What Counts When Counting Gets Complicated?

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Abstract: As increasingly, social and economic value is vested in intangible assets and concepts of sustainability and ethical practice expand the scope of corporate responsibility, traditional methods of evaluation, based on simple quantifiable measures, become insufficient to capture the essence of more complex, qualitative opportunities and risk. This paper reflects on the development of a series of conversations between professionals from Design and Law exploring the potential of design methods to address these issues. Senior personnel from education and industry in design, law, fashion and luxury goods, came together to identify the issues and work towards more sustainable, ethical and profitable ways to evaluate complex futures. This process negotiated the traditional power structures of business by framing the agenda through a Design Thinking lens, where the constraints of Law were reframed by Design as opportunities to bridge the gap between disciplines, often separated by the demands of day-to-day delivery.

Key words: cross-disciplinary, co-produced, reframing value, sustainability.

1. Introduction

Greenfield has proposed we understand the world through the sum of our previous experiences (2000). Our experience in industrialised cultures has predominantly been shaped by capitalist principles, where the route to profit was defined by maximising production, whilst minimising costs. These business principles emerged from the competitive markets of the nineteenth and twentieth centuries. The search for profit drove technological innovation and framed the conditions for mass production; costs controlled by making workers emulate machines, creating systems structured for efficiency. In the twenty-first-century, as global labour costs rise, a range of strategies have emerged, from robotised machines to increase production and maintain cost efficiencies, to constant short-term outsourcing to countries where labour rights are weak and costs low. These strategies ‘promise’ improved quality of life for Western consumers, whilst workers offshore remain vulnerable to the unregulated pursuit of the lowest price. There are unintended consequences. Robots have become sophisticated and evolved to fulfil functions traditionally defined as high status, desirable and well-paid (Matthew, 2016), whilst the unethical practices of cheap labour expose neglectful companies to massive reputational risk.
As the manufacturing context has evolved, so have consumer expectations. Increasingly consumers measure value in more subtle and sophisticated ways than in relation to price and quality alone, considering how, where and by whom a product is made. As these pressures on businesses build, the limits of markets defined by an expectation that simple quantifiable measures are sufficient, becomes clear. Ethical practice, environmental needs and long-term sustainability require more sensitive and subtle ways to count what really matters. Acknowledging the value of different perspectives requires innovative ways to measure and alternative understanding of what counts. The luxury and fashion industries provide an interesting lens for this dichotomy and challenge, as the traditional economic equations for these businesses are exposed as flawed and often dangerous for workers vulnerable to unscrupulous sub-contractors within extended supply chains (Barenblatt, 2016). As consumer demands mature and shift and production quality and systems become transparent within globalised social media, the insufficiency of simple quantifiable measures becomes apparent against the increasing potential for erosion of corporate promises and stock values.

This paper proposes: as design based enquiry developed to service industrial production it is ideally placed to move from following the demands of manufacturers, to challenging assumptions around what defines efficiency. As consumer spending moves from products to services and into experiences, the more subjective, qualitative issues familiar to design begin to outweigh simple quantifiable measures of what has been traditionally understood as efficient production. Design based enquiry offers the advantage that it focuses on empathy, creativity and continually questioning the importance of the context. These characteristics currently elude the logic of robots, unquestioned concepts of price and the simple quantifiable measures and intellectual framing that define them. This paper interrogates the proposition that Design Thinking, in collaboration with the skills offered by Law to protect and enlighten the consumer, has the potential to move the discussion beyond the constraints of traditional hierarchies and the apparent simplicity of economic bottom lines. In a series of conversations the impact of sustainability, ethical engagement and supply chain issues in the wake of the United Kingdom Modern Slavery Act (2015), were considered by designers, lawyers and senior managers from luxury goods and fashion corporations. Drawing on these traditionally different ways of thinking provided opportunities to reconsider fundamental questions of what constitutes value in global economic markets, why this is changing and what this might mean for the Next Design scenarios.

2. Context for Change

The development of ‘Design Thinking’ over at least the last fifty years (Kimbell, 2011) has utilised a range of methods and approaches to problem solving and defining used within design practice to approach complex issues. Design Thinking and narrative strategies identify and use intangible values and incorporate these into the process of production and the promise of the product. These methods, framed as Design Thinking, when appropriated by fields dislocated from design as a practice, often lose the subtlety of the intangible knowledge contained within the design process itself. Lost in translation, Design Thinking becomes a simplified problem solving process vulnerable to challenge and at times easily contested (Mc.Cullagh, 2013). In consequence, the more recent development of ‘design research’ has aimed to “clarify how a design orientated approach compliments and is distinct from other kinds of cross-disciplinary, co-produced research in relation to social issues” (Julier and Kimbell, 2016, p. 5). In this paper we discuss the role of designers contributing directly to framing the process and participating in the subsequent investigation.
Design Thinking uses approaches and methods developed within traditional ideas of design, applied to consider issues beyond perceptions of design as limited to product development. The particular benefit of this approach is the ability to handle complex problems and ambiguity, where the mass of information makes it impossible to analyse everything available and so consequently there is no indicative simple or single answer. These contexts are sometimes referred to as ‘wicked problems’ (Rittel and Webber, 1984).

Using methods or approaches from Design offers ways to handle multiple stakeholders with diverse agendas, negotiate shared positions from which to strategise goals, plan ways forward and define criteria for evaluation. A range of possible scenarios can be considered prior to investing significant resources, whilst potential outcomes can be re-viewed within an ongoing process of evaluation and development. In essence, conceptions of the ‘problem’ and ‘solution’ evolve together as the implications of actions are considered within a context recognised as dynamic and complex.

Identifying the shift to corporate responsibility in the broader sense and using Design approaches offers an additional benefit. The shift to a joint position, bridging Design and Law, allows a range of expertise familiar to corporate structures to contribute to the framing of the intervention and in turn learn from the process and the outcomes. By experiencing sustainable principles in action, the stakeholders’ understanding becomes refined, integrated and embedded in meaningful ways for all involved. The idea of embracing complexity of evaluation against wider social concerns becomes an ongoing process of learning and development, where potential risks can be reframed and reconceived as opportunities and transferable assets within a flexible and responsive organisation. This move to appreciating a broader range of issues within any evaluation creates real efficiency from aligning agendas, motivations and learning through the process of continually redefining and striving for sustainable excellence.

If the role of Law is increasingly to unearth often unforeseen or unintended consequences in order to protect the unknowing consumer, Design can then create the differing versions of realities to populate the space that the legal framework has indicated. Design can speculate and step ahead of the Law before it is formalised. Design Thinking can anticipate the consequences of new legal frameworks and create models where sustainability in its broadest sense is built in, as is increasingly required for responsible and resilient brand propositions. This is not a simple progression, as that would again follow the traditional patterns of power and structure potentially creating inefficiencies through unchallenged assumptions. Rather, working together, the constraints of Law provide Design with creative provocations to stimulate reframing. This paper proposes the importance of this collaboration is that it has the potential to co-produce rapid speculative models within the frameworks of emerging Law, which can be considered for their value against a context of use by those charged to comply.

The professions of Design and Law are perhaps uniquely qualified to consider these issues, as each has traditionally worked both inside corporate structures, whilst frequently offering external models of expertise. Each profession draws on their discipline knowledge of precedence and provenance and uses creative processes to reframe and redefine corporate goals. However, Design and Law are often perceived to be from different cultures, separated by language and narrative, they may appear to have different values. Although they both strive to serve corporate goals, this gap in understanding may challenge attempts to effectively evaluate the success of any intervention. It is effectively this gap and the combined focus of Design and Law that provides an interesting lens for
the question of evaluating sustainability in fashion and luxury.

This process is timely as the economics that determine value in fashion companies, the bottom line, is no longer sufficient in the contemporary consumer context. Specifically, ‘sustainability,’ as an issue that is beginning to be demanded by consumers, is complicated by the complexity of evaluation criteria. This investigation tested the proposition that the convergence of the professional skills of Design and Law provide a particularly useful lens to analyse and investigate what the new economic equations might consider and the implications of any choices.

Using the methods and approaches familiar from Design enables brands to draw on reliable approaches to respond to increasingly urgent customer demands for corporate accountability. By framing and reframing criteria for evaluation the potential impact and implications can be speculated on and considered prior to significant investment and reputational risk. Similarly, traditional conceptions of the role of Law have moved to articulate and clarify consumer decision making in the instances where the supply chain and consequences are otherwise murky. Law has stepped in to educate consumers in places where otherwise the supply chain can conceal a product provenance. For example; the U.K. Modern Slavery Act, promotes greater transparency with respect to modern slavery and human trafficking by requiring certain retailers to publish certifications as to their supply chain. This legislation signals a demand for greater accountability within corporate governance schemes. It becomes increasingly important to evaluate a company’s environmental or social impact, in essence moving to an integrated reporting or accounting model (PwC, 2013, p.2). However, laws have their limits, they cannot govern every situation. Many brands bemoan that their good deeds are not adequately captured by the constraints of the legal system and defining criteria for the market context and remain unacknowledged and undervalued by the consumer.

As any meaningful definitions of efficiency or sustainability are context dependent, simple definitions can be dangerous and limiting. Without a comprehensive or agreed definition, there is jeopardy attached to any attempt to define these ideas in fixed or absolute terms. What is and is not included in the definition often becomes the issue, rather than the motivations driving the intentions, the methods used, people involved or goals defined. This shift in emphasis often distorts the value in the process and makes meaningful evaluation problematic.

Without clear or simple criteria the evaluation process becomes contested. Different cultural, corporate and professional ways of thinking, combined with un-interrogated assumptions and expectations, creates a complex web of information, which can be interpreted in different ways. As concepts of evaluation are increasingly complex, the most valuable findings may be overlooked in favour of more easily and traditionally counted elements. Frequently such potential confusion or ambiguity is often perceived as problematic, rather than offering opportunities. In attempts to bring clarity and shared understanding, those things which are most easily counted become the measure and create a flawed perception of efficiency. This is important as Handy observed “what does not get counted does not count” (1994, p. 219). Whilst these ‘solutions’ to the ‘problem’ are understandable, they should be balanced against the many unintended consequences of such measures, associated costs and risks. Within this context it is increasingly urgent and strategic to ask, what does sustainable practice mean in terms of corporate responsibility and how might this be evaluated? What counts as sustainable practice, considering for whom, why, where, when and how, complicates any evaluation.
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So when counting gets complicated, the question becomes ‘how to negotiate what gets counted’?

3. Permission to Speak; the process in action

The process considered here began in London through an informal conversation between a designer (consultant and educator) and a corporate lawyer, who both work for institutions with strong reputations for excellence in their fields. The third participant, also a designer (consultant and educator) working at the same institution, introduced a Design Thinking perspective, extending this initially binary conversation. All three shared, all be it very differently, professional experience of the fashion and luxury goods industry over many years. In these first conversations assumptions around discipline methods were challenged and all were surprised to find significant areas of shared concerns and approaches to contemporary business practices. Although the associated discipline related language and fee structures remained resistant to easy comparisons and required patience and a willingness to seek and freely offer clarification when required. These conversations, between the authors, continued through the negotiation of this paper, its focus, structure and conclusions as the process of collaboration is ongoing and dynamic.

Following these initial meetings a further series of informal conversations were held where the focus crystallised around discussing social and political change and the impact of contrasting academic, legal and industrial approaches. Specifically these conversations focused on developing new ways to address evaluation in response to changing methods of production, shifting consumer expectations and the implications of sustainability. Drawing on the authors’ wider industry contacts, individuals were sought to act as advisors on the validity of the process. From professional experience it became clear that in many areas of fashion and luxury approaching discussions about sustainability or the Modern Slavery Act creates, or prompts, an existential crisis for the individuals involved. Talking in public is difficult. It creates a risk, or a perception of risk, which can amount to the same thing. Companies and corporations have rightly identified that there is pressure, almost a feeling of political correctness, that to merely talk about sustainability or supply chains is tantamount to admitting or implying there is an issue. Which of course, there often is. The challenge therefore, was to create a context enabling these issues to be discussed and initiate a process to negotiate this new professional and industrial context. To move from the informal and test what might be challenged as anecdotal, terms and roles were defined and a plan for a series of meetings agreed. The goal was to initiate a conversation and to see where it might lead, rather than define a particular focus and perhaps, pre-empt the outcomes. In essence, to test the assertion that simple quantifiable measures are incomplete and thus potentially dangerous and if this were true, to consider how to define criteria to frame meaningful methods of evaluation using Design Thinking methods.

It was anticipated that attendees would be attracted by the intersection of academic excellence and a sterling legal brand. This was confirmed after the first event by the continued attendance of a significant percentage of attendees and their recommendations to colleagues to participate. It can be challenging to discuss or effect change within corporate structures, furthermore, discussions amongst competitors of sensitive issues can raise legal anti-competition concerns, and therefore certain levels of conversations can be stymied unless encouraged by the appropriate neutral context. Therefore, it was essential that the invitations ensured a ‘safe’ forum for thought, Chatham House Rules were fundamental. A delicate framework of etiquette established at the start of each meeting, created a context of trust in which the participants felt free to discuss sensitive issues.
The scope of the attendees, from corporate senior managers to outspoken ethical campaigners and the trust established by the context, mediated any potential for specific attacks by individual participants on a brand or corporation’s activities. Wider change, after all, would not be possible without including representatives from volume manufacturers as well as those from bespoke areas of production who had already established best practices in these areas. Furthermore the assumption that mass or volume indicates a lack of sustainability or ethics is not just outdated, it is often flatly wrong, and as with any stereotypes, counter-productive to delivering meaningful change.

Invitations were sent to: C-suite, or near C-suite level fashion and luxury producers and retailers, who identified the appropriate person within their organization to attend, this often included a Director of Sustainability, or Corporate Governance, high level legal and business personnel, importantly a mix of types of fashion and luxury houses, from off price, to volume, to high street, to absolute luxury and fine and high jewellery. Also invited were individual designers, environmental activists, academics, investment bankers, equity analysts and different types of lawyers, a mix of gender, age and cultures.

Inviting market participants that were neither academics, designers, nor producers, was essential, in particular equity analysts and investment bankers who have a keen understanding of what markets demand and reward and a detailed view of what customers are looking for. These participants provided a realistic base line from the corporate perspective. In total twenty to thirty participants, enough to anticipate a range of views, small enough to encourage and hear individual voices. It became clear that many were diligently seeking a forum to discuss these issues, selecting one that they felt could effect real change. Therefore, they participated with the hope and even expectation that, eventually, a formal output would result, and the idea of an industry wide agreement or protocol was discussed with the extended group of advisors.

To avoid setting an agenda and imposing parameters, it was agreed that the first meeting should scope the field and frame the agenda for the following meetings. To initiate the scoping conversation three perspectives were located and professionals with relevant knowledge identified as speakers to frame their positions. The meeting was hosted by the academic institution to offer a market and bias free location. Invitations were drafted and accompanied by three short positioning statements by speakers to prepare participants.

The event was planned for the early evening after office hours and started with a networking opportunity at an exhibition of emerging fashion talent in the institution, over good wine, soft drinks, an excellent fruit, bread and cheese board. This relaxed format allowed flexibility on arrival times and an opportunity for social introductions. The participants then proceeded to a private room and the event started with a short introduction by the authors outlining the broad aims and structure for the evening and if successful the plan moving forward. This was followed by three short presentations from differing perspectives on sustainability; by specialist lawyers in employment law, a specialist in fashion sustainability and a design strategist and academic. These perspectives were chosen to reassure, provoke, stimulate and frame the discussions. The discussion that followed was independently recorded by an observer, and also if desired by the participants, using post-it notes, which were contemporaneously arranged around the emerging themes along a long wall as the process unfolded. It was agreed that attendee names and notes would be anonymous and the collected findings available to all. More than one hundred and fifty key points were recorded during the one and a half hour meeting. Participants photographed these before they left for their own use. The event kept to time to acknowledge participants commitment and to enable planning around the
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event. However, many people stayed and continued their conversations long after the formal session was concluded.

Subsequent to the initial phase and feedback the team conducted one to one conversations with a second range of stakeholders as sounding boards to determine whether the content resonated at senior management level. Again, interest and support was strong and encouraged continuing with the process. Analysis of the themes from the first meeting framed the focus for the second, around the increasingly urgent issues of supply chain verification. Again an invitation was drafted and sent to the original participants with an understanding that they could pass this invitation to interested colleagues. A similar format to the first was followed, as this event was held in the summer, networking and pre-meeting drinks were held on the institution’s terrace with special access arranged to a rare and restored 1960s futurist housing prototype.

At the second meeting the three perspectives presented were represented by, a supply chain specialist, certified anti money laundering specialist, certified fraud examiner who spoke on risk mitigation with an Asian focus, an Industry award winner; specialising in transparency in fashion and consumer communications, and an Associate Professor in eHealth, discussing medicine supply chain issues supporting open source medical informatics systems for health care in poor communities globally.

It proved a surprise that this second meeting again generated in excess of one hundred and fifty key points. From the analysis of these notes a number of alternative themes for future meeting were proposed as this process is ongoing.

4. Conclusion

This paper considered the implications for evaluation and sustainability of moving to integrated reporting and developments in contemporary legislation. This requires contributions from diverse communities such as Design and Law, where measuring, utilising and protecting intangible assets are part of professional frameworks. Creating effective ways to measure what needs to be measured, requires innovative thinking from those who create and interpret legal systems, and those deeply rooted in production, manufacturing and problem solving.

As local legislation catches up with globalisation, social media is raising consumer awareness to the ‘true costs’ of production and saturated consumers are moving from tangible products to more visceral experiences. Within these dynamic contexts traditional concepts of socio-economic values are redefined and the criteria associated with sustainability are being reconsidered by consumers, manufacturers and legislation, shattering illusions of a closed system. Within this context, this exploratory collaborative process was initiated, proposing that the creativity of Design Thinking would test the boundaries of ideas, balanced against the structural demands of Law, so presenting participants with the reality that sustainability is no longer an optional extra.

Following the intentionally broad framing of the first ‘Design and Law’ meeting, analysis of the notes made by participants indicated that evaluation in relationship to supply chains was a key issue for many. Using this analysis the team identified experts with specialized knowledge to lead the second debate. As these themes had emerged from the first meeting the participants had a sense of investment and engagement in the process, which enhanced attendance for the second meeting.
Supply chains offer an example of the problems of evaluation. In essence, models of evaluation operate against a constantly changing environment of compliance and evasion practices. For example, the discussion of a compliance model from China where clients can be taken to ‘show factories’ whilst production takes place elsewhere. Similarly, the power and complexity of sustainability and ethical issues were crystallised during the debate by a participant who reflected that the core issues of supply chains start at the initial point of production, noting a successful collaboration based on acknowledging the importance of the issue of land rights. Each example reframed the discussion beyond simple concepts of production and efficiency to consider reputational risk and intangible assets.

Rarely are members of the fashion and luxury industry invited to freely and safely express their views with other members of the industry from distinct price points, retail types and prestige levels. As a result of the debates and real life examples shared by the participants an awareness of the complexity of the issues emerged. Consequently simplistic positions became more nuanced and responsive to the reality that practice demands.

As this paper notes, to evaluate Design Thinking as a method with value in this context is not a simple issue. Whilst it is a simple matter to quantify the number of participants, subjects raised and issues noted, the real success of this process is not in the numbers of these elements but in the context that was created and the subsequent commitment and enthusiasm with which ideas were freely contributed and then debated. Designing a scenario, which raised awareness of the complexity of the issues, valued alternative perspectives and acknowledged responsibility, whilst focusing on constructive and creative solutions. This process reflects the power of design approaches to articulate and negotiate the ambiguity revealed. Where ambiguity is often considered problematic, in debate it was reframed as an opportunity within a process that built and maintained trust. Trust is the fundamental building block required to step outside individual interests to embrace a more collective and open position.

Design Thinking offers inclusive, agile and robust approaches to reframe the constraints of Law into future opportunities. Simple quantifiable measures reveal only one dimension of the story and are no longer a sufficient basis from which to make informed decisions. As Adichie observes, “the single story creates stereotypes. And the problem with stereotypes is not that they are untrue, but that they are incomplete. They make one story become the only story” (2009). In the increasingly complex and dynamic Next Design scenarios, what get counted requires designing broader and more sustainable measures of risk and rewards.

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