



Youth versus experience

The Government's new age discrimination laws are sure to make waves in an industry where youth often generates creativity. But will these new decisions affect the way you work? Mark Ramshaw finds out

The design industry is notoriously regarded as a young person's game. While experience carries cachet, youth is generally equated with creativity. Clients demand designs at the cutting edge, mirroring the latest fashions or setting new trends. That's not something they tend to expect those in the twilight of their career, or arguably even their forties or fifties, to be capable of providing. But there's just one slight problem with this attitude in the creative workplace – it's now illegal.

As of 1 October 2006, EU legislation came into force in the UK making it an offence to discriminate based upon age. The new legislation hopes to ensure that the workplace reflects the changes within today's society. Presently the over-fifties make up one third of our total population, and this is set to increase to 40 per cent over the next 20 years.

"There will be a shift in the workforce, particularly at the older end of the spectrum," says Fiona Bartosch, a spokesperson for the Department of Trade and Industry. "We can't afford to lose talent based on date of birth."

Objective justification

New rules introduced by the law include the banning of unjustified retirement ages below 65, removing the age limit for unfair dismissal and redundancy rights, and introducing a right for employees to work beyond retirement age if they wish.

But it's the rule that specifically tackles ageism in the UK workplace that looks set to hit the design industry the hardest. Quite simply, any form of discrimination based on date of birth, be it during training, promotion or recruitment is now no longer acceptable.

"Any industry that traditionally sees itself as having a bias towards a particular age group – older or younger – will need to be able to objectively justify its position," says Bartosch. "Preventing 80-year-olds from working as deep-sea divers can be objectively justified, for example, but an employer reasoning that it's 'just the way things are done' cannot. An employer could try to make a case that age is an issue for dealing with youth brands, but I doubt it would stand up to scrutiny."

While the new law is 'light touch legislation' and will be dependent on case law, Bartosch stresses that employers must be just as mindful of other forms of discrimination. "You can look at it in the same way that sex discrimination laws changed the way women were treated 50 years ago," she says. "This is very much about bringing in a cultural change."

But while this change is likely to give design agencies pause for thought, it could very well be beneficial for designers. Older talent will most obviously benefit from the new legislation, gaining extra leverage if they feel they've been passed over for employment or promotion, as well as granting them additional rights for working into old age. But while it's true that expanding and protecting the older members of the design industry will result in more competition in the marketplace for younger, less experienced designers, they too are set to benefit.

The benefits

"Making the break into the professional world is still going to take effort on the individual's part – it's from previous work that new opportunities arise in most cases, and this applies particularly to those who are freelance designers," says Tom Judd, co-founder of 5oup.net, an online community for student artists. "But although the legislation is not likely to make it any easier for young designers, it might make it a little fairer."

"As it will be considered discriminatory to ask for specific years of experience, young designers will hopefully be in a stronger position when starting out as it will be more about the right person for the job, not how long you've been in the industry," says James Chambers, also a founder of 5oup.net. "It's now easier than ever to get your work seen, so if you're up to the job I don't think it makes a difference how old you are."

Ensuring that it makes no difference how old people are is the aim here. This won't give an unfair advantage to older designers through positive discrimination, and it won't prevent design agencies from doing their job. The introduction of such seemingly radical legislation is intended to provide additional protection to vulnerable employees and ensure that all designers get to compete on a level playing field.

Judd even suggests that employers in the design industry will be able to deal with the changes more readily than those in other sectors: "Our ability and experience are al-

ways going to be visible in the work that we do, so employers in the design industry are actually at an advantage. They can glean a lot of information about a candidate's experience from the quality of their work, without the need to probe for specific dates and durations," he says.

Ultimately, the design industry has no choice but to adapt and abide by the new age discrimination laws. As to what kind of impact the changes will have in creative and artistic terms, only time will tell.