

Report on NAVA Research into the Payment of Artists' Fees by Publicly Funded Galleries

Developed by NAVA for the information of its Board, members and Australian artists and art workers.

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Introduction

This document results from research undertaken by NAVA staff and volunteers in 2005 into the current state of play regarding the payment of artists' fees by publicly funded galleries (PFG) in Australia. NAVA thanks its many members and others in the Australian art sector who contributed to the research process. Many insightful and invaluable comments were received.

A draft of this document has been flagged with the NAVA Board, the Australia Council and some members of the regional galleries community. That original draft has been modified to form this final report.

During the research phase opportunities to hear about NAVA's artists' fees research and contribute to the process were provided to Australian artists and arts workers through the following mechanisms:

- NAVA published an edition of the NAVA Quarterly with articles focused on issues relating to the payment of artists' fees, September 2005
- NAVA wrote an article in Artworkers Newsletter, September 05
- NAVA ran a moderated online forum "For Fee or For Favour" aimed at artists and people working in PFGs, September 05
- Survey responses sought by telephone and email from key PFGs, June – November 05
- Web searches for information undertaken, June – November 05
- NAVA accepted emailed responses from the field, June – November 05
- In association with Artworkers NAVA hosted a forum at the ARC Biennale in Brisbane during which public comment was sought, October 05
- NAVA convened a focus group with SA based art gallery workers, October 05
(A focus group planned for Darwin unfortunately did not go ahead.)

Call for comment

You are invited to make comments on the recommendations in this report and how they may affect your area of practice.

In particular we are asking for feedback on 2 questions:

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What do you consider to be a fair and financially viable distribution network or mechanism for the proposed additional funding? See Recommendation 1.

Do you have any minimum fee recommendations? If so, what are they, what are they based on? What other similar industries do you think we should investigate to finalise an appropriate fee? See Recommendation 3.

Comments should be sent by the end of June 2006 to: merrilee@visualarts.net.au

Summary of the Recommendations

- 1.** *Additional* money should be made available to meet a range of artists' payments for Australian artists (not just limited to loan fees) who are exhibiting in a PFG in Australia.
- 2.** This money should be in addition to the funds already available to the industry and should be drawn from a fund of \$3 million dollars. This fund would be established on the basis of a concomitant increase in the Visual Arts Craft Strategy funding for the next 3 - 4 years, ie it should be funded from federal and state/territory government allocations.
- 3.** The industry should adopt new artists' fees scales, in particular, new Loan Fees and New Media fees.
- 4.** The 2004 edition of *The Code of Practice for the Australian Visual Arts and Craft Sector* should be updated and extended as edition 3.
- 5.** All levels of government should work co-operatively to ensure that PFG have the funds available to operate as best practice entities which duly recognise and reward the contribution of professional artists when exhibiting in non- selling, curated exhibitions.

Key Terms And Definitions Used In This Report

This document uses terms and definitions that we are aware have debatable definitions and/or applications. These include:

- Australian artist
- professional artist
- publicly funded galleries (PFG)

Any definitions or characteristics assigned in this document are for the purposes of this document only.

Definitions

Loan Fees are paid for the loan, from the artist, of pre-existing works for an exhibition within a fixed timeframe.

Curated Exhibitions are those that gallery staff have initiated and developed and/or where the gallery staff have called for curatorial proposals and accepted the proposal as part of the galleries program or where the gallery staff have chosen to take an exhibition curated by another party.

Community Exhibitions are exhibitions that have been initiated by the gallery staff and/or community members and which primarily include the work of non-professional artists. For example an exhibition by work of the 'Friends of the Gallery' or a local group of students.

Awards And Prize Exhibitions are exhibitions which include artists who have responded to a call for entries into an event which has at least one prize winner. The artists who respond may be professional or amateur and a process of selecting entries for exhibition may or may not be applied by the event organiser.

For Sale Exhibitions are exhibitions in which the works on exhibit are for sale and the artist will receive proceeds from the sale minus any gallery commission.

Contextualising Statements to this Document and Its Recommendations

Statement 1. We note the points made in Jennifer Bott's commentary (Australia Council press release) on *Don't Give Up Your Day Job*

- 50% of all artists earn less than \$7,300 from their art
- these low incomes affect the amount of art that is produced in Australia
- even a marginal increase in income for artists would have a significant impact on production of work.

Statement 2. We need to be clear about the types of galleries we are (perhaps in many ways inappropriately) lumping together under the category of PFG. For the purposes of these recommendations we are talking about members of the Australian Craft and Design Organisations (ACDO – previously referred to as COA) and Contemporary Art Organisations (CAOS); members of the regional galleries networks; state, territory and national galleries including the Museum of Contemporary Art (MCA); ARI's are not included under this PFG umbrella (although we are aware that in recent years that have received government funding for programs) and University galleries may be under certain circumstances.

Statement 3. We acknowledge and accept that not all types of PFG only exhibit the work of 'professional' artists. These recommendations are aimed at the 'best practice' treatment of professional artists. Galleries should be given the tools to make this distinction between exhibitors so they can apply the benefits of these recommendations appropriately. A distinction that has been suggested from this research is that an artist whose work is shown in 'curated' exhibition be treated as a 'professional' artist.

Statement 4. NAVA research highlighted that PFG do offer different types of relationships to different artists. This applies both to differences between galleries and also differences within a gallery depending on the artist(s). There are times when artists are clearly and primarily professionals who are providing content and services for the galleries' programs, usually through curated programs. At other times, artists are seen as 'space and facilities users'. This may include both professionals and non-professional artists. This paper does not attempt to discuss the validity of PFG relating to artists in these two ways, but it does maintain that this difference needs to be acknowledged by galleries and made clear to artists and that those artists who are providing content for gallery programs need to be both adequately paid for all the goods and service they provide during this relationship and to have the gallery meet a major proportion of any managerial and presentation costs.

Statement 5. When talking about the payment of artists' loan fees we are talking about Australian PFGs paying Australian artists when their work is exhibited in non-selling, curated exhibitions. We acknowledge that non Australian artists also show in PFG but these recommendations are not intended to be applied to them.

Statement 6. We note the success of the previous Australia Council policy which mandated the payment of fees by any of its clients. Although not mandated since the mid 1990's, the principle continues to have a flow on effect both on artists' expectations and on practice by galleries in the field, ie the galleries in the CAOS group, those who were initially impacted on by the mandate, are still, as a group, the 'best payers' in relation to Australian artists' loan fees.

Statement 7. We note that the Myer Inquiry recommended the payment of artists' fees to be again mandated by the Australia Council for the exhibitions it funds; that new fee levels should be established;

and that the Council should fund them. We believe the NAVA recommendations embrace the same driving principle as Myer but extend beyond the direct responsibility of the Australia Council.

Recommendations

The recommendations in this report are aimed at increasing capacity for some exhibitions and, by extending *The Code of Practice for the Australian Visual Arts and Craft Sector* as described, providing written information that assists artists to understand these differences, hopefully removing some of the uncertainty artists face and clarifying the relationships they are offered before they commit to them.

Recommendation 1

Additional money should be made available to meet a range of artists' payments for Australian artists (not just limited to loan fees) who are exhibiting in a PFG.

Types of payments to artists this recommendation covers:

- Loan fees – work already existing, currently owned and loaned by the artist for a curated exhibition
- Artists' talks
- Workshops given by artists
- Links made to web based media created and owned by the artist, integral to the exhibition and for the duration of the exhibition
- Screening fees
- New media fees
- Fees for making new work for a curated exhibition
- Copyright fees
- Travel fees (for the artists' time, not costs which should be covered by the gallery) where the gallery wants the artist to attend.

The best distribution mechanism for ensuring a national spread of the funds will be decided in further consultation with the sector.

Question to readers: What do you consider to be a fair and financially viable distribution network or mechanism?

Recommendation 2

This money should be in addition to the funds already available to the industry and should be drawn from a fund of \$3 million dollars. This fund would be established on the basis of a concomitant increase in the Visual Arts Craft Strategy funding for the next 3 - 4 years, ie it should be funded from federal and state/territory government allocations.

Recommendation 3

The industry should adopt new artists' fees scales, in particular, new Loan Fees and New Media fees. Standard Screening Fees should also be researched and documented in the third edition of *The Code of Practice for the Australian Visual Arts and Craft Sector* and implemented by PFG or others seeking public funding. The research into fees for New Media and film needs to be done in association with ANAT, the AFI and similar bodies.

The current research into the payment of fees by PFG leads NAVA to believe that the Artist Loan Fee, minimum total fee for a single venue, as noted on page 70 of the *Code of Practice for the Australian Visual Arts and Craft Sector*, 2nd edition, should be increased to \$2,000 with group shows a division of this amount to a minimum fee of \$200 per artist. This belief should be tested under the proposed new research.

Question to readers: Do you have any minimum fee recommendations? If so, what are they, what are they based on? What other similar industries do you think we should investigate to finalise an appropriate fee?

Recommendation 4

The 2004 edition of *The Code of Practice for the Australian Visual Arts and Craft Sector* should be updated and extended as edition 3. The section in *The Code* on exhibiting in PFG needs to be expanded to include:

- an explanation of the definition of a professional artist and how this relates to the payment of artists' fees, also how artists might state their case for claiming professionalism in this context
- a summary of current PFG infrastructure and the broad signifiers of each gallery eg why some galleries are in the CAOS network, what can be expected; why some are in the regional galleries network, what can be expected
- more detail on possible types of exhibitions that are organised through these venues eg, non-selling, selling, awards and prizes etc
- a draft 'best practice' exhibiting contract for use between a PFG and an artist in a non-selling show, ie a show in which the artist should expect to receive artists' fees. (In the current edition there is a checklist. This needs to be more fully explained and in some cases 'best practice' standard fees and practices should be explicitly mentioned.)
- setting a suitable commission rate for shows which sell through PFG
- setting New Media art and film fee scales
- identifying and outlining 'best practice operating criteria' for a PFG. Criteria might include:
 - *having an agreement with its funding agencies that it will always use exhibition contracts (as set out in the 3rd edition of *The Code*), the finer details of which are negotiated up front with artists before any work is done
 - *making this contract template publicly accessible as part of gallery policy (ie, before details relating to a specific contract are negotiated),
 - *having a written artists' fees policy which is publicly accessible
 - * ensuring programming of exhibitions adheres to a suitable 'sales' to 'non sales' exhibition ratio
 - *with selling exhibitions, having the commission rate not exceed what is acceptable for a non representing gallery
 - *ensuring programming of exhibitions adheres to a suitable curated to non-curated or community exhibitions ratio where the conditions and responsibilities attached to each type of exhibition are made clear to artists
 - *the gallery budget clearly shows that the gallery both pays fees as appropriate for curated shows and covers a suitable level of exhibition expenses
 - *the gallery has a policy in relation to exhibitions for which partial funding only is received.
- any other policy issues identified through the research for the Code update that need to be standardised.

Recommendation 5

All levels of government should work co-operatively to ensure that PFG have the funds available to operate as best practice entities which duly recognise and reward the contribution of professional artists when exhibiting in non-selling, curated exhibitions.

A model for this co-operation might be:

Federal government

- a) \$1.5 mill increase in federal government funding
- b) Visions of Australia to adopt funding criteria that notes the payment of artists' fees as a key assessment priority and provides funding for such fees.

State and Territory governments

- a) matching the \$1.5 mill increase in federal government funding
- b) all states and territories should include a commitment to artists' fees and funding within their application guidelines and as a key assessment criterion
- b) ensure exhibitions assisted by NETS funding have incorporated the payment of artists' fees at the recommended levels and note the payment of fees as a key assessment criterion.

Local government

- a) commitment to artists' fees as part of budgets
- b) commitment to best practice in relationships with professional artists
- c) implementation of a suitable professional artist/non professional exhibitions ratio.

Findings From The NAVA Research

Summary Of Current Philosophy as Revealed During the Research

Opinion was divided on whether the relationship between an artist and a PFG is best considered to be one in which the artist provides content for the gallery's program or the artist is making use of the 'subsidised' facilities and services that the PFG provide. In some cases a gallery might see itself offering both relationships but to different artists. There was questioning about what is the 'best' way for PFGs to support artists. Some gallery personnel expressed the view that artists don't fully appreciate what the galleries already do for them, irrespective of the question of fees. Many artists noted that the lack of financial rewards connected with exhibiting in PFGs (and elsewhere) made practising as an artist in Australia exceedingly difficult.

Some people stressed the collaborative nature of the relationship between an artist and PFGs and that there need to be systems that promote "trust and goodwill" between the parties.

It was suggested by some, both artists and others, that artists' fees have to be seen as one very small part of an artist's total income and that the real issue is how artists 'learn to make a living', or the community learns to properly value art and artists.

There was some discussion of the idea that PFGs are the vehicle through which, longer term, artists will receive adequate financial compensation for their work. NAVA notes however that, within contemporary practice, for many artists the PFGs are the main or final vehicle through which they take their work to the public, either because of choice or circumstance.

The practice of some PFG charging artists a fee to exhibit was seen as a very negative relationship option. This relationship is not the norm and might be more common between artists and some sorts of PFGs.

There was widespread concern that pushing for, or mandating, fee levels will simply reduce the amount of money the gallery spends on other expenses of an exhibition or an artist's participation in that exhibition. Similarly, the equation that "more or greater fees means less shows means less opportunities for artists" (as in less artists have the opportunity to exhibit) was put forward in a variety of ways. NAVA acknowledges this is a possible outcome unless increased funding for fees can be established.

Summary of Current Practice as Revealed During the Research

Artists

NAVA ran an online survey through which asked artists could provide comments and feedback. Survey summary:

"A total of 179 people completed the online survey in the NAVA forum *For Fee or For Favour*. Of those, 161 identified as either an artist or a craftsperson. Of the people who answered the optional age and gender questions 37.1% were in the 41-50 age group and 75.6% were female.

Of the 116 artists who had had an exhibition in a publicly funded venue since 2000, 63.6% had an exhibition in 2005. The most frequently listed type of venue was a regional gallery, with 38.3% of respondents. The second largest 'type of gallery' category was 'other' and the predominant 'other' was a university, TAFE or art school gallery.

74.8% of respondents had been part of a group show. 73% said they did NOT receive an artists' fee. However, of those who did receive a fee, the majority (78.8%) received less than \$1,000. Comments

indicated that when a fee was received it was most likely to be between \$100 and \$500. One artist received a fee of \$4,000.

72.1% of artists estimated they spent less than \$1,000 on presentation costs for their exhibition. 16.2% spent \$1000-\$1,999, 8.1% spent \$2,000-\$5,000 and 3.6% spent more than \$5,000.

With a response rate of 73% never having been paid a fee, and of those who did get a fee nearly 79% getting less than \$1,000, there were many negative comments about the relationship between artists and PFG galleries and artists' capacity to produce work and survive as an artist. This is backed up by more thorough and rigorous research done by agencies such as the ABS and the Australia Council.

However, there was also a sense that an artist who feels s/he (or his/her artwork) has been "treated well" is much more positive about the relationship and is willing to accept that fees are only one part of the equation. This implies that the whole 'relationship package' between artists and PFGs needs to be reconsidered and improved. The recommendations in this report reflect this need.

One of the inferences that can be made from the artists' comments made in the online survey is that some artists don't fully comprehend that galleries do not share a standard 'bottom line' in terms of their resources and capacities to pay. Artists don't necessarily distinguish between types of exhibitions eg, a curated, professional exhibition or an award and prize or a community based exhibition, when judging how the gallery should deal with them in terms of fee payments and other exhibition costs.

Government funding agencies

Australia Council –

The Council's Grants Handbook notes that artists engaged as a result of a grant should be paid an appropriate fee. At the NAVA Brisbane forum, Council staff stated that it was felt that the industry was now mature enough to regulate its own fee payments. Comments from many artists and art workers during this research directly contradict this assumption.

Visions of Australia

Notes artists and copyright fees as eligible for funding under the development funding criteria.

State/territory governments

6 out of 8 agencies noted that the payment of artists' fees is a part of their assessment criteria when funding exhibitions.

Local government

NAVA did not survey local government departments. Our information for this area came through our surveys of the NETS program (as an exhibition source for regional galleries and other types of galleries) and artists' feedback. The NETS organisations seem to have a principle of paying fees however some survey respondents answered the question by referring to the fact that the "curator budgets for the fees in their proposal" which may not give an accurate indication of what happens in the field, particularly if the exhibition is not fully funded. Also, the survey results indicate that some NETS exhibitions may pay loan fees well below the fee indicated in the current *Code of Practice* ie, much less than \$2460 for a multi venue tour of up to 6 months – see below under regional galleries.

State/territory/national galleries

NAVA did not receive a very good response rate from these galleries and so it had to rely on some direct responses and for others by looking at publicly accessible information produced by the gallery.

Most of these galleries cover significant costs of the exhibition. In terms of artists' loan fees, some pay better than the recommended rates in *The Code*, others don't pay artists' loan fees at all. One gallery noted in its response that the loan fees it pays are more likely to go to collectors (current owners of the work) than artists.

We had only a few artist respondents to our survey who had shown in these venues, and they were generally pleased with the experience - in terms of costs covered, fees paid, support provided and prestige gained.

CAOS members

As noted previously, these galleries as a group were more likely to pay artists' fees and to pay a higher fee than other galleries (often slightly higher than *The Code* recommendation for a group show); to pay for other artists' services such as talks etc; and to cover significant artists' expenses. Many of these galleries have already increased their standard fee payments in light of their VACS increase eg one gallery noted that before VACS they paid \$500 per show, they now pay \$2,000.

Some of these galleries had different types of gallery spaces and the relationship with the artist differed according to which type of space they were using. Whilst NAVA is not saying this is not a valid distinction, it is recommending that these distinctions, and the reasons for them, are made very clear to artists before any agreements are reached.

ACDO members

The members of ACDO operate in significantly different ways from many other galleries under the PFG umbrella, primarily because most have a clear retail component to their programs and charge commission on sales.

Some of these galleries noted that they tour works or facilitate artists' international networking and that they assist artists to cover costs associated with these activities.

One director stated that "the role of the PFG is broader than providing income for artists." He went on to note that PFG also build culture and awareness and he stated that artists need to treat the relationship as a collaboration.

Fees provided as examples included:

- a) no fees paid, artists are charged for space
- b) between \$500 and \$1,000 paid for non-selling shows
- c) provides gallery infrastructure and promotional material but no fees (expect artists to generate income through sales)
- d) curated shows are funded under project funding and if the funding required is received, fees are paid at the agreed rate
- e) pay fees between \$100 for an emerging artist and up to \$1,300 for an established artist having a solo show.

Regional Galleries

Artists rated the galleries linked together by the term 'regional gallery' as some of the most problematic of the types of galleries. Artists' perceptions were backed up by a statement from one respondent who said "In (state), most regional galleries won't spend the money. They won't pay artists' fees on top of what they already spend on an exhibition." (But note that this is not the case in all states/territories.)

Generally speaking, fee policies of these galleries seemed very much dictated by the philosophy of the gallery director and the willingness of the gallery to structure budgets so that there was a capacity to pay, plus whether the gallery took in NETS exhibitions (which had paid fees).

Some of the NETS responses:

- a) 10 artists received a total of \$1,200 in 2004, ie \$120 each as a loan fee
- b) in 2004 \$19,958 was paid in loan fees - this averaged out to \$46.20 per artist
- c) \$150 was the maximum solo show fee paid
- d) loan fees ranged between \$692 per artist to \$1,500.

The NETS responses did note that they covered significant exhibition/administration costs.

University Galleries

Artists made many negative comments about their experiences with these galleries. NAVA did make an attempt to contact some of these galleries to get their direct feedback but little eventuated. NAVA's response in thinking about the University galleries within this overall picture is clouded by a number of issues including their ownership, funding and management structures and the current uncertainty that faces some University galleries, particularly those that were previously funded under student unions. However there were comments from the field which recommended that these galleries should be brought into closer connection with the broader structure of PFGs in Australia.

ARIs

Although artists commented on their experiences with ARIs, at this stage NAVA is not including them as a group under the PFG umbrella. Again, the ownership, funding and management of these organisations sits them outside of a closer connection with the PFGs as a group.

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To make general comments or to provide your responses to the specific questions asked in the document please email: Merrilee@visualarts.net.au

Or phone 02 9368 1900 between 10 am and 3.30pm Monday – Friday.



NAVA advances the professional interests of the Australian visual arts sector through advocacy, representation and service provision.

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