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MINISTER FOR THE ENVIRONMENT, HERITAGE AND THE ARTS

RESALE ROYALTY RIGHT FOR VISUAL ARTISTS BILL 2008 SECOND READING SPEECH

Thursday 27 November, 2008

The introduction of this Bill marks a landmark day for Australia's visual artists, whose right to an ongoing economic interest in the value of their artistic works will be appropriately recognised in Australia for the first time.

There are currently more than 20,000 visual artists in Australia whose diversity of work spans painting, sculpture, glassware and photography.

This Government values their work; we are committed to enlarging the creative endeavour and recognising artists' contribution to our economy, community and identity.

The decision to introduce a resale royalty right for visual artists has been a long time coming.

Historically, the achievements of our visual artists have not been recognised to the same extent as those of our composers, authors and performers, who are able to earn copyright and performance fees from their work, and thus have an ongoing financial interest in their creative efforts. Visual artists, on the other hand, have little ability to earn income from their work, other than through its initial sale. When a work sells for a large sum on the secondary art market, the artist receives no direct financial benefit from the sale.

Australia's art market has been through a boom period in recent years and we should all be proud of the incredible talent demonstrated by our visual artists.

Auction sales in 2007 amounted to \$175 million with works sold by 1,578 Australian artists, of which 379 were Indigenous. The value of the auction sales market increased by 75 per cent in 2007.

Sadly, local artists have not shared in the benefits of this substantial activity.

The Government's resale royalty scheme, set out in this Bill, addresses a situation which is plainly inequitable, by creating a right for visual artists for a royalty payment each time their work sells on the secondary art market. It implements an election commitment of the Rudd Government.

This is a right which has now been recognised by over 50 countries around the world and is long overdue in Australia.

The scheme which the Government has developed delivers a right for visual artists, but also very importantly, introduces the right in such a way as to ensure minimal impact on Australia's art market.

The scheme is administratively simple and straightforward to understand. A flat 5% royalty rate is fair for all artists, with no cap on the maximum royalty which may be earned on an individual resale. Joint creators of artworks will also be recognised under the scheme.

The royalty will apply for the current period of copyright, 70 years following the death of an artist, so that artists can pass on their right to their families and heirs. This is important, as it can often be the case that artists only achieve recognition and success late in life, having spent a lifetime with modest means developing their creative skills. Data on the income of visual artists demonstrates how little they earn on average from their creative work.

Royalties will be collected by a single collecting organisation which will be appointed by the Government through a competitive and transparent tender process. There are clear requirements for the collecting organisation to ensure administrative costs are kept to a minimum with the maximum revenue possible returned to artists.

The collecting organisation will be vested with the powers necessary to access the information required for it to determine quickly when and to whom royalties are payable.

Importantly the right will only apply to resales of artworks that are acquired after the right comes into effect. This is to ensure that purchasers of artworks are aware at the time they make their purchase that a royalty may be payable to the artist if they choose to resell the work. It will also allow the art market to adapt gradually to the new right. While the art market has experienced a boom in the last few years, this is likely to be tempered by the changing economic circumstances. It's important that the resale royalty right is introduced in such a way as not to have a negative impact on the art market, which in the end would not help artists.

The resale royalty right is not just about raising additional income for artists. Introducing the right will significantly increase the transparency of the art market, which is of course particularly important for Indigenous artists who have sadly continued to be exploited by some unscrupulous dealers. The Bill requires sellers to notify the collecting agency each time a work is resold on the secondary art market. This means the collecting agency will keep detailed records on all relevant sales occurring, and will need to publish key data in its Annual Report which will be tabled in the Parliament.

Australian visual artists and their advocates have been campaigning for a resale royalty right for at least a decade. They have emphasised its

importance both as a significant statement of the esteem in which Australia holds its visual arts culture and as an economic reward and incentive for the creators of high-quality art.

As the resale royalty scheme grows throughout the years, Australia's artists – like artists from the United Kingdom, France, Germany and a growing list of other countries – will share in the proceeds of the trade in their works on the secondary market. Artists will be encouraged to know that whatever they are initially paid for the products of their hard work and talent, they will have a fair share in any future success their work achieves.

Because the right is recognised in the Berne Convention for the Protection of Literary and Artistic Works, it will be possible for Australia to establish arrangements with other countries which acknowledge the right to a royalty for Australian artists whose work is sold in those countries. Although the resale royalty schemes in operation across the world differ substantially in how they operate, each scheme has particular benefits for artists or their heirs.

As stated earlier, the introduction of this Bill marks a landmark day for Australia's visual artists, whose right to an ongoing economic interest in the value of their artistic works – a right which has been denied for too long - will finally be appropriately recognised in Australia for the first time.

I commend the Bill to the House.

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