cambridge. The aim was to create an independently validated evidence base as a guide for policy makers, in particular in relationship to copyright issues in the digital environment. The core of the project was a survey carried out in summer 2010, covering professional profiles of visual creators, sources of earnings, contractual practices and trends over time. Two rounds of the survey were conducted, applying the same questionnaire: the first round was sent to a constructed sample of 293 photographers and illustrators credited in British national media (newspapers and magazines) in certain sample weeks in the years 1994, 1999, 2004 and 2009; the second round was sent to 5,500 UK based visual artists on DACS' e-mail database. The survey was supplemented by focus group research exploring contractual practices in more detail, and a legal analysis of a selection of copyright contracts since 1990.

This study builds on a methodology developed for a widely cited report for the UK Authors' Licensing & Collecting Society (ALCS) in 2007, covering literary and audio-visual writers.<sup>6</sup> Key elements of the methodology include (i) definition of professional creators in terms of the amount of time allocated, and the percentage of income derived from artistic output, (ii) separation of copyright and non-copyright earnings, (iii) analysis of the distribution of earnings, and finally (iv) establishing links between certain contractual practices (such as taking legal advice, negotiating terms, being credited) and earnings.

As in the ALCS study, it was possible to triangulate the results of the survey against aggregate distribution data held by DACS (as a check on how representative the sample is). It was also possible to make comparisons with two recent surveys by professional bodies of their own membership: *The Association of Illustrators: Illustrators Survey 2008*, and *The British Photographic Council: Industry Survey of*

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<sup>4</sup> The report was peer-reviewed by Prof. Ruth Towse (Professor of Economics in the Creative Industries, Erasmus University (Rotterdam) and Bournemouth University), Dr David Brake (Senior Lecturer in Journalism and Communication, University of Bedfordshire), and Prof. Philip Hardwick (Professor of Economics, Bournemouth University). The authors are very grateful for their constructive comments. Professor Hardwick also performed various statistical tests (coefficients of variation, t-tests).

<sup>5</sup> The Design and Artists' Copyright Society (DACs) is a visual arts collecting society. In 2009, it distributed over £6.1 million of royalties to about 13,000 artists and their beneficiaries through its three main rights management services: Payback, Artist's Resale Right and Copyright Licensing. It also provides a platform for campaigning, advocacy and legal advice for visual artists.

<sup>6</sup> Kretschmer, M. & Hardwick, P., 2007. *Authors' Earnings from Copyright and Non-Copyright Sources: A survey of 25,000 British and German writers* (205pp), Bournemouth: CIPPM

*Photographers 2010*<sup>7</sup>. The ALCS benchmark study, as well as overlapping findings of the illustrator and photographer surveys, are cross-referenced throughout this report.

## Methodology

### Definition of visual creator

The first critical issue in any survey is to identify the relevant population that the sample is to represent. The question '*Who is a visual creator?*' is not trivial. In a copyright sense, anybody who creates an artistic work with a minimum of originality<sup>8</sup> is an author. However, for the purposes of economic and cultural policy, this is not a useful definition as most copyright works have little value and will never reach the public.

The cultural economics literature discusses numerous other criteria for identifying artists<sup>9</sup>: (i) the amount of time spent on artistic work, (ii) the amount of income derived from artistic activities, (iii) the reputation as an artist among the general public, (iv) recognition among other artists, (v) the quality of artistic work produced, (vi) membership of a professional body, (vii) a professional qualification in the arts, and (viii) a subjective self-evaluation as an artist.

In practice, the definition of the relevant population of visual creators often has been constrained by the available data. For example, government statistics usually use an *occupational group* approach. Under the UK Annual Survey of Hours and Earnings (ASHE), an employee falls under class 3411 (artists) if the employer says so. However, ASHE does not capture self-employed creators (the large majority of visual

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<sup>7</sup> The Association of Illustrators (AOI) Survey is unpublished; the AOI has around 1400 members (approximately half of which are full members and half students/associates); further information about the AOI is available here: <http://www.theaoi.com/>

The British Photographic Council (BPC) is an umbrella body promoting the rights and interests of photographic image makers; its membership includes among others the Association of Photographers (AOP) with 1200 photographer members, the British Press Photographers Association, and the National Union of Journalists. 1,698 photographers responded to the BPC 2010 Survey, available from its website: <http://www.british-photographic-council.org/news/british-photographic-council-industry-survey-shows-true-value-of-creators-copyright>

<sup>8</sup> In the UK, the originality threshold traditionally required the exercise of 'labour, skill, or judgement' (*Ladbroke v. William Hill* [1964] 1 WLR 273 (HL)). Two recent decisions of the Court of Justice of the European Union define an original work as the 'expression of the intellectual creation of their author', a condition that could conceivably be satisfied by an eleven word excerpt of a newspaper article (Case C-5/08 *Infopaq International v. Danske Dagblades Forening* [2009] and Case C-393/09 *Bezpečnostní softwarová asociace – Svaz softwarové ochrany v. Ministerstvo kultury*). It remains to be seen whether the European test establishes a higher or lower threshold.

<sup>9</sup> Frey, B.S. & Pommerehne, W.W., 1989. *Muses and Markets: Explorations in the Economics of the Arts*, Oxford: Blackwell (p. 47). For a useful discussion of defining the artist population, see Towse, R., 2010. *A Textbook of Cultural Economics*, Cambridge: CUP (p. 323-324).

creators), nor does it account for multiple occupation-holding (again a common characteristic of many creators' lives).

The starting point for this study was the opportunity to access the (anonymised) databases of the largest body representing visual creators in the UK, the collecting society DACS. As DACS aims to collect and distribute licence fees for secondary exploitation of all artistic works that are being reproduced in UK books or magazines, or broadcast on certain television channels, or re-sold by galleries or at auction, there is an obvious incentive for professional creators to register with DACS.<sup>10</sup> The first methodological assumption is therefore that visual creators who are recognised as authors of artistic works in law, *and* are commercially valuable (i.e. are being exploited in secondary markets) will be registered on DACS databases, in a representation that is close to the full population of visual creators on these two criteria.<sup>11</sup>

Starting with this very wide initial sampling frame (*recipient of payments from a copyright collecting society, 'full sample'*), a number of sub-samples were created, using data collected from the survey.

The key sub-samples for setting public policy are those artists who potentially succeed in sustaining a professional life as a visual creator, and therefore will contribute to an innovative society and the growth of the creative economy.

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<sup>10</sup> Payback royalties come from revenue generated through collective licensing schemes. Collective licensing may be used when it is unfeasible for visual creators to license their rights on an individual basis, for example, when a user wishes to photocopy a page of a book which features the visual creator's work. Artist's Resale Right refers to the right of an artist to receive a royalty based on the price obtained for any resale of an original work of art, subsequent to the first transfer by the artist. Here, an original work of art is defined as "works of graphic or plastic art such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware and photographs" (UK Artist's Resale Right Regulations 2006). Copyright Licensing refers to a range of licensing services for consumers seeking to license the work of an artist for a one-off use or continuous uses.

<sup>11</sup> This definition will exclude certain creators who aspire to be artists but are not commercially sold or reproduced (criterion viii: subjective self-evaluation), and creators who formally qualified as artists but did not enter the labour market (criterion vii: a professional qualification in the arts). It will also fail to capture visual artists who choose not to register with DACS for ideological reasons, reasons of convenience (e.g. opportunity costs), or because they have no rights (e.g. staff photographers). The composition of the constructed sample of visual artists published in national magazines and newspapers suggests that photographers may be under-represented on the DACS databases (68% of the constructed sample were photographers, compared with 39% of DACS Full sample respondents). However, comparing the characteristics of the 39% DACS registered photographers with the characteristics of respondents to the British Photographic Council Survey indicate that the smaller DACS sample is broadly representative of the whole population.

We defined these visual creators as follows:

- *Professional artist*: those who allocate 50% or more of their *time* to being a visual creator<sup>12</sup>
- *Main-income artist*: those who earn 50% or more of their total individual *income* from visual creation

In addition, the four main types of visual creators (identified by answers to the question *What kind of visual creator are you?*) were stratified for all earnings and contracts data.

- *Photographers*
- *Illustrators*
- *Fine artists*
- *Designers*<sup>13</sup>

Lastly, we were interested in trends in contractual practices over time, in particular in response to the arrival of the Internet as a consumer medium since about 1994 (the year of release of the first mass market world wide web browser: Netscape's Navigator). One-off surveys are more suitable to offer a snapshot in time than a reliable guide to developments over time. However, perceived trends may be explored with respondents who consistently worked in a particular occupation. It was therefore decided to create a database of visual creators (viz. photographers, illustrators, cartoonists) who were credited by name in a sample of national magazines and newspapers for the first week of March and last week of September in the years 1994, 1999, 2004 and 2009. For daily publications, the issue for the first Monday in March and last Wednesday in September were selected at random, avoiding public holiday periods such as Christmas or Easter when terms might be different. Where a particular issue of a publication was unavailable, the issue for the same day of the week before was reviewed instead.

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<sup>12</sup> Thus the term 'professional artist' in this study is somewhat artificial (there will be a small number of successful, highly professional artists who allocate less than 50% of their time to artistic occupation, and therefore will not be captured by the sub-sample). Still, the definition offers a reasonable approximation to those who aim to make a living from visual creation. It is also sufficiently precise to allow cross-comparisons across sectors and countries.

<sup>13</sup> Of these four, designers appear to be the most heterogenous group, covering a wide range of visual output, from industrial design to TV production design and animation. See analysis of survey respondents by type of visual creator [Q3, p. 20 below].

The publications selected for this investigation were chosen by referring to circulation tables contained in Willings Press Guide for the years 1999, 2004 and 2008. Those tables set out the top 100 consumer magazine titles and top 10 to 15 national daily newspapers by circulation in the UK.

For newspapers, all titles that received a ranking in all of the Willings tables during these years were reviewed, save for one tabloid paper (The Daily Star) which was omitted so as to ensure an equal number of tabloid and broadsheet titles. The full list of newspapers reviewed are: Daily Mail, The Daily Telegraph, The Guardian, The Independent, The Sun, The Times, Financial Times, Daily Express and Daily Mirror.

For magazines, titles were selected that received a ranking in Willings' tables for each of 1999, 2004 and 2008, and were also in publication in 1994 and 2009. Within these criteria, titles were chosen so as to cover a variety of different subject matter, in addition to listing magazines which scoping interviews had indicated to be important media for visual creators (Time Out and the Radio Times).

The full list of sampled magazines is as follows: National Trust Magazine, Cosmopolitan, Time Out, Woman, Radio Times, Good Housekeeping, Marie Claire, Private Eye, Ideal Home and TV Times.<sup>14</sup>

Names for 249 illustrators and 2,435 photographers were identified by this route which were then passed on to DACS, and checked against names for which recent addresses were registered.<sup>15</sup> The resulting matched list of 293 names was labelled within our analysis as *constructed sample of national media artists* (or short: *constructed artist*). This sample was subsequently surveyed separately with the same questionnaire as the *full sample*.

In summary, the study relies on eight samples, defining '**visual creator**'.

1. *Full sample*: recipient of payments from DACS
2. *Professional artist*: those who allocate 50% or more of their *time* to being a visual creator
3. *Main income artist*: those who earn 50% or more of their total individual *income* from visual creation

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<sup>14</sup> In the initial research design for the study, it was also proposed to sample illustrators published in the 100 best-selling titles of paperback fiction and children's books for 1994, 1999, 2004 and 2009. Circulation lists were available for purchase from The Nielsen Company (published under the title Nielsen Bookscan), but these did not cover the period prior to 2004. Attempts to find substitute sources for the pre-2004 data-points, for example using Public Lending Right information (listing the most popular titles for loan in public libraries) or circulation tables contained in publications such as The Bookseller and The Children's Bookseller, proved unsuccessful either because of the limited sample which the data in these sources produced or because there were problems in obtaining comparable data for each of the data-points. As a result, the research design was amended to create a sample of national media artists exclusively from magazines and newspapers.

<sup>15</sup> DACS' relationship with photographers is often mediated by picture libraries and agents, who are mandated to act on their behalf. So comparatively few photographers addresses are held on DACS' database.

4. *Constructed artist*: credited visual creator in sample of national newspapers and magazines (March or September of 1994, 1999, 2004 or 2009)
5. *Photographer*: those who identified *Photographer* as their main activity as a visual creator
6. *Illustrator*: those who identified *Illustrator* as their main activity as a visual creator
7. *Fine artist*: those who identified *Fine Artist* as their main activity as a visual creator
8. *Designer*: those who identified *Designer* as their main activity as a visual creator

Sample 2 is a sub-sample of 1; sample 3 is a sub-sample of 2.<sup>16</sup>

Sample 4 was constructed separately, but is in effect a sub-sample of Sample 3.<sup>17</sup>

Samples 5 through to 8 are non-overlapping sub-samples of 1.

The relationship between defined Samples 1 – 6 is illustrated by the Venn diagram below.

### **Relationship of sub-samples**

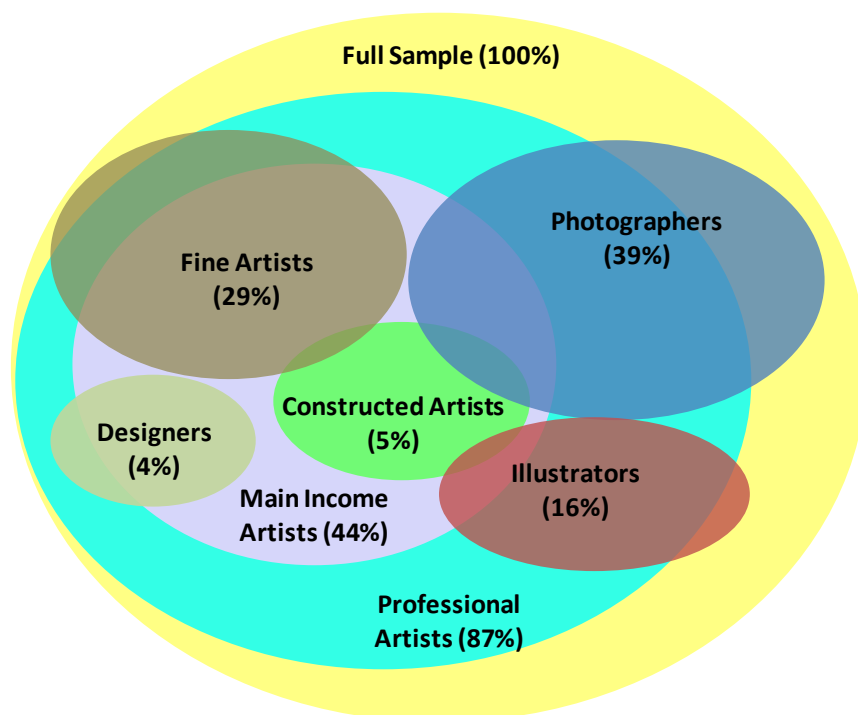
The following diagram and earnings table summarise the population characteristics of survey respondents (questionnaire sent to 5,800 visual creators on the database of DACS in summer 2010; response rate: 11%)

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<sup>16</sup> There is a possibility that there are visual creators who spend less than 50% of their time as an artist yet draw 50% or more of their income from that source. The survey identified 6 such respondents (or 2% of the main income sample: see Q2 below). Strictly speaking, main income artists are therefore not a sub-sample of professional artists.

<sup>17</sup> The 293 names of the constructed artist sample were removed from the e-mail circular to DACS members (= full sample), so that the same visual creators could not participate in both rounds of the survey.





	% (By Total Responses)	Total Responses	% (By Income Responses) <sup>18</sup>	Income Responses	Median Income	Mean Income
<i>Full Sample</i>	100%	590	100%	391	£12,000	£23,052
<b>of which:</b>						
<i>Professional Artist</i>	87%	516	87%	340	£16,000	£26,143
<i>Main Income Artist</i>	44%	260	66%	260	£20,000	£28,820
<i>Constructed Artist</i>	5%	31	6%	23	£27,000	£30,154
<i>Photographers</i>	39%	228	43%	169	£15,000	£26,084
<i>Illustrators</i>	16%	96	17%	66	£15,723	£21,602
<i>Fine Artists</i>	29%	173	26%	100	£10,000	£20,187
<i>Designers</i>	4%	25	4%	15	£23,000	£27,939

- *Full sample*: recipient of payments from DACS
- *Professional artist*: those who allocate 50% or more of their *time* to being a visual creator
- *Main income artist*: those who earn 50% or more of their total individual *income* from visual creation
- *Constructed artist*: credited visual creator in sample of national newspapers and magazines (March or September of 1994, 1999, 2004 or 2009)

### Conduct of survey and response rates

The questionnaire was designed to be compatible with the 2007 ALCS survey of literary authors, in order to repeat a robust methodology and allow comparisons to be made. A terminology appropriate to the visual arts (e.g. occupations, genres, media) was scoped and tested with pilot respondents provided by DACS, the

<sup>18</sup> Not all survey respondents filled in the questions relating to earnings. The sub-sample defined by earnings (= main income artists) needs to be read in relation to all earnings respondents (= 100%).



Association of Illustrators (AOI), and the Association of Photographers (AOP) in Spring 2010.

Two rounds of the survey were conducted, using the online service SurveyMonkey. Round 1 was mailed on 28 May as an e-mail link to 293 visual artists identified from the national press in sample weeks in March and September of 1994, 1999, 2004 or 2009. Round 2 was circulated on 30 June via e-mail to 5,507 visual creators on DACS' Payback database (out of 11,628 visual artists paid in 2009). For convenience, and because there was a sufficiently large sample size, it was decided not to mail DACS members only known via their postal address. Each round of the survey remained open for three weeks, and included options for open comment, as well as an invitation to volunteer for follow-up interviews.<sup>19</sup>

A copy of the full survey questionnaire is attached at the end of this report. Questions marked with \* could not be skipped. For other questions, response rates may vary.

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<sup>19</sup> All volunteers were invited to a focus group on 22 July, 15:00 – 17:00 at the premises of DACS in Clerkenwell, Central London. The focus group was attended by seven visual creators working in different genres, such as commercial, celebrity, photosphere, gallery based photography, illustrator and curator. The focus group transcript is appended.

**Table**

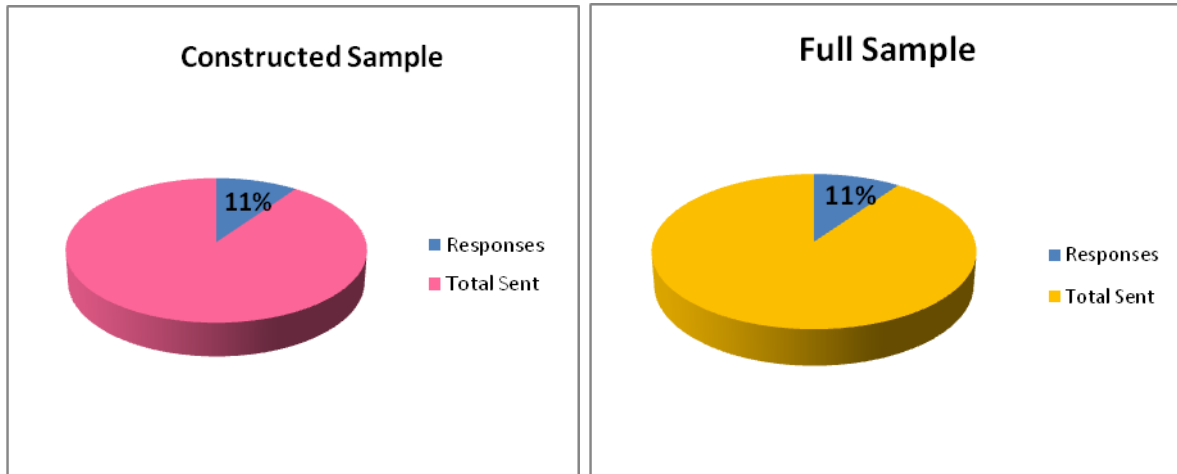
**Response Rates**

M1

**Data**

	Response Rate	Responses	Total Sent
<i>Constructed Sample</i>	11%	32	293
<i>Full Sample</i>	11%	596	5507

**Graphic**



**Analysis**

Response rates for both rounds of the survey were 11%, a high return rate for surveys of this kind, and a robust basis for statistical analysis.

## Basic Demographics

### Table

#### Location (by UK region)

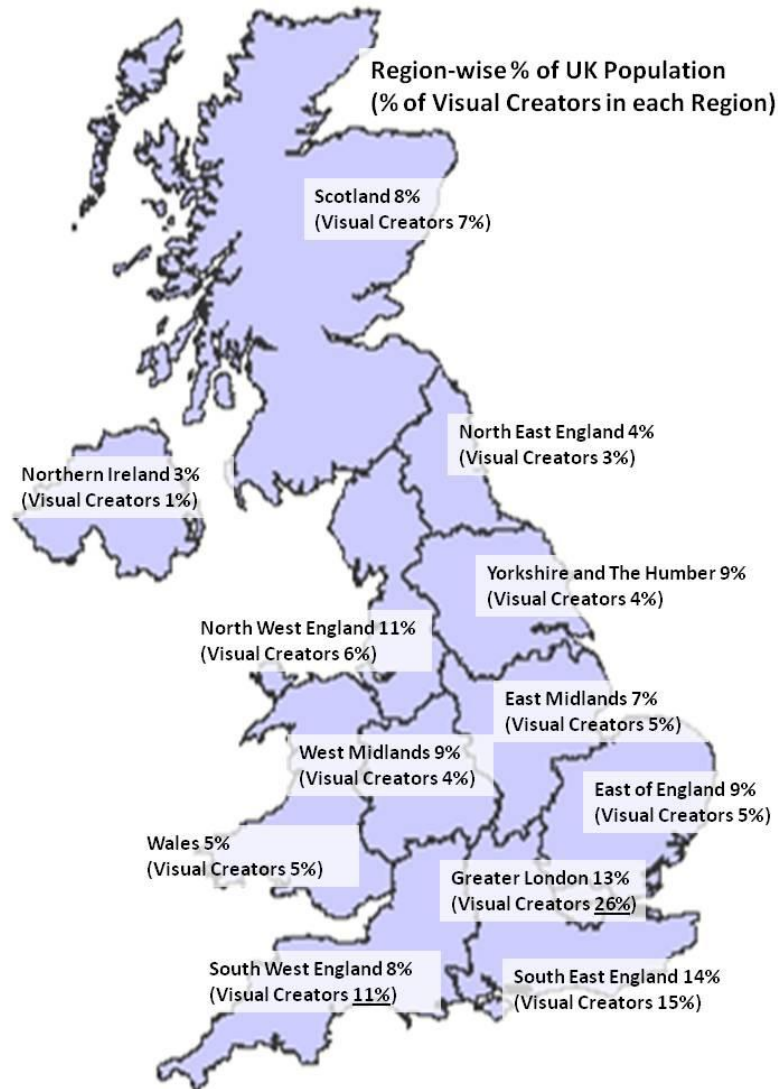
Q37

### Data

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>East Midlands</i>	5%	22	4%	17	3%	9	8%	2
<i>East of England</i>	5%	21	4%	17	5%	13	0%	0
<i>Greater London</i>	26%	117	27%	107	26%	67	32%	8
<i>North East England</i>	3%	14	3%	13	3%	8	0%	0
<i>North West England</i>	6%	26	5%	20	5%	14	0%	0
<i>Northern Ireland</i>	1%	3	1%	3	0%	1	0%	0
<i>Scotland</i>	7%	31	7%	27	9%	23	0%	0
<i>South East England</i>	15%	68	16%	61	14%	37	24%	6
<i>South West England</i>	11%	50	12%	46	12%	32	20%	5
<i>Wales</i>	5%	22	5%	19	5%	14	4%	1
<i>West Midlands</i>	4%	17	4%	15	4%	10	12%	3
<i>Yorkshire and the Humber</i>	4%	19	4%	15	4%	10	0%	0
<i>Other (including international)</i>	9%	39	8%	31	8%	21	0%	0

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>East Midlands</i>	5%	10	10%	7	1%	1	0%	0
<i>East of England</i>	6%	11	1%	1	4%	5	0%	0
<i>Greater London</i>	23%	43	25%	18	30%	36	35%	7
<i>North East England</i>	3%	6	3%	2	5%	6	0%	0
<i>North West England</i>	6%	11	4%	3	5%	6	5%	1
<i>Northern Ireland</i>	1%	2	0%	0	0%	0	0%	0
<i>Scotland</i>	6%	12	3%	2	10%	12	5%	1
<i>South East England</i>	14%	27	23%	17	14%	17	30%	6
<i>South West England</i>	11%	21	12%	9	9%	11	10%	2
<i>Wales</i>	5%	10	5%	4	6%	7	0%	0
<i>West Midlands</i>	5%	10	4%	3	3%	3	5%	1
<i>Yorkshire and the Humber</i>	4%	7	3%	2	3%	3	10%	2
<i>Other (including international)</i>	10%	18	7%	5	11%	13	0%	0

**Graphic**



**Analysis**

About a quarter of the visual creators in our sample are living in London. This concentration is typical of the creative industries, and matches various surveys of professional bodies (e.g. 21% of photographers responding to the 2010 British Photographic Council survey were based in Greater London; 25% of illustrators according to the Association of Illustrators survey lived in London; and 21% of literary authors responding to the 2007 ALCS survey were based in Greater London).

**Table**

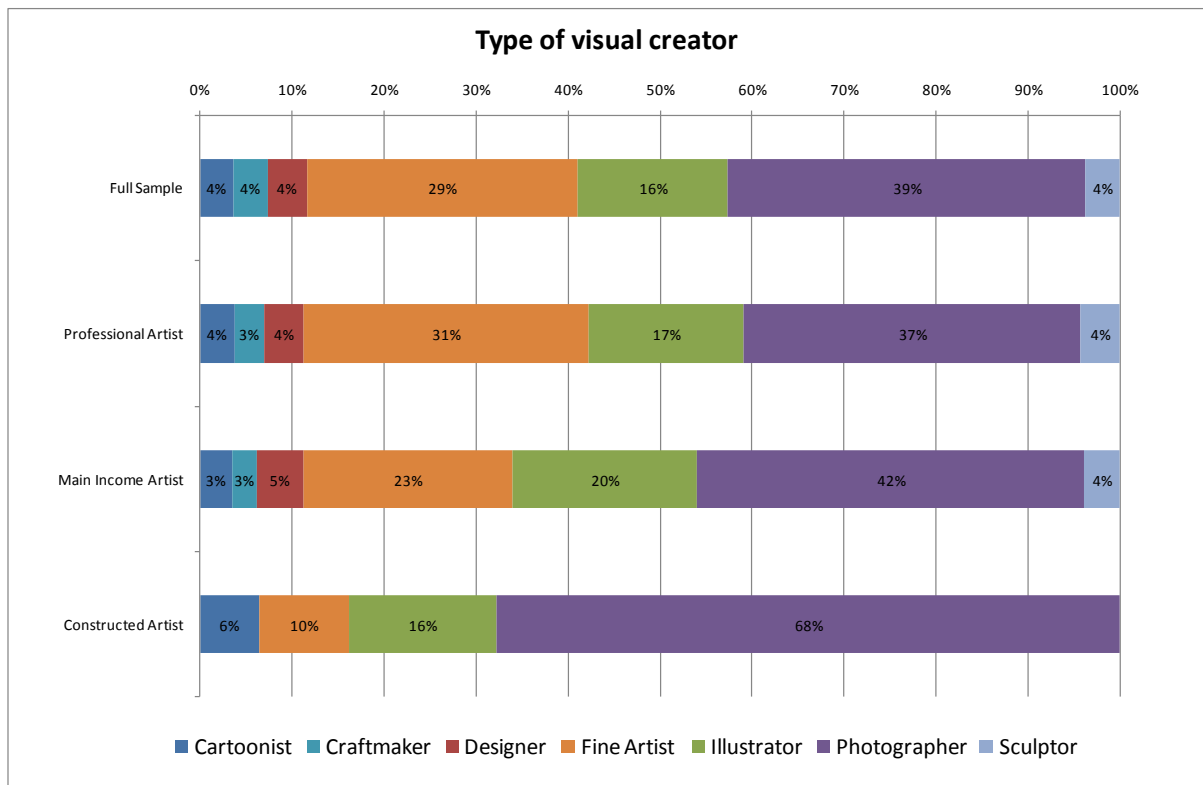
**Type of visual creator**

Q3 What kind of visual creator are you? (Top ranked responses)

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Cartoonist	4%	21	4%	19	3%	9	6%	2
Craftmaker	4%	22	3%	17	3%	7		0
Designer	4%	25	4%	22	5%	13		0
Fine Artist	29%	173	31%	159	23%	59	10%	3
Illustrator	16%	96	17%	87	20%	52	16%	5
Photographer	39%	228	37%	188	42%	109	68%	21
Sculptor	4%	22	4%	22	4%	10		0

**Graphic**



## Analysis

Photographers are the largest group of DACS members, followed by fine artists and illustrators. In the constructed sample of national media artists (featured in national newspapers and magazines), photographers dominate, and illustrators come second. One architect responded to the survey but was not included in the statistical analysis.

Visual creators identifying their main occupation as 'Designer' are a heterogeneous group. In the open self-definition question (Q1 of the survey), they include the following descriptors: 'Graphic Designer', 'Costume Designer', 'Non-precious jeweller', 'Model/ Prop maker', 'Typographer', 'Visual Story Teller', 'Industrial Designer', 'Goldsmith', 'Glass Artist', 'Illustrator', 'Design Consultant', 'Television production designer', 'Conceptual designer and animator', 'Web and graphic designer' and 'Furniture designer/maker'. Statistical findings relating to this group should be treated with caution.

*"I am an artist representing a diverse subject matter and using various mediums"*  
[Fine Artist]

*"I am a painter having an MA in fine art. My work is always an adventure, a never ending journey of exploration and discovery, a physical and intellectual experience. I am passionately interested in the process of 'getting there', continuously reworking, rubbing down and scrapping the surface which I describe as the 'soul of the painting'"* [Fine Artist]

*"I make things - sometimes they're books, sometimes they're 'other' "* [Craftmaker]

*"Photo-Journalist and PR guru"* [Photographer]

*"I'm a photographer. Sorry, no babies or weddings!"* [Photographer]

*"I'd say I'm an illustrator. Not a designer, they do something different - an illustrator. As in pictures..."* [Illustrator]

*"With most people who aren't involved in the arts "illustrator" either draws a completely blank look or an assumption that I do children's picture books, so it becomes an explanation of the various uses of illustration"* [Illustrator]

**Table**

**Main media outlets used for publication**

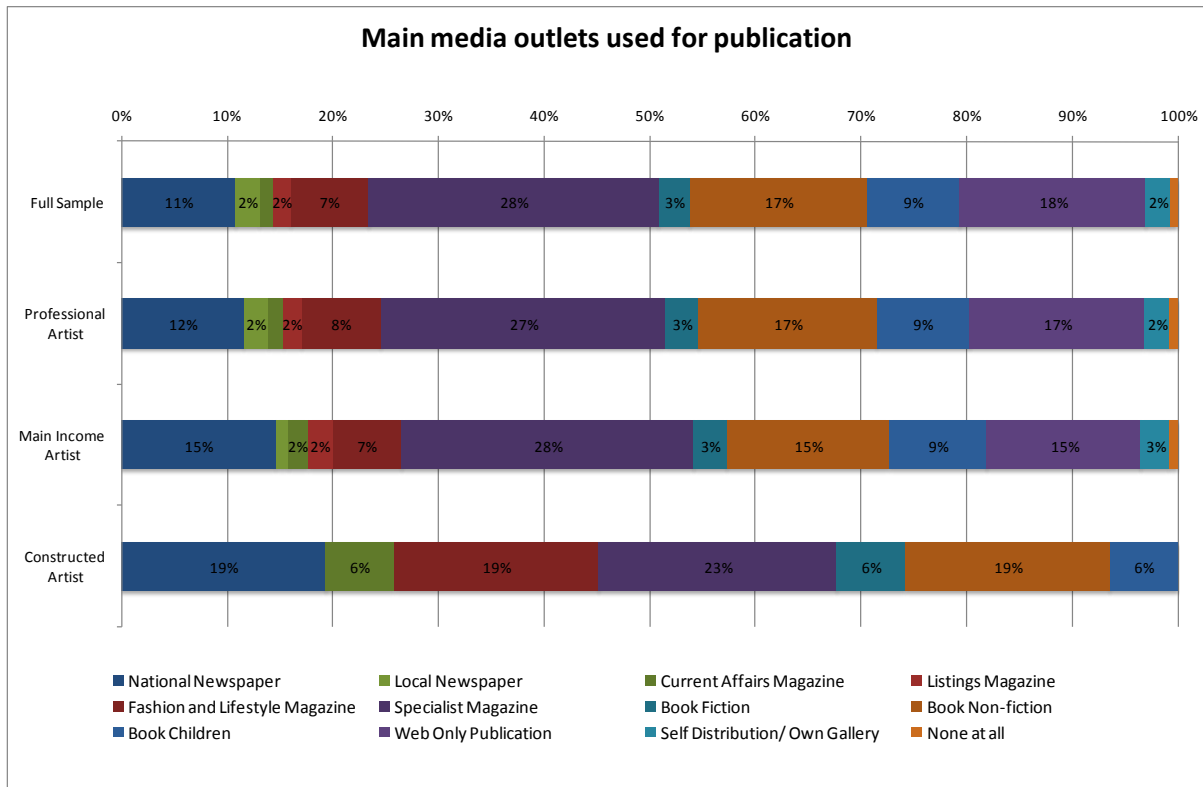
Q5 Which are the main media outlets in which you publish? (Top ranked responses)

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>National Newspaper</i>	11%	64	12%	60	15%	38	19%	6
<i>Local Newspaper</i>	2%	14	2%	12	1%	3		0
<i>Current Affairs Magazine</i>	1%	7	1%	7	2%	5	6%	2
<i>Listings Magazine</i>	2%	10	2%	9	2%	6		0
<i>Fashion and Lifestyle Magazine</i>	7%	43	8%	39	7%	17	19%	6
<i>Specialist Magazine</i>	28%	163	27%	139	28%	72	23%	7
<i>Book Fiction</i>	3%	17	3%	16	3%	8	6%	2
<i>Book Non-fiction</i>	17%	99	17%	87	15%	40	19%	6
<i>Book Children</i>	9%	52	9%	45	9%	24	6%	2
<i>Web Only Publication</i>	18%	104	17%	86	15%	38		0
<i>Self Distribution/ Own Gallery</i>	2%	14	2%	12	3%	7		0
N/A	1%	4	1%	4	1%	2		0

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>National Newspaper</i>	16%	37	9%	9	4%	7	20%	5
<i>Local Newspaper</i>	1%	3		0	5%	9		0
<i>Current Affairs Magazine</i>	1%	3	2%	2	1%	1		0
<i>Listings Magazine</i>	2%	5	0%	0	2%	3	4%	1
<i>Fashion and Lifestyle Magazine</i>	11%	25	8%	8	3%	5	8%	2
<i>Specialist Magazine</i>	32%	72	16%	15	27%	47	16%	4
<i>Book Fiction</i>	2%	5	7%	7	3%	5		0
<i>Book Non-fiction</i>	25%	57	14%	13	11%	19	8%	2
<i>Book Children</i>	1%	2	36%	35	5%	9	8%	2
<i>Web Only Publication</i>	8%	18	7%	7	31%	53	32%	8
<i>Self Distribution/ Own Gallery</i>	0.4%	1		0	6%	11	4%	1
N/A		0		0	2%	4		0

**Graphic**



**Analysis**

In Question 5 of the questionnaire, respondents were asked to rank a selection of media in order of importance for their own publications. This table and graphic represent the top ranked media only. An open 'Other' category was offered that received 126 entries, such as Advertising, Picture libraries and Greeting cards, but not as Top ranked media outlet. 14 fine artists added Self Distribution/ Own Gallery as new Top ranked category, and we added that category to the analysis. 4 responses (all are fine artists according to Q3) could not be coded (n/a, none of the above), but are included to add to 100%.

Interesting are the high percentages for Web only publication: The Internet is the main channel of exploitation for 18% of the full sample (slightly lower for professional and main income artists), and the second most important medium overall (after Specialist magazines). Unsurprisingly, visual creators credited in national newspapers and magazines (= constructed artist) have a more traditional profile.

Those who declared 'Web Only Publication' as their main media outlet consisted of visual creators who described themselves as (open self-definition question: Q1 of the survey): 'Art Curator', 'Graphic designer', 'miniaturist', 'painter', 'Non-precious jeweller', 'web designer', 'Model/ Prop-maker', 'Sculptor', 'online stock images photographer', 'Landscape painter', 'printmaker', 'marine painter', public site sculptor, 'Illustrator', 'location photographer', 'Jewellery designer', 'Decorative Glass



designer/maker', 'potter', 'Sports photographer', 'film-director'.

86 out of these 104 'Web Only Publications' respondents (82%) were professional by our definition, i.e. spent 50% or more of their time in visual creation. In the stratified categories (Q3 of the survey) 53 were fine artists, 18 photographers, 8 designers and 7 illustrators. Typically they had spent 16.5 years in the industry, with a median of about 4.5 years of formal education. Interestingly, many of these 104 declared that less than 50% of their works were available on the Internet! This indicates that for many who rank 'Web only' as their main publication stream, it is a selective, perhaps complementary, choice of exploitation.

The age ranges of the above group are only slightly younger than the full sample: 9 in 25-34 range, 20 in 35-44 range, 18 in 45-54 range, 26 in 55-64 range, 8 over 65 (cf. table and graphic for Q33 [p. 27 below]). 53% were males, i.e. the gender balance is more equal than for the full sample (see Q32 table and graphic [p.25 below]). Median earnings for the full sample of this group (£9,500) are low, as is DACS median income (£72). The sub-sample of main income artists earns £19,500 (see further analysis in table D6 [p.61 below]).

*"I have been working as a gallery based photographer for about 30 years – I dream up ideas and I work on these for 2 -3 -4 years and then I put up a show, and I publish some books and I sell my work to collectors and museums. 2 years ago, I saw the light and I left film behind forever and I started shooting digitally and in March this year I put on my first ever digital show which is digital right from shooting all the way up to pigment prints. This opened in Cardiff recently and I am working right now on a very big project digitally in London. I have a website and I exhibit online"*  
[Photographer]

**Table**

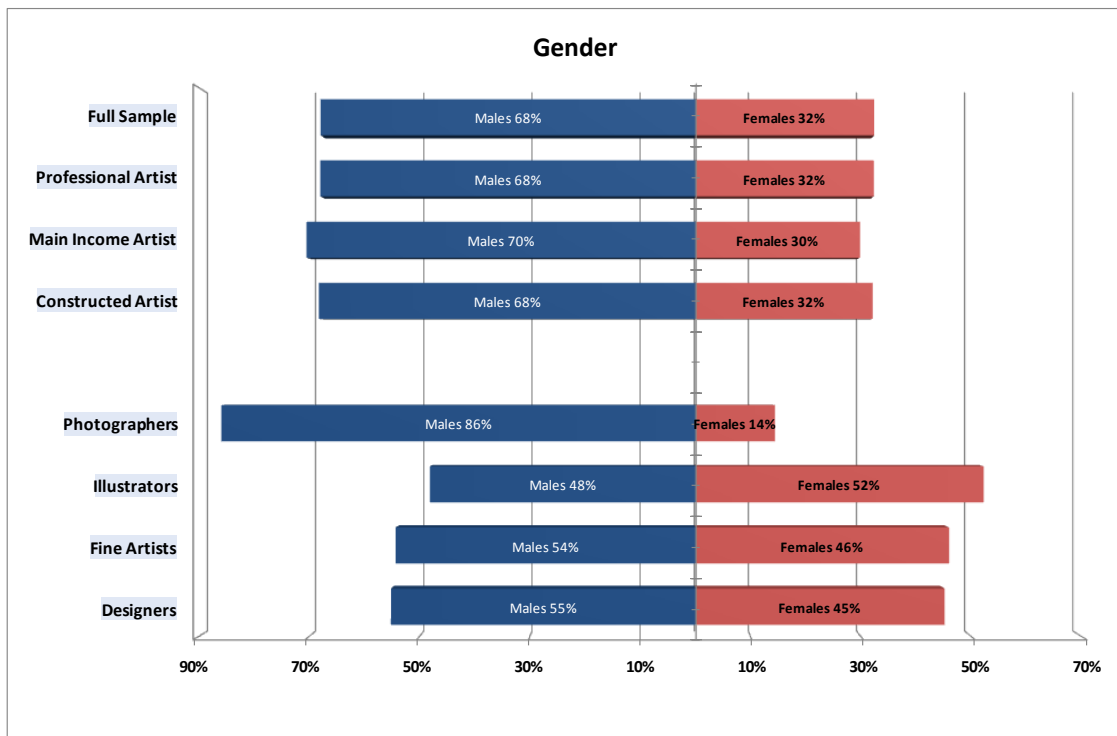
**Gender**

Q32

**Data**

	Male	Responses	Female	Responses
<i>Full Sample</i>	68%	304	32%	145
<i>Professional Artist</i>	68%	265	32%	126
<i>Main Income Artist</i>	70%	182	30%	77
<i>Constructed Artist</i>	68%	17	32%	8
<i>Photographers</i>	86%	161	14%	27
<i>Illustrators</i>	48%	35	52%	38
<i>Fine Artists</i>	54%	65	46%	55
<i>Designers</i>	55%	11	45%	9

**Graphic**



## Analysis

Photography is a strongly male dominated occupation (86% male; this is in line with the British Photographic Council survey with 83% male respondents). Male visual creators also dominate among the main income artists (70%) and among visual creators credited in national newspapers and magazines (68% = constructed artist). designers and fine artists are more balanced.

The occupation of illustrator has a slight female majority (52%) in this survey whereas in the AOI survey, females were 49%.

**Table**

**Age**

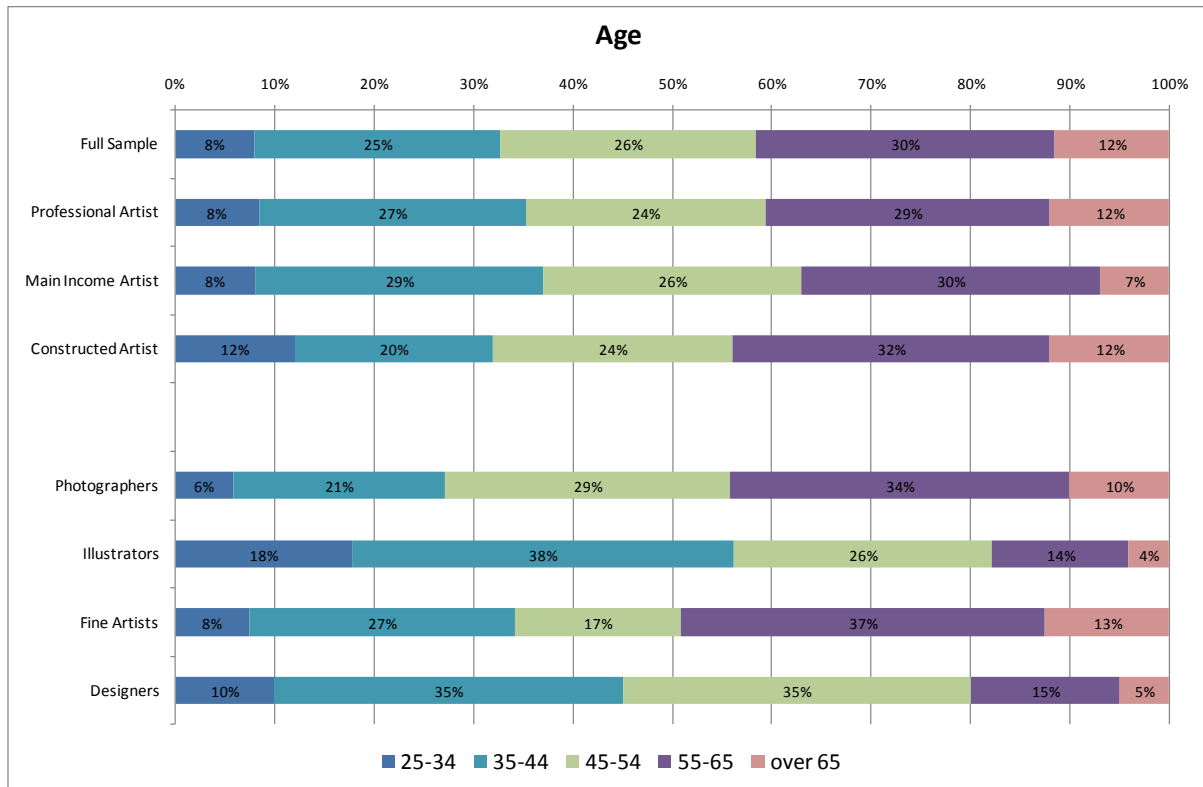
Q33

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
25-34	8%	36	8%	33	8%	21	12%	3
35-44	25%	111	27%	105	29%	75	20%	5
45-54	26%	115	24%	94	26%	67	24%	6
55-65	30%	135	29%	112	30%	78	32%	8
over 65	12%	52	12%	47	7%	18	12%	3

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
25-34	6%	11	18%	13	8%	9	10%	2
35-44	21%	40	38%	28	27%	32	35%	7
45-54	29%	54	26%	19	17%	20	35%	7
55-65	34%	64	14%	10	37%	44	15%	3
over 65	10%	19	4%	3	13%	15	5%	1

**Graphic**



**Analysis**

Respondents to occupational surveys tend to be slightly older than the general working population. Answering takes time that entrants to the labour market prefer to spend otherwise.

Illustrators and designers are significantly younger than the full sample, with above 80% of respondents being 54 and younger (the AOI survey of illustrators found 95% of respondents to be 55 years and below). Visual creators credited in national newspapers and magazines (= constructed artist) show a very similar age profile to the full sample. This is so despite the fact that the constructed artist sample shows a distinct statistical profile throughout the survey.

**Table**

**Number of years working as a visual creator**

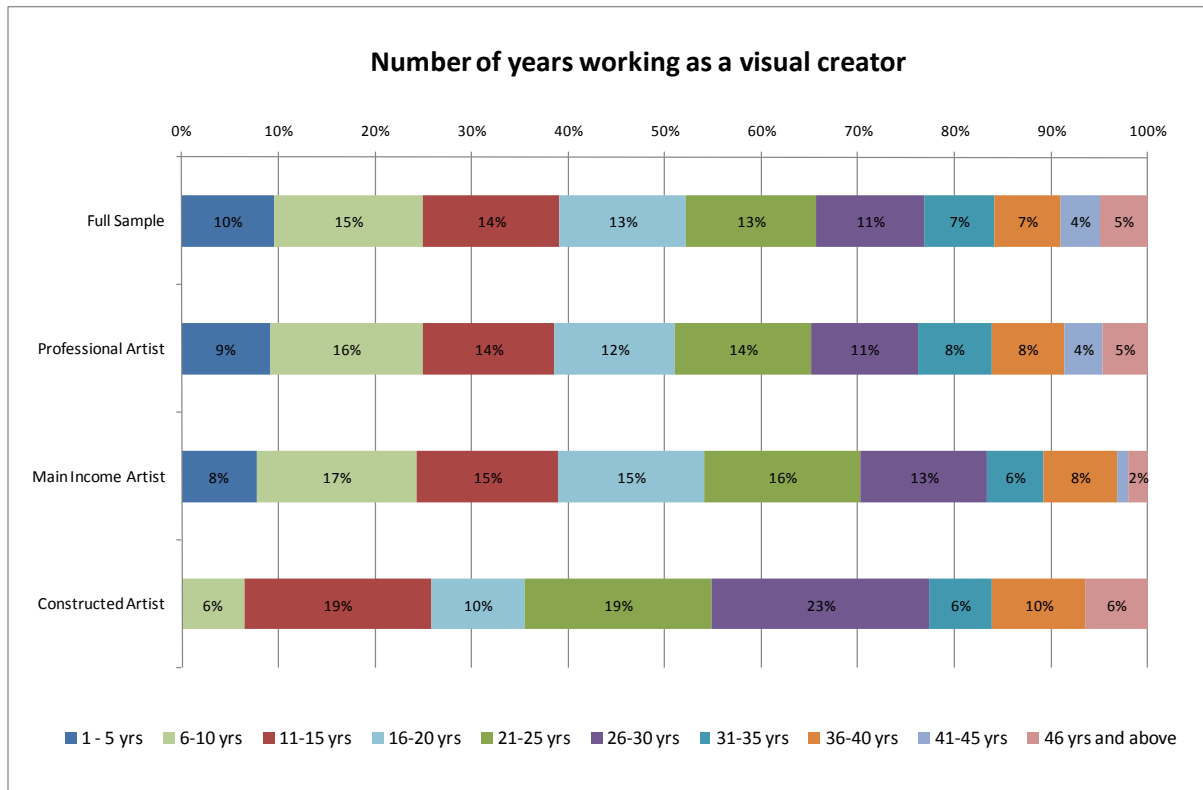
*Q6 In which year have you started earning as a visual creator?*

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
1 - 5 yrs	10%	56	9%	47	8%	20		0
6-10 yrs	15%	91	16%	81	17%	43	6%	2
11-15 yrs	14%	83	14%	70	15%	38	19%	6
16-20 yrs	13%	77	12%	64	15%	39	10%	3
21-25 yrs	13%	79	14%	72	16%	42	19%	6
26-30 yrs	11%	66	11%	57	13%	34	23%	7
31-35 yrs	7%	43	8%	39	6%	15	6%	2
36-40 yrs	7%	40	8%	39	8%	20	10%	3
41-45 yrs	4%	24	4%	20	1%	3		0
46 yrs and above	5%	29	5%	24	2%	5	6%	2

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
1 - 5 yrs	11%	25	13%	12	9%	16	4%	1
6-10 yrs	18%	42	17%	16	16%	27	8%	2
11-15 yrs	11%	25	18%	17	17%	29	16%	4
16-20 yrs	15%	35	16%	15	12%	20	4%	1
21-25 yrs	14%	31	11%	11	12%	20	32%	8
26-30 yrs	11%	26	13%	12	7%	12	20%	5
31-35 yrs	8%	18	2%	2	7%	12	4%	1
36-40 yrs	6%	14	3%	3	7%	12	8%	2
41-45 yrs	3%	6	5%	5	6%	11		0
46 yrs and above	3%	6	3%	3	7%	12	4%	1

**Graphic**



**Analysis**

52% of the full sample have worked for less than 20 years as a visual creator, while 35% of Visual creators credited in national newspapers and magazines (= constructed artist) have worked for less than 20 years. Only 4% of fine artists have worked 46 years and longer.

**Table**

**Size of households**

Q34 Number of people living in your household?

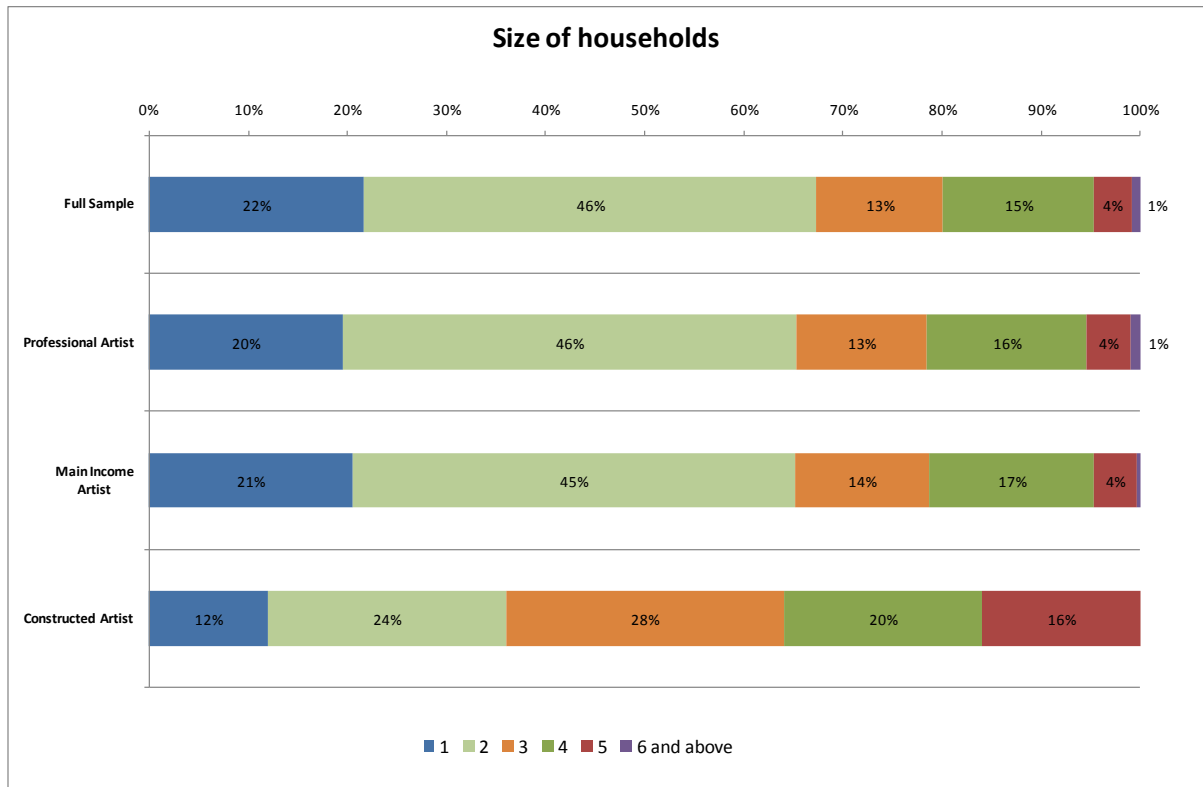
**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
1	22%	97	20%	76	21%	53	12%	3
2	46%	204	46%	178	45%	115	24%	6
3	13%	57	13%	51	14%	35	28%	7
4	15%	68	16%	63	17%	43	20%	5
5	4%	17	4%	17	4%	11	16%	4
6 and above	1%	4	1%	4	0.4%	1	0%	0

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
1	22%	41	16%	12	25%	30	20%	4
2	47%	89	44%	32	42%	50	35%	7
3	10%	18	18%	13	17%	20	15%	3
4	17%	32	16%	12	13%	16	15%	3
5	4%	7	4%	3	1%	1	15%	3
6 and above	1%	1	1%	1	2%	2	0%	0



**Graphic**



**Analysis**

22% of the full sample live alone, but only 16% of illustrators, and 12% of visual creators credited in national newspapers and magazines (= constructed artist). Photographers and fine artists have on average the smallest households, with 67% living in 1-2 person households.

Designers (45% live in 3 person and above households) and visual creators credited in national newspapers and magazines (= constructed artist; 64% 3 persons and above households) are more likely to live in larger family units. It will turn out that these two groups also have the highest median income.

Overall, full sample, professional artists and main income artists show a very similar statistical profile. Having an artistic occupation as your main income does *not* correlate with larger sizes of households.

**Table**

**Highest educational qualification**

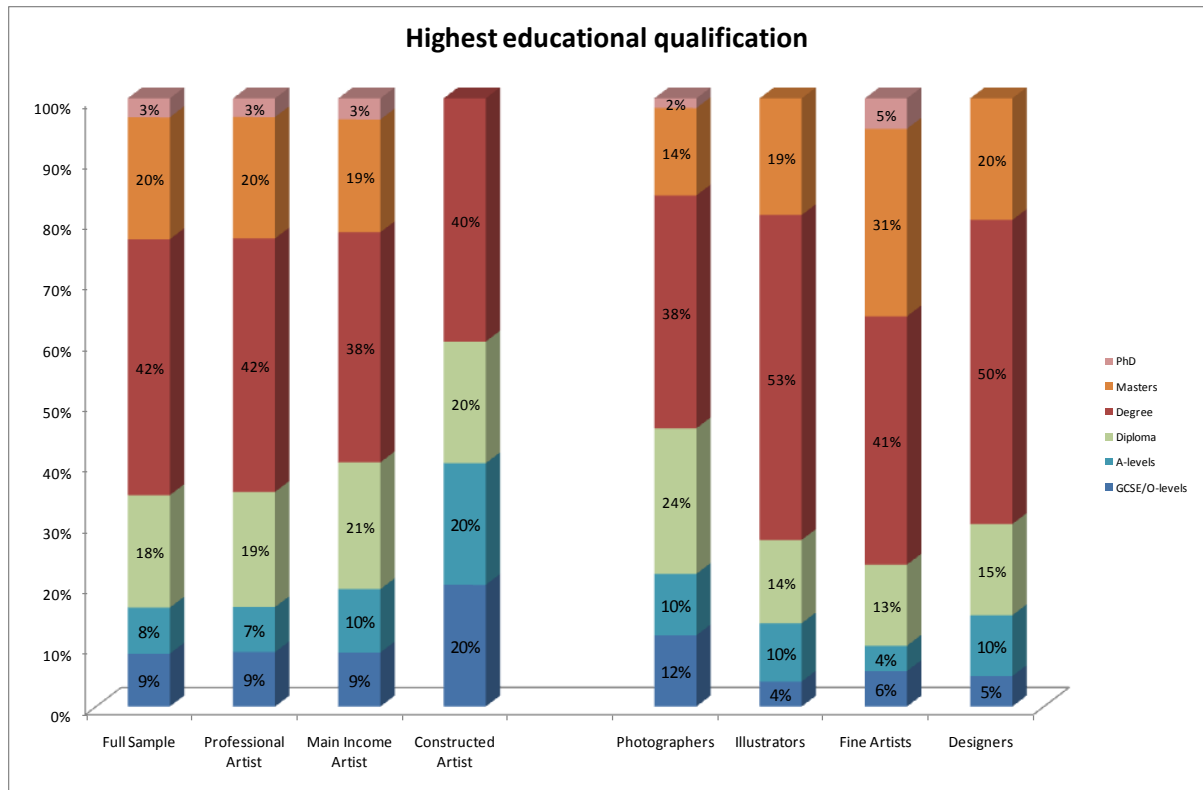
Q35 What is your highest educational qualification?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
GCSE/O-levels	9%	39	9%	35	9%	23	20%	5
A-levels	8%	34	7%	29	10%	27	20%	5
Diploma	18%	83	19%	74	21%	54	20%	5
Degree	42%	189	42%	163	38%	98	40%	10
Masters	20%	90	20%	78	19%	48		0
PhD	3%	14	3%	12	3%	9		0

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
GCSE/O-levels	12%	22	4%	3	6%	7	5%	1
A-levels	10%	19	10%	7	4%	5	10%	2
Diploma	24%	45	14%	10	13%	16	15%	3
Degree	38%	72	53%	39	41%	49	50%	10
Masters	14%	27	19%	14	31%	37	20%	4
PhD	2%	3		0	5%	6		0

**Graphic**



**Analysis**

42% of visual creators are educated to degree level (designers: 50%; illustrators: 53%). 36% of fine artists either hold a Masters or PhD. 12% of photographers have no qualification beyond GCSE/O levels. An 'Other' option allowed respondents to list other qualifications, such as ATC, Postgrad Diploma (10 Answers), HND (7 Answers), FRPS EFIAP FIPF FIC(M), NCTJ NCE, PhD Student (2 Answers), City & Guilds Full Technology Electronics, RPS Licentiate, Slade (2 Answers), Registered General Nurse (RGN), Gas Engineering Qualifications, bipp quals, and Accountancy qualification. 5 respondents said 'None'.

The figures in the table above for illustrators can be compared with the Association of Illustrators survey. Whereas this survey finds that 53% of illustrators are educated to a degree level and 19% up to Masters level, the AOI survey puts the figures at 44% and 14% respectively.

On the relationship between educational qualification and earnings, see analysis section D8 [p.65 below]: 'Median self-employed income by highest educational qualification.'

**Table**

**Percentage of visual creators with or without formal arts training**

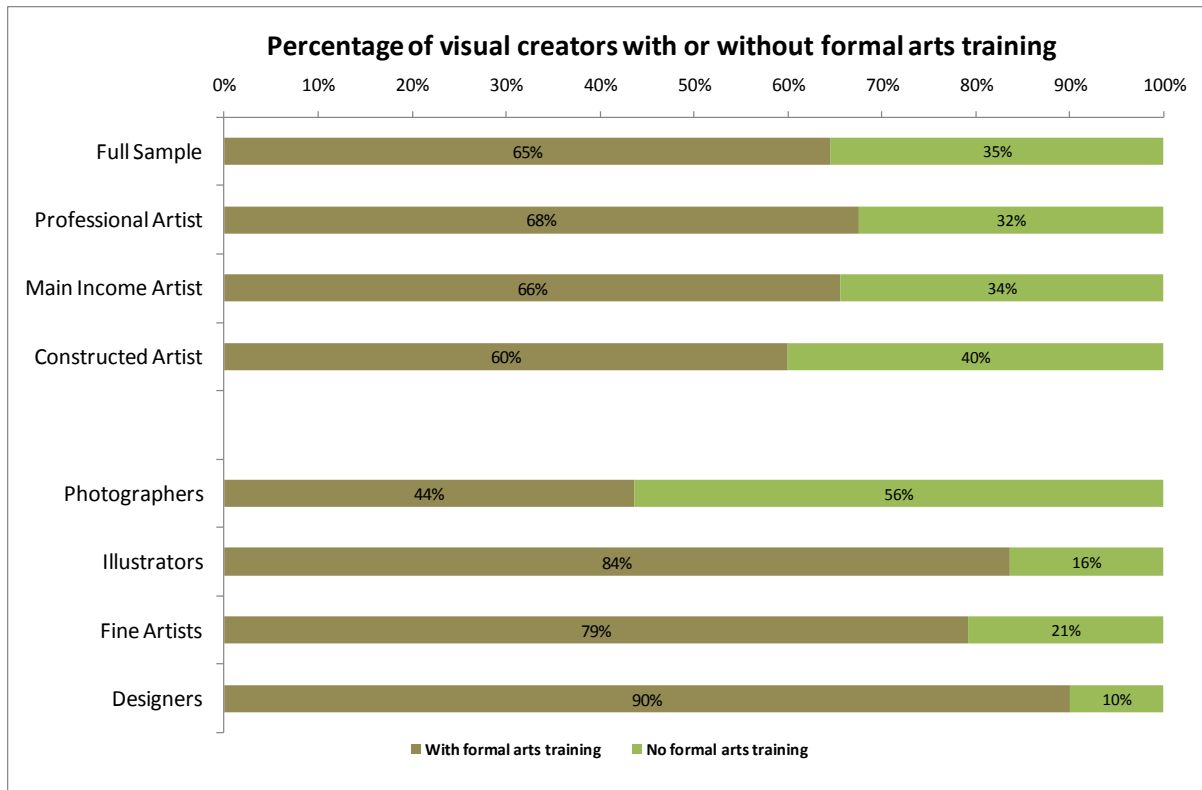
Q36 As part of your education, have you had any formal arts training?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>With formal arts training</i>	65%	290	68%	264	66%	170	60%	15
<i>No formal arts training</i>	35%	159	32%	127	34%	89	40%	10

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>With formal arts training</i>	44%	82	84%	61	79%	95	90%	18
<i>No formal arts training</i>	56%	106	16%	12	21%	25	10%	2

**Graphic**



**Analysis**

Full sample, professional, and main income artists have typically 4 years (= median) of formal arts training (constructed artists: 3 years). Having a formal arts training does not make it more likely to be a main income artist (marginal increase from 65% to 66%).

A 'formal arts training' is most common among designers (90%) and illustrators (84%). It is least common among photographers (56% without formal training). 21% of fine artists have no formal training in the arts.

**Table**

**Percentage spending 50% or more time in visual creation**

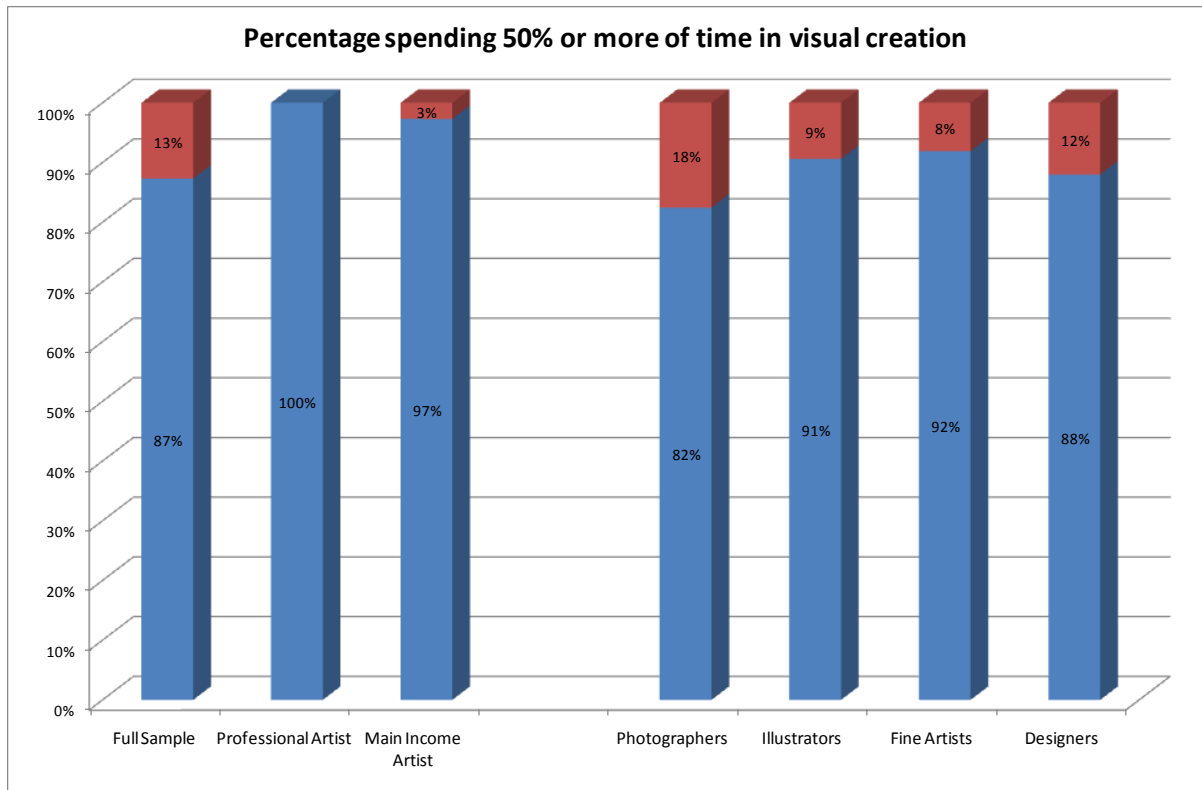
*Q2 Do you spend at least half of your time as a visual creator?*

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Yes	87%	516	100%	516	97%	253		N/A
No	13%	75		0	3%	7		N/A

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Yes	82%	188	91%	87	92%	159	88%	22
No	18%	40	9%	9	8%	14	12%	3

**Graphic**



**Analysis**

Professional artists, by definition, account for 100% of the category measured in this table and graphic representation (as discussed in the methodology section above: Who is a visual creator?). The aim of defining a sub-sample by time allocated is to capture a particularly policy relevant group, i.e. those who have made a sustained commitment to the occupation. The professional artist definition flags up 13% of all those receiving payments by DACS as occasional, potentially amateur creators. Photographers are more likely to be excluded by the definition (18% work below a 50% time commitment), but otherwise there are no big differences in the pattern of time allocation between illustrators, fine artist and designers.

**Table**

**Percentage of visual creators with a second job**

*Q4 Do you have a second job?*

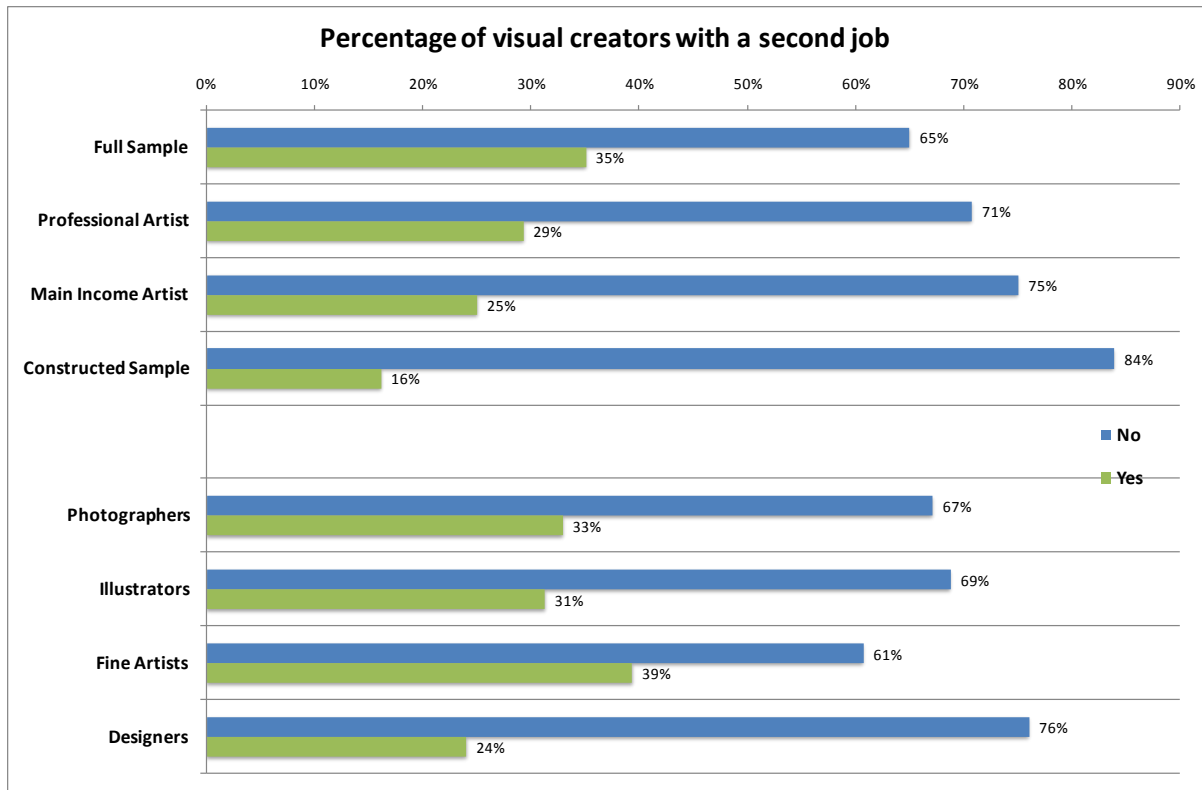
**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Sample	Responses
No	65%	384	71%	365	75%	195	84%	26
Yes	35%	207	29%	151	25%	65	16%	5

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
No	67%	153	69%	66	61%	105	76%	19
Yes	33%	75	31%	30	39%	68	24%	6



**Graphic**



**Analysis**

This table and graphic offer another take on the same issue as Q2: Having excluded occasional creators, 29% of professional artists still need a second job to make a living. For fine artists, the percentage rises to 39%, i.e. 2/5 of fine artists hold a second job of some kind. Designers and visual creators credited in national newspapers and magazines (= constructed artist) show a more full time profile, with 76% (designer) and 84% (constructed artist) working only as a visual creator.

*“Typist - that's how I earn a living professionally at the moment. "Artist" is what I am outside (paid!) work” [Fine Artist]*

## Earnings Analysis

An important objective of our earlier work on authors' earnings was the development of an analytical framework under which groups of creators could be compared to each other, to other professional groups, and across countries.

Recognising that creative careers are often precarious and interrupted, artists may be best conceptualised as micro-entrepreneurs: The financial unit of analysis becomes the household, balancing a portfolio of risks. Measures of artistic earnings have to be set into the context of other income. The key earnings measures used in this study are:

- Household earnings (including partner's income)
- Individual earnings (including income from other jobs, and investment income)
- Earnings from self-employed artistic activity
- DACS earnings (see footnote on p.11 for details)
- Earnings by media/genre
- Earnings by type of creator (photographer, illustrator, fine artist, designer)

For each data set, we calculate the **mean** (average earnings) and **median** (mid-point or typical earnings). (Statistical terms are explained in the glossary. In general, the median is a preferred measure of 'average' income because income data are usually positively skewed and, unlike the arithmetic mean, the median is not affected by extreme values. However, the median can only be regarded as a reliable indicator of 'typical' income when the sample is reasonably large. The sub-samples represented in some of our tables are quite small, particularly for constructed artists and designers (which often have fewer than 10 responses), so it is necessary to exercise caution in interpreting the median income figures for these groups.)

In addition, we introduced a measure for the distribution of income (or inequality within the profession) since the cultural industries appear to produce peculiar earning patterns.<sup>20</sup> The distribution of income in a given population can be represented graphically by the **Lorenz curve**.<sup>21</sup> To construct a Lorenz curve, the cumulative

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<sup>20</sup> This has been discussed in sociological literature on fashion, and the economic literature on artists' labour markets and the superstar phenomenon. For a network explanation of the fashion characteristics of cultural markets, see Kretschmer, M., G.M. Klimis, and C.J. Choi, 1999. Increasing Returns and Social Contagion in Cultural Industries. *British Journal of Management* 10: S61-72. There is also an established literature on the economics of superstars: Rosen, S., 1981. The Economics of Superstars. *American Economic Review* 71: 845-58; Adler, M., 1985. "Stardom and Talent", *American Economic Review* 75: 208-12; For an analysis of the economic characteristics of cultural industries, see Caves, R., 2000. *Creative Industries: Contracts between Art and Commerce*. London: Harvard University Press.

<sup>21</sup> Lorenz, M.O., 1905. Methods of Measuring the Concentration of Wealth. *Publications of the American Statistical Association* 9: p. 209-219

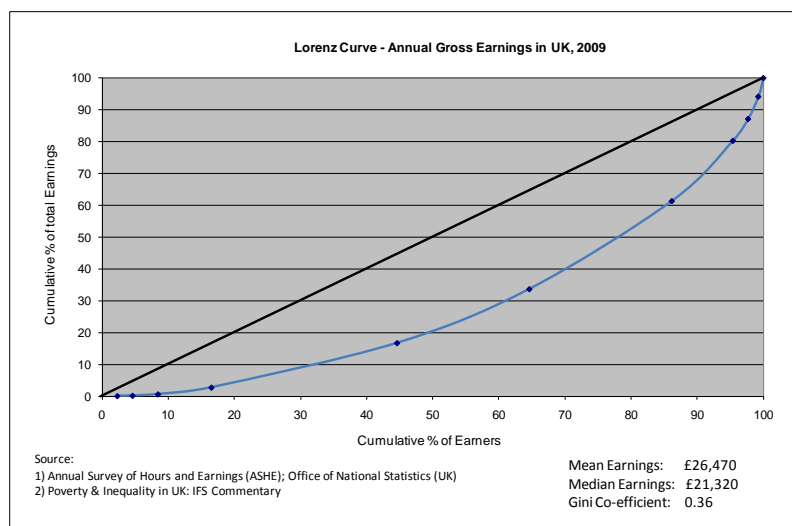
percentage income or wealth in the vertical axis y is plotted against cumulative percentage population in the horizontal axis x. Thus a Lorenz curve represents a series of statements such as: *The bottom 40% earn 20% of total income*. As a general rule, the more “sloped” the curve is, the more unequal is the distribution of wealth. The straight diagonal line is also called the “perfect equality line”, representing the scenario where every member in the population earns the same amount.

The degree of concentration (or inequality) can be represented in one number, the **Gini Coefficient**, calculating the deviation from the straight line. The Gini Coefficient ranges between 0, where there is no concentration (perfect equality: every member receives the same income), and 1 where there is total concentration (perfect inequality: one member receives all the income).

### Annual earnings (gross) of all UK employees (2009)

A useful baseline for comparing the situation of visual creators is the earnings profile of the UK working population as a whole. The Office for National Statistics (ONS) conducts an Annual Survey of Hours and Earnings (ASHE) based on a 1% sample of the PAYE tax register.

According to ASHE, the median, or midpoint annual national wage in the UK in 2009 was £21,320. In other words, 50% of the employed population earned £21,320 or less. The Lorenz curve shows that these bottom 50% earn about 20% of the total income, expressed as a Gini Coefficient of 0.36 (a fairly common distribution for the developed world).<sup>22</sup> Since the mean (average) of earnings tends to be skewed by the presence of high earners, the median is the more useful measure for comparing earnings data. A large gap between mean and median will be reflected in a high Gini Coefficient.



<sup>22</sup> The Economist reports from OECD and World Bank data that “America’s Gini coefficient has risen from 0.34 in the 1980s to 0.38 in the mid-2000s. Germany’s has risen from 0.26 to 0.3 and China’s has jumped from 0.28 to 0.4.” (Economist, 22 January 2011). For a detailed recent analysis of UK data, see *Poverty and Inequality in the UK: 2009*, London: Institute of Fiscal Studies.

**Table**

**Comparing Self Employed, Individual, Household & DACS Income**

D2

**Data**

	Self Employed Median Income	Self Employed Mean Income	Gini	CV (%)	Individual Median Income	Individual Mean Income	Gini	CV (%)
<i>Full sample</i>	£12,000	£22,994	0.59	220	£22,000	£36,932	0.54	293
<i>Professional</i>	£16,000	£26,066	0.55	205	£23,000	£39,268	0.55	295
<i>Main income</i>	£20,000	£28,710	0.43	108	£25,000	£31,145	0.43	99
<i>Constructed</i>	£27,000	£28,898	0.32	73	£34,000	£33,286	0.29	61
<i>Photographers</i>	£15,000	£25,931		267	£25,000	£42,655		333
<i>Illustrators</i>	£15,723	£21,280		101	£22,420	£30,537		123
<i>Fine Artists</i>	£10,000	£19,987		165	£18,006	£36,067		278
<i>Designers</i>	£23,000	£26,193		70	£27,000	£31,713		65

	Household Median Income	Household Mean Income	Gini	CV (%)	DACS Median Income	DACS Mean Income	Gini	CV (%)
<i>Full sample</i>	£34,000	£57,554	0.56	481	£264	£620	0.70	566
<i>Professional</i>	£35,000	£61,112	0.57	485	£268	£669	0.71	562
<i>Main income</i>	£35,000	£47,903	0.40	85	£350	£576	0.60	332
<i>Constructed</i>	£41,500	£47,144	0.24	56	£600	£818	0.44	136
<i>Photographers</i>	£35,000	£77,244		537	£375	£1,032		517
<i>Illustrators</i>	£33,540	£43,608		81	£400	£421		79
<i>Fine Artists</i>	£32,000	£43,315		98	£60	£256		223
<i>Designers</i>	£32,500	£46,887		109	£248	£291		104

## Analysis

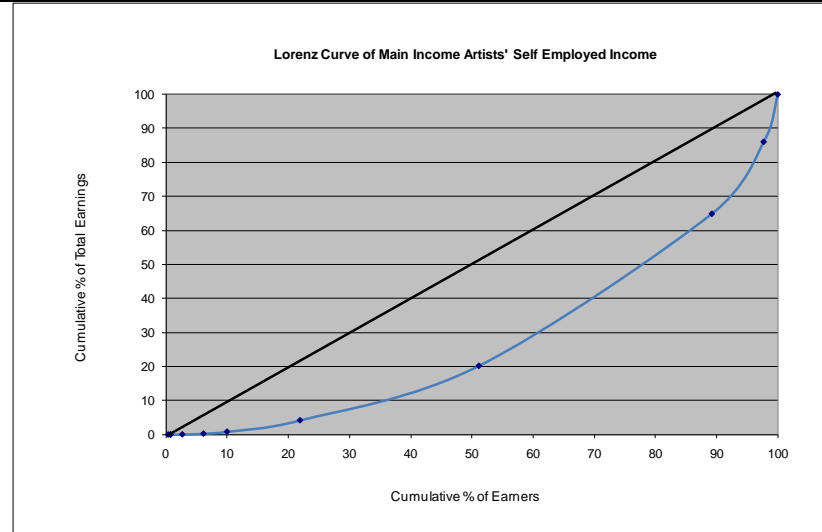
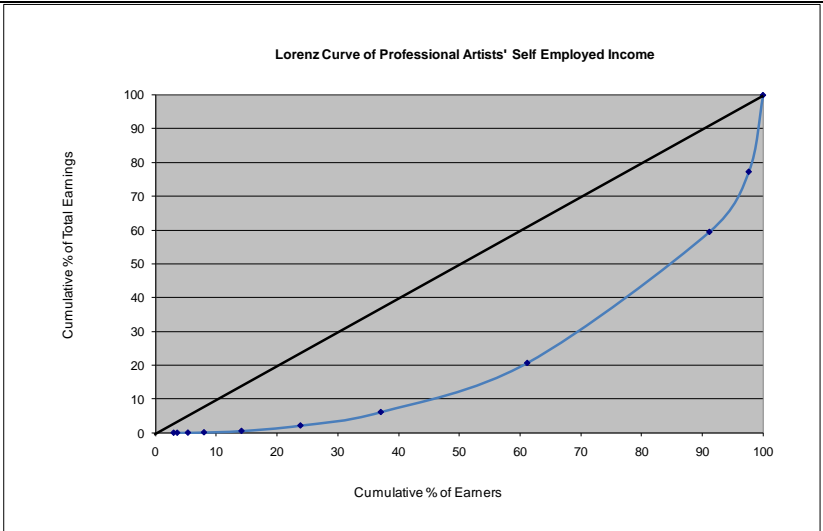
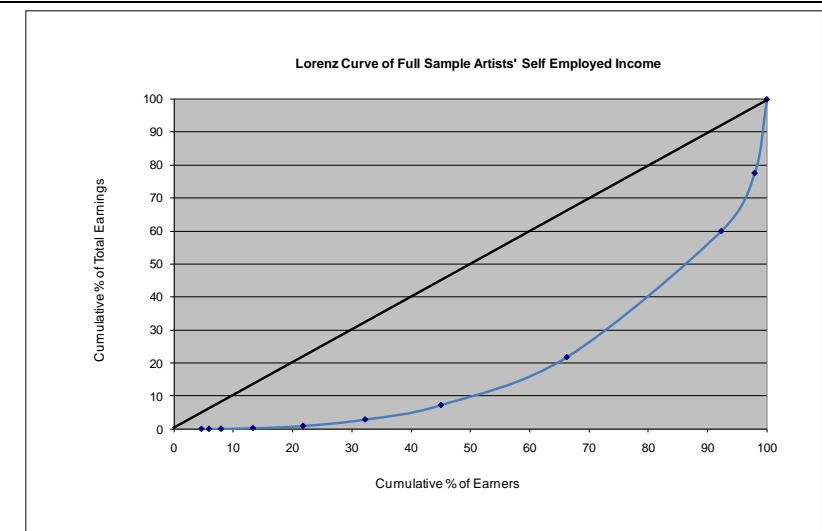
This table presents the core earnings data of the study in a comparative format. Visual creators typically earn only £12,000 per annum from artistic activity, about 56% of the national median wage of £21,320. Professional artists (i.e. those who devote at least half of their time to self-employed creative activity) earn only about £4,000 more than the full sample (which includes low earning occasional artists). Photographers, illustrators and cartoonists credited in national magazines and newspapers (= constructed artists) earn a median of £27,000, still a low wage for creators at the top of their profession. Their income is distributed more equally (Gini = 0.29, similar to all UK employees), probably because negotiated standard rates are prevalent in these media. Households (including partner's income) seem to function as a risk pool. A typical visual creator (full sample) contributes £22,000 (65%) to a household income of £34,000 (median). Visual creators who earn more than half their income as artists (main income artist sample) contribute £25,000 (71%) to a household income of £35,000 (median). The following four pages represent the distribution of income as Lorenz curves.

'Coefficient of Variation' (CV) in the above table<sup>23</sup> indicate that, in the full sample, there is more variability in DACS and households incomes than in self-employed or individual incomes. The photographers in the sample have the highest degree of variability in all forms of their incomes.

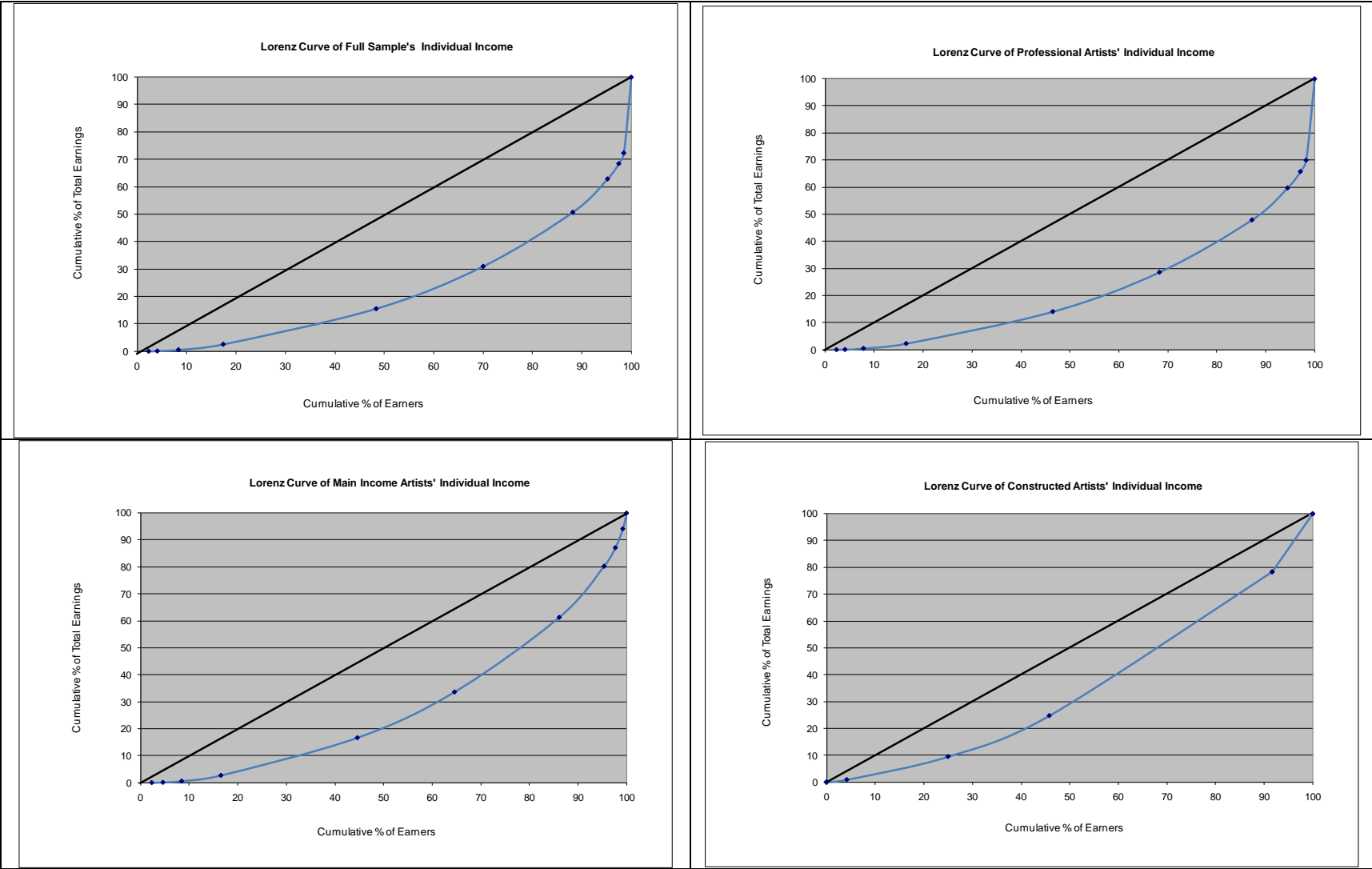
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<sup>23</sup> CV is a measure of relative dispersion equal to the standard deviation expressed as a percentage of the mean. Values greater than 100% mean that the standard deviation is greater than the mean, which implies a high degree of variability in the data.

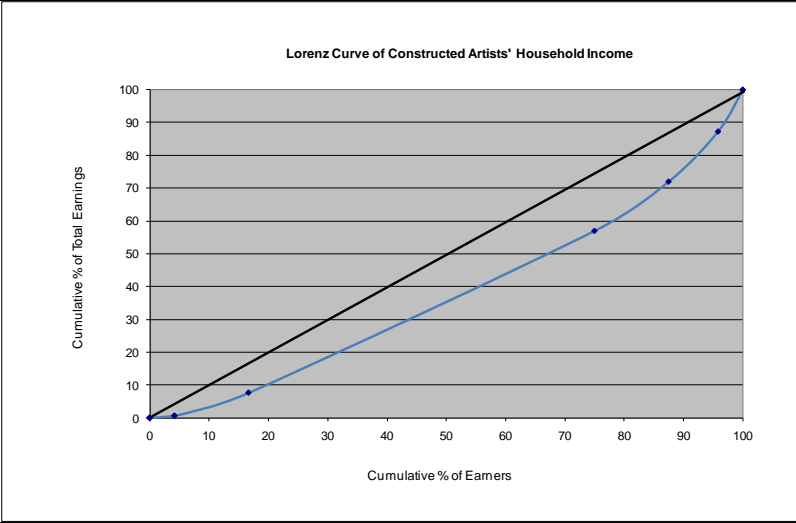
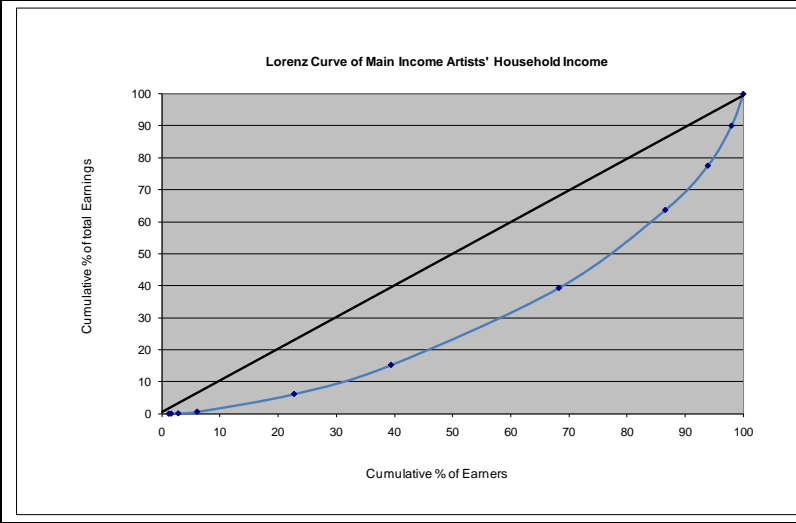
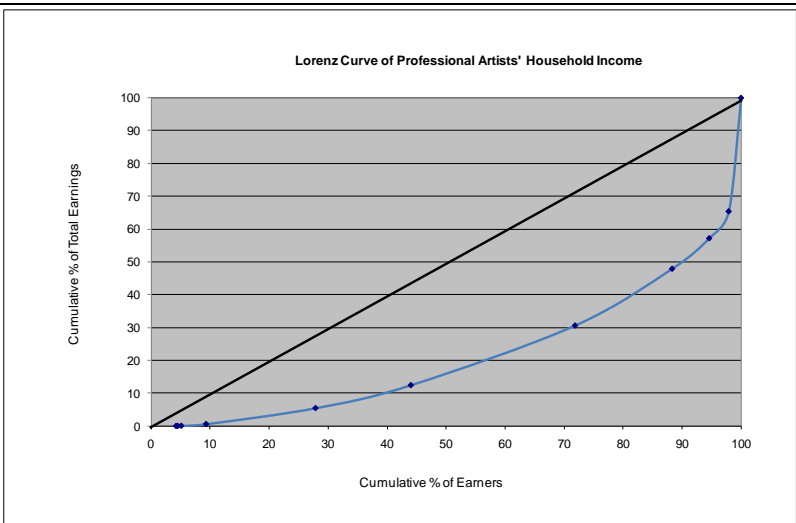
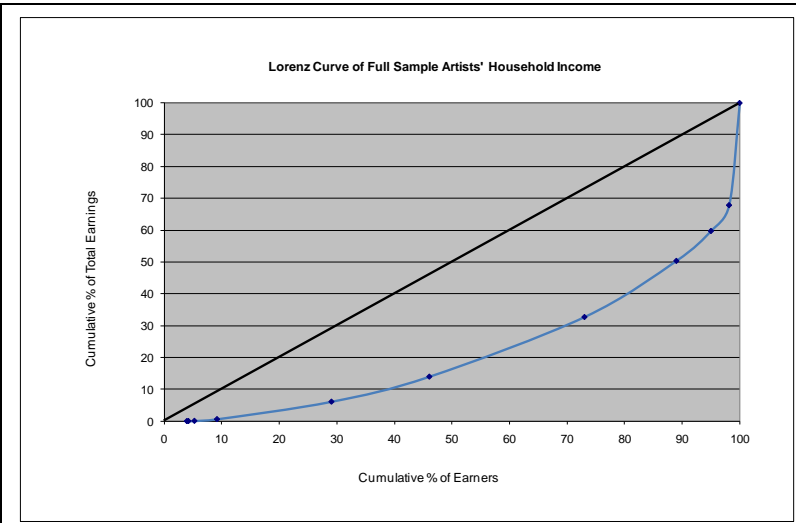
Graphic - Lorenz Curve (Self-employed Incomes)



Graphic - Lorenz Curve (Individual Incomes)

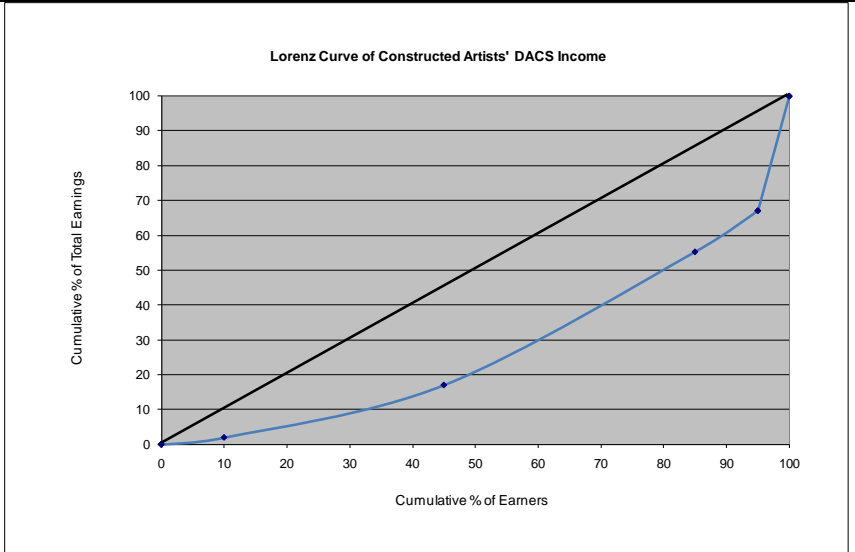
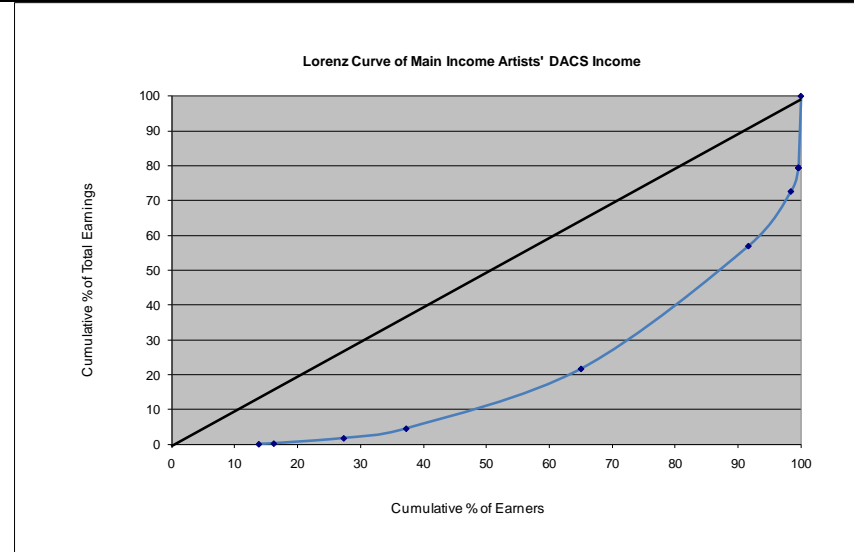
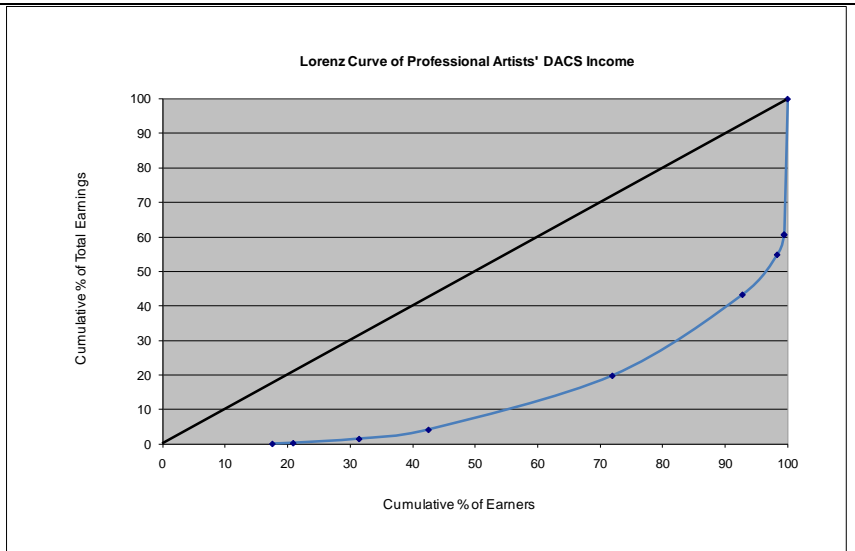
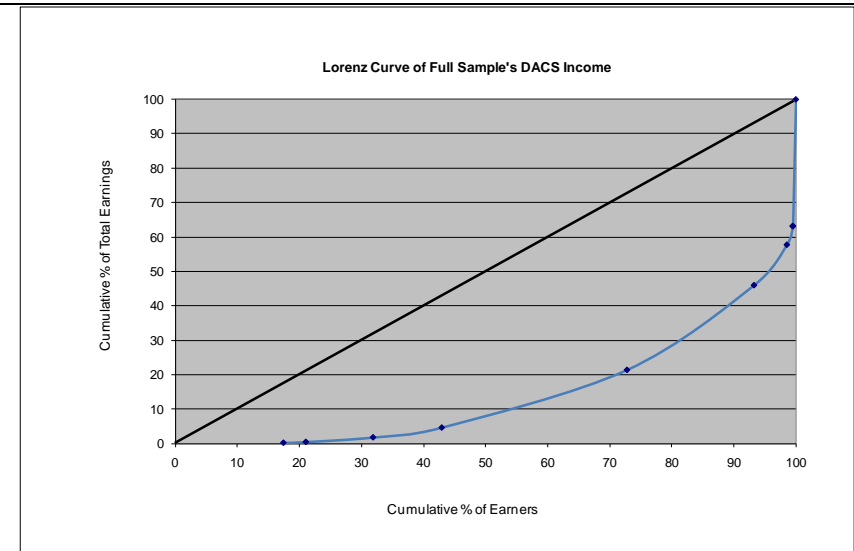


Graphic - Lorenz Curve (Household Incomes)

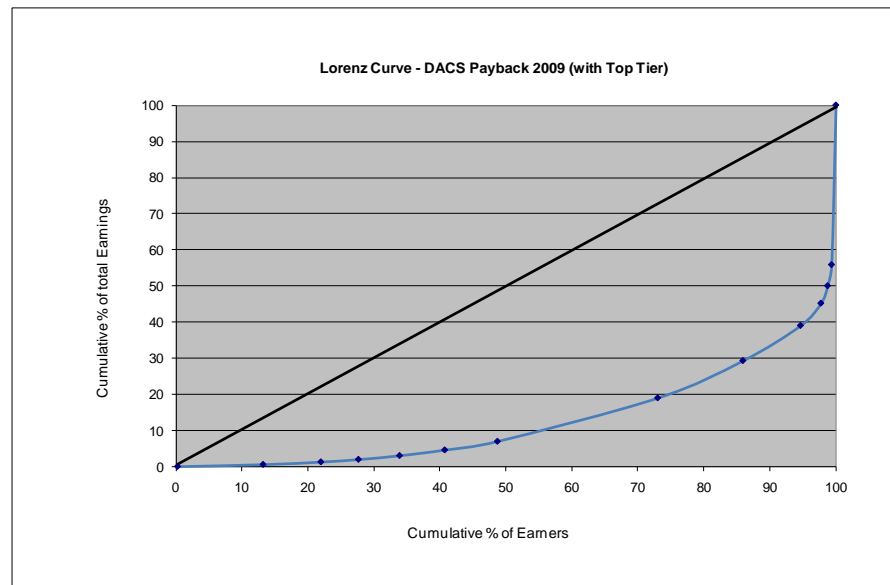
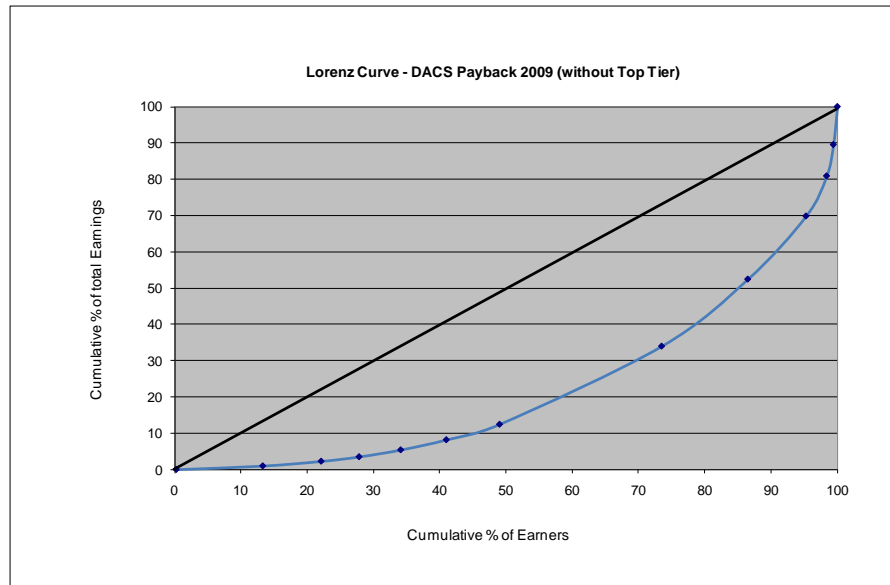




**Graphic - Lorenz Curve (DACS Incomes)**



**Graphic - Lorenz Curve (DACS Payback 2009)**



Mean Payback            £ 762  
 Median Payback        £ 227  
 Gini Coefficient        0.74

Mean Payback            £ 428  
 Median Payback        £ 227  
 Gini Coefficient        0.55

**Analysis**

The Lorenz curve of DACS payments under its Payback scheme enables us to assess to what extent survey respondents (who were asked to report their income from DACS) are representative of DACS payees as a whole. The actual DACS median payment in 2009 (£227) is close to the reported median (£264); the actual DACS mean payment is higher (£762) than the reported mean (£620), but lower than the mean payment (£428) without the top tier of payees (which are often not individual living artists but representatives of groups of artists, such as agents or picture libraries). This confirms that the respondents of this survey (full

sample) are a close match of the population the study attempted to capture. Table D2 [p.43 above] also indicates that the secondary market profile of the full sample and professional artists is very similar, with reported median DACS payments of £264 and £268 respectively. Compared to the ALCS study where there was a large gap between actual (median 2006: £80) and reported payments (median 2005/06: £160 for professional authors), this suggest that there are very few 'occasional' visual creators in the DACS population, but a considerable amount of 'occasional' writers among the ALCS population.

Note: Breakdown of DACS Payback Payments (Source: DACS)

DACS Payback Distribution 2009 (with Top Tier)

Payback Bands £	Frequency of Payees	Percentage of Payees	Subtotal Band Payback £	Percentage of Band Payback
<i>up to £25</i>	9	0.25	£78.52	0.003
<i>25-50</i>	474	12.96	£15,310.94	0.550
<i>50-75</i>	320	8.75	£19,876.20	0.714
<i>75-100</i>	208	5.69	£19,261.80	0.692
<i>100-150</i>	228	6.24	£29,498.95	1.059
<i>150-200</i>	250	6.84	£43,360.45	1.557
<i>200-250</i>	292	7.99	£66,248.03	2.379
<i>250-500</i>	888	24.29	£334,816.26	12.022
<i>500-750</i>	472	12.91	£287,316.00	10.316
<i>750-1000</i>	319	8.73	£270,592.09	9.716
<i>1000-2500</i>	113	3.09	£171,833.53	6.170
<i>2500-5000</i>	37	1.01	£134,374.89	4.825
<i>5000-10000</i>	22	0.60	£162,842.29	5.847
<i>10000 and over</i>	24	0.66	£1,229,628.06	44.151

DACS Payback Distribution 2009 (without Top Tier)

Payback Bands £	Frequency of Payees	Percentage of Payees	Subtotal Band Payback £	Percentage of Band Payback
<i>up to £25</i>	9	0.25	£78.52	0.005
<i>25-50</i>	474	13.05	£15,310.94	0.984
<i>50-75</i>	320	8.81	£19,876.20	1.278
<i>75-100</i>	208	5.73	£19,261.80	1.238
<i>100-150</i>	228	6.28	£29,498.95	1.897
<i>150-200</i>	250	6.88	£43,360.45	2.788
<i>200-250</i>	292	8.04	£66,248.03	4.259
<i>250-500</i>	888	24.45	£334,816.26	21.526
<i>500-750</i>	472	13.00	£287,316.00	18.472
<i>750-1000</i>	319	8.78	£270,592.09	17.397
<i>1000-2500</i>	113	3.11	£171,833.53	11.047
<i>2500-5000</i>	37	1.02	£134,374.89	8.639
<i>5000-10000</i>	22	0.61	£162,842.29	10.469

**Table**

**Contribution of self-employed earnings to total individual income**

D3

**Data**

Full Sample	%	Median Income	Mean Income	Respondents
<i>50% and more of total individual income</i>	66%	£20,000	£28,820	260
<i>75% and more of total individual income</i>	54%	£24,750	£31,616	211
<i>90% and more of total individual income</i>	47%	£25,000	£32,927	183
<i>100% of total individual income</i>	44%	£25,000	£33,318	171

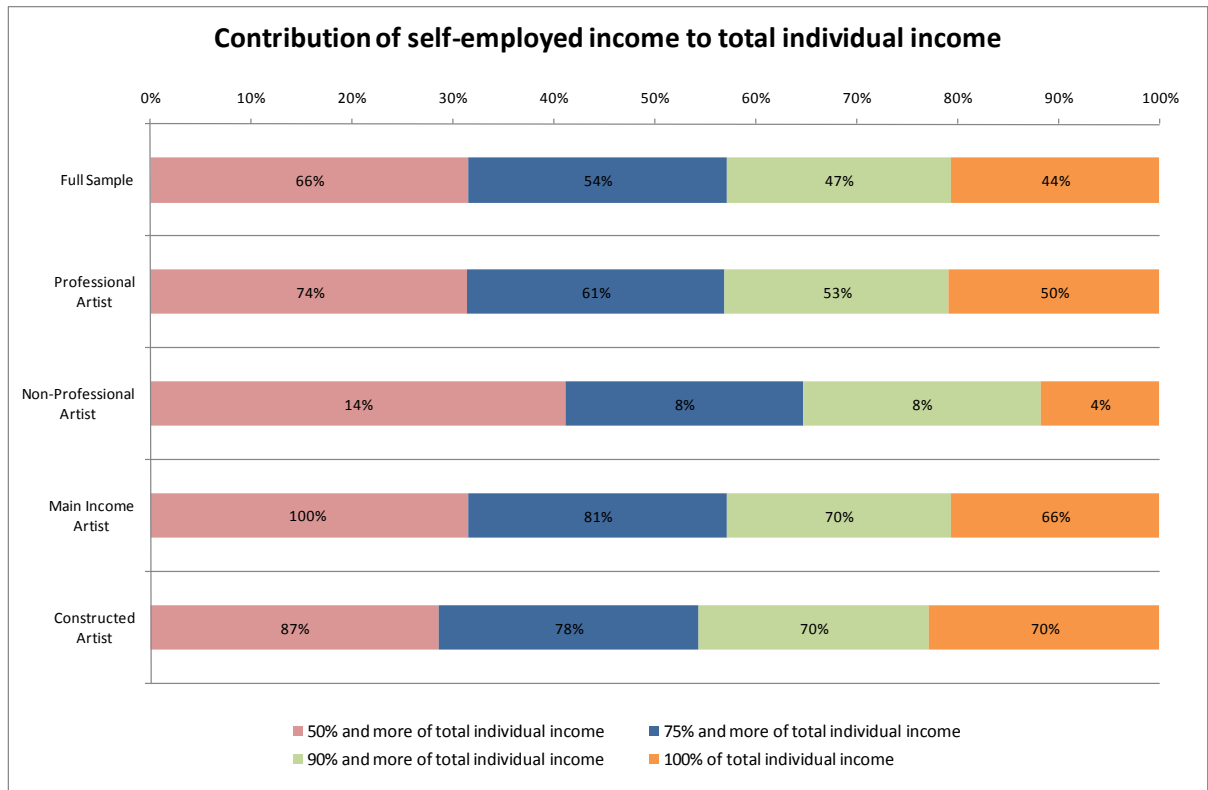
Professional Artists	%	Median Income	Mean Income	Respondents
<i>50% and more of total individual income</i>	74%	£21,000	£29,457	253
<i>75% and more of total individual income</i>	61%	£24,750	£32,093	207
<i>90% and more of total individual income</i>	53%	£25,000	£33,508	179
<i>100% of total individual income</i>	50%	£25,000	£33,795	169

Main Income Artists	%	Median Income	Mean Income	Respondents
<i>50% and more of total individual income</i>	100%	£20,000	£28,820	260
<i>75% and more of total individual income</i>	81%	£24,750	£31,616	211
<i>90% and more of total individual income</i>	70%	£25,000	£32,927	183
<i>100% of total individual income</i>	66%	£25,000	£33,579	171

Constructed Artists	%	Median Income	Mean Income	Respondents
<i>50% and more of total individual income</i>	87%	£33,000	£33,555	20
<i>75% and more of total individual income</i>	78%	£34,000	£34,894	18
<i>90% and more of total individual income</i>	70%	£34,000	£34,850	16
<i>100% of total individual income</i>	70%	£34,000	£34,850	16

Non-professional Artists	%	Median Income	Mean Income	Respondents
<i>50% and more of total individual income</i>	14%	£2,000	£5,795	7
<i>75% and more of total individual income</i>	8%	£5,500	£6,935	4
<i>90% and more of total individual income</i>	8%	£5,500	£6,935	4
<i>100% of total individual income</i>	4%	£8,370	£8,370	2

**Graphic**



**Analysis**

As was to be expected, main income artists earn a higher percentage of their individual income from artistic activity than professional artists (defined by time allocation), and the full sample (defined by receiving payments from DACS). Those who spend less than 50% of their time in artistic activity (labelled “non-professional artist” for the purposes of this graph) earn much lower percentages of their total income from visual creation, but time percentages are not closely correlated with earnings percentages. Effort does not necessarily pay.

**Table**

**Mean Income of female creators as a percentage of male income**

*(In response to self employed earnings for the last financial year).*

D4

**Data**

	Full Sample	T-statistic	Professional Artist	T-statistic	Main Income Artist	T-statistic	Constructed Artist	T-statistic
DACS Income	34%	1.41**	31%	1.03**	51%	1.26**	214%	-1.305***
Self-employed Income	47%	2.66*	46%	2.88*	53%	3.83*	98%	0.06**
Individual Income	48%	1.96*	48%	2.88*	58%	3.69*	97%	0.116**

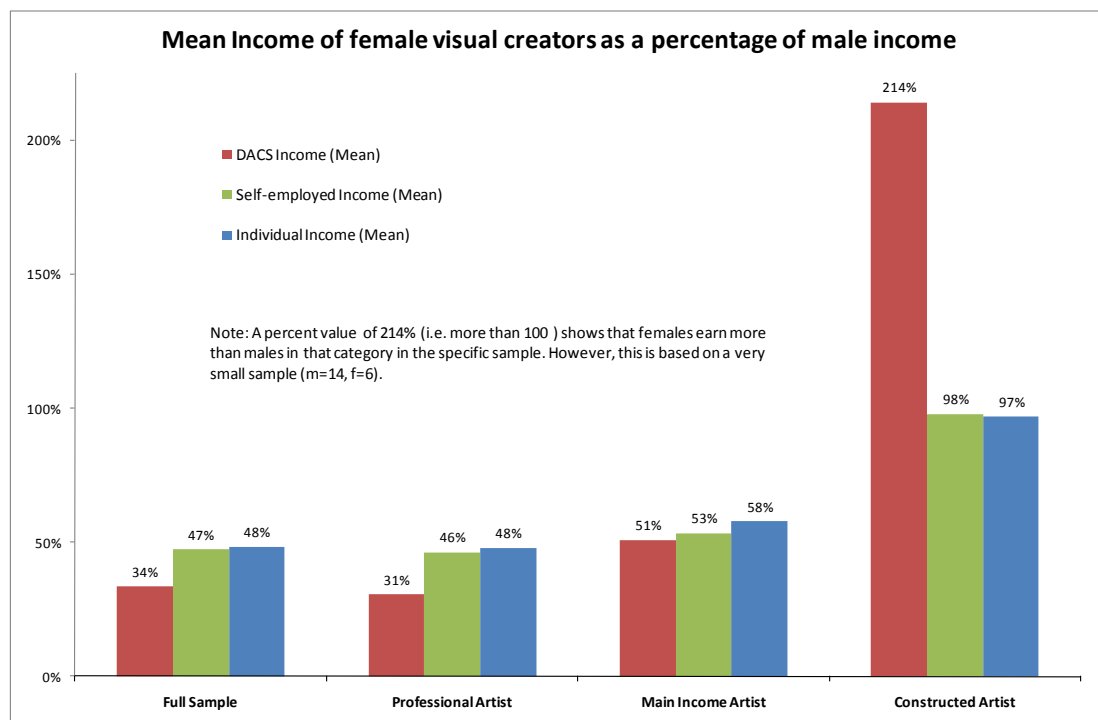
\* Significant

\*\* Not Significant

\*\*\* Female mean higher than male mean but not significant. In the above table, the sample for calculating mean income differences for constructed artists is small.

Significance was assessed at the 5% level in one-tailed tests.

**Graphic**



### **Analysis**

Female visual creators earn only 47% of the income of their male colleagues. For professional artists, the percentage is even worse (46%). T-tests were conducted to test whether male incomes are significantly higher than female incomes.

In the ALCS survey of literary authors using the same methodology, the discrepancy was not as large. Female professional writers earned 77.5% of male income (Kretschmer & Hardwick 2007, p.29).

**Table**

**Median self-employed income by age group**

*(In response to self employed earnings for the last financial year).*

D5

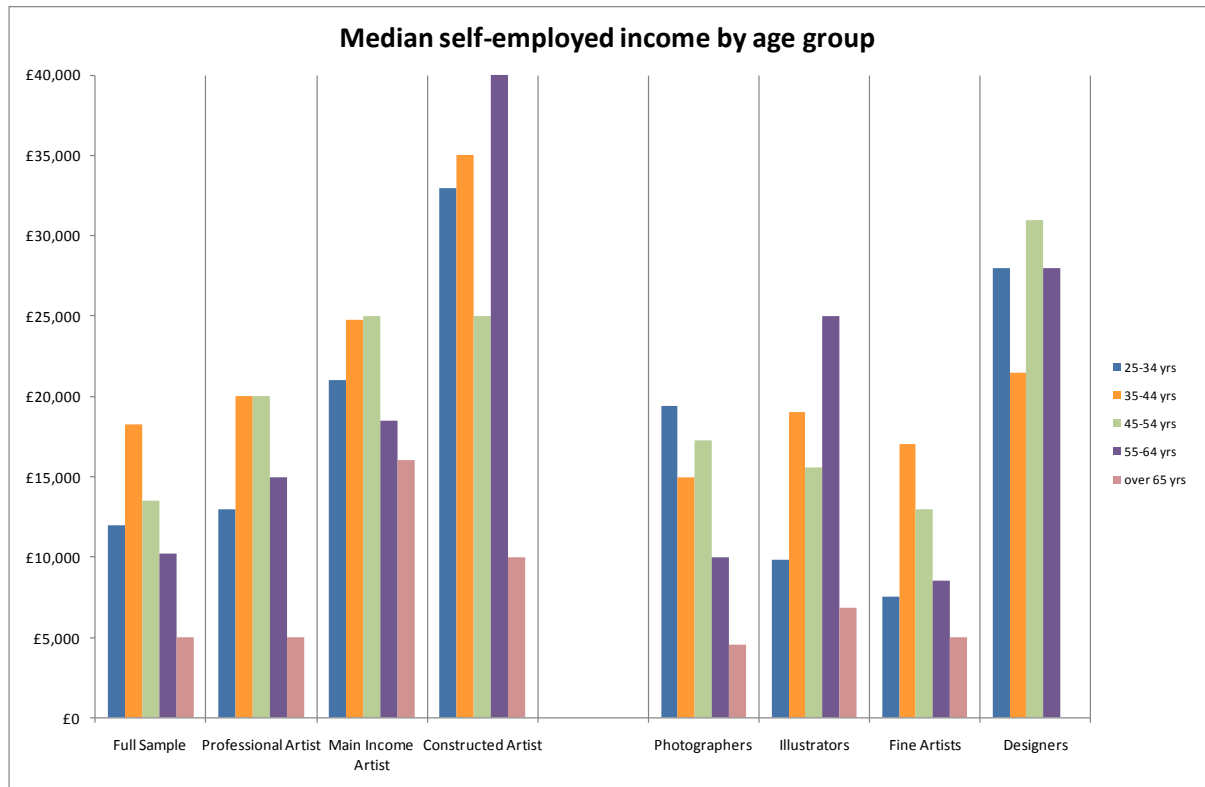
**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
25-34 yrs	£12,000	32	£13,000	29	£21,000	21	£33,000	3
35-44 yrs	£18,246	98	£20,000	93	£24,750	75	£35,000	5
45-54 yrs	£13,500	100	£20,000	82	£25,000	67	£25,000	5
55-64 yrs	£10,250	122	£15,000	100	£18,500	78	£40,000	7
over 65 yrs	£5,000	38	£5,000	35	£16,000	18	£10,000	3

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
25-34 yrs	£19,382	10	£9,850	11	£7,500	8	£28,000	2
35-44 yrs	£15,000	34	£19,000	26	£17,000	29	£21,500	6
45-54 yrs	£17,252	50	£15,565	18	£13,000	15	£31,000	4
55-64 yrs	£10,000	58	£25,000	9	£8,500	38	£28,000	3
over 65 yrs	£4,550	16	£6,845	2	£5,000	10		0



**Graphic**



**Analysis**

In employed occupations, earnings typically peak just before retirement. For visual creators (who are mostly self-employed) the peak is disturbingly early: in the 35-44 year age bracket. Photographers, illustrators and cartoonists credited in national media (= constructed artist), and designers are able to sustain their income to a higher age. However, the small number of responses in the constructed artists' and designers' groups may make their median incomes unreliable.

**Table**

**Difference in mean income of visual creators below 45 years of age and those aged 45 and above**

*(In response to self employed earnings for the last financial year).*

D22

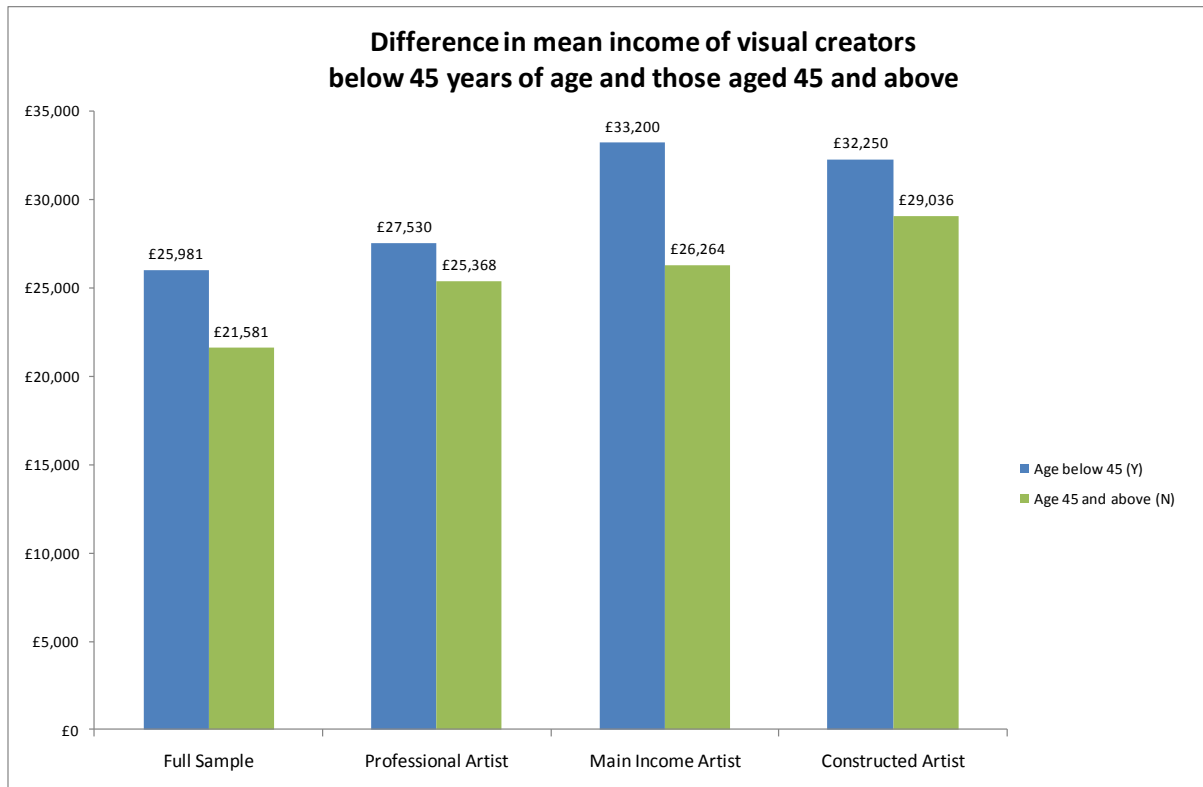
**Data**

	Age below 45 (Y)	Responses	Age 45 and above (N)	Responses	% of N to Y	N-Y	T-statistic
<i>Full Sample</i>	£25,981	130	£21,581	260	200%	£4,400	0.81**
<i>Professional Artist</i>	£27,530	122	£25,368	217	178%	£2,161	1.92*
<i>Main Income Artist</i>	£33,200	96	£26,264	163	170%	£6,936	1.76*
<i>Constructed Artist</i>	£32,250	8	£29,036	15	188%	£3,214	0.33**

\* Significant  
 \*\* Not Significant

Significance was assessed at the 5% level in one-tailed tests.

**Graphic**



**Analysis**

These t-tests confirm that the early earnings peak identified in the last table and graphic (p.57-58) is statistically significant for professional and main income artists. For policy makers, it should be a concern that it is difficult to sustain a professional career.

**Table**

**Median self-employed income by number of years working as a visual creator**

*(In response to self employed earnings for the last financial year).*

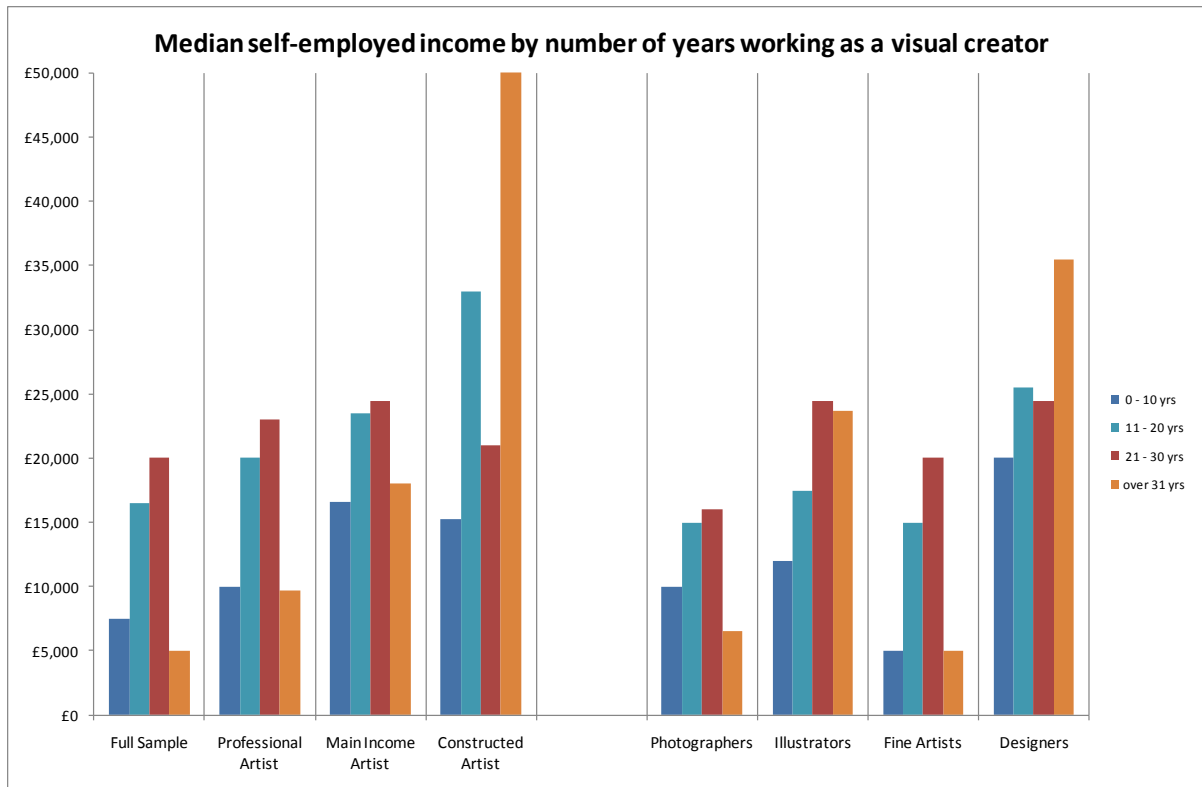
D9

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
0 - 10 yrs	£7,500	113	£10,000	99	£16,605	64	£15,300	2
11 - 20 yrs	£16,500	108	£20,000	92	£23,500	77	£33,000	8
21 - 30 yrs	£20,000	99	£23,000	85	£24,500	76	£21,000	10
over 31 yrs	£5,000	71	£9,683	64	£18,000	43	£50,000	3

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
0 - 10 yrs	£10,000	52	£12,000	21	£5,000	31	£20,000	3
11 - 20 yrs	£15,000	44	£17,492	23	£15,000	31	£25,500	2
21 - 30 yrs	£16,000	45	£24,500	16	£20,000	17	£24,500	8
over 31 yrs	£6,500	28	£23,679	6	£5,000	21	£35,500	2

**Graphic**



**Analysis**

Following on from the previous table (evolution of earnings with age), this set of data at least provides some assurance that experience can increase value – unless you are photographer. Photographers show a steep decline in median income after 30 years of industry experience. This may well be a function of the digital challenges identified elsewhere in this study. Note that the median incomes given for constructed artists and designers should be treated with caution, given the small number of responses.

**Table**

**Median self-employed income by type of media**

(In response to self employed earnings for the last financial year).

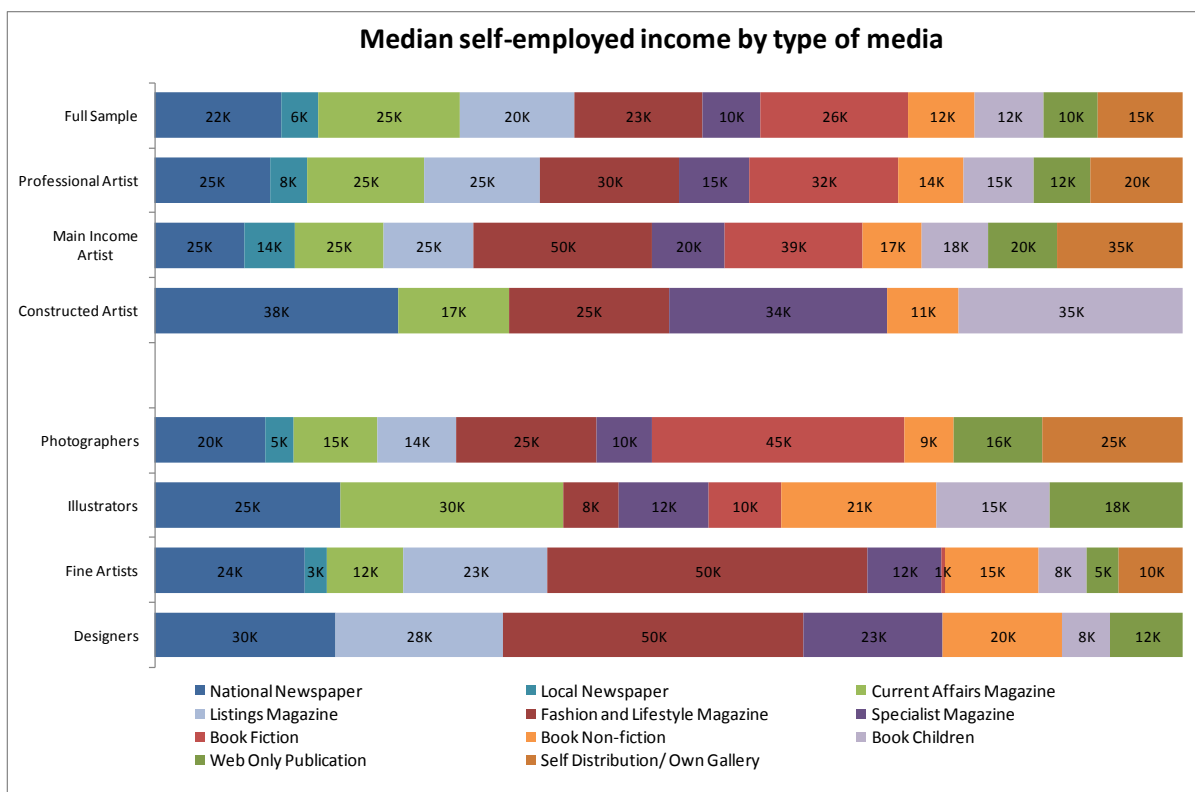
D6

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>National Newspaper</i>	£22,250	48	£24,750	45	£25,000	38	£38,000	5
<i>Local Newspaper</i>	£6,396	7	£8,198	6	£14,000	3		0
<i>Current Affairs Magazine</i>	£25,000	5	£25,000	5	£25,000	5	£17,300	2
<i>Listings Magazine</i>	£20,000	8	£25,000	7	£25,000	6		0
<i>Fashion and Lifestyle Magazine</i>	£22,500	24	£30,000	21	£50,000	17	£25,000	5
<i>Specialist Magazine</i>	£10,250	110	£15,000	95	£20,000	72	£34,000	6
<i>Book Fiction</i>	£26,038	10	£32,075	9	£38,538	8		0
<i>Book Non-fiction</i>	£11,690	69	£14,000	58	£16,756	40	£11,250	4
<i>Book Children</i>	£12,000	30	£15,246	26	£18,246	24	£35,000	1
<i>Web Only Publication</i>	£9,500	66	£12,000	55	£19,500	38		0
<i>Self Distribution/ Own Gallery</i>	£15,000	11	£20,000	10	£35,000	7		0
<i>N/A</i>	£7,000	3	£7,000	3	£15,350	2		0

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>National Newspaper</i>	£19,800	27	£25,000	8	£23,500	5	£30,000	5
<i>Local Newspaper</i>	£5,005	2		0	£3,448	4		0
<i>Current Affairs Magazine</i>	£15,000	2	£30,000	1	£12,000	1		0
<i>Listings Magazine</i>	£14,000	5		0	£22,500	2	£28,000	1
<i>Fashion and Lifestyle Magazine</i>	£25,000	14	£7,500	5	£50,000	4	£50,000	1
<i>Specialist Magazine</i>	£10,000	53	£12,000	11	£11,500	28	£23,000	3
<i>Book Fiction</i>	£45,000	4	£9,850	5	£500	1		0
<i>Book Non-fiction</i>	£8,700	45	£20,920	10	£14,756	8	£20,000	1
<i>Book Children</i>		0	£15,246	22	£7,500	4	£8,000	1
<i>Web Only Publication</i>	£16,000	16	£17,876	4	£5,000	31	£12,000	3
<i>Self Distribution/ Own Gallery</i>	£25,000	1		0	£10,000	9		0
<i>N/A</i>		0		0	£7,000	3		0

**Graphic**



**Analysis**

'Fashion and lifestyle' magazines and Fiction books pay the most (median in excess of £30,000 for professional artists who ranked these as their main publication channel). Main income artists who report Web only as their main publication channel earn a respectable £19,500 (median). Although this is relatively low, it suggests that remuneration can be obtained in such environments – even for photographers (where the median is £16,000). Some of the respondent numbers are low and hence associated income data may not be statistically robust.

**Table**

**Median self-employed income by type of visual creators**

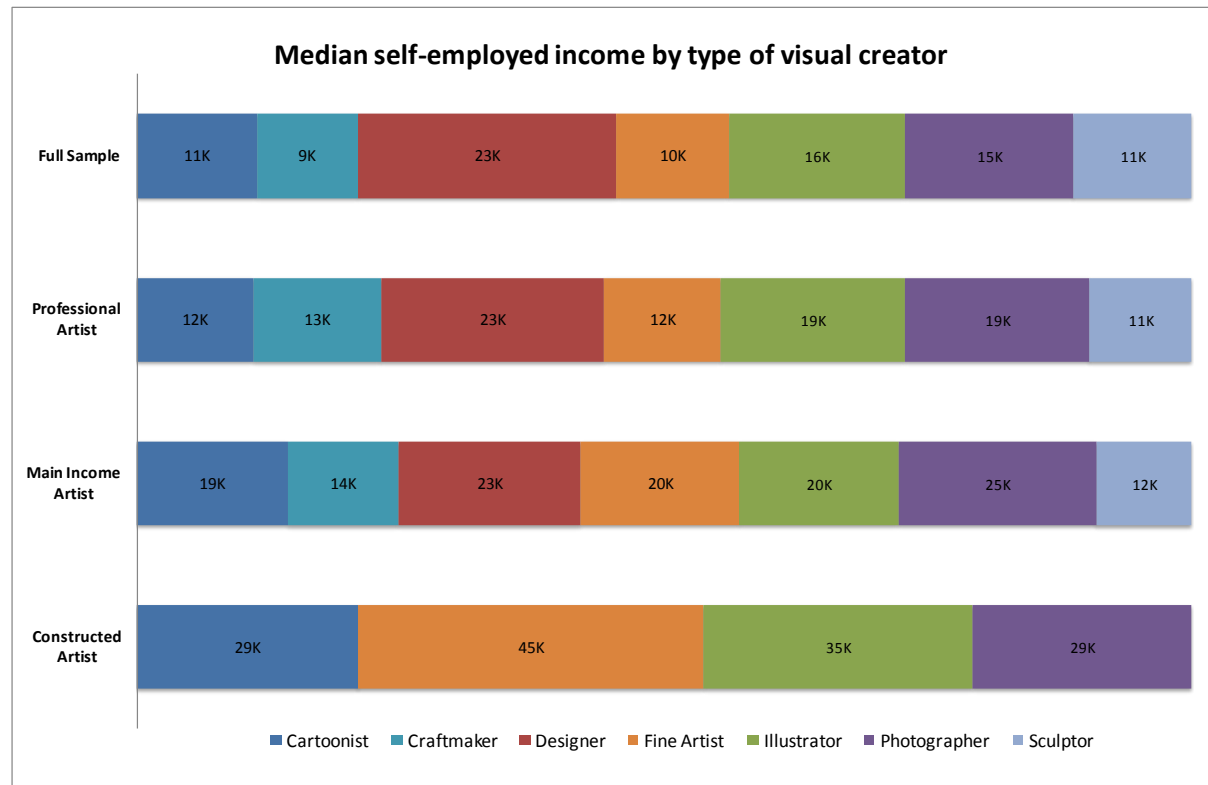
*(In response to self employed earnings for the last financial year).*

D7

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Cartoonist</i>	£10,683	12	£12,000	11	£19,000	9	£28,800	2
<i>Craftmaker</i>	£9,000	11	£13,136	9	£14,000	7		0
<i>Designer</i>	£23,000	15	£23,000	15	£23,000	13		0
<i>Fine Artist</i>	£10,000	100	£12,000	95	£20,000	59	£45,000	3
<i>Illustrator</i>	£15,723	66	£19,000	58	£20,000	52	£35,000	3
<i>Photographer</i>	£15,000	169	£19,000	135	£25,000	109	£28,500	16
<i>Sculptor</i>	£10,500	15	£10,500	15	£12,000	10		0

**Graphic**





### **Analysis**

Unsurprisingly, no craftmaker, designer or sculptor was credited in national magazines or newspapers (= constructed artist). Main income artists, by definition, are likely to earn more than professional artists (defined by time allocation). Craftmakers and sculptors are the most precarious occupations. Caution should be exercised in comparing median incomes from very small numbers, as in the sub-sample (=constructed artist).

**Table**

**Median self-employed income by highest educational qualification**

*(In response to self employed earnings for the last financial year).*

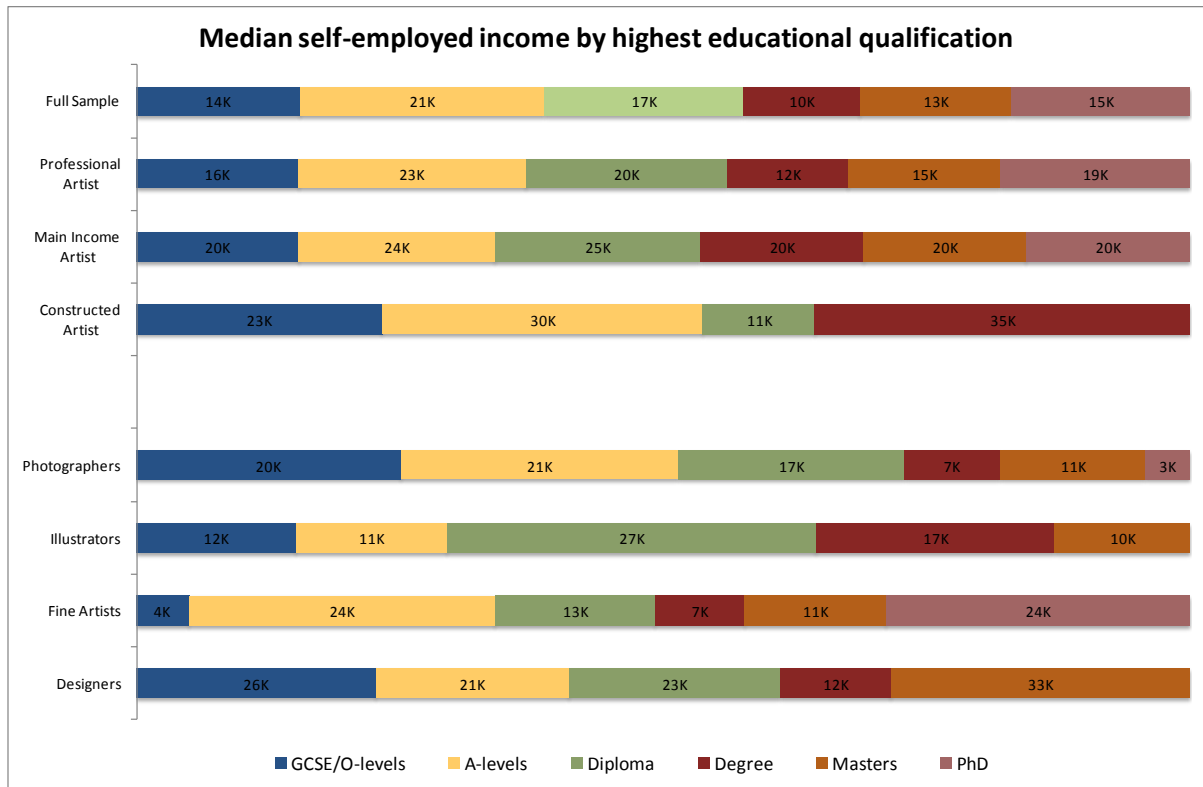
D8

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>GCSE/O-levels</i>	£14,000	31	£16,000	27	£19,800	23	£23,000	5
<i>A-levels</i>	£21,000	33	£22,500	28	£24,000	27	£30,000	4
<i>Diploma</i>	£17,000	70	£20,000	64	£25,000	54	£10,500	5
<i>Degree</i>	£10,000	164	£12,000	140	£20,000	98	£35,000	9
<i>Masters</i>	£13,000	78	£15,000	68	£19,734	48		0
<i>PhD</i>	£15,256	14	£18,756	12	£20,000	9		0

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>GCSE/O-levels</i>	£19,900	16	£11,690	3	£4,074	6	£26,000	1
<i>A-levels</i>	£21,000	19	£11,065	6	£24,000	5	£21,000	2
<i>Diploma</i>	£17,000	41	£27,000	9	£12,500	12	£23,000	1
<i>Degree</i>	£7,250	64	£17,492	35	£7,000	41	£12,000	7
<i>Masters</i>	£11,000	25	£9,850	13	£11,000	30	£32,500	4
<i>PhD</i>	£3,300	3		0	£23,756	6		0

**Graphic**



**Analysis**

For many visual creators (particularly photographers and illustrators), education beyond Diploma level does not pay. The number of respondents who were designers is rather low, but it seems that educational qualifications in that field do correlate by and large with higher remuneration. Unless you are a fine artist, having a PhD has a negative correlation with income. Caution should be exercised in comparing median incomes from very small number of respondents, as in the sub-samples (=constructed artist, illustrators, fine artists and designers.)

## Contractual Behaviour

From the late 1990s, a range of creators – including journalists, composers, photographers – started to perceive that the terms under which they worked were changing. Whereas at one time they received payments in relation to specific identified uses of their works (often without any formal contractual arrangements), there was widespread feeling that exploiters (publishers, broadcasters and so on) were increasingly demanding that creators grant assignments of copyright and waive their moral rights.<sup>24</sup> In turn, many creators complained that their works were being used in unexpected and unforeseen ways, without any extra payment or any consultation, and often without proper attribution. Some commentators described this as the ‘copyright grab.’

The perceived change in contractual practices was commonly associated with changes in the business environment: the growth of syndicated news distribution; the deregulation of television; the emergence of “stock house” – picture libraries with massive collections of existing images, as well as the gradual emergence of the Internet as a means of communication and distribution.<sup>25</sup>

Creators started to register their concerns. A famous attempt at a “rights grab” by the UK journal publisher EMAP in 1995 prompted the formation of the Metro Freelance Group, which determined to resist EMAP’s unilateral action. Once that dispute was resolved, discussions began amongst representative bodies (such as the Institute of Journalists and the Association of Photographers) in anticipation of further attempts by intermediaries to impose different conditions on creators. In 2000 the National Union of Journalists issued a pamphlet *Battling for copyright; freelance journalists versus the media conglomerates*, and, in turn, a broader movement of creators was formed under the aegis of the Creators Rights Alliance. As part of that campaign, a study was commissioned to analyse the basis of the grievances and to suggest potential reforms: Lionel Bently, *Between Rock and a Hard Place: The Problems Facing Freelance Creators in the UK Media Market-Place* (London: IER, 2002).<sup>26</sup>

While these initiatives generated a considerable amount of debate and academic analysis<sup>27</sup> about the best ways of regulating of creators’ contracts, very little was in fact known about contractual practices. The discourse relied heavily on anecdotal

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<sup>24</sup> Under the Berne Convention, the author’s non-economic or moral rights include the right to claim authorship (paternity right) and the right to prevent distortion or derogatory modification (integrity right). In civil law countries (e.g. France, Germany), these rights are inalienable – in the UK, they can be waived.

<sup>25</sup> Holland, B., 1998. The Stockman Cometh. *Communication Arts* 206.

<sup>26</sup> Similar initiatives were occurring in the United States: Holland, B., 2005-06. First things About Secondary Rights. *Columbia Journal of Law and the Arts* 295, 296-305.

<sup>27</sup> D’Agostino, G., 2010. *Copyright, Contracts, Creators: New Media, New Rules*. Cheltenham: Edward Elgar.

evidence. The first systematic analysis of author contracts was conducted by Martin Kretschmer and Philip Hardwick, in a project published in 2007, which compared the practices of literary authors (including audio-visual authors) in Germany and the United Kingdom.<sup>28</sup> What follows is the first systematic empirical study of the position in which visual creators find themselves, and the perceived changes in their terms.

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<sup>28</sup> Kretschmer, M. & Hardwick, P., 2007. *Authors' Earnings from Copyright and Non-Copyright Sources: A survey of 25,000 British and German writers* (205pp), Bournemouth: CIPPM

**Table**

**Percentage taking legal/ professional advice before signing a contract (2009-2010)**

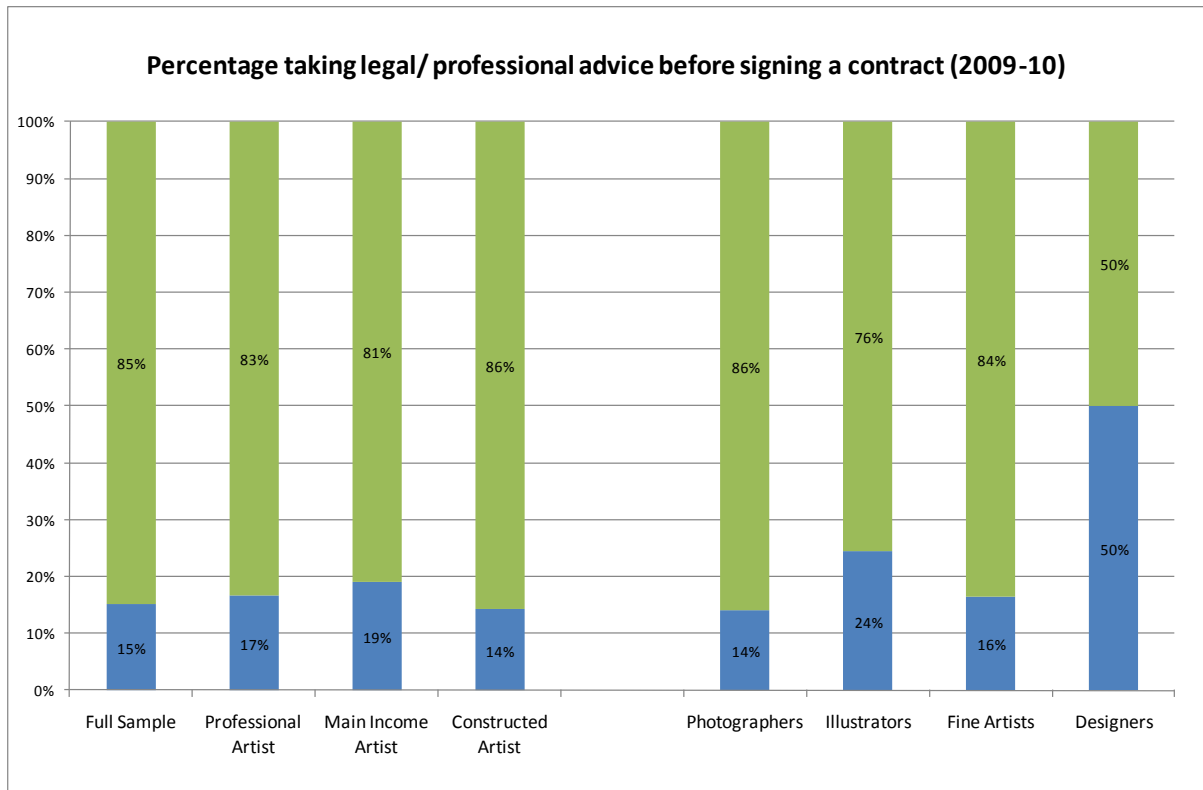
*Q17 During the last year, did you take legal/professional advice before signing any contract?*

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Yes	15%	80	17%	77	19%	49	14%	4
No	85%	447	83%	384	81%	207	86%	24

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Yes	14%	30	24%	21	16%	24	50%	2
No	86%	184	76%	65	84%	122	50%	2

**Graphic**



**Analysis**

One explanation sometimes given for the poor working conditions of authors and artists is lack of legal advice. This survey confirms that most artists do not obtain advice before entering contracts. The notable exception are designers (where 50% sought advice), but it should be observed that this figure is based on a small number of designers.

There are many possible reasons why artists do not seek advice: its cost (relative to the value of the transaction), availability, usefulness (in the face of non-negotiable standard terms) and the problem of time. One respondent suggested that the contractual terms often arrived after the work has done:

*“Often you don’t get a Purchase Order (PO) until you have done the job. I used to get POs on faxes years ago and what happens if you get one side of the fax and the terms and conditions are on the other side: you never get to see the terms and conditions” [Photographer]*

It is instructive to compare these figures with those of literary authors. Kretschmer & Hardwick (2007, p.175) discovered that while 34% of writers never take legal advice, 37% sometimes do so and 28% always do so.

**Table**

**Percentage attempting to negotiate the terms of a contract offered (2009-2010)**

*Q15 During the last year, did you attempt to negotiate the terms of a contract offered?*

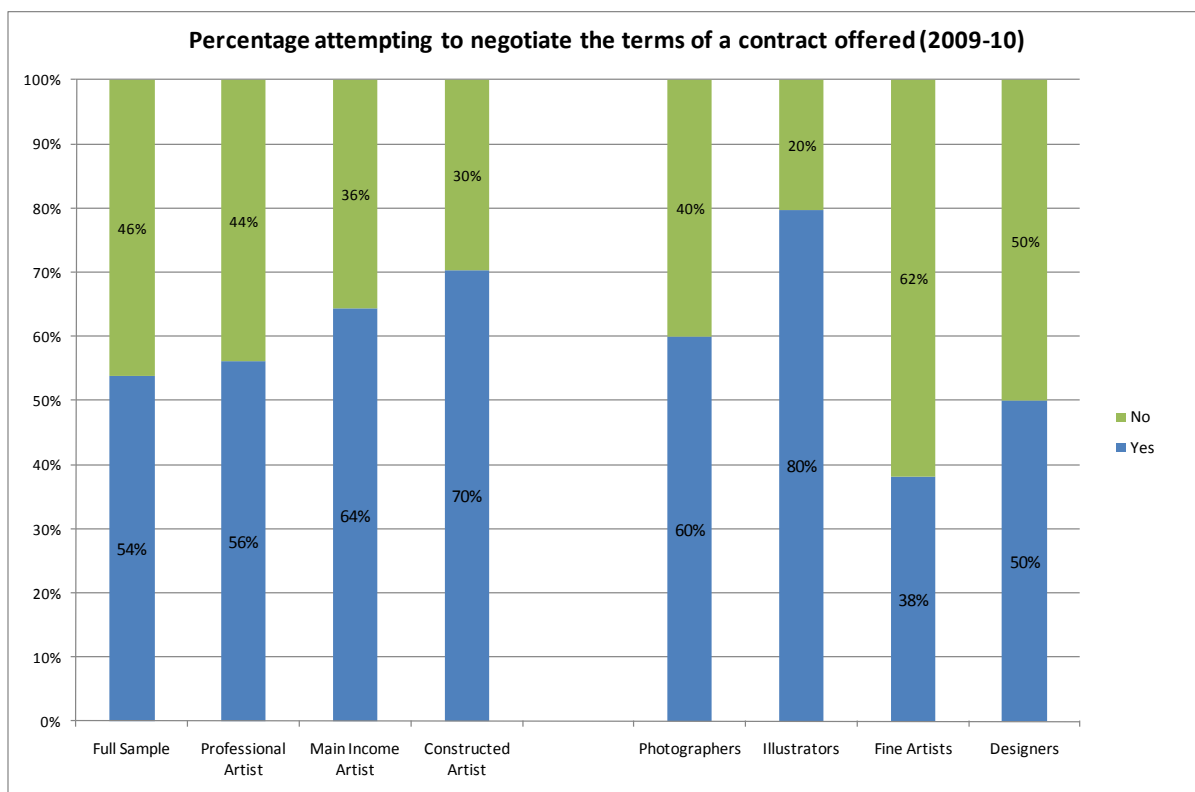
**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Yes	54%	283	56%	258	64%	161	70%	19
No	46%	242	44%	201	36%	89	30%	8

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Yes	60%	126	80%	71	38%	55	50%	9
No	40%	84	20%	18	62%	89	50%	9



**Graphic**



**Analysis**

The dominant view is that digitisation prompted “take it or leave it” contracts with no possibility of negotiation (Bently 2002, p.7). At the 2009 Bournemouth Symposium on ‘Copyright, Contracts and Creativity’ (proceedings available at [www.cippm.org.uk](http://www.cippm.org.uk)), panels of experts from professional organisations of journalists, illustrators, photographers, film directors, composers, songwriters and performers/featured artists considered the following contractual trends to be unfair: In the UK, creators are routinely required to waive their moral rights in contracts. Creators are routinely required to sign contracts that assign all their rights to the publisher or producer (meaning the enterprise or organisation that publishes and distributes their work), and cover every potential use in a blanket manner. Contracts for digital use are just bolted on to standard ‘analogue’ contracts and do not make provision for additional payment. If creators do not comply, others are found who will comply, especially young creators who need to break in. Is this picture empirically accurate?

The responses indicate that over 50% of respondents have attempted negotiation. In an earlier study of professional literary authors, conducted in 2005, it was found that 43% claimed to have succeeded in altering the terms of the contract (Kretschmer & Hardwick 2007, p.175). The question here is different, so not directly comparable, but the answer suggests similar levels of negotiation.

Artists published in national media (= 'constructed artists') are particularly likely to negotiate (70%, compared to 54% in full sample). This may be because they tend to be on average more experienced (See Q6: 65% have 20 years or more experience, compared with 48% for visual creators as a whole; and 44% of photographers; moreover, 68% are over 45, compared to 55% of designers). It may also be because they are more likely to have been in a dispute with a publisher over moral rights (see, infra, Q13: 24% of photographers had been in such disputes, compared with 14% of designers).

*"For many years I have tried to issue a licence that I can say in writing that you can use this photograph for this amount of time in such and such territory, with certain alternative conditions and I will ask the client to look at my terms and conditions and that will be the deal. The other side of my work is commissioning and what happens is that the client sends you a purchase order that has the terms and conditions which they would like the pictures to be supplied under, not necessarily the same as I would try and negotiate. I would probably like to find out what exactly they want the pictures for and if there is anything besides that I would like to be paid a bit more."*  
[Photographer, describing his experience of negotiatio.]

Unfortunately, these answers only indicate that negotiation has been attempted, not the regularity of such negotiations. Viewed in this light, it is notable that virtually 50% have not attempted negotiation of *any* contracts. This indicates that a very large number of transactions are not the subject of any negotiation.

Why don't artists negotiate more frequently? There were contrasting views during the focus group discussion. Some have tried in the past, but have found clients less flexible and have given up:

*"In the past, there has been flexibility and they have come back to what I have asked but now the scenario is that many more people are asking for assigning away my copyright and they are not being flexible as they used to be. You could also persuade people and get the terms you want to but not anymore"* [Freelance illustrator, 14 years industry experience]

Some, however, say that refusal to negotiate is not something new:

*"I remember you used to get a payment cheque from Haymarket Publishing and if you didn't sign it on the back, they didn't process the payment and there was actually a copyright stamp on the back"* [Photographer/curator]

One attributed some clients' refusal to negotiate on their own ignorance of copyright law:

*"I think it really varies. In the licences that I send out, I make it clear that the copyright is mine and I generally assume that it's for 1 use. At other times, there is a contract. At the other times, it can be like an email thing but I generally say 1 use. One of the problems is that some people who commission for photography don't actually have a clue about copyright – and they assume that they can use photographs for any way that they want to..." [Photographer, mainstream magazines and newspapers, portraiture and reportage, for 7 years]*

Others see negotiation as having its own dangers. In an environment where there is huge competition between suppliers, negotiation might make a particular artist too costly:

*"If I start doing terms and conditions, there are easily 500 people behind me who will do the job for half the money I cost. You have to be so careful since digital (cameras) have come in – a lot of my bread and butter work is going out of the window" [Photographer]*

**Table**

**Grounds of negotiation**

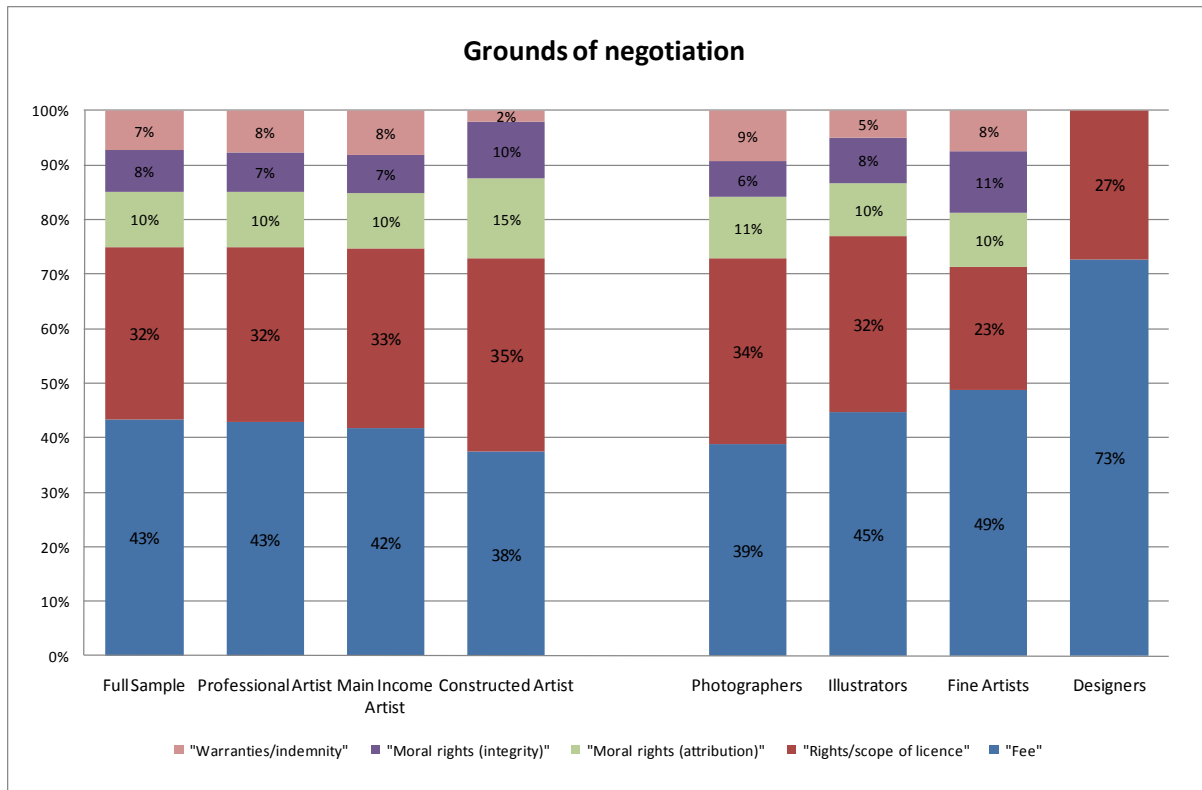
Q16 If you answered YES to the previous question, please indicate what you attempted to negotiate?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Fee</i>	43%	240	43%	218	42%	140	38%	18
<i>Rights/scope of licence</i>	32%	175	32%	164	33%	111	35%	17
<i>Moral rights (attribution)</i>	10%	56	10%	51	10%	34	15%	7
<i>Moral rights (integrity)</i>	8%	42	7%	37	7%	24	10%	5
<i>Warranties/indemnity</i>	7%	40	8%	39	8%	27	2%	1

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Fee</i>	39%	108	45%	64	49%	39	73%	8
<i>Rights/scope of licence</i>	34%	95	32%	46	23%	18	27%	3
<i>Moral rights (attribution)</i>	11%	31	10%	14	10%	8		0
<i>Moral rights (integrity)</i>	6%	18	8%	12	11%	9		0
<i>Warranties/indemnity</i>	9%	26	5%	7	8%	6		0

**Graphic**



**Analysis**

Not surprisingly, most negotiations focus on the fee that the artist seeks (43%), but 32% were interested in negotiating rights, that is the scope of grant.

Interestingly 8% of negotiations relate to moral rights. This is evidence that professional artists care about these matters. The received view that artists are always required to waive their rights (Bently 2002, p.9) needs qualifying.

It seems from these responses that designers don't negotiate on moral rights. One possible reason is that under UK copyright law, there is an exception from the moral right of attribution for most designs: Copyright, Designs and Patents Act 1988, s. 79(4)(f).

**Table**

**Perceived change in personal bargaining position (2000-2010)**

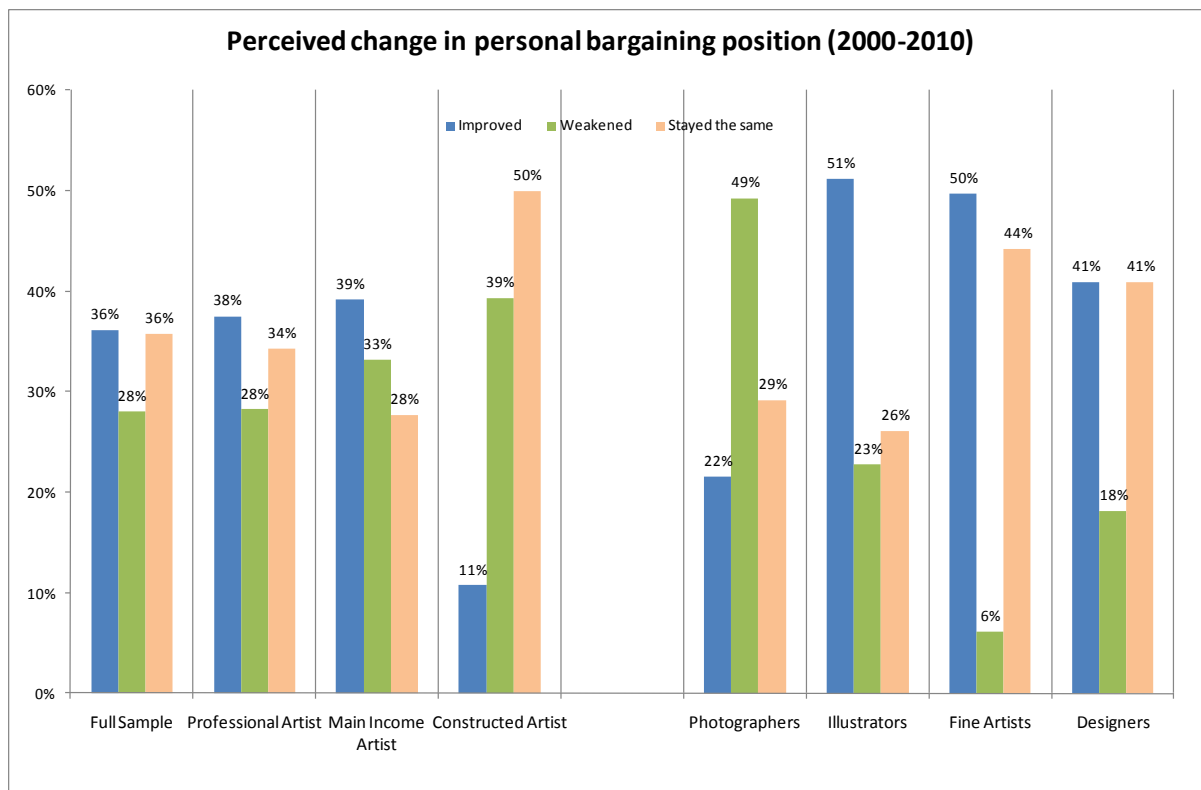
Q18 Has your personal bargaining position changed over the last 10 years?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Improved</i>	36%	191	38%	174	39%	99	11%	3
<i>Weakened</i>	28%	148	28%	131	33%	84	39%	11
<i>Stayed the same</i>	36%	189	34%	159	28%	70	50%	14

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Improved</i>	22%	45	51%	45	50%	73	41%	9
<i>Weakened</i>	49%	103	23%	20	6%	9	18%	4
<i>Stayed the same</i>	29%	61	26%	23	44%	65	41%	9

**Graphic**



**Analysis**

One might expect individual personal bargaining power to improve over a decade as artists get older, more experienced, and more valued. So the figures here, demonstrating an improvement in individual bargaining power for most artists in our sample is unsurprising. (However, it may be worth noting that in 2007, another study found that in the case of literary authors more (28%) stated that their bargaining position had worsened in the preceding 5 years, only 24% saying theirs had improve (Kretschmer & Hardwick, p.182).

But there is a real perception amongst photographers that their individual bargaining position has weakened (49%, compared to full sample 28%). Only 22% thought their bargaining position had improved. This seems to reflect our overall finding that of all the visual creators, photographers have been most exposed to changes in their working environment over the last decade.

The existing literature emphasises the “rights grab” conducted by clients in response to digitisation. The responses in the interviews point to a number of other possible explanations (making the issue much more complex than it might first appear).

One explanation is competition from amateurs. Another is competition from photographers.

*“There are about 10,000 photography graduates in this country alone, leaving college with a degree or diploma” [Photographer]*

A further one would be consolidation and economic difficulties in the newspaper industries.

*“There is a movement about cutting rates – to me it is a business thing. Reducing prices because if you walk into any book shop, supermarket or garage, you will see hundreds and hundreds of magazines competing and it gets to a point that celebrity trashy magazines are reducing their prices because they are hungry for profit plus supermarkets want a profit from it. If you walk into Asda, you can buy a book for £2 when on the back it says £7.99 – publishers of conventional material i.e. printing and paper are constantly looking to reduce their costs anyway they can. The second issue is that their competition is directly from internet based publishing – so that media is saying don’t buy this newspaper – come and look at our screen. But we haven’t got enough people to support this either. So you have got a dwindling market looking for cheaper content and on the other side you have a new and expanding market but with not enough people to generate enough income – so they are also looking for cheap content” [Commercial Photographer, since 1987]*

*“Now any passerby has a camera phone and they take as many pictures as they could and they give it to the media for the kudos of their pictures being used. And that’s the second part of the eroding of image rights” [Commercial Photographer, since 1987]*



**Table**

**Percentage of works identified or credited on publication (2009-2010)**

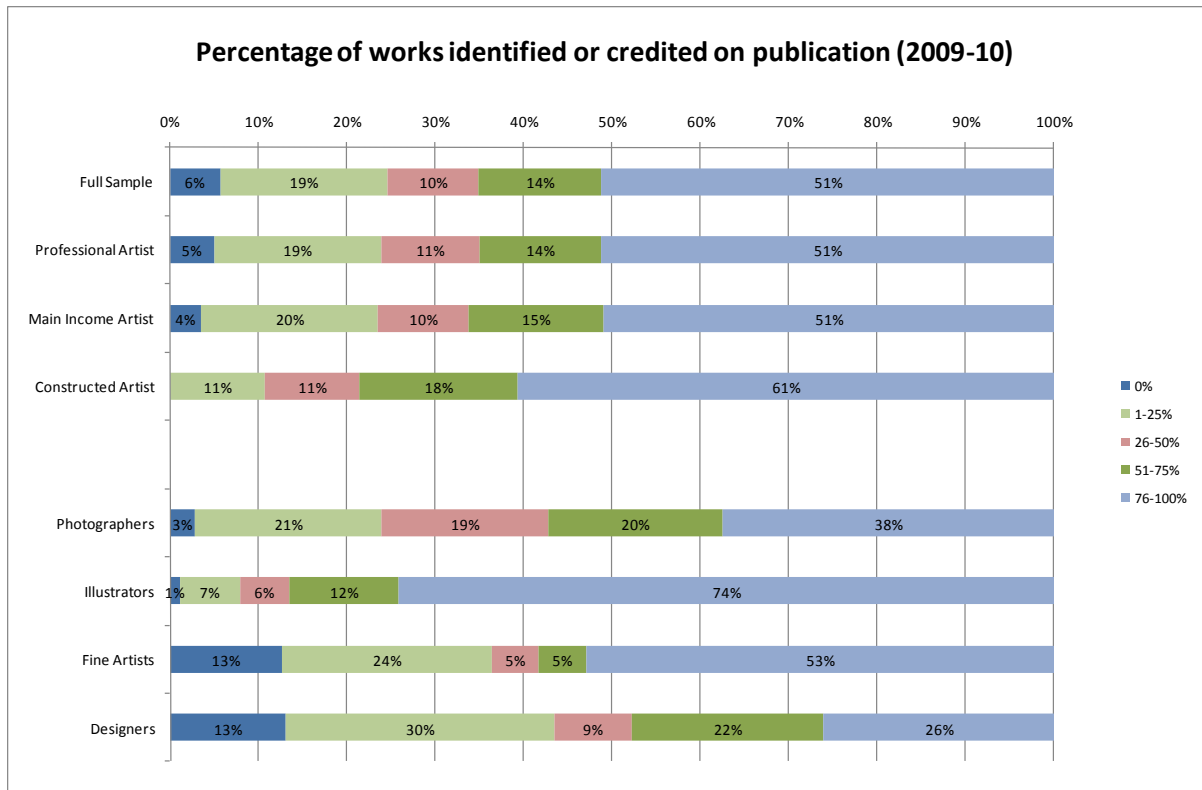
*Q19 During the last year, what percentage of your works was identified or credited as your work on publication?*

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
0%	6%	30	5%	23	4%	9		0
1-25%	19%	101	19%	88	20%	51	11%	3
26-50%	10%	55	11%	52	10%	26	11%	3
51-75%	14%	74	14%	64	15%	39	18%	5
76-100%	51%	273	51%	239	51%	130	61%	17

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
0%	3%	6	1%	1	13%	19	13%	3
1-25%	21%	45	7%	6	24%	36	30%	7
26-50%	19%	40	6%	5	5%	8	9%	2
51-75%	20%	42	12%	11	5%	8	22%	5
76-100%	38%	80	74%	66	53%	80	26%	6

**Graphic**



**Analysis**

The existing literature recognises the fundamental importance of attribution: it helps individual creators to establish their reputations, it offers a psychological reward to creators and, it can make products more saleable (Fisk 2006, p.49, 56-60, 62-65).

Under the Copyright, Designs and Patents Act 1988, authors and artists were granted a so-called “moral right” to be attributed when their works are published or exhibited. The right only operates where an artist “asserts” the right, and the statute exempts a host of users from the obligation to attribute. Particularly significant for this study is that there is no obligation to attribute authorship of a work where it was supplied for publication in a newspaper or journal: section 79(6) CDPA 1988 <sup>29</sup>.

The study indicates that relatively few artists (6%) are never credited. In the above dataset of ‘constructed artists’, there are no examples of a respondent who was never credited. This is a tautological finding given that the sample was constructed from credited artists. It is however more interesting that the majority (61%) are credited most (75-100%) of the time.

<sup>29</sup> Copyright, Designs and Patents Act, 1988.

The sectoral differences are worth noting. Illustrators are most likely to be credited (74% are credited 75-100% of the time). The position with photographers is less positive. Most photographers (97%) are credited some times, but only 38% are credited more than 75% of the time and 43% are credited less than 50% of the time. From a pragmatic perspective, illustrators may simply be in a better position to ensure the inclusion of accreditation – a signature – within the work.

With both designers and fine artists there is a sizeable group who are never or rarely credited, as well as a significant group of those who are 'often or almost always' credited. Most (53%) fine artists are credited most of the time, but a rather surprising 13% report never getting credited. The position is worse with designers: 48% are credited more than 51% of the time, but 13% are never credited, and 43% are credited less than 25% of the time. It is as if one is either a "name", that is both an individual and a trade mark, in which case credit will be given (and is reflected in the value of the artwork or designed goods); or one is an unknown individual absorbed in the production process in which case credit will rarely be given. In this context we see the "trade mark" or branding function of attribution at its most prevalent (Lury 2002). Although our survey is, on the whole, optimistic about improvements in the position of designers, in terms of individual recognition for their work, they remain the worst off.

Is there a relationship to the law on moral rights? One respondent who had been a professional in the 1980s observed:

*"the 1988 Act followed which is months after I had started and which is something very important as it brought about a huge change to working practices that were before 1988."*

Perhaps significantly, the Act contains significant exceptions for works published in journals and magazines, which may go some way toward explaining the low attribution figures for photographers. Designers of three dimensional works mostly do not benefit from an attribution right because of s. 79(4)(f) CDPA 1988. Although design is a diverse field, it seems likely that the low level of attribution reflects this legal starting point.

**Table**

**Perceived change in amount credited on publication (2000-2010)**

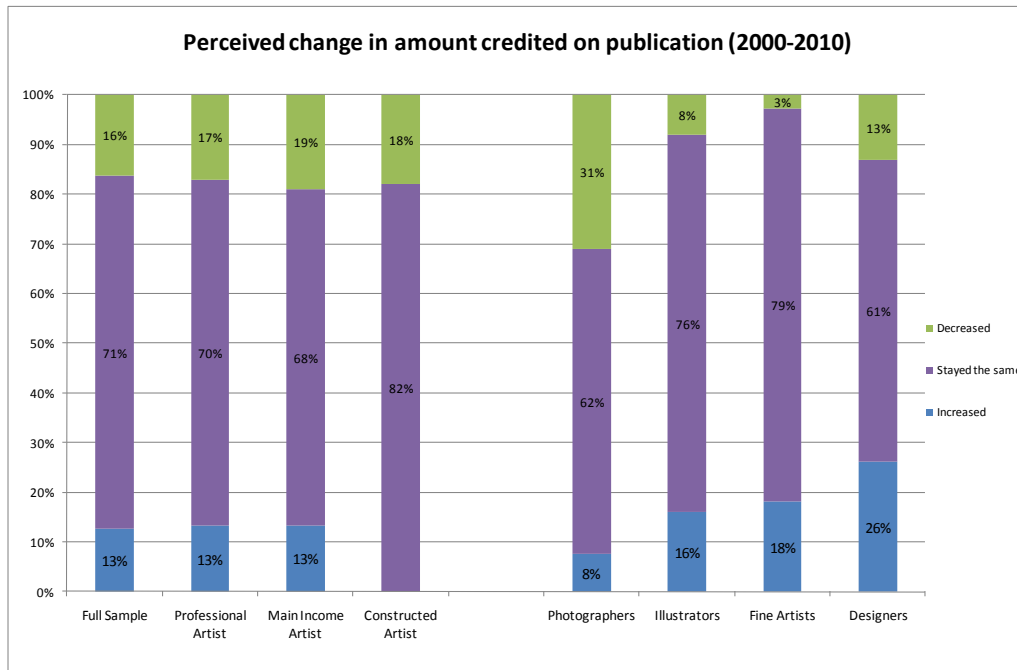
Q20 Has the amount changed over the last 10 years?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Increased</i>	13%	67	13%	62	13%	34		0
<i>Stayed the same</i>	71%	378	70%	324	68%	172	82%	23
<i>Decreased</i>	16%	86	17%	79	19%	48	18%	5

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Increased</i>	8%	16	16%	14	18%	27	26%	6
<i>Stayed the same</i>	62%	131	76%	66	79%	118	61%	14
<i>Decreased</i>	31%	66	8%	7	3%	4	13%	3

**Graphic**



**Analysis**

The majority does not perceive any great shifts in attribution practices over the decade. Certainly, there has been no legal change that would have stimulated an alteration in practice. One might have expected a different reaction for the previous two decades, after the introduction of the moral right of attribution in 1989.

One interesting development is the perception of more attribution in the field of design. This seems to reflect cultural and economic changes (in particular commercialisation of design products is increasingly by reference to an individual designer) (Fisk (2006, p.86-7) also reports, on the basis of anecdotal evidence from the US, wider attribution practices in graphic design and advertising.) Nevertheless the frequency of credit is low compared with other fields – 13% never credited and only 26% are credited for 75% or more of their works (compared with 38% for photographers and 74% for illustrators). So there is improvement but from a very low starting point to a rather low finishing point.

There is a more dramatic perception of decreases in giving credit to photographers (and amongst the constructed sample of artists published in national media). This seems linked to the other negative changes affecting photographers: the loss of bargaining power, increasing use of assignments etc. The underlying causes thus appear similar. No legal change has occurred in the last decade that would weaken the attribution right.

**Table**

**Percentage of clients seeking to assign (i.e. acquire) copyright**

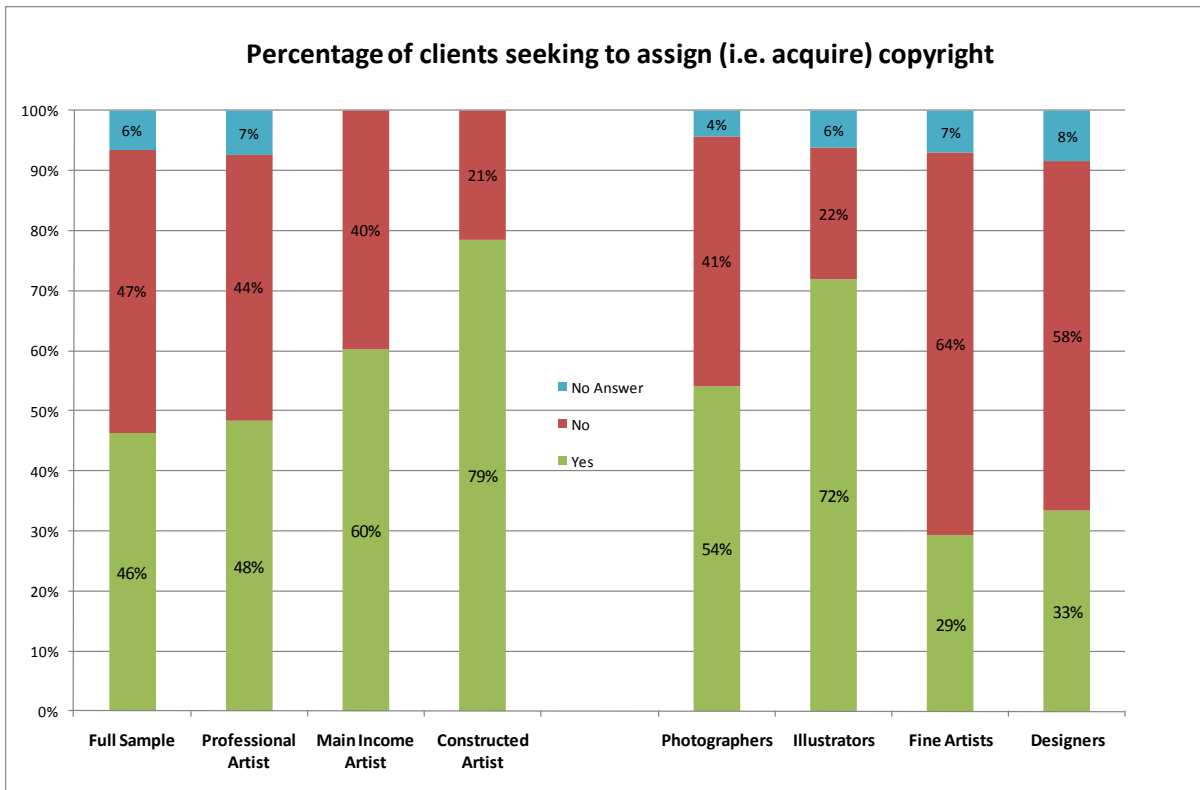
Q7 Do you have clients seeking to acquire copyright or a licence equivalent to copyright (also known as “buy-out” or “transfer of rights”)?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Yes	46%	272	48%	250	60%	156	79%	22
No	47%	277	44%	228	40%	103	21%	6
No Answer	6%	-	7%	-	-	-	-	-

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Yes	54%	123	72%	69	29%	50	33%	8
No	41%	94	22%	21	64%	109	58%	14
No Answer	4%	-	6%	-	7%	-	8%	-

**Graphic**



**Analysis**

An artist can exploit his or her works in various ways. Many fine artists simply sell originals or limited editions. Alternatively (or additionally), artists can make arrangements for mass dissemination, typically through print or online media. These arrangements involve permitting third parties to exploit the copyright. This can be done in a variety of ways: by “assignment”, “licence”, or “exclusive licence.”

If an artist “assigns” the copyright then they no longer retain the rights – the rights pass to the exploiter. If an artist gives a “licence”, the third party can use (e.g. duplicate and disseminate the work) for the agreed purpose but has no right himself/herself. An intermediary position involves the grant by the artist of an “exclusive licence”, by which the exploiter becomes the only person entitled to exploit the work.

Importantly, copyright is divisible. This means that a particular right can be assigned, licensed or exclusively licensed. An artist might, for example, give an art gallery the exclusive right to print and sell catalogues that include images of his or her works, while retaining the remainder of the copyright. The copyright can then be licensed, for example, to a broadcaster who wishes to include images of the artist’s works in a television programme.

This question related to total assignments: the outright sale of the totality of copyright. The significance of such arrangements lies in the fact that the artist is left with no remaining rights: if the assignee finds further uses for the work, it is the assignee rather than the artist who obtains the benefit. As Turner (2000) explains:

*“One reason that users insist on “all rights” transactions is ... to capture the economic asset of the residual rights to the image, which the new copyright owner may exploit through third-party licensing”*

Another is to simplify their management of the asset.

The responses reveal a diversity of practice amongst the various sectors of the visual arts. Assignments are sought most often from illustrators and photographers, and less frequently from designers and fine artists.

Purchasers of fine arts (sculpture, paintings), are frequently primarily concerned with ownership of the tangible goods: copyright is seen as secondary. Clients of illustrators and photographers may well prefer assignments to licences (limited permission to use for specified purposes) because it is difficult to predict the scope of the rights that might be needed (particularly given the emerging online markets). The position of design clients seems more peculiar: one would have expected that in many situations those seeking to acquire designs would want full exploitation rights, and thus seek assignments. One explanation for the relatively low percentage “seeking assignment” is that the default rules on ownership differ: where a design is commissioned, “design right” vests in the commissioner, and the courts have produced similar results as regards ownership of copyright in graphic designs for use in advertising: *Warner v Gestetner* [1988] EIPR D-89; *Griggs v Raben Footwear* [2005] FSR (31) 706. The low percentage can be explained then by reference to the fact that commissioners may already own relevant rights even without a formal assignment.

The constructed sample is more mature, and 79% of clients seek assignment, perhaps because of newspaper syndication.



**Table**

**Percentage of copyright assignments (2009-10)**

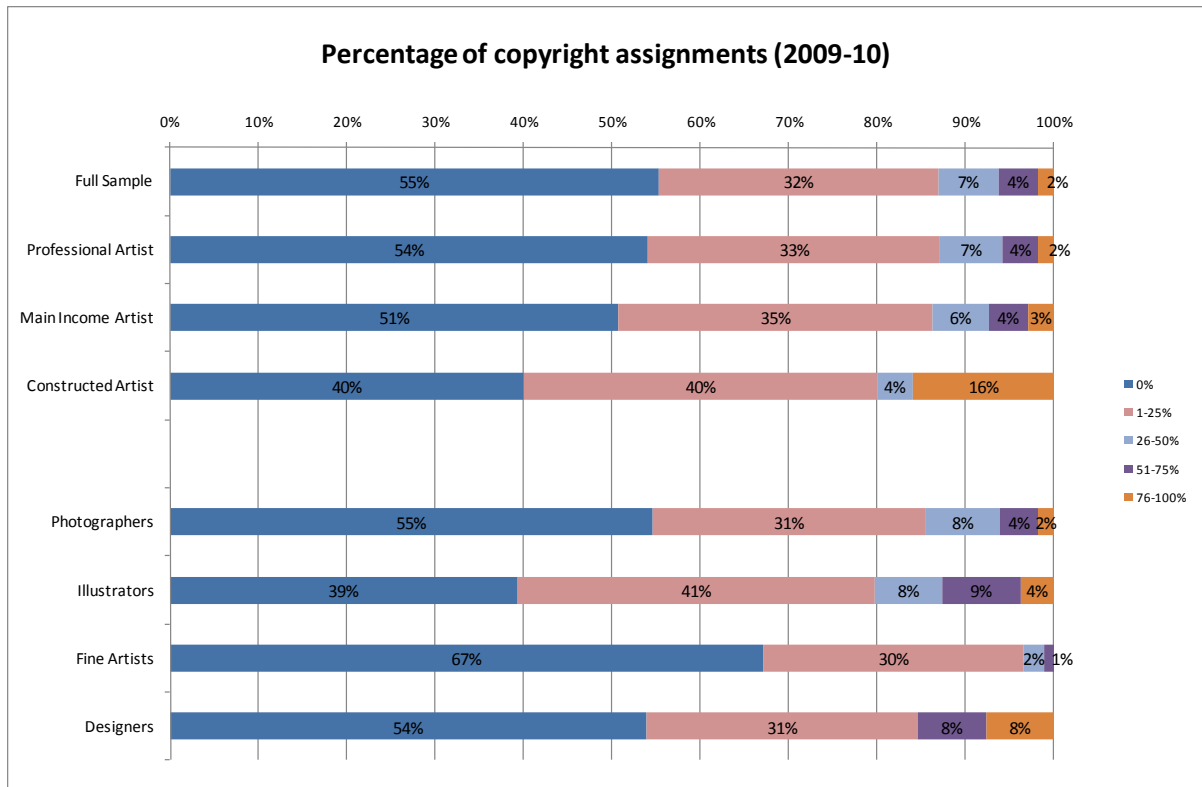
Q8 During the last year, I assigned copyright (i.e. transferred) in the following percentage of my contracts:

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
0%	55%	211	54%	185	51%	103	40%	10
1-25%	32%	121	33%	113	35%	72	40%	10
26-50%	7%	26	7%	24	6%	13	4%	1
51-75%	4%	17	4%	14	4%	9		0
76-100%	2%	7	2%	6	3%	6	16%	4

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
0%	55%	90	39%	31	67%	59	54%	7
1-25%	31%	51	41%	32	30%	26	31%	4
26-50%	8%	14	8%	6	2%	2		0
51-75%	4%	7	9%	7	1%	1	8%	1
76-100%	2%	3	4%	3		0	8%	1

**Graphic**



**Analysis**

These findings are in response to the questionnaire question: “During the last year, I assigned copyright (i.e. transferred) in the following percentage of my contracts – “. It produced an interesting contrast. For photographers, we have seen that most clients seek assignments. But here we see that most photographers don’t give such assignments – 55% never do, and 31% assign under 25%. In fact, while the number of clients that seek assignments is high compared to the sample as a whole, the number of photographers who give assignments is very similar to the sample as a whole. One way to reconcile this is to see photographers as effective negotiators – at least in terms of rights (they may be less effective on moral rights). We have already noted that 60% photographers attempt negotiation (compared with 54% of the full sample). Respondents seem to support such analysis, claiming that assignments occurred when they were young or starting out, but that they later were able to (or thought to) negotiate.

*“One of the reason why many of these people get away with such things (i.e. copyright assignment) is because when you first start, you tend to agree to a lot of these things, because you think I need the experience etc. It’s only after a couple of years you stop” [Photographer]*

*“I think in the first few years of my career I was much more malleable but soon I thought if I gave away all of these things free, I couldn’t make a living and therefore I hardened up a great deal and was a much less flexible on these things”*  
*[Photographer]*

Despite this evidence of negotiation, of the occupations in our analysis, photographers are least likely to take legal advice.

**Table**

**Perceived change in copyright assignments (2000-2010)**

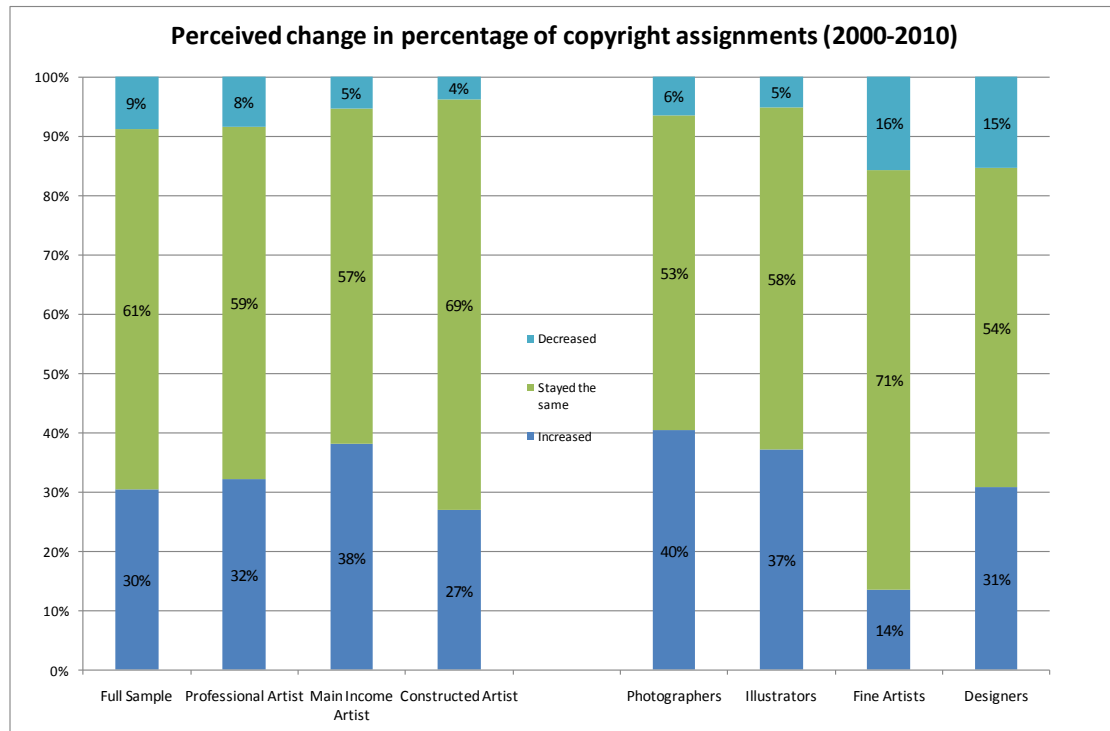
*Q9 Has the percentage changed over the last 10 years?*

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Increased</i>	30%	121	32%	114	38%	80	27%	7
<i>Stayed the same</i>	61%	241	59%	210	57%	119	69%	18
<i>Decreased</i>	9%	35	8%	30	5%	11	4%	1

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Increased</i>	40%	69	37%	29	14%	13	31%	4
<i>Stayed the same</i>	53%	91	58%	45	71%	68	54%	7
<i>Decreased</i>	6%	11	5%	4	16%	15	15%	2

**Graphic**



**Analysis**

Just under one-third of visual artists (30%) say that assignments are more often required in 2010 compared to a decade before. Compared to changes in attribution (70%) many fewer think things have stayed the same (61%).

As with the perceived shift in attribution, the most positive change seems to have occurred with fine arts. Here fewer fine artists think the demand for assignments has increased (14%) than decreased (16%). The position with designers is curious: 31% say there has been an increase in assignments, and 15% a decrease. As already noted, the proportion of assignments by designers is low relative to photographers and illustrators. Because of the legal situation, where formal assignment is probably often unnecessary in relation to commissioned designs, it is difficult to know how to understand this gradual increase in the demand for assignments.

The noticeable shift has occurred in relation to photographers and illustrators, over a third of whom see an increase in assignments over the decade (while a very small percentage say assignments are less common).

*"...in the last few years I have been assigning more and more & agreeing to assigning copyrights" [mid-career illustrator]*

*“there are lots of other magazines which are just ‘hoovering’ and they will just buy anything up” [early career photographer]*

But one experienced photographer who started work in the 1980s was less convinced by the claims of increases in assignments. He observed:

*“I don’t think the clauses have changed at all – since most purchase orders have always had the leaning towards owning everything so that they can use the images for whatever they wish to. Where it has changed is where photographers have got their own terms and conditions which they wish to stick to.”*

The constructed artist sample is interesting. 69% say the situation is much the same as a decade ago. This may, however, reflect the fact that the “rights grab” was already being described by Hugenholtz (2000).

**Table**

**Percentage of visual creators who waive moral rights**

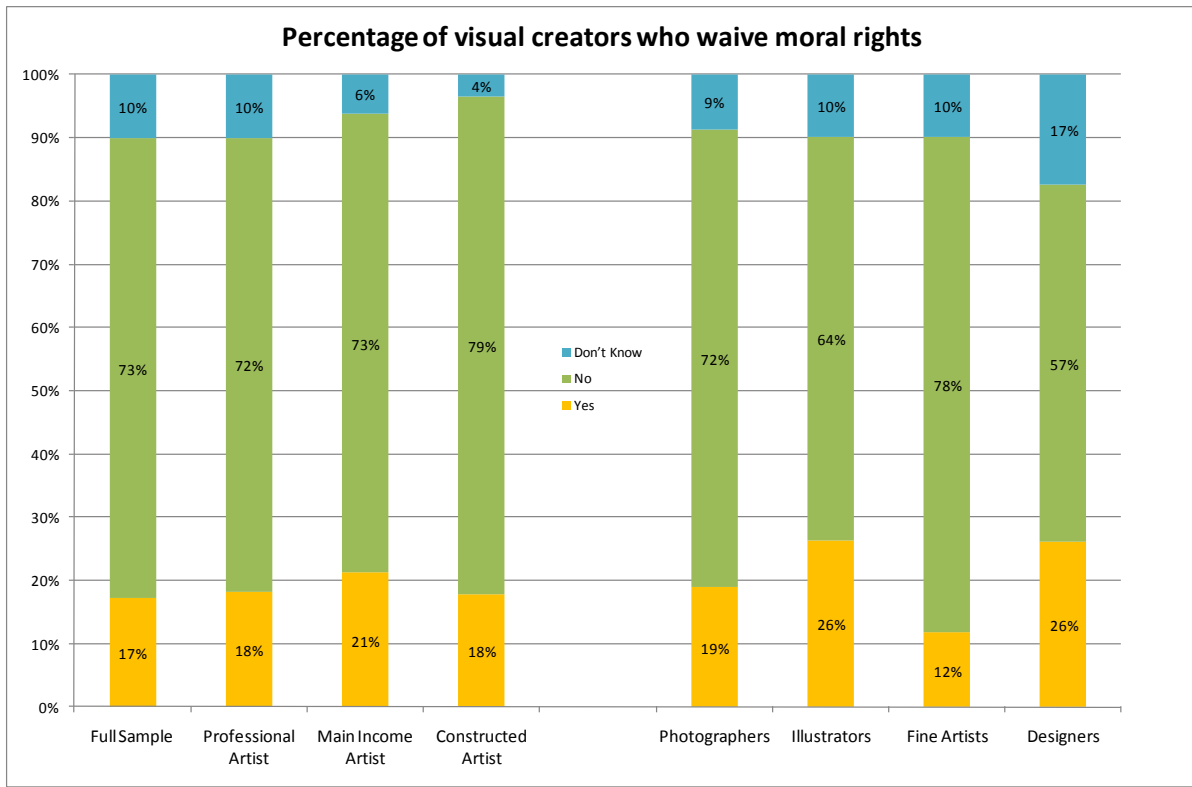
Q10 Do you ever waive the moral rights in your works? [Moral rights include (i) the right to be named as author (attribution right), (ii) the right to protect the work against derogatory treatment (integrity right).]

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Yes	17%	94	18%	87	21%	55	18%	5
No	73%	396	72%	341	73%	188	79%	22
Don't Know	10%	55	10%	48	6%	16	4%	1

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Yes	19%	41	26%	24	12%	18	26%	6
No	72%	156	64%	58	78%	120	57%	13
Don't Know	9%	19	10%	9	10%	15	17%	4

**Graphic**



**Analysis**

It had been assumed, when the Copyright Designs and Patents Act 1988 was adopted, that the inclusion of the possibility of waiver was likely to render most moral rights valueless: their existence would become a matter of bargaining, not right and, waiver would thus be very widespread (Durie 1991). However, only 17% of visual creators waive moral rights. The majority thus retain their rights (even if the exceptions to these rights in the 1988 will often limit their application). In an earlier survey of literary authors, it was discovered that 20% never asserted their moral rights (Kretschmer & Hardwick, *Authors' Earnings From Copyright* (2007), p.178). Although the survey asked a slightly different question, the implication is that moral rights are valued by creators in both sectors, perhaps even more in the context of the visual arts.

The highest incidence of waiver in the present survey is amongst illustrators (26%) and designers (26%). Exploiters of these works appear keen to retain maximum flexibility to alter, adapt or amend these works. The lowest incidence is with fine arts (12%). Photographers lie between: around a fifth of photographers waive moral rights.



This question does not differentiate between waiver of the attribution and integrity rights. Is there a correlation between waiver and attribution practices? Illustrators report the same frequency of waivers as designers, but earlier we saw that most illustrators are credited, most designers not. A possible explanation points to the statutory limitation of the attribution right for designers, and who are therefore not asked to waive: the concern of clients is with integrity. Illustrators probably fall less frequently within the exclusions, so an illustrator for example of a book cover gains the right of attribution (as long as he or she asserts it).

**Table**

**Percentage of works (2009-10) for which visual creators waive moral rights**

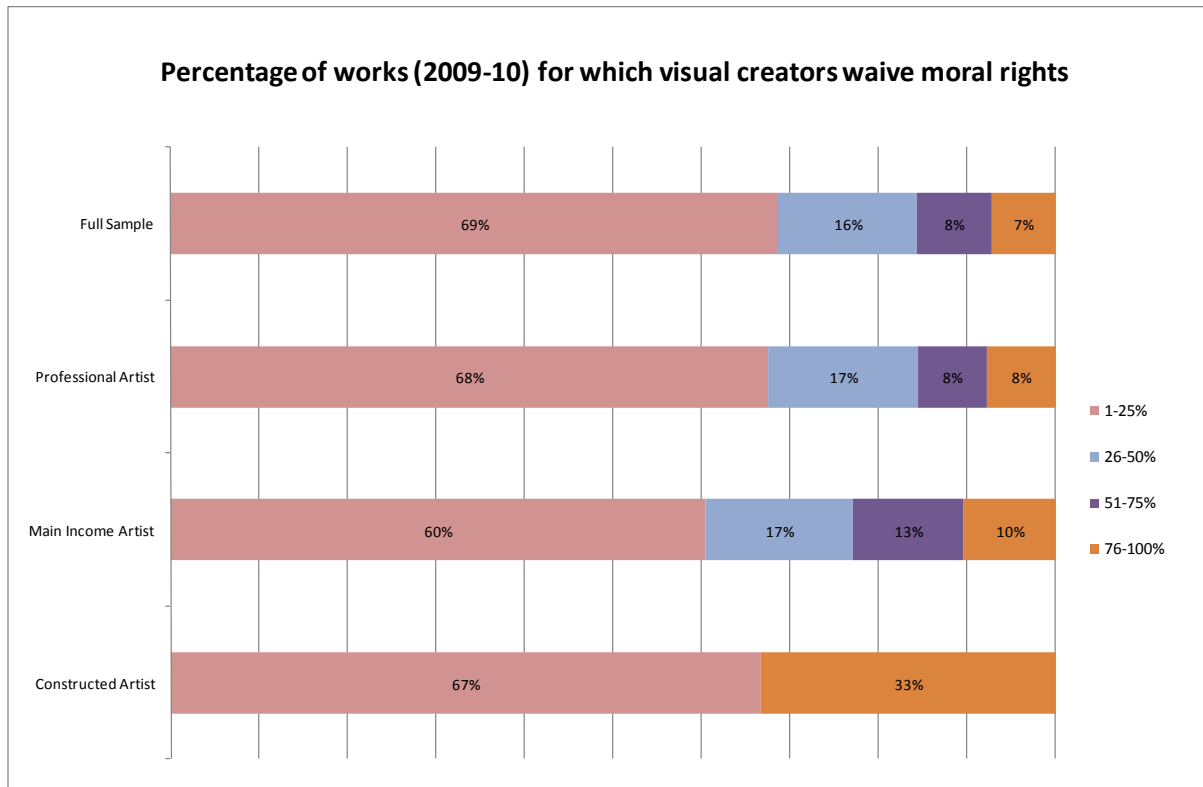
Q11 During the last year, I waived moral rights in the following percentage of my contracts:

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
1-25%	69%	57	68%	52	60%	29	67%	2
26-50%	16%	13	17%	13	17%	8		0
51-75%	8%	7	8%	6	13%	6		0
76-100%	7%	6	8%	6	10%	5	33%	1

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
1-25%	63%	25	65%	13	86%	12	67%	2
26-50%	23%	9	15%	3	7%	1		0
51-75%	5%	2	20%	4	7%	1		0
76-100%	10%	4		0		0	33%	1

**Graphic**



**Analysis**

The previous table and graphic reported findings in response to the question: Do you ever waive the moral rights in your works? (to which only 17% replied with Yes). This analysis tries to capture the frequency of such practices among these 17% of visual creators who have waived. Question 11 asked: During the last year, I waived moral rights in the following percentage of my contracts – (Please answer only if you have answered YES to the previous question.)

We noted that designers and illustrators were more likely to waive moral rights than other artists. The frequency figures suggest that most illustrators waive moral rights only some of the time, whereas some 9% of designers waive moral rights most of the time. Probably, the position with illustrators varies depending upon the proposed use; whereas some designers may work in sectors where waivers are taken as a matter of course and regarded as essential.

**Table**

**Perceived change in percentage of moral rights waivers (2000-2010)**

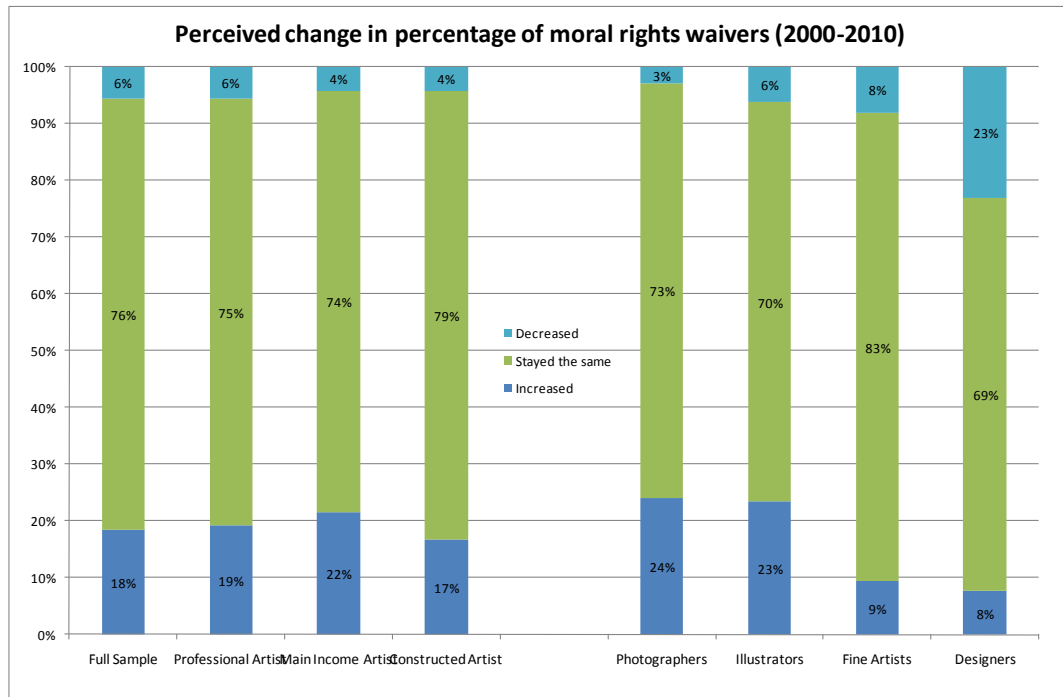
Q12 Has the percentage changed over the last 10 years?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Increased</i>	18%	59	19%	55	22%	36	17%	4
<i>Stayed the same</i>	76%	242	75%	215	74%	124	79%	19
<i>Decreased</i>	6%	18	6%	16	4%	7	4%	1

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Increased</i>	24%	33	23%	15	9%	7	8%	1
<i>Stayed the same</i>	73%	100	70%	45	83%	62	69%	9
<i>Decreased</i>	3%	4	6%	4	8%	6	23%	3

Graphic



Analysis

The tale is mostly of stability, with a general perception of an increased demand for waivers (18%). This is lower than the perceived increased in assignments (30%). The perceived increase in waivers is also much greater than the general perception of reduced crediting (Q20; 16% see a decrease in crediting over the 10 years, 13% an increase). This may imply that the practice of taking a waiver is legally informed, rather than reflecting any business plan not to credit. Another explanation is that the real role for waivers is in relation to integrity rights.

Almost a quarter of illustrators and photographers observe an increase in waivers. This is fewer than those who perceived increases in assignments (40% and 37%) but still significant. However, while the perception of an increase in waiver figures are similar for photographers and illustrators, the perceived difference in crediting practices is notable: 31% of photographers see crediting as decreasing, whereas 8% of illustrators do. It may be the motivation for requiring waivers in relation to illustrators is the right of integrity: two of the reported cases on the integrity right (*Pasterfield v Denham* [1999] FSR 168, *Tidy v Trustees of NHM* [1997] 39 I.P.R. 501) concerned illustrators. This may have made their clients aware of the desirability of waivers.

The notable exception to the trend towards more waivers are designers, where 23% record a decrease in the use of waivers (though as we have seen, designers suffer the highest incidence of waivers (26%), and 9% of designers report waiving their moral rights in 75% or more of their transactions. For designers, then, their moral

rights position is at the bottom of the hierarchy of visual creators, but is perceived to be improving. This perceived improvement (a net 15%) chimes with increase in crediting perceived by 26%. What makes this more interesting still is that the changes appear to come from the client side: the clients want to name the designer. We know this because the information on negotiation suggests that designers never negotiate over moral rights (Q16).

**Table**

**Disputes with a publisher over moral rights**

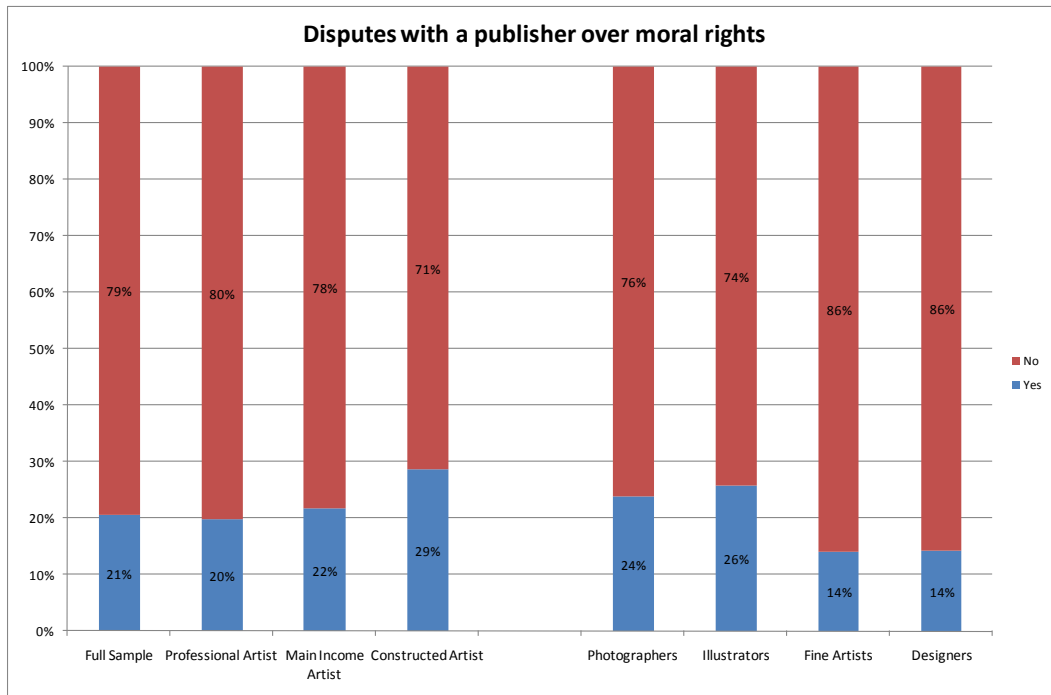
*Q13 Have you ever had a dispute with a publisher over moral rights?*

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Yes	21%	106	20%	89	22%	54	29%	8
No	79%	409	80%	361	78%	194	71%	20

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Yes	24%	49	26%	23	14%	20	14%	3
No	76%	157	74%	66	86%	122	86%	18

**Graphic**



**Analysis**

In earlier studies of professional literary authors, it was found that 11.4% of UK authors had been involved in moral rights disputes (Kretschmer & Hardwick, *Authors' Earnings From Copyright* (2007), p.179). This study reveals that visual creators are much more likely to be involved in such disputes: the overall figure is 21%. Of the various forms of visual art, photographs attract the highest number of disputes (24%), but it is notable also that the figure is as high as 29% in the constructed sample. The latter group comprises photographers and illustrators for national newspapers and magazines.

The higher level of disputes suggests that creators' expectations are not being met. This could be because those expectations are unrealistic, or because exploiters are not considering them.

With respect to expectations on the creator side, we have already noted that few obtain legal advice. This may engender misunderstandings: whereas 65% of professional literary authors have received advice of some sort before entering a contract, a mere 15% of visual creators obtain such advice (14% for photographers and within the constructed sample). It is worth observing that 60% of photographers, and 70% of the constructed sample attempt to negotiate the terms of their contracts).



It is also notable that the fewest disputes over moral rights occur in relation to designers (14%), which may reflect the fact they get legal advice most frequently beforehand (see Q15, indicating that 50% have but note the low response rate). They perhaps have more accurate expectations than photographers. It also seems likely, from the topics on which designers negotiate (Q16), that photographers care more about moral rights than designers: none of the designers who replied negotiated over moral rights, whereas 17% of photographers did, and 25% of the constructed sample did.

The actions of exploiters/intermediaries may also play a part in generating disputes. Photographers and illustrators perceive negative changes in practice and this may contribute to a higher number of disputes. The changes could be making relations worse and engendering disputes.

*“I have a contract here with Time Out which is one of the worst contracts I have ever read in my life. I worked with them for a long time and I don't think they either have good working conditions or good pay and then they send you a contract which basically says that if you don't sign it, you don't work for us. So it's a total copyright grab and a moral grab” [Photographer]*

**Table**

**Grounds of moral rights disputes**

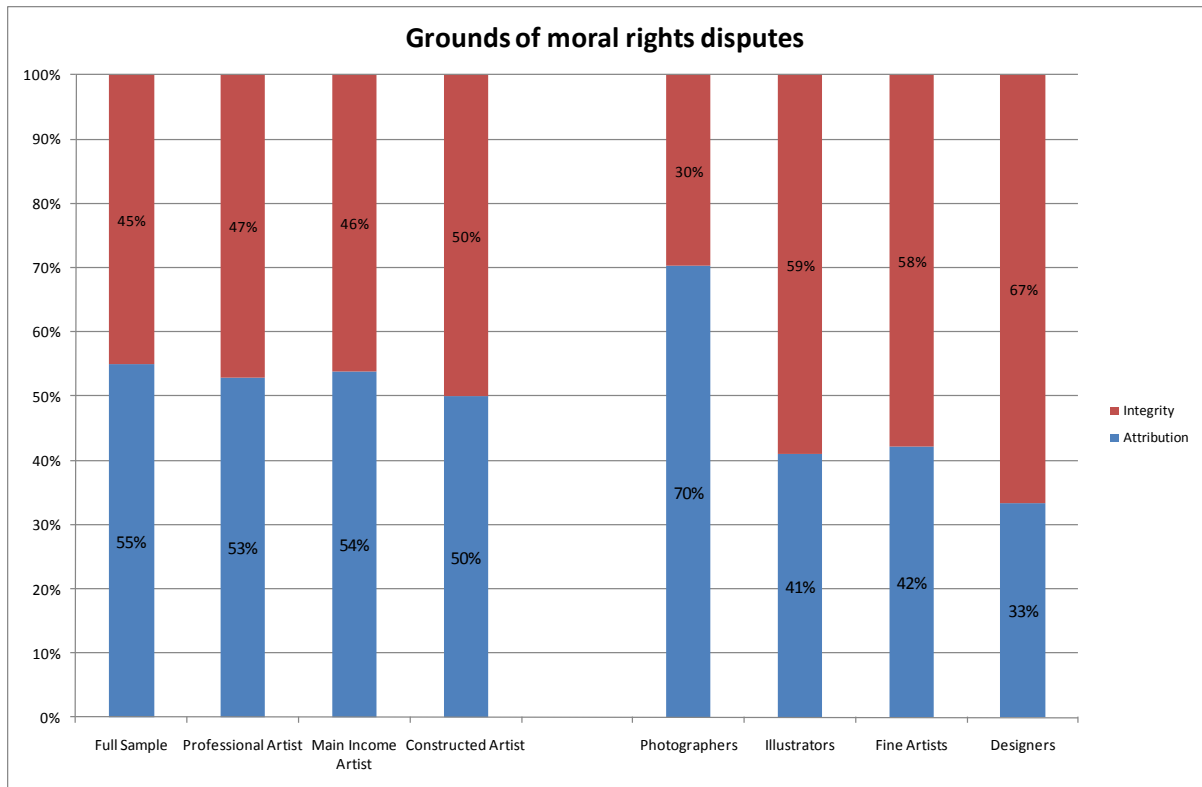
Q14 If you have answered YES to the previous question (Q13), what were the grounds of the dispute?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Attribution</i>	55%	55	53%	45	54%	28	50%	4
<i>Integrity</i>	45%	45	47%	40	46%	24	50%	4

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Attribution</i>	70%	33	41%	9	42%	8	33%	1
<i>Integrity</i>	30%	14	59%	13	58%	11	67%	2

**Graphic**



**Analysis**

Little has hitherto been known about the relative importance of the different moral rights (attribution – the right to be named; and integrity – the right to prevent derogatory modifications of a work).

The survey reveals that there are significant differences between occupational groups. 70% of disputes between photographers and publishers are about attribution. In contrast, for illustrators, fine artists and designers, moral rights disputes are primarily concerned with integrity: 59, 58 and 67% respectively.

Photographers are more likely to negotiate over attribution (11%) than integrity (6%), whereas for illustrators and fine artists the figures are about the same: Q16. This suggests that credit is particularly important to photographers. Yet the figures on crediting (Q19) show that 43% of works are credited less than 50% of the time. This mis-match between the wishes of photographers and the practice helps us understand why so many disputes relate to attribution.

Illustrators care only marginally more about attribution than integrity: 10% negotiate in relation to attribution, 8% in relation to integrity. Yet illustrators seem to receive high levels of credit (Q19: 74% of illustrators are credited 75% or more of the time). Consequently, it seems unsurprising that disputes arise over integrity rather than attribution.

Fine artists negotiate more over integrity (11%) than attribution (10%). 53% are credited more than 75% of the time (though a staggering 37% are credited less than 25% of the time).

The highest proportion of integrity disputes arise in relation to designers. Given the low response rates, not much can be read into this.

**Table**

**Self-employed median income of visual creators who transfer Copyright in 50% and more of their works, less than 50% of their works and those who do not transfer at all**

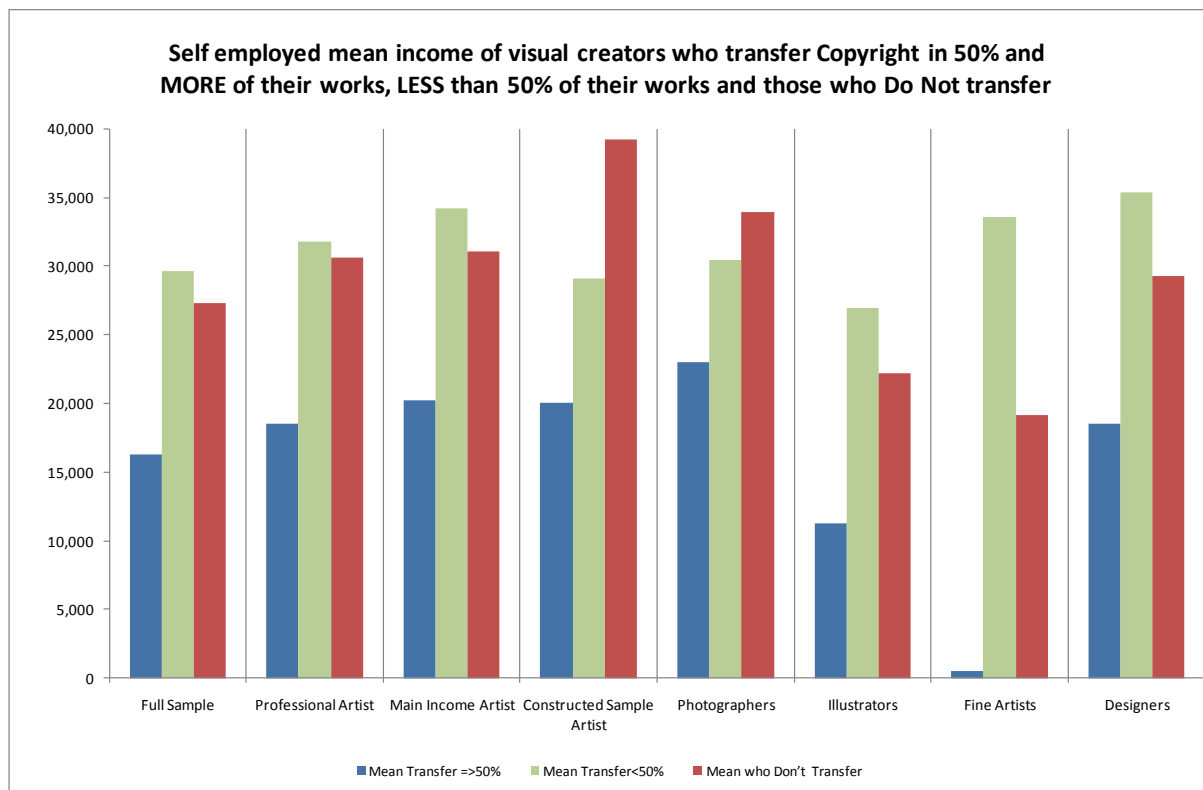
D11

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Sample Artist	Responses
<i>Mean Transfer =&gt;50%</i>	£16,257	19	£18,556	16	£20,226	15	£20,000	4
<i>Mean Transfer &lt;50%</i>	£29,587	105	£31,748	97	£34,242	85	£29,085	13
<i>Mean who Don't Transfer</i>	£27,262	158	£30,570	139	£31,037	103	£39,241	6

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Mean Transfer =&gt;50%</i>	£22,969	8	£11,235	7	£500	1	£18,500	2
<i>Mean Transfer &lt;50%</i>	£30,460	51	£26,972	26	£33,575	17	£35,333	3
<i>Mean who Don't Transfer</i>	£33,937	70	£22,193	28	£19,162	38	£29,270	4

**Graphic**



**Analysis**

An earlier survey of literary authors revealed a correlation between income and negotiation: those who negotiated changes in their contracts on average earned significantly more than those who did not (Kretschmer & Hardwick, *Authors' Earnings From Copyright* (2007), p.31, p.196). This of course leaves unclear aspects of causation: does successful negotiation lead to higher earnings or do higher earnings lead to better negotiating skills or are both (higher earnings and capacity to negotiate successfully) functions of some other attribute e.g. the perceived value of the work?

This survey reveals similar correlations: artists who earn more are less likely to transfer copyright outright; those who refuse to transfer copyright earn significantly more.

**Table**

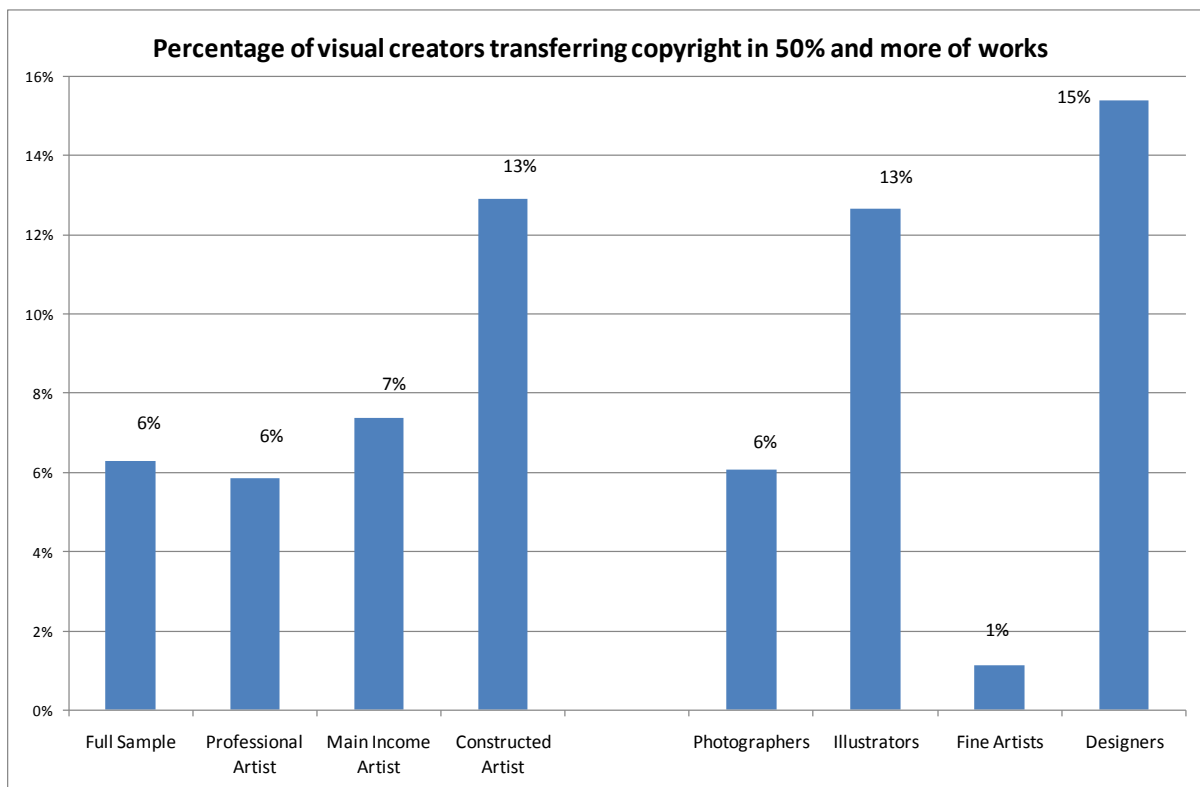
**Percentage of visual creators transferring copyright in 50% and more of works**

D12

**Data**

Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
6%	24	6%	20	7%	15	13%	4	6%	10	13%	10	1%	1	15%	2

**Graphic**



## Analysis

55% of artists in this survey never transfer copyright (Q8), but many creators transfer copyright some of the time. Illustrators and designers are the occupations where assignment is most likely to occur: 13% of illustrators and 15% of designers assign copyright more than half the time. The figures on designers should be treated with care because of the low response rate.

Visual creators in the 'constructed artist' category, who work for national newspapers and journals, are twice as likely to transfer copyright more than 50% of the time. This suggests that such practices are more prevalent in the national media. Nevertheless, it should be recalled that 40% never assign, and 40% assign copyright less than 25% of the time (Q8). So while assignment of copyright in this sector may appear much more common than occurs in general, it remains relatively uncommon.



**Table**

**Self-employed mean income of visual creators who waive moral rights in 50% and more of their works, less than 50% of their works and those who do not waive moral rights**

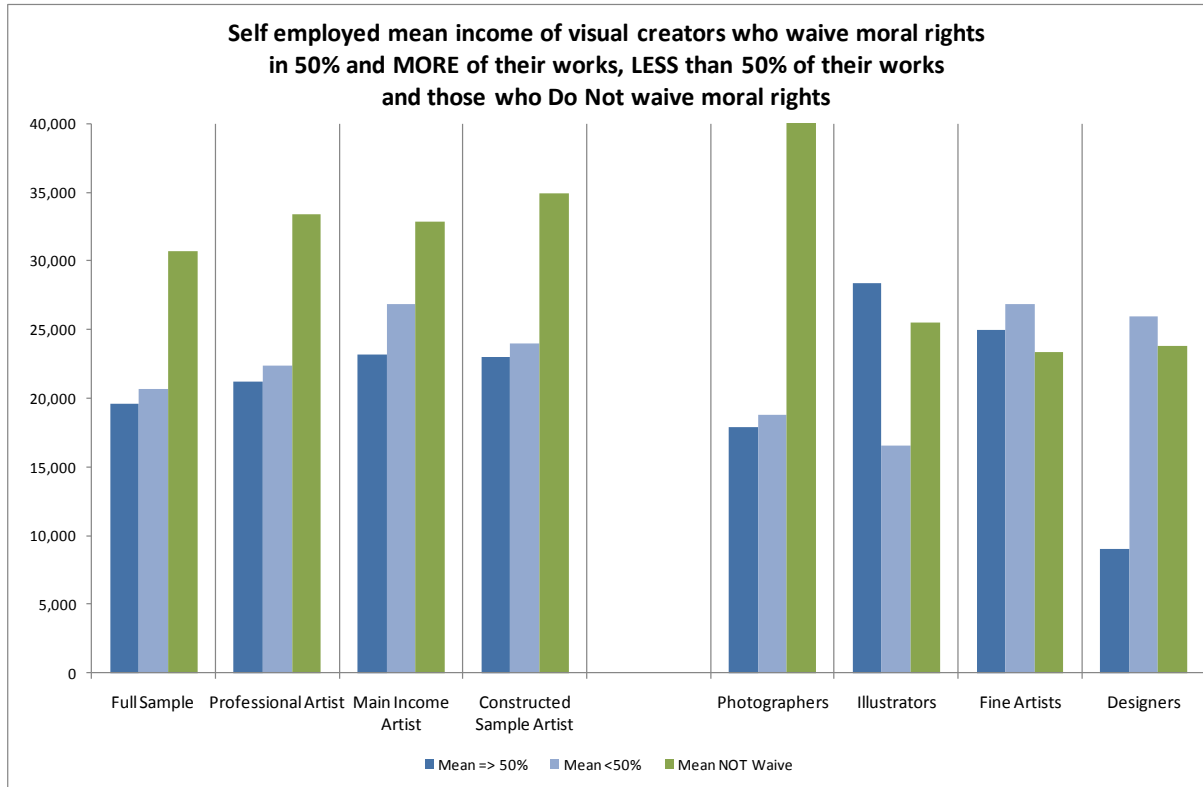
D16

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Sample Artist	Responses
<i>Mean =&gt; 50%</i>	£19,619	13	£21,221	12	£23,150	11	£23,000	1
<i>Mean &lt;50%</i>	£20,684	53	£22,400	48	£26,849	37	£24,011	9
<i>Mean NOT Waive</i>	£30,721	127	£33,386	116	£32,837	88	£34,957	13

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Mean =&gt; 50%</i>	£17,933	6	£28,362	4	£25,000	1	£9,000	1
<i>Mean &lt;50%</i>	£18,811	28	£16,588	12	£26,850	10	£26,000	1
<i>Mean NOT Waive</i>	£40,135	54	£25,478	24	£23,326	31	£23,847	6

**Graphic**



**Analysis**

As we saw earlier in relation to assignments (D11), so with respect to waiver of moral rights: the more you earn, the less often you waive. The most likely explanation seems to be that bargaining power gives both an increase in income and allows an artist to retain his or her moral rights. This might raise doubts over the assumption economists often make that an artist can trade moral rights for increased income: if that was right we might expect those who waive moral rights to make more rather than less money.

Illustrators buck the general trend. Those who waive moral rights in fewer than 50% of their works and those who never waive seem to get less income than those who agree to waive in more than 50% of cases. Are the stubborn ones simply not getting work because of their position? We suggested earlier (Q14) that in relation to illustrators, the real moral rights concern is the integrity right: illustrators will usually be attributed. If this is right, one might conjecture that insisting on one's moral right of integrity would more likely be associated with a cost than insisting on one's right of attribution. It is more surprising that this effect is not replicated in the field of design.

**Table**

**Use of creative commons type licences (2009-2010)**

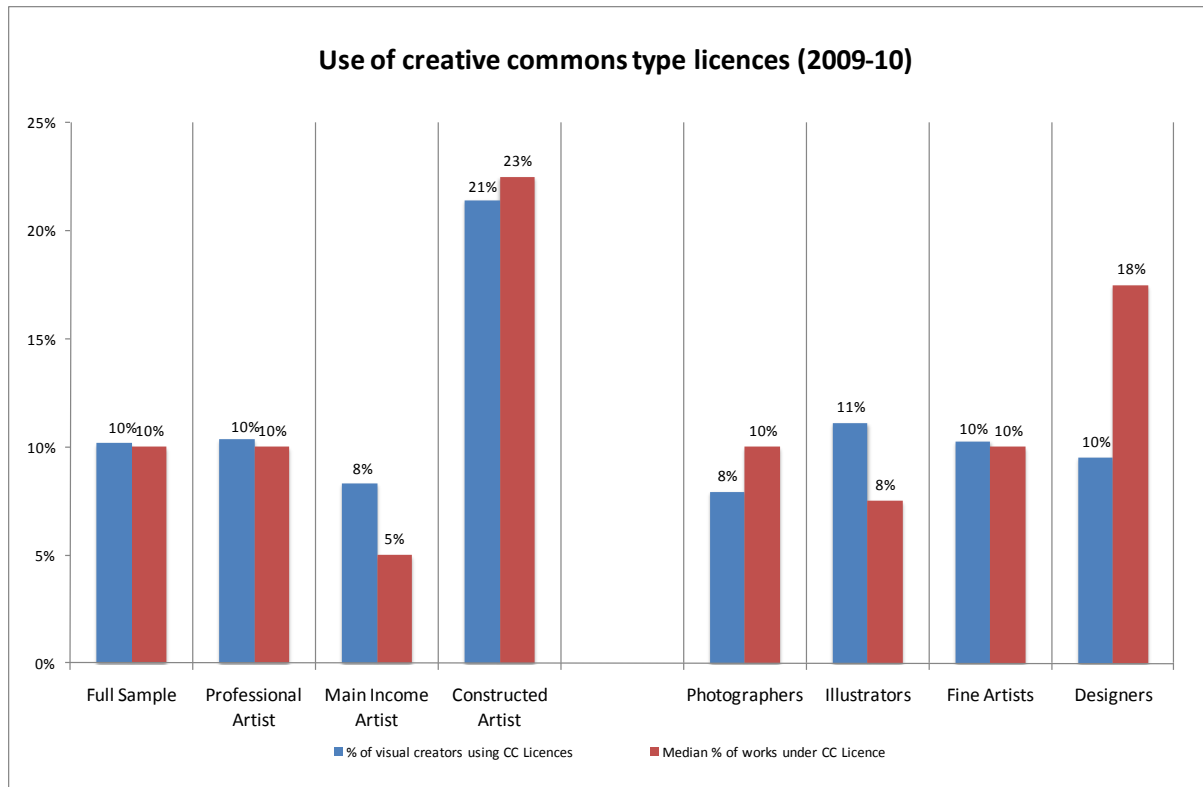
Q26 During the last year, have you licensed any of your works under a CreativeCommons type licence (e.g. permitting non-commercial use)?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>% of visual creators using CC Licences</i>	10%	54	10%	48	8%	21	21%	6
<i>Median % of works under CC Licence</i>	10%	54	10%	48	5%	21	23%	6

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>% of visual creators using CC Licences</i>	8%	17	11%	10	10%	15	10%	2
<i>Median % of works under CC Licence</i>	10%	17	8%	10	10%	15	18%	2

**Graphic**



**Analysis**

‘Creative commons’ licences are standardised licences associated typically with works distributed on the web. The classic licences permit use but allow that permission to be limited by reference to four parameters: use may be permitted only in a non-commercial context, with attribution, where users to adopt similar terms (share-alike) and without modification. The most used licence is confined to non-commercial use, prohibits the making or derivatives and requires attribution (for more details, see [creativecommons.org](http://creativecommons.org)).

About 10% of artists have used these sorts of licences. Although it may not be easy to make money directly from this mode of exploitation, reputation can certainly be built, especially where attribution is made a requirement of such a licence.

Of the various categories, photographers use these sorts of licence the least, with illustrators and designers the most. Designers may well be involved in offering graphics and other design services for websites.

The percentage of constructed artists using creative commons licences is perhaps the most surprising feature of this part of the survey. This category comprises photographers and illustrators whose works have appeared in high circulation national newspapers and journals. It is not obvious why they are more frequently involved in the use of creative commons licences. It may be a function of the fact that they have a higher level of exposure on the Internet (see Q23: 39% have more than 51% of their works on the net, compared to 32% of the full sample and Q24: 61% of constructed sample have received payment for Internet use, compared with 31% of the full sample).

**Table**

**Percentage of works available on the Internet (2009-2010)**

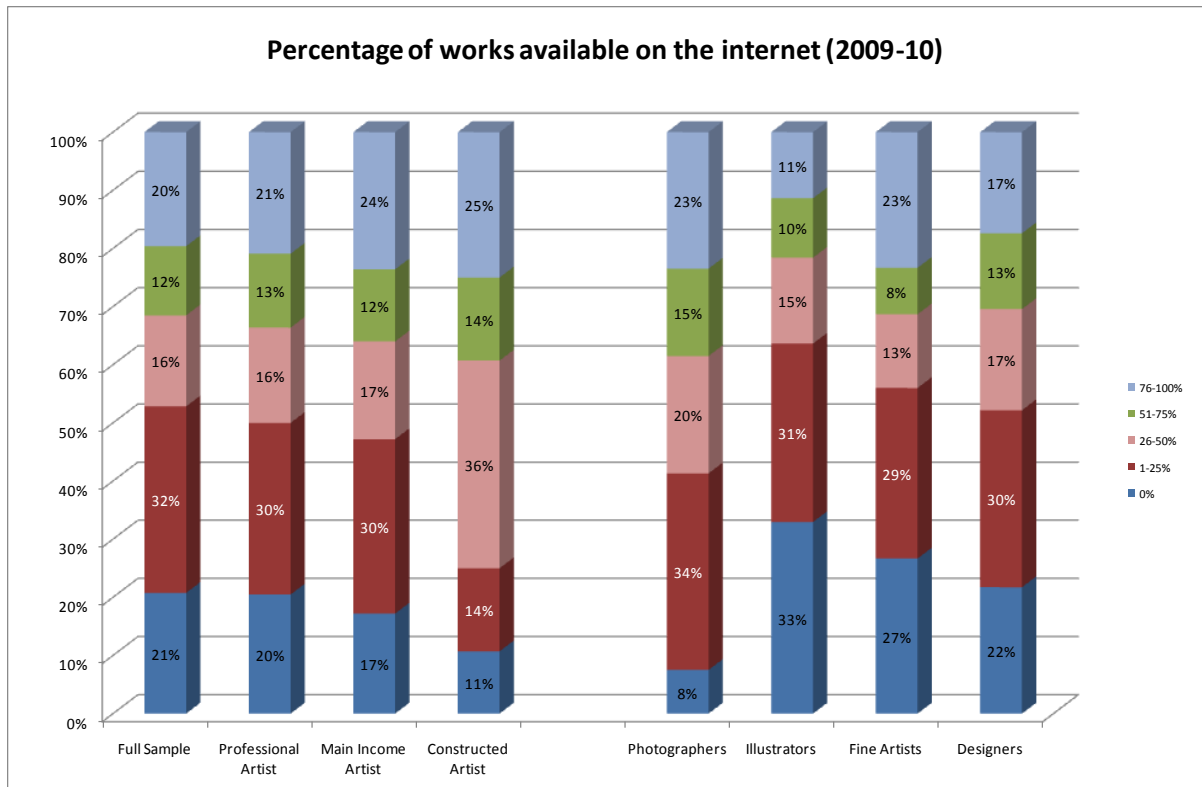
*Q23 What percentage of your works, sold/licensed last year, are available on the Internet?*

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
0%	21%	110	20%	95	17%	43	11%	3
1-25%	32%	170	30%	137	30%	75	14%	4
26-50%	16%	83	16%	76	17%	42	36%	10
51-75%	12%	63	13%	59	12%	31	14%	4
76-100%	20%	104	21%	97	24%	59	25%	7

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
0%	8%	16	33%	29	27%	40	22%	5
1-25%	34%	72	31%	27	29%	44	30%	7
26-50%	20%	43	15%	13	13%	19	17%	4
51-75%	15%	32	10%	9	8%	12	13%	3
76-100%	23%	50	11%	10	23%	35	17%	4

**Graphic**



**Analysis**

Four years ago, Kretschmer & Hardwick found that it was relatively rare for literary authors to have their works available on the Internet. 63% of authors (and 68% of audio-visual writers) had no works published online (Kretschmer & Hardwick 2007, p.180, 191). Three years later the position is very different for visual artists: only 21% have nothing on the web, while 20% have more than 75% of their works online (in 2007, the figure was about 10% for literary authors, and 5.5% for audio-visual writers (Kretschmer & Hardwick 2007, p.191)). Although time may clearly be one factor, this figure confirms one's sense that the output of visual artists has been affected more by the Internet than that of literary authors.

**Table**

**Percentage of visual creators receiving payments for specific Internet uses**

Q24 Did you receive money for specific Internet uses of your works during the last year?

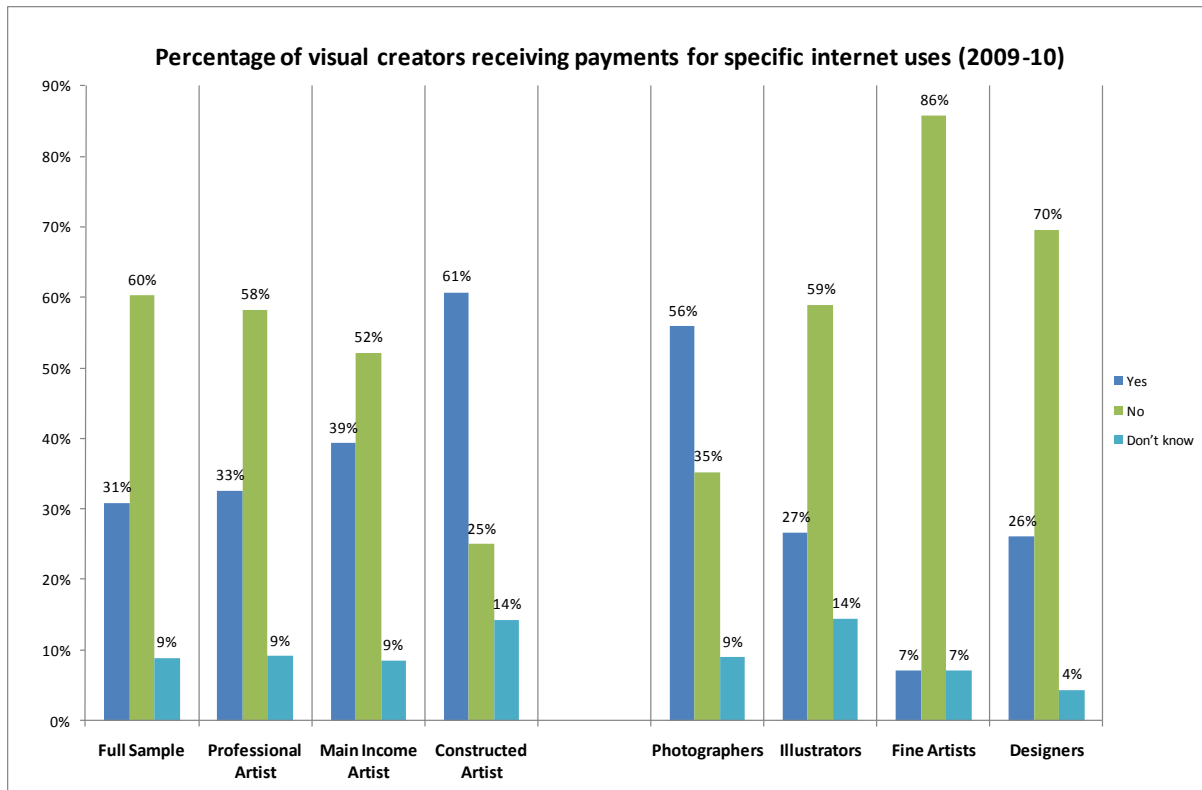
**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Yes	31%	167	33%	154	39%	101	61%	17
No	60%	326	58%	275	52%	134	25%	7
Don't know	9%	48	9%	43	9%	22	14%	4

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Yes	56%	119	27%	24	7%	11	26%	6
No	35%	75	59%	53	86%	132	70%	16
Don't know	9%	19	14%	13	7%	11	4%	1



**Graphic**



**Analysis**

Internet use has become a source of some revenue for many artists. 31% have received some income from Internet use. Again, this can be contrasted with the position of literary authors in the Kretschmer and Hardwick (2007, p.32) survey: that found that under 15% of writers had received remuneration for Internet use.

**Table**

**Percentage of works for which specific internet payments received**

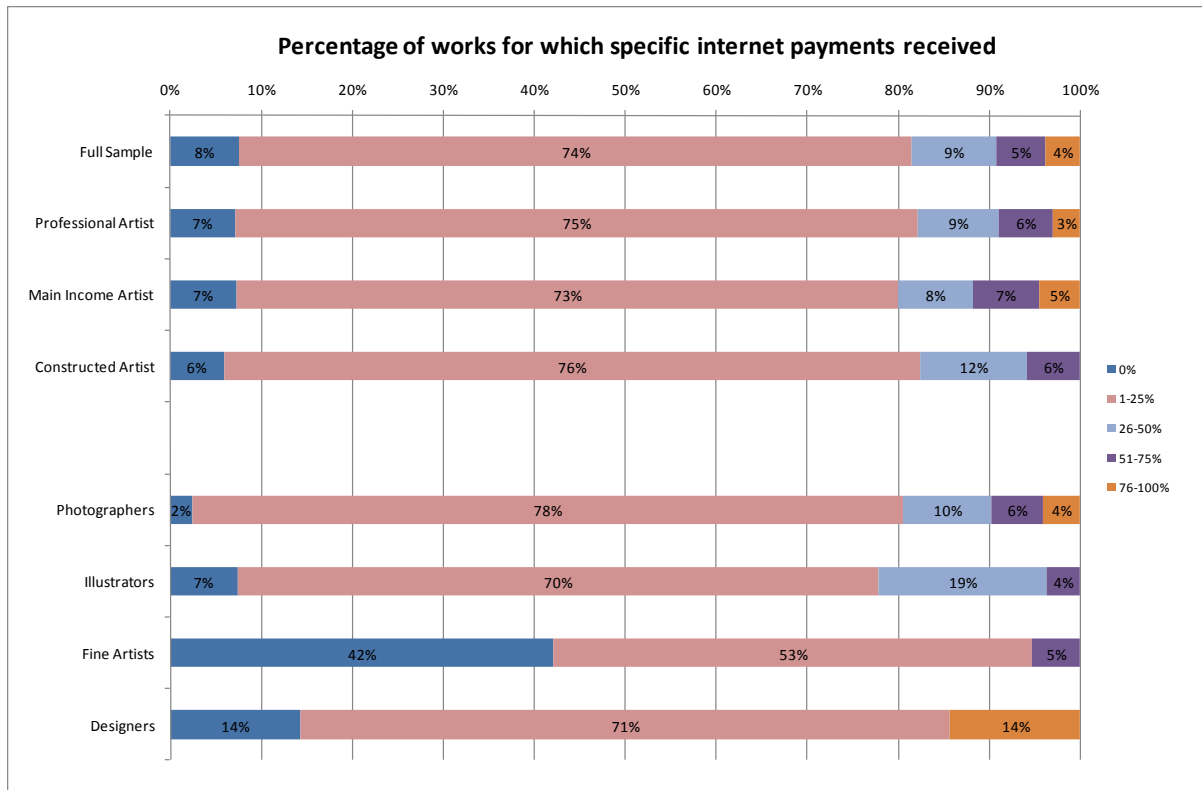
Q25 If you have answered YES to the previous question (Q24), please indicate the percentage of works for which you received specific Internet payments.

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
0%	8%	14	7%	12	7%	8	6%	1
1-25%	74%	136	75%	126	73%	80	76%	13
26-50%	9%	17	9%	15	8%	9	12%	2
51-75%	5%	10	6%	10	7%	8	6%	1
76-100%	4%	7	3%	5	5%	5		0

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
0%	2%	3	7%	2	42%	8	14%	1
1-25%	78%	96	70%	19	53%	10	71%	5
26-50%	10%	12	19%	5		0		0
51-75%	6%	7	4%	1	5%	1		0
76-100%	4%	5		0		0	14%	1

**Graphic**



**Analysis**

From these responses it is clear that much Internet use is not specifically remunerated: 8% state that they never receive remuneration, and a further 74% that they receive remuneration less than one times out of four. Only 4% receive remuneration for over three quarters of the Internet uses of their works.

There are some notable sectoral differences. Fine artists seem to do particularly badly, and photographers comparatively well. 42% of fine artists never receive remuneration for specific Internet uses, while the figure for photographers is 2%. Most photographers make some money some of the time from Internet exploitation.

**Table**

**Median income received from secondary use/ re-licensing (2009-2010)**

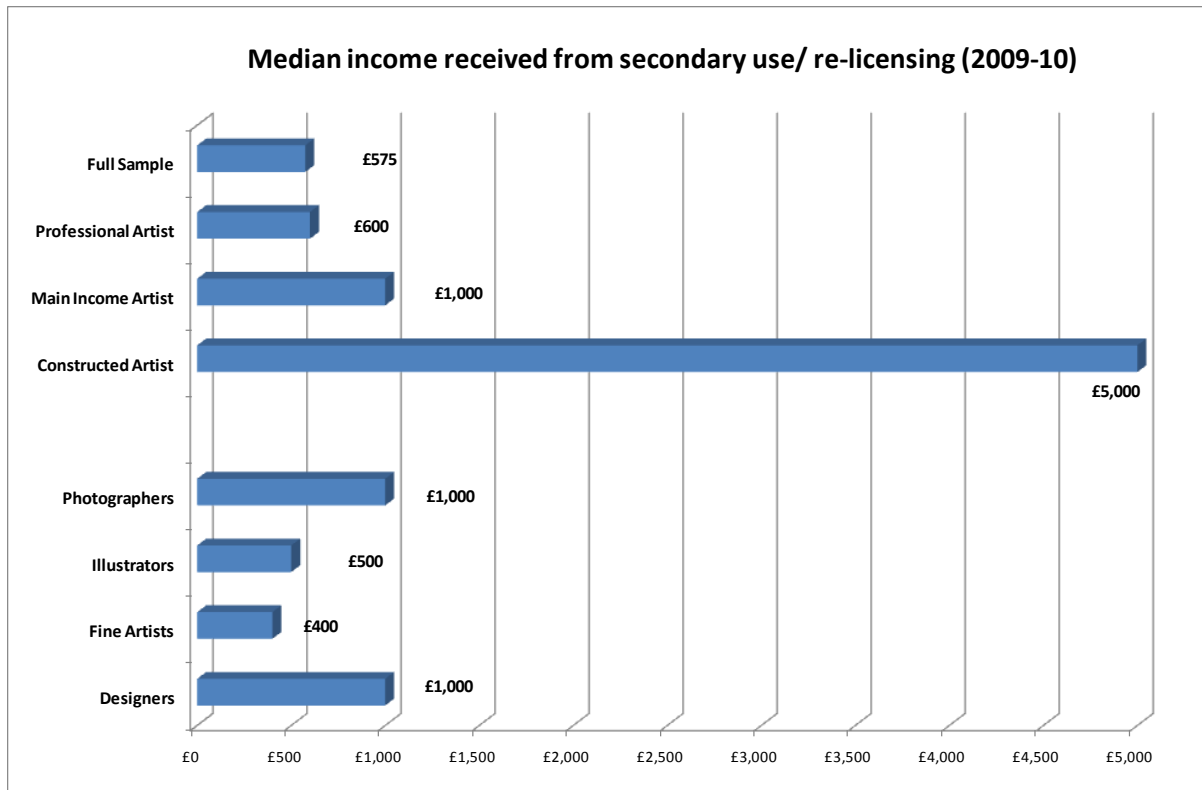
Q21 During the last year, did you receive money from secondary use / re-licensing? [example: a newspaper syndicates your work to a third party - please do NOT include money received from DACS]

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
Secondary Use Receipts (Median)	£575	128	£600	123	£1,000	78	£5,000	11

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
Secondary Use Receipts (Median)	£1,000	63	£500	41	£400	15	£1,000	3

**Graphic**



**Analysis**

Income for secondary use is, for most artists, relatively small. The most significant exception is artists in the constructed sample. The median remuneration here is £5,000. The 'constructed sample' comprises visual artists identified from national magazines and newspapers. The relatively high levels of secondary use income might reflect more widespread secondary use (for example through syndication), and, possibly, the influence of union bargaining.

**Table**

**Perceived change in income received from secondary use/ re-licensing (2000-2010)**

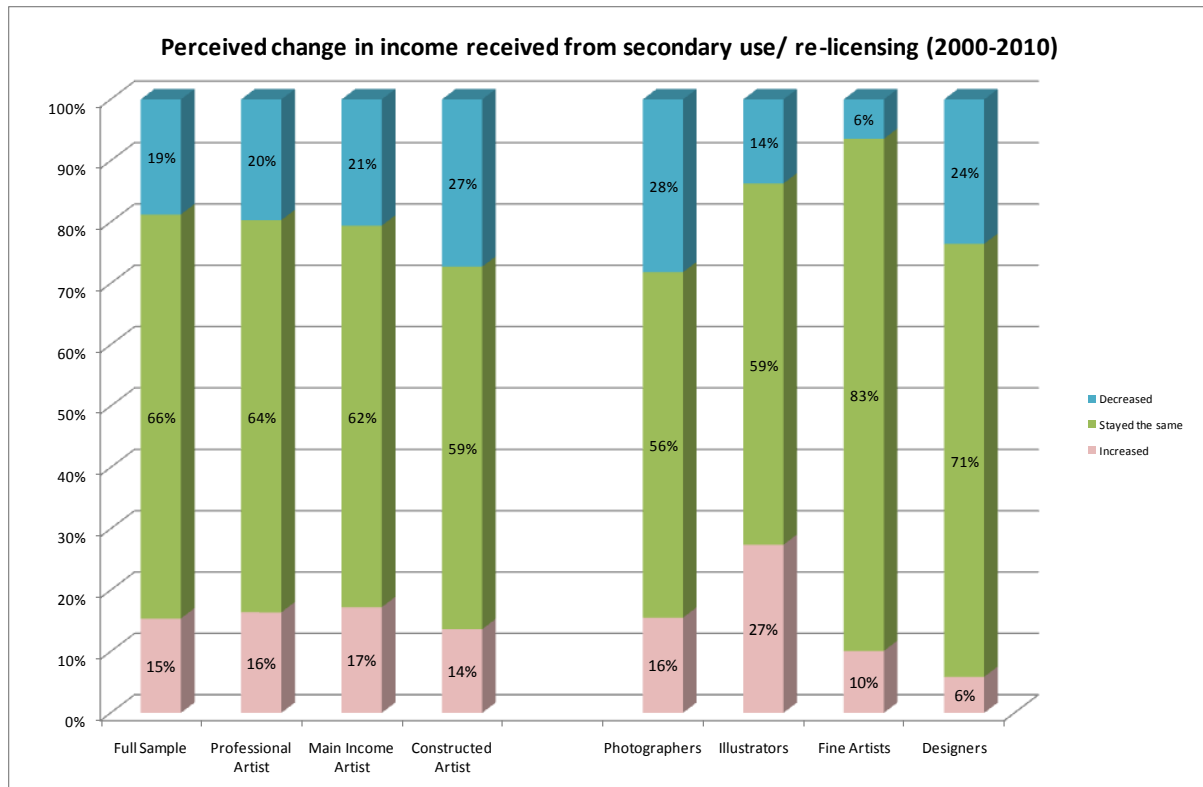
Q22 Has the amount changed over the last 10 years?

**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Increased</i>	15%	64	16%	60	17%	36	14%	3
<i>Stayed the same</i>	66%	274	64%	234	62%	130	59%	13
<i>Decreased</i>	19%	78	20%	72	21%	43	27%	6

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Increased</i>	16%	27	27%	20	10%	11	6%	1
<i>Stayed the same</i>	56%	98	59%	43	83%	91	71%	12
<i>Decreased</i>	28%	49	14%	10	6%	7	24%	4

**Graphic**



**Analysis**

The existing literature sees the great “rights grab” as having been designed to secure secondary rights to exploiters, including “stock” houses (see Holland 2005-6). However, hitherto the evidence has been purely anecdotal. Responses to our survey offer some support to this analysis, but it is not as strong as anecdotal accounts might suggest (and the results differ in surprising ways between sectors).

The greatest perceived change exists in relation to photographers and illustrators. 28% of photographers say that secondary income has decreased, 16% say it has increased: so the overall picture is that more think things have got worse than better. Surprisingly, more illustrators say they are getting more income from secondary licensing (27%), whereas 14% say it has decreased. This correlates well with perceptions in the personal bargaining positions of each group (Q18), where illustrators see their bargaining position as having improved, but photographers see a radical weakening.

One peculiarity remains: the perceived change in the levels of copyright assignments for photographers and illustrators are similar (Q9), and one would have expected changes in secondary income to correlate with changes in assignments. One possible conclusion is that where assignments are not affected, payments for secondary uses have been significantly cut for photographers, but not for illustrators.

**Table**

**Use of intermediaries**

Q27 Do you sell/license through an agent, picture library or gallery? (Please indicate the percentages of your works sold/licensed last year through each channel.)

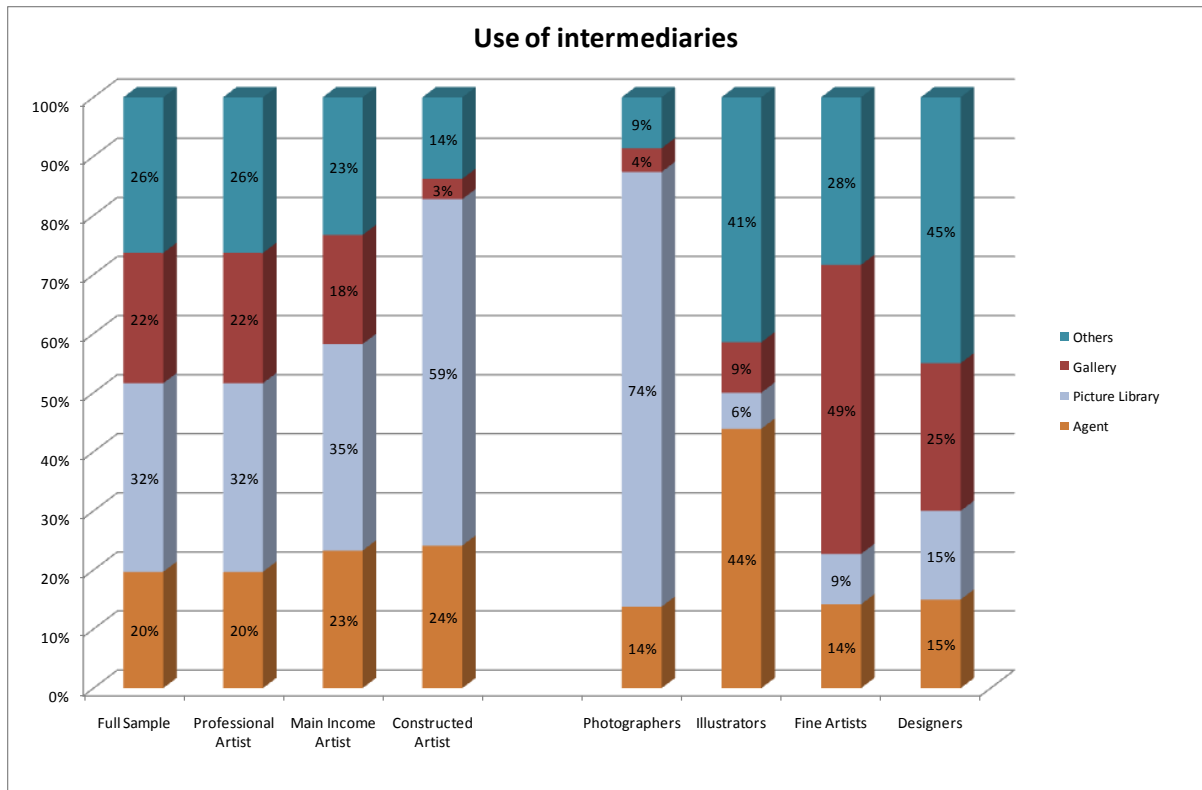
**Data**

	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Agent</i>	20%	92	20%	92	23%	58	24%	7
<i>Picture Library</i>	32%	149	32%	149	35%	87	59%	17
<i>Gallery</i>	22%	103	22%	103	18%	46	3%	1
<i>Others</i>	26%	123	26%	123	23%	58	14%	4

	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Agent</i>	14%	24	44%	36	14%	20	15%	3
<i>Picture Library</i>	74%	128	6%	5	9%	12	15%	3
<i>Gallery</i>	4%	7	9%	7	49%	69	25%	5
<i>Others</i>	9%	15	41%	34	28%	40	45%	9



**Graphic**



**Analysis**

The literature suggests that the use of agents is strongly associated with increased income. In the literary field, Kretschmer & Hardwick found that the mean income of literary authors with an agent was £41,417 whereas those without an agent made only £17,093 (Kretschmer & Hardwick 2007, p.195). Other work suggests that the use of “picture libraries” (especially so called “stock houses”) is less effective and may have led to reduced bargaining power for photographers (Holland 2005-6).

The responses indicate that picture libraries are very widely used by photographers: 74% of photographers operate through such vehicles. In contrast, only 6% of illustrators use picture libraries – but 44% use agents. Fine artists are most frequently represented by galleries.

**Table**

**Median self-employed and DACS incomes by type of intermediary**

(In response to self employed earnings and DACS earnings for the last financial year).

D10

**Data**

Self-employed Median Income (Intermediary)	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Agent</i>	£20,000	67	£20,000	67	£24,000	58	£50,000	5
<i>Picture Library</i>	£19,400	112	£19,400	112	£25,000	87	£25,000	15
<i>Gallery</i>	£12,000	74	£12,000	74	£20,500	46	£0	0
<i>Others</i>	£12,000	79	£12,000	79	£19,234	58	£35,000	3

Self-employed Median Income (Intermediary)	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Agent</i>	£35,000	18	£17,492	29	£22,000	10	£17,041	2
<i>Picture Library</i>	£19,400	100	£22,839	3	£13,500	8	£50,000	1
<i>Gallery</i>	£5,200	5	£17,000	4	£12,000	48	£35,000	5
<i>Others</i>	£14,000	9	£20,000	22	£5,082	26	£16,500	6

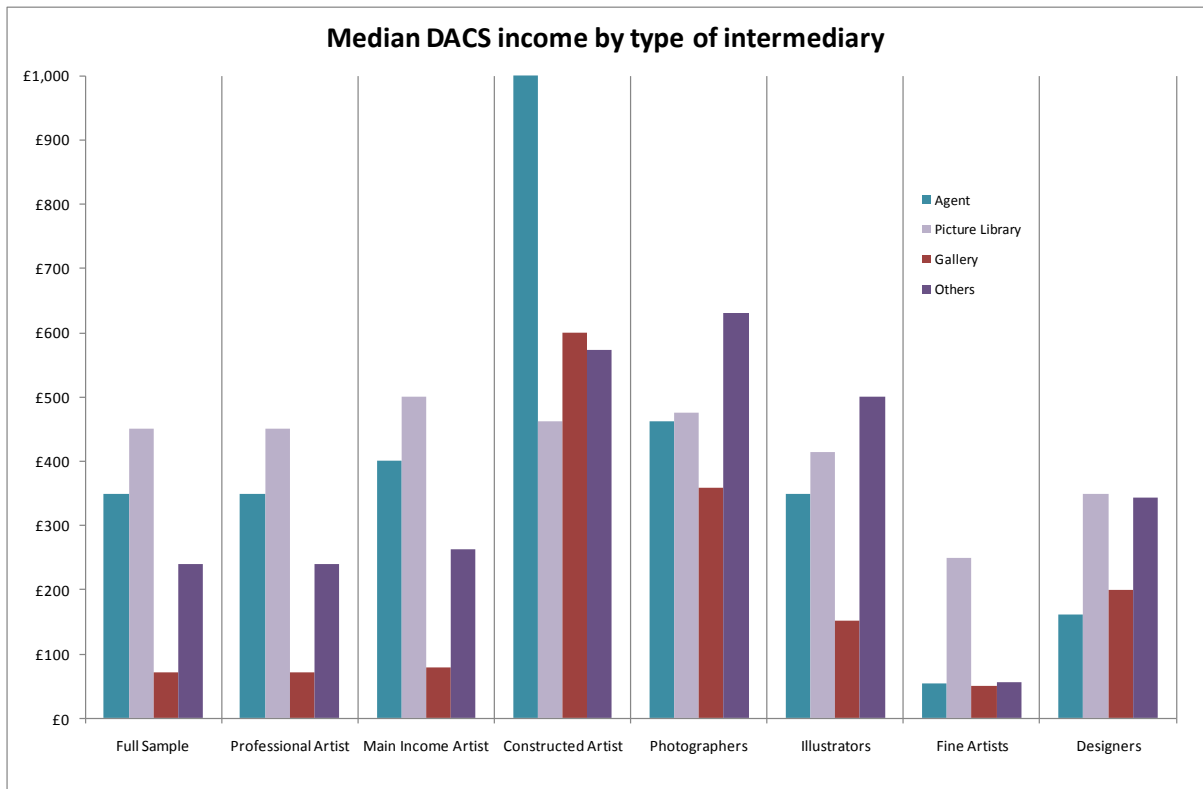
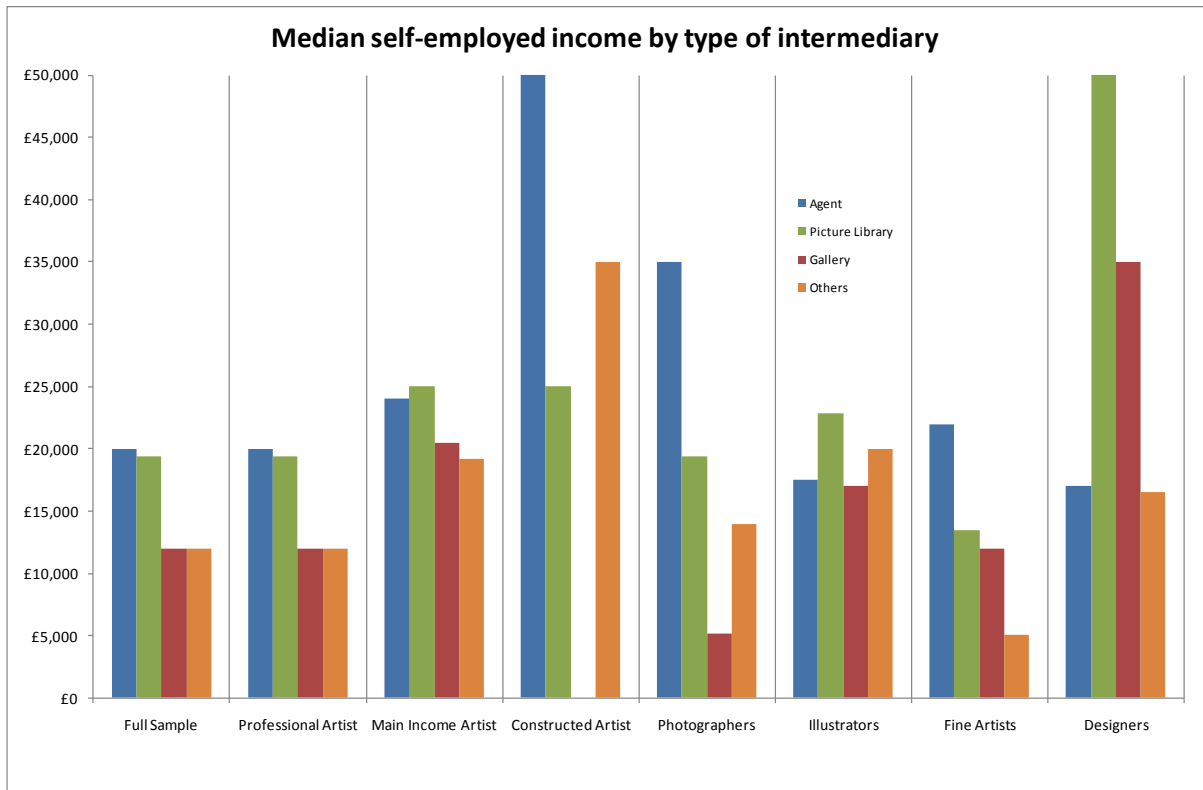
DACS Median Income (Intermediary)	Full Sample	Responses	Professional Artist	Responses	Main Income Artist	Responses	Constructed Artist	Responses
<i>Agent</i>	£350	73	£350	73	£400	57	£1,000	5
<i>Picture Library</i>	£450	119	£450	119	£500	85	£463	12
<i>Gallery</i>	£73	74	£73	74	£80	43	£600	1
<i>Others</i>	£240	83	£240	83	£263	57	£574	2

DACS Median Income (Intermediary)	Photographers	Responses	Illustrators	Responses	Fine Artists	Responses	Designers	Responses
<i>Agent</i>	£463	20	£350	30	£55	13	£162	2
<i>Picture Library</i>	£475	103	£414	4	£250	9	£350	3
<i>Gallery</i>	£359	5	£152	5	£50	47	£200	5
<i>Others</i>	£630	9	£500	23	£56	27	£343	7

For reference:

	<b>Overall Self Employed Median Income</b>	<b>Responses</b>	<b>Overall DACS Median Income</b>	<b>Responses</b>
<i>Full Sample</i>	£12,000	391	£264	415
<i>Professional Artist</i>	£16,000	340	£268	360
<i>Main Income Artist</i>	£20,000	260	£350	252
<i>Constructed Artist</i>	£27,000	23	£600	20
<i>Photographers</i>	£15,000	169	£375	175
<i>Illustrators</i>	£15,723	66	£400	71
<i>Fine Artists</i>	£10,000	100	£60	106
<i>Designers</i>	£23,000	15	£248	19

Graphic



## Analysis

In relation to literary authorship, Kretschmer and Hardwick (2007, p.195) identified a dramatic correlation between the use of agents and mean income. In the case of visual artists, the correspondence exists but is less stark, and those who use picture libraries frequently have better median incomes.

The use of agents is associated with higher incomes in relation to photographers and fine artists, and especially those in the “constructed” sample of artists (working for the national press). What is peculiar about this is that, as we have seen, most photographers (74%) utilise picture libraries and very few (14%) have agents.

The use of picture libraries is overall associated with slightly higher median incomes than the use of agents, and the association is especially strong in relation to illustrators and designers. Again, this is slightly puzzling: only 6% of illustrators use picture libraries (44% use agents).

**Table**

**Difference in mean income of visual creators with or without attempts to negotiate**

*(In response to self employed earnings for the last financial year).*

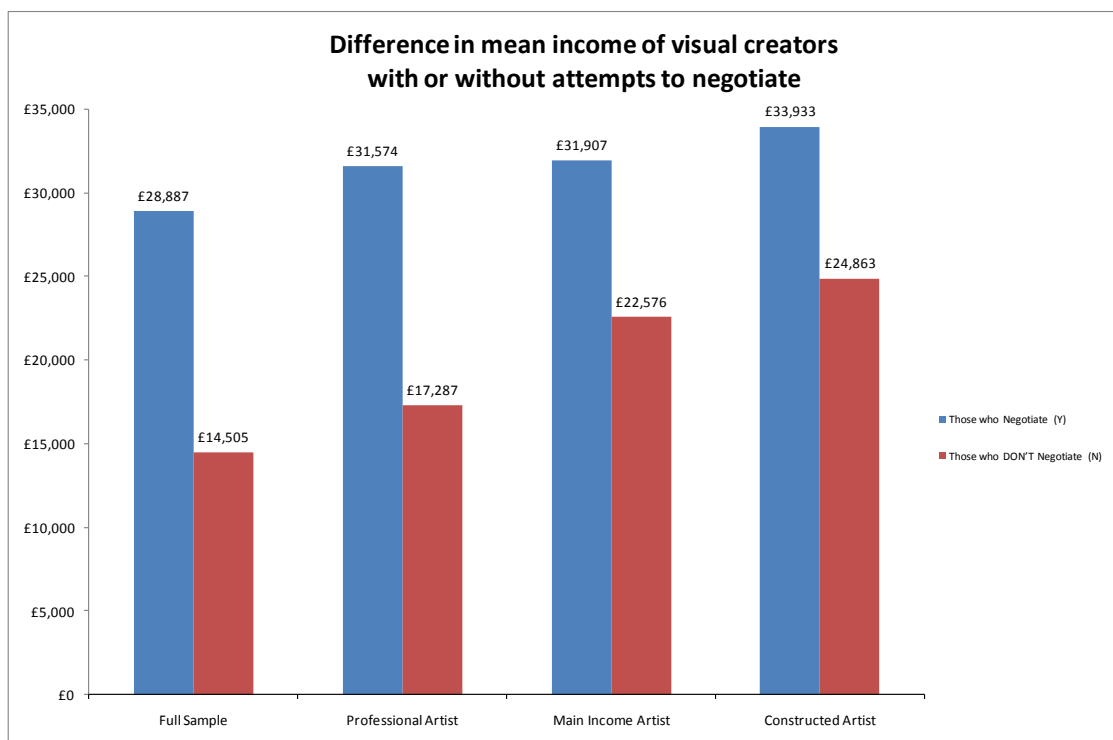
D21

**Data**

	Those Who Negotiate (Y)	Responses	Those who DON'T Negotiate (N)	Responses	% of N to Y	N-Y (i.e. Difference)	T-statistic
<i>Full Sample</i>	£28,887	221	£14,505	154	70%	£14,382	2.08*
<i>Professional Artist</i>	£31,574	200	£17,287	126	63%	£14,287	2.30*
<i>Main Income Artist</i>	£31,907	161	£22,576	89	55%	£9,331	2.31*
<i>Constructed Artist</i>	£33,933	15	£24,863	7	47%	£9,070	0.89**

\* Significant  
 \*\* Not Significant  
 Significance was assessed at the 5% level in one-tailed tests.

**Graphic**



**Analysis**

Investigating literary authorship, Kretschmer & Hardwick (2007, p.196) identified a strong correlation between those who succeeded in changing the terms of a proposed contract and mean income: those who had not negotiated a change had a mean writing income of £22,950, while those who succeeded had a mean income of £40,507. The correlation, of course, does not establish a causal relationship, just that those who negotiate get more. And those who get more negotiate more.

This survey indicates a similar correlation for visual artists. We have noted already (Q16) that 43% of those who negotiate do so over fee. This table indicates that those who negotiate receive on average £14,382 more per annum than those that do not. T-tests were conducted (see above table) to test whether visual creators who attempted to negotiate had higher incomes than who did not. The difference in income was statistically significant for the full sample, professional artists and main income artists. The difference of £9,070 is not statistically significant in respect of the 'constructed sample' (who work in the national press).

It is notable that a high proportion of the constructed sample, a net 28%, perceive weakening of their own bargaining power over the decade, whereas over the sample as a whole, a net 12%, think their bargaining power has improved. If the constructed sample is right, their negotiations may simply be less effective at securing greater rewards.

## Contracts (Legal Analysis)<sup>30</sup>

- 1 This section of the report offers a legal analysis of a selection of copyright contracts since 1990.
- 2 At the meeting of the focus group held at DACS on 28 July 2010, two participants (a photographer and an illustrator) submitted a selection of publishing contracts to representatives of the research team at the Centre of Intellectual Property and Information Law, Cambridge University. The photographer is also an arts curator and lecturer at a UK university. The illustrator has been working freelance for UK publishers of illustrated books and health/women's magazines for some 14 years, while also teaching part-time at various higher education institutions, with almost half her work for the past 3 to 4 years sourced by an agent covering American publications. The contracts provided by these two focus group participants, together with a further selection provided by the Association of Photographers form the basis of the following legal analysis. Where relevant, mention is also made to summaries produced by the Association of Illustrators of two instances of their negotiation of certain aspects of standard contract terms used in publishing contracts. A number of contracts were excluded from the review, for example on the basis that they were agreements subject to foreign law relating to copyright in jurisdictions other than the UK. Others were excluded because they were mere drafts produced in the course of negotiation, where either the outcome was unclear or no agreement was finally reached, or because they were contracts which were concluded outside the spheres of book, magazine and newspaper publishing.
- 3 None of the contracts included in the analysis below contained clauses providing that their terms were confidential between the parties. Notwithstanding this, focus group participants were assured that any study that was published would provide the participants' with anonymity, so all references to specific names are replaced with anonymised professional descriptors [*in square brackets and italics*].
- 4 Twelve contracts form the basis of this review, in addition to two summaries of negotiations provided by the Association of Illustrators. These all concern the terms on which a variety of publishers (including a national consumer magazine publisher,

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<sup>30</sup> This section was drafted by Elena Cooper.



a national broadcaster, international and national book publishers, in addition to a public body) exploited copyright in illustrations and/or photographs in the period 1991 to 2008. While the limitations on the source and size of this sample of agreements prevents us drawing broad conclusions, a number of observations can be made about those clauses which most contracts have in common and those clauses where there is greater variance.

- 5 With one exception, all the contracts reviewed related to *specified* works that formed the subject of the transaction in question (whether already created or to be created in the future pursuant to that contract), and did not contain licence terms purporting to apply to all future transactions relating to other works. The exception was a commissioning agreement concluded by a freelance photographer with a national broadcaster and publisher [*BBC Worldwide*] in 1997, which was accompanied by a covering letter providing that “all future transactions” would be subject to the terms of that agreement.
- 6 Also common to most contracts reviewed, was the provision by the visual creator of a warranty that s/he owns copyright in the work in question, and that the work does not infringe copyright or constitute libel or defamation. Again, in many cases such warranties are backed up by an obligation on the visual creator to indemnify the publisher in case of breach of such warranties.
- 7 Greater variation was observed in clauses concerning the rights transferred to the publisher. At the one end of the spectrum there were those contracts which were most favourable to the publisher. These provided that the publisher would obtain an outright assignment of copyright from the visual creator, expressed in the broadest terms possible encompassing legal and equitable title to present and future copyright in the work(s), throughout the world, for the full term of copyright. From the perspective of the visual artist, this is the most extreme form of “copyright grab”. As one photographer commented in relation to a draft contract in such terms offered in 2007: “Let’s be clear: this is the Mother of All Copyright Grabs.”<sup>31</sup> Practices of this nature are also sometimes referred to as “warehousing” of rights, that is, the publisher acquires rights beyond those necessary for the project in question and can therefore utilise these to obtain further revenue streams for uses of the same work other than for the project in question.

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<sup>31</sup> Anonymous post dated 19 December 2007 posted on the [www.copyrightaction.com](http://www.copyrightaction.com) website administered by Editorial Photographers’ UK (a web based organisation for photographers working the UK and Ireland) in respect of an English law publishing agreement offered by H Bauer Publishing.

- 8 Contracts fitting this model are the terms from 1991 of an international book publishing house [*Dorling Kindersley*] relating to the commissioning of illustrations/photographs, and the freelance photographer terms concluded with a national broadcaster from 1997 (noted at paragraph 6). In addition, a commission for illustrations for a book concluded with a London based book publisher [*Cico Books*] in 2008, provided for the assignment of copyright “without limitation”. Further, correspondence from 2001 reveals that copyright assignments also were contained in the terms of public bodies [*Health Promotion England, an arm of the National Health Service*] contracting photographers to provide illustrations for health publications, though these are stated to be “unless otherwise agreed in writing at the outset”. It is unclear from the material provided whether such an agreement to the contrary was concluded in this instance. In negotiations conducted in 2009-10 with an international educational publishing house [*Pearson*], the Association of Illustrators sought to challenge the outright assignment contained in that publishing house’s standard illustration contract. This resulted in a compromise clause which, while leaving the breadth of the assignment intact, permits the *artist* to re-use the work for purposes other than the project in question and obtain revenue for such uses. In another instance from 2007, noted by the Association of Illustrators, agents for illustrators have agreed with a major academic publisher [*CUP*], the right for the illustrator to receive a fee for an assignment of rights on a territory by territory basis.
- 9 At the other end of the spectrum are those contracts where the transfer of rights was more limited. In particular, a contract concluded in 2005 with a national magazine publisher [*The National Magazine Company Limited*] commissioning an illustration for a women’s magazine [*She*], provided the publisher with an exclusive licence to first publish the work, expiring 56 days after that first publication. This is a contractual practice sometimes referred to as “first British rights” where the publisher is granted an exclusive licence for a limited period of time, for the first use of the work only, with the photographer free to exploit copyright in any way subsequently.<sup>32</sup> Similarly, agreements provided by the illustrator who attended the focus group, reveal two instances dating from 2004 and 2005 in which a London based book publisher [*Elwin Street*] accepted the illustrator’s own terms of commission. These provided that the publisher was merely granted “a licence to reproduce the artwork solely for the purposes” set out on the cover of the agreement. In the first instance, this was a UK licence relating to “presentations” regarding a specific book title, and in the second

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<sup>32</sup> See, for example, the “FAQ” section of the [www.copyrightaction.com](http://www.copyrightaction.com) website provided by Editorial Photographers’ UK.

this was a worldwide licence of ten years duration for the use of 28 illustrations in a specific edition of a book. Both of these licences are expressed to be “exclusive”, though the meaning of exclusivity would appear to be limited to these specific uses, as the main body of the agreement envisaged that the illustrator retained the right to exploit the artwork for *other* purposes.

- 10 The facts found by Patten LJ in the case of *MGN v. Grisbrook* [2009]<sup>33</sup> EWHC 2520, reveal that a practice of granting licences for specific purposes also formed the basis of the terms on which photographers provided their photographs to three national papers (Daily Mirror, Sunday Mirror and Sunday People) in the period 1981 to 1997. In that case, it was common ground between the parties that, in providing photographs to these papers, the photographer consented to their usage for two specific purposes: their publication in current newspapers *and* their occasional future use as part of the material stored in MGN’s picture library for use in any future MGN publications. A fee on an agreed scale would be paid for each usage, except for “rag outs” (where a page from a previous edition was reproduced in a new edition). It was also common ground that the licence for MGN to use photographs in *future* publications was revocable by the photographer on notice. In dispute between the parties was whether the licence in respect of already published editions was in respect of what Patten LJ termed an “omnibus right” (*Ibid.* at paragraph 59), covering all future uses of that edition, such that MGN could make their database of back-issues available to the public without further consent from the photographer. Patten LJ held that the licence to store the photographs in the MGN picture library would extend to any forms of new technology available from time to time for that purpose, but that licence did not extend to the making of the database available to the public.
- 11 In between the two extremes of outright assignments on the one hand (see paragraph 8 above) and more limited licences on the other hand (see paragraphs 9 and 10 above) are agreements where copyright ownership was retained by the visual creator, but the terms of the licence were exceedingly generous to the publisher. For example, a contract from 2003 commissioning an illustration for “a Project” by an educational publisher [*Harcourt Education*], granted the publisher an exclusive worldwide licence to reproduce, publish, and sell, and sub-licence the reproduction, publication and sale, of the illustration or any adaptation of the illustration, “in all forms and media” including its communication to third parties “by wire or wireless means” and by “all forms and media now existing or invented in the future.” When

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<sup>33</sup> MGN subsequently appealed to the Court of Appeal, which affirmed the High Court ruling. See [2010] EWCA Civ 1399.

phrased in such broad terms, a licence may in practice operate in a similar manner to an assignment. A further example of a broadly worded licence is contained in an illustration commission contract concluded in 2005 with a London based book publisher [*Cico Books*], which provided the publisher with the “exclusive rights to produce and publish” the illustration in “all editions, forms and in any media throughout the world in all languages in perpetuity” and the “right to reproduce” the illustrations in other any “other volumes they may wish to publish.”

- 12 Other such contracts provided for a licence in broad terms, but limited it to the inclusion of the illustration in a particular book or publication. For example, a contract from 1998 commissioning an illustration for a book published by a different London based book publisher [*Edison Sadd*], provided an exclusive licence to “produce, publish” and “themselves further to licence” the illustrations or any part of them “for the legal term of copyright throughout the world”, but this was limited to using the illustration in connection with the particular book only. Further, were the book to go out of print, the licence would expire and all rights granted to the publisher would revert to the visual creator. A licence limited to uses of the illustration in relation to a specific book, forms the basis of a commissioning contract concluded with yet another London based book publisher [*Bridgewater Books*] in 2003.
- 13 Turning to the question of moral rights, certain contracts reviewed (for example those with the national broadcaster in 1997 [*BBC Worldwide*], the public body in 2001 [*Health Promotion England/NHS*] and the terms of an international publishing house of 1991 [*Dorling Kindersley*]) provided for the irrevocable waiver of all moral rights. A more generous approach to visual creators can be found in certain of the illustration commission agreements concluded by London based book publishers, relating to illustrations for specific books. In general these did not provide for a waiver of moral rights, and specify that the illustrator has the right to be named, sometimes on the title page of the book (as in an 1998 contract [*with Eddison Sadd*]), in other cases the obligation merely requiring a credit of “due prominence” (as in the 2003 contract with the educational publisher [*Harcourt*]).
- 14 However, in other such contracts, the approach is less generous. For example, a publishing agreement from 2003 [*concluded with Bridgewater Books*] acknowledges that the visual creator “may usually expect to be credited” but that it was to be accepted that there may “of necessity” be occasions when there would be no credit, and also provides that the publisher was entitled to “crop, add to, touch up or otherwise amend or edit” the illustration. Indeed, an illustration commission

agreement concluded in 2008 with another London based publisher [*Cico Books*] contains an “unconditional” waiver of moral rights.

- 15 In conclusion, the contracts reviewed reveal most variation as regards the scope of the rights granted to the publisher and treatment of moral rights, and show that a variety of approaches have been taken in copyright exploitation contracts over the period 1991 to 2008, even within particular sectors (such as illustration commissions by book publishers). In part this may reflect the fact that, as one participant noted at the focus group [*mid-career illustrator*], the ability to negotiate with a publisher very much depends on the level of work available to a particular visual creator at the time; during “quiet times” contracts are provided *after* the event and concluded with little negotiation, as compared with more heavy pre-contractual negotiations at times when work was more readily available.
- 16 The comments of those participating in both the focus group and the survey also draw attention to the limitations of the contractual analysis above. In particular, it fails to capture the practice in some sectors, such as celebrity portraits, where written contracts are *never* concluded and (in the view of one of the participants [*celebrity photographer*]) there is generally a lack of common understanding between photographer and client on the subject of copyright. Further, the written contracts analysed only cast light on instances where publishers were prepared to pay for visual material. This Report does not therefore include examples of a rising practice noted by both focus group and survey participants, where digital photographs are provided to publishers by amateurs, with no expectation of payment, a trend believed to be linked to the rise of on-line media publishers who demand constantly changing content. Whereas one focus group participant [*mid-career illustrator*] felt this practice would not prevent her obtaining paid illustration work, as there would always be occasions when publishers demanded the personal “vision” of a creative artist, the views of another survey respondent were more pessimistic, predicting that, within a decade, it would be “ever more difficult” for creative artists to earn “even a small living” from their work. Therefore, while the contractual analysis above may not reveal an immediately discernable change in contractual terms following the advent of the Internet, the full impact of digital technology on the contracts of visual artists may yet to be seen.

## Focus Group Transcript

Focus groups are best understood as an efficient way to conduct multiple interviews at the same time. The conversational format, allowing for group interaction, can also encourage the sharing of experiences and opinions that would not otherwise have surfaced.

In the context of this study, the function of the focus group was to add understanding and depth to the quantitative findings of the survey. Quotes from the focus group (as well as from the open questions of the survey – Q18 & Q38) are used throughout this report where they illuminate descriptive statistics.

After introductions, and an “icebreaker” discussion of digitisation, the following topics were raised (= protocol): (1) current exploitation practices, (2) changes of exploitation practices since digitisation, (3) commercial strategies to deal with these practices, (4) non-commercial use and attribution issues, (5) the motivation for producing as a visual creator, (6) understanding of what constitutes professional practice.

The focus group took place on 22 July 2010, 15:00 – 17:00 on the premises of DACS in Clerkenwell, Central London. The whole research team was present. Martin Kretschmer (MK) acted as moderator. The session was recorded and transcribed by Sukhpreet Singh (SS).

### Introductions

A (curator/lecturer): I am a visual arts curator and a visiting lecturer at a UK University. I am interested not only in issues surrounding copyright for myself but also for those visual artists for whom I curate because a lot of them don't know much on these issues – so I would like to educate them on that.

B (illustrator): I am a freelance illustrator and I have been working for about 14 years and I also teach part-time in professional practice, particularly in colleges and universities. And I feel very strongly about things that unfortunately very few people are aware and I tell people that you need to know about copyright and licences. But in my own work in the last few years I have been assigning more and more & agreeing to assigning copyrights which I don't want any of my students to be doing. It's such a lonely thing working as an individual and I work from home – like most other illustrators – so all the time you are thinking that you know the right things to do or you hope to, but you are also thinking what's everybody else doing. I worked mainly for magazines and book publishers until about 3 or 4 years ago in the UK, in health and women's magazines and illustrated books that are adult books. But in the last 3 or 4 years I have had half of my work coming from America through my agent and comparing how they do things compared to my own shoddy way of doing things (laughs).



C (gallery based photographer): I am a gallery based photographer and have been working for about 30 years – I dream up ideas and I work on these for 2 -3 -4 years and then I put up a show, and I publish some books and I sell my work to collectors and museums. 2 years ago, I saw the light and I left film behind forever and I started shooting digitally and in March this year I put on my first ever digital show which is digital right from shooting all the way up to pigment prints. This opened in Cardiff recently and I am working right now on a very big project digitally in London. I have a website and I exhibit online.

D (celebrity photographer): I am a celebrity photographer from here in London – let's get one thing straight first – I am not paparazzi. I get invited in and I also do weddings and portraits. I do a lot of charity work – I have produced my second book which I have brought out in September and since then I have sold 58,500 copies and all the money and proceeds go to Healthy Heroes. Copyright is beginning to get extremely important for me. My main media are celebrity magazines such as Hello, OK and I would do the photos for a person and if they want to do put them in a magazine, they can – I don't go sell to the press at all.

E (photospheres): I am a photographer who has specialised in photospheres which is a specialized form of photography that I have developed which contains everything that you see around you 360 degrees, using digital means and once I started on that I went to quite interesting possibilities such as prints thereof etc. and I now sell mostly through specialized prints.

F (photographer/writer, main stream publishers): I am a commercial photographer since 1987. I also write about photography so I am interested in digital rights since I used to write for professional magazines and the amateur magazines for the photographic press about being a photographer and the day to day stuff. Because I went professional in 1987, the 1988 Act followed which is months after I had started and which is something very important as it brought about a huge change to working practices that were before 1988. And once I started writing, copyright became one of my specialist subjects, so I have been involved with the AOP [Association of Photographers], DACS and various solicitors writing about copyright to photographers, both amateur and professional. I also write about dark rooms, etc. and all that technical stuff. I was at the forefront of writing about digital cameras and the development of being a digital photographer in a magazine called Hot Shoe which I don't think is anywhere around now – and the premise of which was that if you took a professional photographer and gave him a new digital camera and a computer, how long will it take him to learn enough to be able to present the client with an image that they can publish and the answer was that it took 12 months because there was a learning curve in the technical side as none of the software worked properly at that time. This was one of the reasons that photographers were slow in the uptake (besides other reason) of digital technology, it was very difficult to make software work properly and give the clients (in those days, it was a graphic designer) something to work with and also to talk the same language. Today we talk about digital image making etc. but in those days nobody knew these terms so I was involved in those issues. I shoot for London mainstream publishers.

G (photographer portraiture/reportage): I am a photographer and I shoot. I have probably not being around so long as most people here – I have been in the industry about 7 years. I worked for large magazines and newspapers, portraiture and reportage and before that I worked in post-production.

Ice breaker (effects of digitisation)

Martin Kretschmer: As first activity, I would forward a quote that was left in the open comment section of our survey. I would ask you to read this and think about it for 5 minutes and then tell us whether you agree or disagree, and why?

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QUOTE (photographer/fine artist, 26 years industry experience): *The trends in the photographic markets this past decade are instructive for all visual artists. Whilst at first internet picture libraries allowed photographers direct access to more customers worldwide it has become apparent that these libraries and agencies are now hoovering up images from amateurs who are not reliant on the income. More than a billion people worldwide own a digital camera. At some point everyone of them will produce an image that someone somewhere will be able to make use of. The big media companies and picture libraries know this. People are encouraged to submit readers/ viewers photographers to news, media, in house professions, even public libraries on all topics in the guise of competitions, weather illustrations, or simply 'our readers pics'. A look at the terms and conditions reveals that these organisations then reserve the right to use these images. At a time when the media organisations are cutting costs this is a simple way of building picture libraries on the cheap. Getty images recently used the Jeremy Vine Show on Radio 2 to appeal for people pictures to be submitted through their Flickr portal offering fees way below what a professional need to stay in business. The writing has been on the wall a long time for stills photographers and is only just beginning to effect other creative content producers but this trend will not go away. Picture libraries/agencies will continue to build vast digital databases of image content, the boundaries between art forms will continue to blur, aesthetic diversity will become ever more ubiquitous; there is and will continue to be a ready supply of good cheap or free content and this will squeeze out the work of professionally trained and experienced art professionals. For better or worse this is cultural democracy at work. For all artists the problems of creating and maintaining an income stream from content production and distribution will become more challenging. Only a fool would try to predict what the landscape will look like in another decade but I think it is going to be ever more difficult for all visual artists looking to sell content to clients wanting to use it for illustrative purposes to earn even a small living from this source.*

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A (curator/lecturer): I think I will largely agree with that. I see a lot of parallels in what is happening with the music business – people wish not to pay for content and they expect it for free. That's one of the fundamental problems. Also it is to do with the decline of print – online quality does not have to be so high resolution – something seen on a computer screen compared when you might be doing a bill board ad, so that's what has created this scenario.

C (gallery based photographer): My experience has been completely different. I think I have been very lucky – at the moment I am showing original digital prints made from digital files which I have made myself – pigment prints which are really rather beautiful – in the genre of traditional photographers with a complete different colour gamut – a much different range and also according to a world colour expert in the States, a guy called Henry Wilhelm who runs a company (<http://www.wilhelm-research.com/>) which exclusively runs accelerated aging tests on 2D colour materials. His company reckons with his tests that the C type print that we are familiar with under North European conditions of illumination and humidity and so on, that these will be stable and there won't be more than 5% density shift in any of the colour layers for about 40-50 years. These new pigment prints that I am making, according to the same criteria, will be stable in excess of a quarter of a millennium and apparently he is talking privately to some people that in ideal museum conditions (i.e. in darkness) these will remain stable for even longer.

MK: Do you think in the unique area of art that you are in, you are not really affected by changes taking place?

C (gallery based photographer): It's much more complicated than that because the end product for me is the print. And the lineage of the print is very important for the purchaser,



collector, museum or whoever it is. But I also have images on websites around the world which other people can use but it is obviously of low quality.

SS: Do you think going digital has increased the ambit of your art i.e. has increased the canvas of your picture making possibilities?

C (gallery based photographer): I think it has increased the possibilities which is one of the reasons why I left film and started working digitally. But this whole issue in my sector of photography – of print permanence – is very important. In fact there are some collections which are no longer buying C type prints, precisely for this sort of reason.

B (illustrator): One of the things about illustration is that although people are putting work in stock libraries and with illustration it is often that you are making something tailor made for a specific magazine or an article. If illustrators decide to go down the photograph route, that is something generic, sort of to fit an article and they do that sometimes from a stock library but if you are being commissioned as an illustrator, these are your ideas and it is your vision that they are asking for – so I think that there are some companies who want to keep these specialists on while some companies are using stock. On my personal level, I was always against picture libraries until my American agent persuaded me to put some of my old work on a small American picture library that looks lovely and they told several good things about themselves so I put a hundred and thirty pieces up there 2 years ago. Now if I Google myself I realise that they have put some of the work that I gave to them onto Getty and Corbis – so my work is on those platforms which I didn't want to be on. But since I had a contract with them – I think if I was dealing directly with them I would have been a bit more questioning but my agents, though they were really great, I just trusted them.

MK: Do you think platforms such as Getty and Corbis replace the need for a specialist illustrator?

B (illustrator): No, I don't think they replace it. I don't think you will end up having nobody commissioning illustration but yes, a few years ago I was very anti, as I did see it as replacing it. I think its more a case of thinking – similar to copyright – you feel that everyone else (i.e. illustrators) are doing it etc. [compromising on copyright issues] – so when I start looking around, I think why am I the only person standing my moral ground for the future of illustration when I see that other people aren't doing so.

D (celebrity photographer): I totally agree with it. My photos are in a couple of picture libraries and the amount that I get every month seems to just go down and down – I don't quite understand why.

A (curator/lecturer): The Guardian cut the fees in half and some other newspapers have done something like that as well.

G (photographer- portraiture/reportage): Anything is worth something only if it has some rarity value so the more we have of something I think, the less worth it becomes. If everything was made of gold, then gold wouldn't be worth much. That just the state of quantity. The situation is that if you can't get it for £25 quid, you will go somewhere else.

F (photographer/writer, mainstream publishers): But a big company would generally buy something so that the competitors don't lay their hands on something.

G (photographer portraiture/reportage): That could be a matter for commissioned photographs...

F (photographer/writer, mainstream publishers): ...not just commissioned photographs but it could be something more generic sought after image which could sell for £30,000 if it's a buy-out...that's very rare.

E (photospheres): It hasn't affected me because what I do is different. I am using digital possibilities to develop something which no one else does. It's very hard for anyone to come from scratch and come and do something which I am doing. It hasn't affected me at all but that's because I don't work in normal images. The end product of my work is both on screen as well as print. It's a file and can be printed out for one and half meters of print. So some of it is for print and some is licensed to be used on websites. But on the website you couldn't print it off from since it is a very low resolution image.

F (photographer/writer, mainstream publishers): I agree with everything everybody said and what's here – but I picked up that there are 2 things which are being talked of here. We are talking of picture libraries and online libraries. I don't think it is just that. There is a movement about cutting rates – to me it is a business thing. Reducing prices because if you walk into any book shop, supermarket or garage, you will see hundreds and hundreds of magazines competing and it gets to a point that celebrity trashy magazines are reducing their prices because they are hungry for profit plus supermarkets want a profit from it. If you walk into Asda, you can buy a book for £2 when on the back it says £7.99 – publishers of conventional material i.e. printing and paper are constantly looking to reduce their costs anyway they can. The second issue is that their competition is directly from Internet based publishing – so that media is saying don't buy this newspaper – come and look at our screen. But we haven't got enough people to support this either. So you have got a dwindling market looking for cheaper content and on the other side you have a new and expanding market but with not enough people to generate enough income – so they are also looking for cheap content. We don't seem to talk about pictures and word anymore – the publishers want content. And photography as I see it is being reduced to content as it applies to anything else. So, a website that wants people to go back to it day upon day upon day has to update that site everyday. If you change it once a month, you get 1 reader a month. If you change it 3 times a day, how will you afford to do that? So picture-libraries is one thing. The guy mentions here, 'photographic competitions' that's been around for donkey's years but is often exposed by the photographic press. But there is another one. I started life as a press photographer and there was a huge staff of photographers and a guy managed it and an in-house dark room, etc. It was all a big deal – all those guys were made redundant 20 years ago. But now if something happens in London, say something explodes or a huge dust cloud floating over London, all I heard on radio stations is 'Get a picture – send it us, we will put your name on it.' Nobody mentions the money - nobody mentions that years ago they were on the phone ringing around trying to get a freelancer to get a picture that would have been worth money. I met a guy once who was driving around on his motorbike through someplace when the conservative party was bombed and he just took out his camera from the back of his motorbike and he was the only guy who had those pictures, they were worth something. Now any passerby has a camera phone and they take as many pictures as they could and they give it to the media for the kudos of their pictures being used. And that's the second part of the eroding of image rights. So, pictures libraries and constant search for content by devaluing of photography.

G (photographer portraiture/reportage): Just in addition here... There is one thing you said about that the editorial market is in decline. I am not sure that it is completely true. There are some sectors in which that is true. For example, newspapers in general seem to be in decline. But women's magazines and things are ok.

F (photographer/writer, mainstream publishers): Yes, but there are publishers now who have bought a decent digital camera and they have a guy and an assistant hanging around – and

they say we will give you a £100 to come and shoot 5 covers today. So the quality of the thing is being eroded.

G (photographer portraiture/reportage): Possibly it is true from that angle but why photography generally is declining is not necessarily about the decline in the industry...I am not sure about the level of gloominess...

MK summarises: So it seems there is increased supply and a lower barrier to entry into the industry and that there are changing market conditions. The whole picture works out very differently depending upon the work you do.

RM continues: ... And the other thing, maybe wishful thinking, is about the picture libraries that collapse under their own weights at sometime.

MK: Is it because you can't find what you are looking for?

G (photographer portraiture/reportage): Yes, but the first thing is that when you talk to picture editors, they will tell you that they can't find the stuff which has good quality and the other thing is that, if you look at something like Getty, you will notice that the turn over goes up and up. The profit margin goes down and down. And maybe it's just wishful thinking but you think that after some point, these humungous picture libraries exist but you can't buy anything. So you go back to being more boutique-y.

F (photographer/writer, mainstream publishers): But is also about budget. If they can buy cheap content for the cheap pages and they pay, there will come a point when someone will say we only pay £15 quid for so and so. So we want your stuff for that price. I have seen that they get it cheap on Getty and then when you turn around and say I would like £250 for a commissioned work, then your work has become devalued through the crummy quality.

D (celebrity photographer): Quality has gone or is going.

#### Protocol topic 1 (current exploitation practices)

MK: Each of you please think about the process through which your work reaches the market. At which stage is there a contract or agreement made?

F (photographer/writer, mainstream publishers): There is no contract as such in most of the work that I do. It would be an implied contract by which you license. For many years I have tried to issue a licence that I can say in writing that you can use this photograph for this amount of time in such and such territory, with certain alternative conditions and I will ask the client to look at my terms and conditions and that will be the deal for which he would take the pictures. The other side of my work is commissioned and what happens is that the client sends you a purchase order that has the terms and conditions which they would like the pictures to be supplied under, not necessarily the same as I would try and negotiate. I would probably like to find out what exactly they want the pictures for and if there is anything besides that I would like to be paid a bit more. The contractual side will be one side for an image that I have already got and the thing will be to issue a license for its specific use, licensed to use the image as implied in the 1988 Act. The other side is a commission where if you wanted to go ahead they are offering you a contract in the form of a purchase order, with their own terms and conditions.

MK: Do you agree to that before you go on the shoot?

F (photographer/writer, mainstream publishers): Yes, usually it involves putting a line through some of the clauses and saying I can't agree to such and such, which will be

something on the lines of they own the copyright on a photograph for 200 years after your death. I had one who wanted to come around and inspect my studio! The publishing houses usually ask to see certificates of insurance, but this was out of the ordinary. So I phoned the guy and he said that we are given them by the bosses all the way up and we send them out.

A (curator/lecturer): I would tend to put in my terms and conditions before I get a purchase order [PO]. But often you don't get a PO until you have done the job. I used to get POs on faxes years ago and what happens if you get one side of the fax and the terms and conditions are on the other side: you never get to see the terms and conditions.

MK: You are saying that in a lot of cases the PO comes after the event?

A (curator/lecturer): Yes, the deadline's gone – you do have the reference number.

MK: So, in each case it is before publication?

F (photographer/writer, mainstream publishers): It's not an exact science.

D (celebrity photographer): I basically don't sign contracts – the only contracts I have signed are for the book I have done recently. But photography mostly, you are asked to do an event – you are asked to go to a shoot to do a photograph – you don't sign contracts. But of course big problems because it was ok while you were using film and you were sending out prints but now it is digital, so they can do what they like with that with the CD. What can you do about it? If you do a portrait and they want to buy the CD, you have no idea what they are going to use it for?

MK: So if they end up in a magazine, can you say that you haven't signed a contract or is it an understanding that the commissioner owns the copyright...

D (celebrity photographer): That's right. There are thousands of photographers like me who are doing bread and butter work all the time, since digital it's a mine field out there and not many people know what to do.

F (photographer/writer, mainstream publishers): I will tell you what I do. I put the high resolution file of a photo in a folder and outside I place a text file named Readme.txt saying that if you look at this picture and use it, you agree to these terms and conditions such that you won't publish it beyond the license that I have provided for you. And therefore I will be prepared to call someone and say that you have opened the CD and you must have read the terms and conditions before opening the file and still you have gone ahead to use it beyond my licence, so I have a case for...

D (celebrity photographer): But in sporting dinners, lunches, wedding, portraits, etc... they just want the photos the next day for a couple of magazines or their in-house magazines. If I start doing terms and conditions, they are easily 500 people behind me who will do the job for half the money I cost – so you have to be so careful since digital has come in. A lot of my bread and butter work is going out of the window. Since, firstly, in a lot of these events people have cameras of their own now. So they are taking cameras themselves and photographing them because they don't care about quality like we do.

G (photographer portaiture/reportage): I think it really varies. In the licences that I send out, I make it clear that the copyright is mine and I generally assume that it's for 1 use. At other times, there is a contract. At the other times, it can be like an email thing but I generally say 1 use. One of the problems is that some people who commission for photography don't actually have a clue about copyright – and they assume that they can use photographers for any way that they want to...

MK: Where would you say is this less prevalent?

G (photographer portraiture/reportage): It's less prevalent in editorial but I think it depends on the experience of the person you are dealing with in an organization. So obviously the more experienced they are the more they have an idea about that [copyright]. When you get into something like PR, generally they don't have a clue. What I normally say that there is a licence for general use, for a year or something. But the fact is that what can I do about it – particularly if they are using it internally. Unless I actually see it after that time period, there is normally nothing much that I can do. And when I talk these people about these issues, they generally don't have a clue about it.

MK: What types of publishers don't have a clue?

G (photographer portraiture/reportage): I think publishing is better as a whole, but if you are doing that for a PR company, or for an internal event.

MK: Since copyright is not their business...

G (photographer portraiture/reportage): Publishers on the whole are ok, but most people you would deal with are art directors, graphic designers or picture editors. And depending upon their seniority and their level of experience, some will have an idea and some will not. Normally you tend to find that someone who is up here [pointing high up with a flat hand, meaning a very senior manager or owner] – and they don't know what a publisher is as well – this is someone basically who raises a contract. This contract then filters down and this lowly picture editor has to hand you the contract and then they lose half their photographers and wonder why?

MK: If you don't sign anything or nothing is agreed, does it go ahead anyway?

G (photographer portraiture/reportage): It depends upon the situation, a normal commission – say somebody I have known and they commission me by saying go ahead and do this job. Longer terms contracts are different. I have a contract here with Time Out which is one of the worst contracts I have ever read in my life. I worked with them for a long time and I don't think they either have good working conditions or good pay and then they send you a contract which basically says that if you don't sign it, you don't work for us. So it's a total copyright grab and a moral grab. So I turned round to them and said - so be it.

MK: Is it very different for illustrators?

B (illustrator): It's very similar – but varies from client to client, it depends upon how quick they want the job. Recently I got contacted by a publishing company for a first day illustration and he sent a contract before I started the job and it was clear that it was 1 use only for 56 days. So it was all sorted and I like them. But then there were other times, I have worked for companies (and it's my own fault) but I started working I asked the commissioner is it for 1 use only or what and usually it is but it has turned out to be not. I also remember going to 'She' once and working for them for a couple of months and when I asked for a contract, they said I probably don't want it because it was just like a copyright grab. If it is a big company - they don't understand, people in them are given these contracts to just give out. Small publishing companies with let's say just 12 people or so, they might be the designer or the editor, they have more of an understanding, because they are doing more roles since it is a small company.

MK: I see that for C and E contracts are rare, aren't they?



C (gallery based photographer): I also have to sign a contract if I am going to be commissioned in a show where I am going to be really involved. My first digital show, for example, which opened in Cardiff – we talked about the contract for 2 months before it actually went into writing and all that went in to be signed before I ever got my camera out of the bag because there were quite a lot of implications for e.g. If the work was sold, while the work was being exhibited by the gallery, how it would all pan out? What would happen to the work at the end of the exhibition? How many works had to be in the exhibition? How many had to be in the book? How many free copies of the book would I get? What would the royalties be and it went on and on and on. And that for me in my territory is normal. I don't know whether this is directly connected with what we are talking about but I made an interesting discovery when I bought my digital camera – there was a way of embedding my copyright in the exit file. So every single photo that I shoot has © [PF] embedded in it and you can't remove it. But do try and bear in mind that my territory is not the same as people working for magazines with a very rapid turnaround. In other words, the time span that I am working with, is almost the opposite – I sometimes spend years working on a project. This changes everything and gives you much more time to really give consideration to these issues. But possibly also, there can quite large sums involved. For example, one of the national museums is considering buying the entire show which can be a very big purchase. So it's very important in my territory to spend months going through the contract because the outcome can be really quite crucial.

B (illustrator): That's very true – for a magazine, the average fee is about £200 and they call you on a Monday and the rough is due on Wednesday and the final on Friday. At the moment, in the last year or two, when I haven't got much work, and everything seems quite quiet. So it's a difficult time to be saying – send me a contract before I start work. I do sometimes get a contract afterwards. I have had occasions where I have worked for publishers and they send me a contract which I haven't agreed with and then I have sent back the changes – and in this case, the onus is on both of us for this mess. In the past, there has been flexibility and they have come back to what I have asked but now the scenario is that many more people are asking for assigning away my copyright and they are not being flexible as they used to be. You could also persuade people and get the terms you want to but not anymore.

A (curator/lecturer): I think that's because the publishing houses use the picture libraries we discussed earlier – they use it across different magazines. I remember you used to get a payment cheque from Haymarket Publishing and if you didn't sign it on the back, they didn't process the payment and there was actually a copyright stamp on the back.

G (photographer portraiture/reportage): There has been a lot of discussion about that in the NUJ [National Union of Journalists] and other forums. The decision was that they wouldn't stand for that.

F (photographer/writer, mainstream publishers): One of the things which everybody said is about people that commission, people who pay, people who ring up saying I need a picture for this page. But it is important to understand that people who write a cheque out is that they work there and it's not their company. At some time, there is a boss up here deciding that we are going to make such and such content etc. newspapers as well, who need to write a story and get a picture 'now', they are not going to send out a contract. Their job is to get a picture – if they find it online and use it, fine. And then a lot of people have to get involved, it's the *Pagemaker* guy (the graphic designer), the accounts department, the legal department. And it is somebody else's job to mop up if there was an infringement. But generally speaking, the person who writes the cheque out is not the graphic designer and doesn't understand about copyright – it's not their job to understand about copyright, rights grabbing etc. because it's not their rights. If you work for a publishing house, doing *Pagemaker* you are not grabbing the rights from anybody – your boss's boss's boss is doing

that for the company as a whole. If you leave working for them, the contract is not between the graphic designer (unless he owns the magazine) and the visual artist. That's why they don't understand about copyright or other things in the contract – they just tear off a pack and put it in the post or email them.

G (photographer portraiture/reportage): But they are the conduit and if they care about their job, they will care about the rights. It all depends upon the type of publication and some will really care about the design of the magazine and the photography in it, and therefore those publications tend to be careful into dealing with rights as they intrinsically value these things. But there are lots of other magazines which are just 'hoovering' and they will just buy anything up.

B (illustrator): I think it's quite hard and as individuals we are professionals and we are trying to build relationships with a designer and a working relationship can end up becoming a friend. They have to give you a contract and you are challenging them. If my agent is dealing with art buyers, it's a much more business to business. But this is much more complex, with the whole money and contract thing muddled in with it.

G (photographer portraiture/reportage): One of the reason why many of these people get away with such things (copyright assignment) is because when you first start, and you are doing what you are doing, you tend to agree to a lot of these things, because you think I need the experience etc., and its only after a couple of years you stop. I think in the first few years of my career I was much more malleable but soon I thought if I gave away all of these things free, I couldn't make a living and therefore I hardened up a great deal and was a much less flexible on these things. Also, somewhere where you have a personal relationship, you learn how to be very assertive without being rude. That's very difficult because you really want to phone someone and say 'Fuck off' - you know. But before you phone them up, think that this person is not actually to blame for the wrong contract, it's somebody else, higher up. So it's a trick to decide how to negotiate by being assertive.

C (gallery based photographer): The one thing which strikes me is that this is such a universal rule in life in general.

#### Protocol topic 2 (changes of exploitation practices over time)

MK: So we have heard examples of good practice and bad practice, do you see a trend? And year of the change of direction?

A (curator/lecturer): Copyright grab – about 5 years ago.

D (celebrity photographer): Since digital.

MK: What is the most obvious of changes? Rights grab is in the room but besides what kind of clauses have appeared that didn't appear before?

F (photographer/writer, mainstream publishers): I don't think the clauses have changed at all – since most purchase orders have always had the leaning towards owning everything so that they can use the images for whatever they wish to. Where it has changed is where photographers have got their own terms and conditions which they wish to stick to. In my own work, an electronic version of a book was not thought about 10 years ago, therefore for some of the book covers the companies didn't have a conception that there will be an e-book. So why would they want to be negotiating to buy the rights when it hadn't even been invented? So therefore they have a problem 10 years down the line when they wish to make an electronic version of a successful book and they want to use the cover (since it is an important intrinsic part of selling the book) – and say ah, does anybody sit there and say we need the electronic rights to the cover – they just say get on and put the book on the website

and they don't stop to think about the rights at that point. They would like to assume they own them. That's the real problem. Therefore, photographers or image-makers who are issuing their own terms and conditions have been aware of this and starting to say 'will you be using this on the internet', 'will you be using this for such and such purposes' and so on. Electronic versions of a magazine is another issue – if you are commissioned to shoot for a feature which was a one-off 10 years ago as it would go as a print story. Now, it will go online and the electronic version of that magazine, you have got to look at the implications because once it has appeared on the internet, it can be lifted by any person in the world and can be used in any country, in any form, etc. Because it's easy to take pictures from someone else's website and put them on your own. The rights you are actually talking about are that the picture becomes part of the world market place and you have no control over that. You may as well sign that away but then the publishers don't want to pay for the privilege.

MK: How many of you have a situation where something was used which was not envisaged at the time you were commissioned or contracted?

A (curator/lecturer): There was this case, wasn't it, about book covers that if they wanted to use the book cover in the context of the book to advertise and so on, it was fine. But they wanted to use it independently, you were expected to be paid extra.

F (photographer/writer, mainstream publishers): There was a guy who successfully sued Penguin for doing that because they passed the pictures on to WHSmith. Let's say a pack of biscuits, where you either show that or show a picture of that to say it exists. Similarly with a book or magazine cover, you could legitimately say we are going to advertise this product to our customers to say what it looks like. So you run a series of adverts that show the picture of the book that we are selling. You can't ask for extra money for that because morally they have a right to say that we are telling our customers what the product looks like – whether it is a pack of biscuits or a book. But, if you were to start copying that and start using the image as a basis of an art work, to advertise this product, that could be classed as a separate issue.

MK: But in some ways you are saying that this has been going on for ever, that this is not an effect of digitisation...

F (photographer/writer, mainstream publishers): It is because somebody used to commission something for one particular medium. Now they say if we just put it on the internet, you are not going to charge anymore for that, isn't it? That I think is a different usage. Also there is this really serious problem which I thought I will bring up later but its appropriate now. If you are licensing book covers to use for 5 years, at the end of 5 years it ceases to be licensed. For example, photographs etc. will be in use on the internet for the rest of my life, your life and everybody else's life. So licensing a publisher to use an image in a particular way for a particular time period which has been the advice for DACS, the AOP and everybody else since 1988, this all becomes meaningless and it also becomes meaningless in terms of what the territories are – I license you to use this in the Commonwealth, in Europe, etc.

MK: So if you are a publisher or an internet seller such as Amazon, there is a commercial logic to keep doing that, because you want to continue to sell the product as long as it lasts.

F (photographer/writer, mainstream publishers): Amazon is interesting, since they say that we have 50 copies of this book, new and used. The book has not been published for more than 5 years, but Amazon has the picture of the book, etc. and years and years down the line, instead of the images being back with the image-maker, they are still on Amazon, for the rest of the world to see, therefore they are intrinsically linked to that product. Therefore, once it is on the internet, you have to look at the fact there is no going back. Say you did a



jigsaw puzzle or a board game, anything that you did the photography for the packaging – the minute it appears on the internet, you might as well say it is there for the rest of your life. Licensing or having a contract saying it will be used for a specific period becomes meaningless because it won't be on the internet.

MK: E, are there any uses of your work not envisaged at the time of release ...

E (photospheres): I am in a slightly different position in that I am actually quite keen to appear on websites since for me it is advertising. For me it is quite good for the images to spread.

B (illustrator): It depends whether you get credit or not. About 6 or 7 years ago, I did an illustration for a health magazine and it was an illustration for a 'buy aura therapy' and a few months later, I saw by Googling, that it was being used on the 'Buy Aura Therapy Association' website and they had the article from Women's Health. And they credited me and hence they weren't being sneaky – I sent them a polite email saying that perhaps you are not aware but you don't have the right to use the picture – the magazine has the right. And she wrote back and said she was really sorry, though later I said it's fine since they had credited me. She wrote back that they didn't know that they couldn't just scan in the article and upload it. At the same time, if someone had seen the illustration on that article and had liked my work, it would have been advertising for me. It's only when someone doesn't get credited that one feels bad... there is something like the Holy War which is a fashion website where teenagers use it, they grab fashion pictures from all over the place and make collages online and some of my work have been put up there as backgrounds and pictures. And these teenagers, the pictures they make are disgusting, with my work in the background.

C (gallery based photographer): That must be upsetting. (*laughs all around*)

B (illustrator): I wrote to the AOI [Association of Illustrators] but didn't hear from them. But if we spent all our time following stuff like that, we wouldn't have time to create any work.

C (gallery based photographer): That brings me to another point. Here we are talking about protecting copyright – even though I am the kind of photographer that I have explained, earlier this year I signed a contract with an advertising agency to work on a job and I was made an offer that made it really very easy to sign away copyright forever. I was given a deposit on a house for making 6 pictures and I said you can do whatever you want to do with it. So there are circumstances when signing away the copyright is absolutely the right thing to do – it certainly felt like it was for me.

A (curator/lecturer): Generally, in advertising, it's the client and not the agency, who will own the copyright – that's what normally would happen.

C (gallery based photographer): You know what, whatever.

A (curator/lecturer): I just highlighted that it is an important difference between publishing and advertising. The client owns the copyright in advertising but since there is no third party in publishing, a photographer just works for the magazine, for example.

C (gallery based photographer): And the other point is, as one of the gentleman on the other side said 'boutique', it seems to be that if imagery is being degraded at such a rate, with all the picture libraries with the same kind of picture swirling around, they are pulling up the same kind of sources, is it not possible that we are going to reach a point, quite soon or fairly soon, that where the quality of pictures is so low and so poor, that the general buying and looking public are going to be so cheesed off, as in the sense that, everything is cyclical, that people might actually start to prepare to pay more to really see good imagery.

B (illustrator): Yes, 10 years ago everyone was saying that illustration is all going to be digital – nobody is going to be using paint brushes and pencils and so on. I work with digital but I thought ‘no it is not, people will get sick of it’ – there is such a trend now and I am moving back as well, and doing more print making. So there is a trend of going back. So to deal with the picture libraries – just the idea of tailor made illustration...

G (photographer portraiture/reportage): But it’s the point of keeping the rights or not keeping the rights. And yeah, if someone could offer you a million quid or something, fair enough. But someone is taking the pee and offering you £10, I am interested. The other thing I was going to say was in terms of people using it, if someone kids have taken my picture and have drawn stars and things like that on it, I am not too bothered. But someone uses my image, without telling me and without me knowing, and they know what they are doing...

B (illustrator): But it’s their idea that it is all for public use, that it is on the internet and anyone can use – these same teenagers are going to grow up and carry on grabbing images from the internet.

A (curator/lecturer): Just like music and films.

Protocol topic 3 (commercial strategies)

MK: What would be your advice to a young colleague who is starting off now, how will they manage these temptations and these risks?

D (celebrity photographer): We began in an era where we weren’t computerised – we were on film whereas now the kids coming now out of college, it’s all digital. So they would be told about copyright, I should think. If they are doing a photography course nowadays, they would be told about copyright.

*(Many others say – “I doubt it”)*

C (gallery based photographer): I teach a lot at colleges, and we never touch upon these issues.

D (celebrity photographer): And you say that life is a circle, and you come back to things basic, and that would be fantastic but, you have to remember that digital cameras that coming out now are so high resolution that, even if I am using a professional camera, but the amount of people who are behind me who are taking photos using their own camera and putting it on Facebook that evening and all they want is to see their image. People are just not into quality anymore like we were.

C (gallery based photographer): I would encourage photographers to embed the copyright sign and their name on every image.

B (illustrator): I usually talk at the end of my professional practice lecture, about licences and copyrights, and why you would send a licence and why would not assign copyright. And I talk about fees and things. And people in the beginning say to you, even if you get paid low, it will get you started. But then, it’s not just the short term money, but think about how its going to impact not only you in the future but the whole industry. Because every time I sign a copyright grab now, it means that I am not going to be able to say to that publisher in the future, that I would now like to license it, they are never going to go back on it. The illustrators fought for so long to improve conditions ...

D (celebrity photographer): But they have got to get their names out there somehow. Youngsters coming out of college will do it.

G (photographer portraiture/reportage): 7 years ago when I started it was incredibly difficult and it has been incredibly difficult and it still is. It is even worse now starting. You have this idea that you somehow will get your foot in the door and in order to get your foot in the door, you think you have to be a bit compliant. You know in a job, like production when you start, the first year you become the dog's body or something like a researcher. But the thing in this is that if you start off as a dog's body, you will remain the same throughout the career and not progress – maybe even become a sub-dog's body. This is because clients will continue to take the piss. So if you give the rights away, or if you work for not the correct amount of money, they are not going to give your rights back or give you more money. They are going to give you worse not better.

E (photospheres): My perspective is that a photographer needs to think in terms of the image as taking a whole day as my images take that long. I think my public sees that. It's something in which the digital possibilities are enormous – we have hardly scratched the surface. Young people will come with all sorts of ideas for years in digital technology and doing a day's picture or a wedding photo in such a special way that we can't imagine it yet.

C (gallery based photographer): It's also that the competition is so great. I teach at a number of colleges around the country and I understand that there are about 10,000 photography graduates in this country alone, leaving college with a degree or diploma. What advice can you give to those people in order to simply continue with photography?

A (curator/lecturer): Probably about sticking to one style and something that really gels with you rather than doing lots of different things.

C (gallery based photographer): Yes, but in terms of protecting rights, something we are talking about, how are you going to do that? And there are 9,999 others who all want a piece of the action. And you have got no history, no credibility other than the work you are putting out in front of the picture editor or somebody like that. How do you search your rights under those circumstances?

#### Protocol topic 4 (non-commercial use, attribution)

MK: Now I have something specific – the issue of Creative Commons type of licenses, which for example may permit non-commercial use and may require attribution. About 10% of the respondents to our survey say they have used CC licences at some point during the last year. Please think about whether you have used these types of licensing agreements.

*(Many ask MK to explain in detail what CC means).*

MK: Well, 'Creative commons' licences are standardised licences (available from [www.creativecommons.org](http://www.creativecommons.org)) associated typically with works distributed on the web. The classic licences permit use but allow that permission to be limited by reference to four parameters: use may be permitted only in a non-commercial context, with attribution, where users adopt similar terms (share-alike) and without modification. The most used licence is confined to non-commercial use, prohibits the making or derivatives and requires attribution.

It is also possible that if you upload your images to certain sites, you agree to certain terms and conditions. For example, a licence may allow users to use images for non-commercial purposes, so say school kids to make a collage, etc.

A (curator/lecturer): Yes, but only through Welcome Trust for use in academic presentations and journals for research. Because they distribute my images as well and asked me if I was ok doing that and I said fine.

B (illustrator): I didn't know about that – now it makes sense why my work is on the girly fashion thing because I saw that some of my work has Flickr but I didn't put it there.

C (gallery based photographer): I haven't allowed my work to be used for free – not at all.

D (celebrity photographer): Yeah, if you do portraits of children and they want to email them to different people or put them on the internet, yes I have – I didn't know what else to do. It's like weddings, you take photos and people use the CD to upload it on a website, Facebook etc. That's what they want nowadays.

G (photographer portraiture/reportage): Well sometimes I do photos as a promotion and when I email them to the person, I mention that images I send them are only for professional use and not for public and commercial use – by public I think I should be more specific – by public I mean you can't put it on the internet, if you email them to friends than it's okay.

F (photographer/writer, mainstream publishers): Yeah it's specifically this internet thing, isn't it? I think it's this Wikimedia where people can upload their holiday snaps and someone can download them to use as backgrounds and things. Some of the material is actually – sun set shots and things. And it says 'use it for whatever you want but don't use it commercially'. This does not protect these images at all as someone can lift them and use it elsewhere and no one is going to know ever – it takes us back to the point which we talked about – the minute it goes onto to the internet, it's pretty much in the public domain and no one is going to know about it. YouTube is facing this problem on a daily basis that people are uploading copyright material. Plus, Google... you can take someone else's pictures and put them on your website and it will come up in a Google image search. I get solicitor updates from media lawyers and every month somebody in Court saying these pictures have been used as part of a Google Image search and we didn't give permission to Google to go through our files and present them in another way. Google Books is another way, even if the pictures haven't been shot by the author. For example, travel books, you could well find your pictures being used for Google books. And it's not all for public good, because all down the side of the page is advertising and that's why Google do it – they don't do for the good of mankind. Because people who look at those books might be interested in looking at that advertising. If I were a type of photographer which I am not, you could find your photo, well, let's say a wildlife photographer, some who has got really good pictures if they have used in a wildlife book but that's not a creative commons that's different, that's slightly different to creative commons licence.

MK: E, you said that you are quite happy for your work to be circulated on the internet.

E (photospheres): I am interested in getting into places to take pictures like cathedrals, churches or places like that and very often that's part of the agreement that they can use the images internally. I am happy for them to use it on their website – it often brings me business. I am mostly interested in limited edition prints, possibly licensing and so I am very happy as it works for me as advertising.

C (gallery based photographer): I think there is this website called *tineye.com* and it uses face recognition technology. You can put images into the system and it basically searches the entire web for that image or for parts of that image, if you think that there is a possibility that your works will be used without your knowledge. I thought this was an interesting idea.

G (photographer portraiture/reportage): I might be going slightly off air here, the problem with the internet is that it just dissolves and goes all over the place. This is one of the things which has been suggested earlier – so something like Google or other ISPs will be paying a certain monthly into an organization like DACS which will then be redistributed to visual artists. This is a practical way of dealing with it rather than just saying that I have a copyright on that image. I am not saying dissolve that but what I am saying: can you actually enforce that?

MK: Illustrators, do you think similarly about that ... that you can't control but you want some money for it?

A (curator/lecturer): Well, you can't control it in South East Asia, there is no copyright law there at all.

C (gallery based photographer): Even in this country... if someone is possibly using your imagery, how possible is it through the courts or through law to enforce your copyright?

B (illustrator): I did a small claims court against a publisher a few years ago and it is just so exhausting and it took months and the only reason I won it was because I have a friend who is a barrister and he arranged for a trainee lawyer to come and represent me. If I had gone on my own with the same information, I know I wouldn't have won it.

Protocol topic 5 (intrinsic motivation)

MK: What would you say motivates you as an artist? What drives you to keep going?

D (celebrity photographer): It's the passion. Seeing people smile, seeing people happy seeing their photographs.

A (curator/lecturer): Producing more and more, I guess.

C (gallery based photographer): I got my first camera when I was 7 and I really loved looking at the world through the viewfinder and I never stopped. It was never a job, it was always a vocation, I always going to be a photographer.

D (celebrity photographer): If someone asks me, what is your best photo? I always say it's the next one. (*laughs all around*)

B (illustrator): I always say I am an illustrator because I am rubbish at anything else, which is not very positive. (*laughs all around*) Well, in what we do, it's not just the creativity – the creative bit is just a small segment and there is all the other bits, like being your own secretary, your own legal person and your own art director. And it's a challenge to be a good all rounder as well as creative person, it's very tiring. And I think if I was earning a bit more and I was a bit more hooked in, then the only way to grow my business – I would need to employ a number of people to help me to do marketing, etc. But I don't think many of us really think like that. Perhaps photographers more often do. But for illustrators it's really rare and hence you can only get to a certain level of earning unless you think of yourself as a business.

D (celebrity photographer): That is the same for photographers – and ours too is a very lonely business in some respects. And can only earn a certain amount of money and it would be great to say to employ this one and that one but then you end up becoming a manager and at the end of the day, we are all just photographers – we just want to get out there and take photos.



G (photographer portraiture/reportage): Photography is a creative job and the other thing is that you are dealing with people quite frequently. Because I do a variety of work, including commissions and my own work, and a lot of commissioned work is quite rubbish but at the end of the day I quite enjoy the process. Ideally, the end product and the process should be good. It gives you some negotiating strength to think sometimes that if people won't pay that much and I don't mind taking the risk, then I might as well go do something else, because I can't do it. If you were working in an editorial market, and you don't have any vision outside that, then that's a penniless position to be in.

C (gallery based photographer): I spent 15 years being penniless. The other point you are making about having the choice of getting out. I never had the choice of getting out – I was going to be a photographer whatever was going to come your way. I can see that there are positives and negative aspects to that.

F (photographer/writer, mainstream publishers): Everything has been said as far as I am concerned. I would like to reiterate though that I did a series of interviews with photographers who were on the top of their profession and I would have to say that a lot of them were saying that they will not be photographers in 5 years time. These were people who were doing make-up shots for Bodyshop, to food photographers, plus quite high end work plus guys who just had some very good photos.

D (celebrity photographer): The other thing which you said earlier was that as long as they specialize in one thing or another when they come out of college. I think that has completely gone out of the window in the last 5 years. You start off specializing in one thing but at the moment, since there are so many photographers out there, who will do it for half the price, that I think you have to be a bit give and take and take jobs that might be 4 or 5 years ago, you might have for 3 times the amount. It's a just a very different profession now.

F (photographer/writer, mainstream publishers): This whole area of photography has changed over the last 20 years. Architectural photography, mainstream wedding market, etc. have become very dwindled. The idea of going to a building site once a week and taking progress photographs which was so necessary for architects – that work doesn't exist anymore. Press photography, per se, doesn't really exist. Most journalists are expected to shoot, most feature writers will have a digital camera in their pocket, and most journalism courses that are offered at universities are looking at photography, photoshop, sound editing, video and web design, etc. So people who are leaving are all-rounders and there are whole areas of photography, where people used to earn a decent living, don't exist anymore.

#### Protocol topic 6 (professionalism)

MK: What's the difference between the professional work you do and an amateur?

G (photographer portraiture/reportage): Could be nothing...to be realistic, nothing. There may be a difference between good photography and bad photography. But that's not necessarily between amateur and professional. There are loads of amateurs who produce fantastic work but there are loads of professionals who do brilliantly financial but their work is absolutely appalling.

A (curator/lecturer): The difference is that we make a living out of it.

B (illustrator): When I see students who are good artists, someone may be technically skilled and good at water colour or something, but I know a good illustrator is different. They have their own vision, are very good at understanding text and think visually and come out with their own ideas but still linking it to the text. When I look at my own work from years ago, I

can see that I have evolved and I understand that what may work for a certain job may not work for other jobs. So I am quite 'niche-y'.

A (curator/lecturer): Has your style changed since you started?

B (illustrator): No, I haven't changed but I am constantly worried that I will go out of fashion. You need to have your style so that you stand out but you need to keep changing as well.

C (gallery based photographer): I have got 2 different cameras. One is when I go out working really seriously, and I got another camera for photographing my friends and their pets and this is just 2 completely different ways of thinking about photographs.

E (photospheres): It's just a matter of degree really. Some of the time the work I do is amateur in the sense that I really love doing it and at other times I am being paid to do it, though I might not really like it (laughs all around).

B (illustrator): The contract and the fees, whether you have agreed to the job and the crap money, it might still be some of your best work and it might help get your other work. It's usually the other way around. So besides thinking about contracts, etc. you are also thinking about what's beyond and what's going to promote my work.

F (photographer/writer, mainstream publishers): If amateur photographers can take images whenever and wherever they want, 1 a year, 10 a year, 100 a year, it doesn't matter. A professional photographer not only takes pictures that they want to take and are able to sell, but they also have a client behind them for whom he has to produce an image which he may not like personally, but it's what the client wants and at the end of the day, that's what they do for a living. So there is a difference between producing a fabulous image and producing one for a client, which may or may not be good but somebody wants to pay him for that image, and I think that's the main difference. Even if you are shooting stock, they make a living.

C (gallery based photographer): I do. Sorry I didn't want to be that dramatic.

F (photographer/writer, mainstream publishers): Well, you have the luxury of saying that because you sell your own work but if you were selling to magazines, they would want many changes for example, crop it like that as we can't put the headline on it. And you will say, actually, it looks better like this but they would say they can't run it in that way as they can't put the masthead on top it. That's a commercial constraint that a client puts on you.

C (gallery based photographer): Yes, I understand and I fought for 15 years (or 30 years altogether) to have the right to say that how a picture looks better. I am 57 years old and it's been a hell of a struggle to reach that position. And I can easily understand why a lot of people are just not interested in holding out that long.

B (illustrator): As an illustrator, I actually like the constraint of the brief, I like the fact that in one way they want my vision and my work but at the same time, there are limits and it's not like just draw a picture of what you want.

MK: Thank you very much for giving your time.

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## Glossary

ALCS: Authors' Licensing and Collecting Society (UK)

AOI: Association of Illustrators (UK)

AOP: Association of Photographers (UK)

Artist's Resale Right: The right of an artist to receive a royalty based on the sale price obtained for any resale of an original work of art, subsequent to the first transfer of the work by the artist. Here, an original work of art is defined as "works of graphic or plastic art such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware and photographs" (UK Artist's Resale Right Regulations 2006).

ASHE: Annual Survey of Hours and Earnings (UK)

Assignment: An assignment of copyright is an outright transfer of some or all of the rights of a copyright owner (the assignor) to a third party (the assignee), with the result that the assignee stands in the shoes of the assignor. See further the provisions of the Copyright, Designs and Patents Act 1988 S. 90(1)-(3).

Attribution right: See moral rights.

BPC: British Photographic Council (UK)

CDPA: Copyright, Designs and Patents Act 1988

Coefficient of variation (CV): The coefficient of variation is a measure of relative dispersion, calculated by expressing the standard deviation as a percentage of the mean. The greater the coefficient of variation, the greater the variability of income.

Collective Licensing: A range of licensing services, offered by a copyright collecting society, for copyright owners seeking to license the work of an artist for a one-off use or continuous uses.

Copyright Grab (or 'Rights Grab'): A colloquial term used to denote an outright assignment (see "Assignment"), or exclusive licence (see "Licence") of copyright.

DACS: Design and Artists Copyright Society (UK)

**Exploitation:** The carrying out of acts falling within the exclusive rights of the copyright owner, either by the copyright owner or by a third party with the copyright owner's consent.

**Gini Coefficient:** The Gini Coefficient is calculated as a ratio of the areas defined by the Lorenz curve. A Gini Coefficient of 1 means that one member of the population earns all the income ("perfect concentration"). A Gini Coefficient of 0 means that every member of the population earns the same income ("perfect equality").

**Integrity right:** See moral rights

**Licence:** A permission granted by the copyright owner (the licensor) allowing a third party (the licensee) to carry out an act or series of acts restricted by copyright. Unlike an assignment where the copyright owner (or assignor) transfers ownership to the assignee, a licensee does not acquire any property interest. A licence is "non-exclusive", where a number of licensees and the licensor are entitled to exploit the work. By contrast, under an "exclusive licence" only the licensee can exploit the work.

**Lorenz curve:** The Lorenz curve was developed by Max O. Lorenz as a graphical representation of income distribution: "Methods for measuring the concentration of wealth", Publications of the American Statistical Association 9 (1905): 209-219. A Lorenz curve plots cumulative percentage incomes against cumulative percentage population. It represents a series of statements such as: "the bottom 20% earn 10% of total income"; "the bottom 80% earn 60% of total income" (= "the top 20% earn 40% of total income"). The more "sloped" the curve is, the more unequal is the distribution of wealth in a given population. The Lorenz curve is used to calculate the Gini Coefficient.

**Mean:** Commonly known simply as "average", it is defined as the total of a distribution of values divided by the number of values.

**Median:** The mid-point in a distribution of values which has been arranged in size order, also known as the 50th percentile. In an analysis of incomes, it represents the earnings of a "typical" member of the population (i.e. half the population earns less than the median). In a Lorenz curve diagram, the median can be identified by the 50% mark on the horizontal x-axis.

**Moral rights:** Rights, under Chapter IV of the CDPA 1988, concerned with protecting the author's non-economic interests, including the right to be identified as the author of a work (attribution, per s.77 CDPA), and the right to object to derogatory treatment of the work (integrity, per s.80 CDPA).

ONS: Office for National Statistics (UK)

Payback: Royalties which come from revenue generated through collective licensing schemes. Collective licensing may be used when it is unfeasible for visual creators to license their rights on an individual basis, for example, when a user wishes to photocopy a page of a book which features the visual creator's work.

PAYE: Pay as you earn (for tax purposes)

Population: The complete set of people (or any collection of items) under consideration.

Sample: A sub-set of the population that is selected for research.

Secondary Use (or Secondary Markets): Uses of a work which fall outside the primary purpose of a particular licence.

Standard deviation: The standard deviation measures how tightly the various values are clustered around the mean in a set of data. When the data points are "bunched together" the standard deviation is small.

Syndication: A commercial term denoting the making available of copyright material to users with the copyright owner's consent, for example, through licensing.

T-statistic: The t-statistic tests for the ratio of a coefficient to its standard error.

## Appendix: Survey Instrument

The survey was administered through [www.surveymonkey.com](http://www.surveymonkey.com). A full copy of the questionnaire is appended.

## DACS - Contracts of Visual Artists, Photographers and Illustrators

This questionnaire is part of a research project commissioned by DACS, the Design and Artists Copyright Society ([www.dacs.org.uk](http://www.dacs.org.uk)), the first of its kind commissioned to independent social science standards. All information you provide will be recorded anonymously and in total confidence.

It is crucial to artists' remuneration in the future that we have robust, objective evidence about contracts and earnings, and therefore urge you to take about 15 minutes of your time to answer the following four screens with questions. Screen 1 deals with your professional profile, Screen 2 is the most detailed, and addresses contractual practices, Screen 3 asks questions about earnings, Screen 4 establishes some demographic background.

If you are willing to participate in an interview to explore the issues raised in the questionnaire, please send an e-mail to [[responses@dacs.org.uk](mailto:responses@dacs.org.uk)].

The research team can be reached via Professor Martin Kretschmer, Bournemouth University [[mkretsch@bournemouth.ac.uk](mailto:mkretsch@bournemouth.ac.uk)] or Professor Lionel Bently, University of Cambridge [[l329@cam.ac.uk](mailto:l329@cam.ac.uk)].

Your response to this survey will be extremely valuable and greatly appreciated.

# DACS - Contracts of Visual Artists, Photographers and Illustrators

\* 1. How would you introduce your profession if meeting someone for the first time?

\* 2. Do you spend at least half of your time as a visual creator?

Yes

No

\* 3. What kind of visual creator are you? Please rank the following options in order of importance:

	1 Lowest	2	3	4	5	6	7	8 Highest
photographer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
sculptor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
cartoonist	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
illustrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
designer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
architect	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
fine artist	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
craftmaker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other (please specify)

\* 4. Do you have a second job?

No

Yes (How much of your time do you spend in each activity?) [example: illustrator 80%, lecturer 20%]

\* 5. Which are the main media outlets in which you publish? Please rank the following options in order of importance:

	1 Lowest	2	3	4	5	6	7	8	9	10 Highest
national newspaper	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
local newspaper	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
current affairs magazine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
listings magazine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
fashion/lifestyle magazine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
specialist magazine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
book fiction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
book non-fiction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
book children	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
web only publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other (please specify)



## DACS - Contracts of Visual Artists, Photographers and Illustrators

\* 6. In which year have you started earning as a visual creator?

**7. Do you have clients seeking to acquire copyright or a licence equivalent to copyright (also known as “buy-out” or “transfer of rights”)?**

Yes

No

**8. During the last year, I assigned copyright (i.e. transferred) in the following percentage of my contracts –**

**(Please answer only if you have answered YES to the previous question.)**

0%

1-25%

26-50%

51-75%

76-100%

**9. Has the percentage changed over the last 10 years?**

Increased

Decreased

Stayed the same

**10. Do you ever waive the moral rights in your works?**

**[Moral rights include (i) the right to be named as author (attribution right), (ii) the right to protect the work against derogatory treatment (integrity right)]**

Yes

No

Don't know

## DACS - Contracts of Visual Artists, Photographers and Illustrators

**11. During the last year, I waived moral rights in the following percentage of my contracts –**

**(Please answer only if you have answered YES to the previous question.)**

0%

1-25%

26-50%

51-75%

76-100%

**12. Has the percentage changed over the last 10 years?**

Increased

Decreased

Stayed the same

**13. Have you ever had a dispute with a publisher over moral rights?**

Yes

No

**14. If you have answered YES to the previous question, what were the grounds of the dispute?**

Attribution

Integrity

Additional information about the dispute:

**15. During the last year, did you attempt to negotiate the terms of a contract offered?**

Yes

No

Don't know

# DACS - Contracts of Visual Artists, Photographers and Illustrators

**16. If you answered YES to the previous question, please indicate what you attempted to negotiate? (Choose all relevant)**

- Fee
- Rights/scope of licence
- Moral rights (attribution)
- Others (please specify)
- Moral rights (integrity)
- Warranties/indemnity

**17. During the last year, did you take legal/professional advice before signing any contract?**

- Yes
- No
- Don't know

**18. Has your personal bargaining position changed over the last 10 years?**

- Improved
- Weakened
- Stayed the same

Why? Please give additional information about the reasons.

**19. During the last year, what percentage of your works was identified or credited as your work on publication?**

- 0%
- 1-25%
- 26-50%
- 51-75%
- 76-100%

**20. Has the amount changed over the last 10 years?**

- Increased
- Decreased
- Stayed the same

# DACS - Contracts of Visual Artists, Photographers and Illustrators

**21. During the last year, did you receive money from secondary use / re-licensing?**

**[example: a newspaper syndicates your work to a third party - please do NOT include money received from DACS]**

No

Yes (please estimate amount in GBP without decimals, symbols or commas.)

**22. Has the amount changed over the last 10 years?**

Increased

Decreased

Stayed the same

**23. What percentage of your works, sold/licensed last year, are available on the Internet?**

0%

1-25%

26-50%

51-75%

76-100%

**24. Did you receive money for specific Internet uses of your works during the last year?**

Yes

No

Don't know

**25. If you have answered YES to the previous question, please indicate the percentage of works for which you received specific Internet payments.**

0%

1-25%

26-50%

51-75%

76-100%

## DACS - Contracts of Visual Artists, Photographers and Illustrators

**26. During the last year, have you licensed any of your works under a Creative Commons type licence (e.g. permitting non-commercial use)?**

No

Yes (Please indicate the percentage of your works licensed in this form last year)

**27. Do you sell/license through an agent, picture library or gallery? (Please indicate the percentages of your works sold/licensed last year through each channel.)**

**\* Tick N/A if you do NOT sell through these channels.**

	1-25%	26-50%	51-75%	76-100%	N/A
Agent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Picture library	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gallery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## DACS - Contracts of Visual Artists, Photographers and Illustrators

The following earnings questions are of particular importance for making comparisons with other survey data. Estimated figures are sufficient.

All information you provide will be treated anonymously and in total confidence.

**28. Please indicate your total income you received from DACS during the last financial year:**

**(Please enter amount in GBP without any decimals, symbols or commas).**

**29. Please indicate your SELF-EMPLOYED INCOME (before tax and not including any salary) as a visual artist/photographer/illustrator for the last financial year:**

**(Please enter amount in GBP without any decimals, symbols or commas).**

**30. Please indicate your TOTAL INDIVIDUAL income (before tax and including self-employed income plus income from any other activity, such as salaried employment) for the last financial year:**

**(Please enter amount in GBP without any decimals, symbols or commas).**

**31. Please indicate the approximate TOTAL HOUSEHOLD income (before tax and including that of any other earning member) for the last financial year:**

**(Please enter amount in GBP without any decimals, symbols or commas.)**

# DACS - Contracts of Visual Artists, Photographers and Illustrators

The following demographic information is essential for statistical analysis. All information you provide will be treated anonymously and in total confidence

\* **32. Gender**

Male

Female

\* **33. Age**

under 25

25-34

35-44

45-54

55-64

over 65

\* **34. Number of people living in your household?**

\* **35. What is your highest educational qualification?**

GCSE/O-levels

A-levels

Diploma

Degree

Masters

PhD

Other (please specify)

\* **36. As part of your education, have you had any formal arts training?**

No

Yes (please give number of years of formal arts training):



## \* 37. Location (by UK region)

East Midlands

East of England

Greater London

North East England

North West England

South East England

South West England

West Midlands

Yorkshire and the Humber

Scotland

Wales

Northern Ireland

Other (please specify)

# DACS - Contracts of Visual Artists, Photographers and Illustrators

Thank you for your valuable time.

**38. Have you got any comments on the issues raised in this survey?**

**39. Would you be willing to be interviewed to explore changes in contractual practices and working conditions over the last decade?**

**If YES, please send an e-mail to [responses@dacs.org.uk](mailto:responses@dacs.org.uk) or submit your email address in the box below for us to contact you. (Your email will NOT be linked back to this questionnaire survey.)**

No

Yes (Email Address)

**2011 Copyright contracts and earnings of visual creators: A survey of 5,800 British designers,  
fine artists, illustrators and photographers**

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