

DESART INC.

SUBMISSION

RESALE ROYALTY ARRANGEMENT

‘Something needs to come back to the artists, a little bit of something for the family.

Our art must be recognised for the benefit it brings to our cultural well being.

Royalty money should come back to the families the same way mining royalty does, same way through dreaming, the paintings tell the story of the land’

Valerie Napaljari Martin, Chairperson Desart Inc.

Background

As an Indigenous owned corporation, Desart operates at the interface between Indigenous art centres and the non-Indigenous arts industry and government sectors. This role has become increasingly important with the introduction and delivery of the Northern Territory Indigenous Art Strategy Building Strong Arts Business and the Federal Government Indigenous Art Centres Strategy and Action Plan launched in 2003.

Desart Inc. is the Association of Central Australian Aboriginal Art and Craft Centres; it is a non-profit incorporated Aboriginal Association. The Association was incorporated in 1991 as an Incorporated Aboriginal Association under the Aboriginal Councils and Associations Act 1976.

Members of Desart are Indigenous owned Incorporated Art Centres and Art Centres affiliated with Local Community Government Councils. Desart provides services to its members to resource, promote, educate and protect the work of Indigenous artists and Art Centres.

The geographical coverage of Desart extends from Tennant Creek in the north, Indulkana in the south, and west to Warburton and east to Utopia. The total square kilometres are approximately 800,000, equivalent to the size of New South Wales.

The current membership of Desart is 38 remotely and regionally located Art Centres, who support 2,600 working artists. There are approximately 65 non-Indigenous arts and community workers who assist in production and the management of the Art Centres. The Art Centres’ activities are diverse, producing artworks that are placed at every level of the Indigenous art market.

A Timely Reminder

The Aboriginal people of Central Australia continue to maintain traditional cultural practises. Obligations to Ceremonies, Law and the family are entwined within their lifestyle, keeping culture strong and relevant in the complex cross-cultural environment of today's multi-faceted society.

In the centre Aboriginal artists are reliant on the integrity of those that sell works on their behalf, either an art centre, commercial galleries purchasing off the street, backyard sweat shops operations, taxi drivers and carpetbaggers. Other than art centres and commercial galleries, no official provenance information exists on the works. Only 50% of all the works produced in the centre come from art centres where the record keeping is authenticated.

The Principle of Resale Royalty

Australian artists have a right to a Resale Royalty. A considered approach is that resale falls within the copyright, and is more relevant to reflect the number of artists whose work is resold.

The discussion paper does not consider craft, sculpture, illustration, cartoon, design or architectural plans as per the EU Directive; it is effectively limited to the fine arts in all the models presented. We believe that all works should be covered as in the EU directive.

The resale royalty arrangement should be a fully legislated scheme, administered by a collecting agency with the backbone of a national provenance index.

The principal targets of a resale royalty arrangement will be the participants whose products underpin the future creative and cultural economies of Australia.

Within the creative landscape of Australia the number of Indigenous visual artists far exceeds that of the non Indigenous sector. The Indigenous sector has experienced rapid growth in recent years and has attracted significant media interest in regards to the unscrupulous management of some artists and their works and the discrepancies between low original sales prices and high secondary sale prices.

All Australians have the right to have their intellectual property protected and remunerated wether it is by a license agreement or a resale royalty arrangement. To not proceed with a resale royalty arrangement but at the same time separate the Indigenous sector and implant interventions is discrimination.

The operations of a resale royalty arrangement

- A minimum threshold before the resale royalty arrangement would come into effect would be \$5,000
- A sliding scale be specified, starting at 2.5% for the portion of the sale price up to \$200,000
- 0.75 for the portion of the sale price up \$500,000 and 0.25 exceeding \$500,000
- That is cover all works of fine art, craft, sculpture, illustration, cartoon, design and architecture.

- A collecting agency is established or existing, to facilitate a National Provenance Index and to operate the collection and distribution of the resale royalty.
- The duration of the resale arrangement is inline with the changes in copyright-life plus 70 years.
- That legislation is introduced as a wide-ranging mechanism to increased the professionalism of the sector, quality reporting and recoding, taxation compliance and long-term protections.

In conclusion

Indigenous artists share with non-Indigenous artists the principle right to have their worked protected, to increase income support and to be recognised for their contribution to the economic and cultural life of the nation.

A resale royalty arrangement would begin to anchor those rights in the physic, or mind set of the community.

An option for consideration in addressing the operational aspect of the resale royalty arrangement would be the introduction of a Provenance Index using an Internet solution. All works would be recorded using a universal database.

Participants would be industry stakeholders, galleries, collectors, cultural institutions, artists and art centres. All would register to use the Index according to best practise compliance principles. A compliance component would be evidence of a contract between the artists and their agent whereby all actions to do with the sale of the works are clearly stated and agreed, it would also identify a resale arrangement as would any Certificates of Authenticity accompanying artworks.

Desart supports the introduction of a resale royalty arrangement as noted in the opening statement from the Desart Chairperson.

Valerie Napaljari Martin
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Desart Inc.

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