

7 August, 2004

Mr Mark Taylor

General Manager, Arts and Regional
Department of Communications, Information Technology and the Arts
GPO Box 2154
CANBERRA ACT 2601

E-mail : resale.royalty@dcita.gov.au

Dear Sir,

**RE: SUBMISSIONS RELATING TO A PROPOSAL FOR THE INTRODUCTION OF A
RESALE ROYALTY ARRANGEMENT IN AUSTRALIA**

I am a professional Queensland artist, and welcome the Commonwealth Government's commitment to ensuring the sustainability and vitality of the Australian visual arts and craft sector, as evidenced in your Department's recent *Proposed Resale Royalty Arrangement Discussion Paper*.

I am writing to advocate my strong support for the introduction of a nation-wide statutory resale royalties arrangement, which, I understand, is also supported by a number of industry groups, such as the Queensland Artworkers Alliance, the Australian Copyright Council, the Arts Law Centre of Australia, the National Association for the Visual Arts Ltd. and Viscopy. I further note the recent Myer's Report (2002), which conducted a comprehensive review of the visual arts and crafts industry, also recommended the introduction of a resale royalty arrangement.

This would be consistent with international trends, where some thirty-three (33) countries have now introduced such a scheme. Recently, the European Union has directed its member states, including the United Kingdom, to similarly introduce a resale royalty scheme within the near future. It is important that Australia does not get left behind in relation to the continued growth in our industry, which is now becoming globalised, especially given technological changes.

Notwithstanding this growth, Australian artists are still among Australia's lowest paid professionals, with “more than one in three artists earn[ing] less than the poverty line”. (source: Bott J. *Commentary on Don't Give up Your Day Job: An Economic Study of Professional Artists in Australia*, Sydney, Australian Council, 2003, p 2.

I would further submit that a resale royalty scheme in Australia should at least have the following features:

1. It be legislative in nature, rather than be provided through private contract.

Given the generally low income levels of artists, we often do not have the same bargaining power as other members of the industry. I am also concerned that industry regulation may not result in uniform application. Artists should not be placed in a position where collection of their income is dependent upon the continuing operation of private businesses administering royalty agreements or the strength and efficiency of the record-keeping processes of those businesses.

2. It should have a low minimum threshold and a blanket flat rate in the order of 5% on all public sales.

I believe that such an arrangement would balance the need to widely cover most professional artists, ranging from struggling or emerging artists to more established artists. A low minimum threshold is essential in the Australian context because the Australian art market is significantly less developed than the European and US markets. This means that an artwork released for sale on the Australian market is likely to attract a lower price than if the same work were released on the US or European market. This difference in the prices that can be obtained for work in Australia and abroad, should be taken into account when determining an appropriate threshold.

3. It should be administered as efficiently as possible.

Given that administration costs have an impact on what may practicably prove to be the lowest possible minimum threshold, it is imperative that administration be efficient and cost effective. To achieve this aim, the scheme should be administered on a not-for-profit basis by a government agency or copyright collection agency with experience in this area such as VISCOPY, Copyright Agency Limited or the Australasian Performing Rights Association (APRA). The federal government may even consider funding an agency to conduct this work, thereby reducing the level of administration fees deducted from royalty payments to artists.

4. The definition of artworks to which the scheme would apply should be consistent with provisions relating to “artistic work” in the *Copyright Act 1968* and related case law. Such a definition would provide simplicity, clarity and consistency.
5. The term for which a royalty right should endure should also be consistent with the artistic work's copyright term in accordance with the *Copyright Act 1968*. This would enable the scheme to benefit both living artists and our families, who often provide

important support to us during our careers and also make many sacrifices to enable us to achieve our goals.

A resale royalty arrangement would not only provide financial security for artists, but would also provide a powerful psychological incentive to continue with our work, particularly during difficult times. This will reward the consistent dedication to our work, and further promote Australia's cultural growth and development.

Thank you for receiving my submissions.

Yours faithfully,

KT Doyle
Queensland Artist