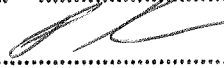


deutscherandhackett

Submission No:17a.....
Date Received:11-2-09.....
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11 February 2009

Mr Peter Keele,
Committee Secretary
Standing Committee on Climate Change, Water, Environment and the Arts
PO Box 6021
House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Mr Keele,

Further to my written submission and subsequent appearance at the Committee Hearing into the proposed Resale Royalty Bill, 2008, I wish to make the following brief supplementary submission on behalf of Deutscher and Hackett.

With respect, we question the assertion made by the Committee Chair, that "...this scheme, unlike perhaps the application of the scheme in other countries, is not essentially there to provide an equitable form of income support for all artists. There are other government interventions that may assist in that regard."

We believe that the majority of the Australian people would consider this as *exactly* what the scheme is promising to provide. In this regard we reiterate that as it is broadly acknowledged that the Bill will not fulfil this aim, its introduction is not in the public interest.

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After review of the Hansard record of the hearing conducted on Thursday 5 February, it is of great concern to us that the Committee may consider disregarding the advice supplied to the Department of Water, Heritage and the Arts by the Attorney General and Solicitor General (with regard to the constitutionality of Section 11).

We strongly support the view that it would be very improper for the Committee to introduce a Bill they believe may be constitutionally invalid, with the expectation that it would be further tested in the courts.

With regard to the question of the unique nature of the proposed Bill, due to the inclusion of Section 11 and Section 28 in particular, setting to one side the constitutionality of these Sections, and to the effect on global reciprocity, we wish to draw your attention to the following:

There were concerns raised that due to the uniqueness of this proposed Bill, Australia would immediately be placed be excluded by the EU, along with 26 other countries whose resale royalty schemes do not 'comply' with their reciprocal agreement. This on the one hand demonstrates that there are far fewer, in fact 26 fewer, countries in which Australia would enjoy reciprocal benefits also. But in addition, it demonstrates that there are indeed many different models of resale royalty schemes throughout the (approximately) 33 countries which have a scheme in place, contrary to the evidence submitted to the Committee hearing from Viscopy.

Apart from the nature of the art market, expressed in our submission and reinforced by statements made by Ms Bean during Thursday's Committee hearing, most art throughout the world is sold in its own parochial market and therefore there is little benefit to Australia of a reciprocal agreement in any event. It should also be remembered that the second largest market for Australian Aboriginal art is in the USA, where there will be no chance of a reciprocal agreement taking place.

With many thanks,

Damian Hackett
Executive Director, Sydney