

Guidelines: Originality vs Derivative Work



Image contributed by Photographer who requested to be anonymous.

Introduction

We occasionally receive enquiries about the admissibility of images that incorporate existing artwork, graffiti, or other creative works as primary subjects. This document establishes our position for evaluating originality versus derivative work in accepting images into our photo competitions.

Most Recent Enquiry

The above image was submitted by a photographer and exemplifies the type of submission that raises questions about originality versus derivative work.

Consider a photographer who photographs existing artwork (for example fish artwork in a store window) where that artwork becomes the main subject of the photograph. Based on our **CAPA Eligibility Criteria**, this would generally not be considered the artist's own original creation. Adding unique elements such as the reflection of passing cars in the window does not change this assessment.

Originality and Derivative Work

- The main intent of originality guidelines is to ensure that the photograph is the photographer's own creation, meaning the result should not simply be a derivative or documentation of another artist's work **without significant transformation or context**.
- Reflective elements captured incidentally (such as car reflections in the store window) may add a layer of creative interpretation, but if the primary feature of the photo is someone else's art (the fish image), it is typically seen as not fully original from a competition standpoint.
- Our specific Eligibility Criteria states:

All parts of the submitted image are the creator's original work, containing no elements produced or captured by others; therefore, they hold and retain the copyright for the image. It's acceptable to draw inspiration from other photographers or artists. However, if the inspiration results in similarities in colour, composition, elements, perspective, angle, subject, and tone to the original, then the work is not considered the photographer's original creation.

- Existing artwork may be included in photographs when creatively transformed through composition, lighting, or context. When artwork is the primary focal point, the image must show substantial creative interpretation beyond simple documentation. Architecture, vehicles, and functional structures are acceptable as primary subjects.

Conclusion

A photograph of fish artwork in a store window, even with car reflections, would not typically meet our photo competition requirements for an original creation if the artwork is the dominant element. The reflection adds a layer of interpretation, but does not wholly transform the work into a new, independently original creation as most rules intend.