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Special report

30 January 2008

Raiders of the past archive

Nostalgia for the good old days means that ad agencies are increasingly using archival images in their campaigns. But, reports Diane Smyth, it's no cheap, easy alternative to contemporary photography

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It's pure PENTAX!

Adverts featuring archival images are now commonplace but, says Chloe Veale, a curator at the History of Advertising Trust, that wasn't always the case. She dates the first really significant use of archival imagery in ads at 1983, in a TV campaign by Holsten Pils. 'Before that,' she comments, 'it was frowned on.'

The ad, put together by the Gold Greenlees Trott agency, featured contemporary footage of Griff Rhys Jones, spliced together with actors in character in classic Hollywood films. 'I bet you like Holsten Pils don't you?' Rhys Jones asked Marilyn

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Monroe. 'My spine turns to custard and I get goosebumps all over,' she 'answered', in a clip taken from Some Like It Hot.

The campaign's use of dead stars was considered controversial at the time, but it was also witty and ingenious enough to win praise, and still regularly appears in polls of the best-ever ads. More importantly for photographers, it helped kick-start a style that took firm hold in both print and TV advertising.

'Looking back really became popular in the 1980s,' says Paul Prowse, senior photo editor at Getty Images' Hulton Archive. 'At that point 1950s Americana was already very popular, so images of that period started to be used. It's the baby boom era, it harks back to the good times, and it's still the most popular.'

For Alexandra Bortkiewicz, director of photography at Alamy, the trend for archival images is based on nostalgia, but she doesn't see it reversing any time soon. 'We live in a world, driven by new technologies, in which people interact with computers and machines,' she says. 'The lack of sensory fulfillment may be projected into the fact that we are becoming more nostalgic about the past and see it as a warmer more charming place.'

Lucy Charlesworth from Corbis, which owns the historic Bettmann Archive, agrees. 'It's very popular at the moment, and we do a lot of releases on black-and-white and early colour pics,' she says.

'We sell archival images across the board, but they're particularly popular with consumer brands in food and drink, as well as banks and finance. There's a whole idea of safety and tradition that can work well for those brands. They're less popular in areas such as beauty and IT, which tend to emphasise science and looking forward.'

Rights action

Charlesworth is the business development manager at Corbis Rights Service, which negotiates permissions to allow images (and music) to be reused. The Service negotiates on items held by third parties as well as by Corbis, and has therefore become a 'rights clearing house', along similar lines to the Design and Artists Copyright Society. Demand for its services is increasing, comments Charlesworth, as rights become more closely guarded.

Just who holds these rights varies but in archive photography it basically boils down to two elements - the copyright of the image and the person (or thing) depicted. If the photographer (or their estate) still holds the copyright then they must give their permission before the image is used commercially, but often the copyright has passed out of their hands. Getty Images owns the copyright to many of the images in the Hulton Archive, for example, which also includes a large number of photographs from the 1950s which have been cleared for commercial use.

At Magnum Photos, though, the copyright remains firmly with the photographers, and the agency respects their wishes even when they are dead. 'Every sale I make, I discuss with the photographer or, if he or she is dead, with the estate,' says

Rhiannon Davies, the commercial representative in the London office. 'Regardless of whether it's an NGO or a business, ethical or political in orientation, we always seek approval.'

'Henri Cartier-Bresson is a no-no - his images can't be used for advertising. He didn't allow it when he was alive and, although he's passed away, we continue to respect his wishes. Josef Koudelka also doesn't really like his images to be used for advertising campaigns.'

Subject matter

But photographers aren't the only ones who can veto commercial use. Some buildings and designs are trademarked, for example, meaning that commercial use of their depictions have to be approved by the estates involved. And if the photograph clearly depicts a person, then their approval must be sought before the image is used - this is often described as model release. In practice, it can be hard for archives to trace these people, as many of them were never identified at the time.

'It's very difficult to trace members of the public,' explains Charlesworth. 'It's not always possible. There is the risk that they can come back and we always tell clients that. It really depends how big the campaign is, what it's for, and so on, and often it's a very small risk. But we do try to trace people, and we can provide documentation that shows we tried.'

If a person's image is used in an ad without their permission, they can insist that the campaign stops and have the right to sue the parties involved. The risk is small but it's there, and it's by no means unheard of for a member of the public to object to their image being used to promote a product or brand. Global campaigns are more complicated still, both because the person depicted is more likely to see the image and because privacy laws vary from country to country. In France, for example, privacy laws are particularly stringent.

In this sense, negotiating image rights is simpler when the person depicted is famous - the advertiser will know who they need to talk to (or whose estate). Clearing rights to archive images of celebrities is now a multimillion-pound business, and it's sometimes outsourced to third-party organisations. Corbis Rights Service negotiates image usage on behalf of the estates of 12 celebrities, for example, including Albert Einstein, the actor Steve McQueen, Andy Warhol and Sigmund Freud.

'We're not their estates,' explains Charlesworth. 'Einstein's estate, for example, is owned by the Hebrew University of Jerusalem, but we negotiate where and when his image, quotations and equations can be used on the university's behalf, and all enquires to the university are forwarded on to us. Einstein is far and away our busiest dead celebrity. In fact, he's the fifth richest dead celebrity in the world.'

Legal wrangles

But if it's easier for the advertisers to find out who they need to get permission from, getting that permission isn't necessarily easy, and it often involves a large fee. The family of civil rights activist Rosa Parks took her estate to court in 2005, for example, arguing that her memory was being 'cheapened' by over-abundant commercial use. And Alberto Korda, the photographer who took the iconic photograph of Che Guevara, settled out of court with Lowe Lintas in 2000 after the advertising agency used the image in a Smirnoff vodka ad campaign - on the grounds that Guevara would have objected.

'To use the image of Che Guevara to sell vodka is a slur on his name and memory,' Korda told The Guardian newspaper at the time. 'He never drank himself, he was not a drunk, and drink should not be associated with his immortal memory.' Korda also argued that, as an anti-capitalist, Guevara would not have approved of Smirnoff vodka, owned by UK food and drink firm Diageo Group.

Despite this, archive images of celebrities are an increasingly popular resource for ad campaigns, allowing brands to 'take on some of their values', as Charlesworth puts

it. It taps into a wider contemporary devotion to celebrity culture - but with the added advantage that dead celebrities can't misbehave.

Living celebrities' reputations are liable to change, and using their images can therefore bring unexpected and undesirable results. Chanel and Burberry both dropped Kate Moss from their advertising campaigns in 2005, for example, when she was embroiled in an alleged cocaine scandal.

'Any company that used Amy Winehouse in a campaign, for example, would have to be aware that new revelations might emerge that could attract bad publicity,' comments Johnny Leathers, a creative director at Lowe London. 'But for some clients that could be desirable.'

The best-known example of the use of archive celebrity stills in advertising is the Apple campaign, put together by TBWA/Los Angeles in 1997. This employed archival photographs of personalities such as Albert Einstein, Martin Luther King, Muhammad Ali and Pablo Picasso, along with the Apple logo and the tagline 'Think Different'. The ad proved easy pickings for self-proclaimed 'culture jammer' Ron English, who pasted the familiar phrase and logo onto images of celebrities such as Charles Manson and Adolf Hitler in a comment on the use of celebrity branding.

Texting

But witty as it was, English's work only served to prove the power of celebrity endorsement, because although images of Manson and Hitler evoke undesirable values, they also undeniably evoke values. And both the original Apple campaign and English's parody of it demonstrate the power of copy in advertising. For this reason many archives insist on seeing how an image will be used before releasing it.

The Corbis Rights Service, for example, asks to see the layout and text that will be used in an ad before embarking on clearing the rights for the image. Alamy doesn't go quite this far, but it does veto certain uses of its images. 'Our terms state that the images cannot be used in a defamatory or pornographic way,' says Borkiewicz. 'And contributors can also restrict images for certain usages.'

Nevertheless, she points out, archive images, whether of celebrities or unknown members of the public, are increasingly popular. 'It's developing into a very strong market and archives that started out with us at the beginning started to make sales very quickly,' she says. 'Basically, the digital platform has permitted instant access to visual gems of collections.'

Competition?

So should photographers be worried? Well, maybe not, because there's little evidence that archive images are replacing contemporary photographic work on a wide scale. Negotiating the various permissions on archive images can take a long time and, if a famous name is involved, can also be expensive.

'We don't avoid it but it really depends on the brief,' says Choi Liu, head of art buying at M&C Saatchi. 'For example, we put together a campaign for the Royal Bank of Scotland on the British Open, working with Getty Images, among others, to source archive images of the championship. In that case the campaign was about the Open so it was appropriate to use images of it. But that was two or three years ago, and we haven't really done it since.'

'It's not a question of whether it's cheaper, and it's definitely not always faster because it can be hard to get clearance from the estate. If it's a question of needing an image in a couple of days we won't be able to use archival material.'

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