


# Sotheby's

11/02/2009

EST. 1744

926 HIGH STREET ARMADALE VIC 3143 PH: 03 9509 2900 FX: 03 9563 506  
www.sothebys.com SOTHEBY'S AUSTRALIA PTY LTD ABN 48 004 742 506

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

Submission No:	24a
Date Received:	11-2-09
Secretary:	

Dear Mr Keele,

We wish to make a supplementary submission to the House Committee reviewing the Resale Royalty Bill, 2008.

Sotheby's Australia is concerned that the bulk of the Committees questions focused on the constitutionality of S.11 and scrutiny of S.23. Our position in relation to S.11 remains unchanged and we advise against the revocation of this clause. We believe the concerns of the art market warrant further consideration and are pleased to provide the following advice as undertaken before the Committee members on Friday 13/01/09:

**Committee Chair, Ms Jennie George, MP** - *Artists are currently denied a share of their value from the resale of their artwork.*

Sotheby's wishes to clarify the relationship between the artist, the primary market and secondary market. The price an artist charges for their artwork is influenced by several factors. Of these, a key driver is performance on the secondary art market. When an artist's work sells well at auction, an artist and their representing agent has a public sale record against which to benchmark future sales. Therefore, artists already receive material benefit from the resale of their work and are not denied a 'share' of their value from the resale of their artworks.

**Committee Chair, Ms Jennie George, MP** - *The introduction of the scheme in Britain did not have any negative consequences on the value of the art market.*

We encourage the Committee to review the findings of the Froschauer report which present a balanced assessment of the UK scheme's impact on the art market.<sup>1</sup> Further, we urge the Committee to consider the fact that the UK and EU Member States have compulsory caps integrated in their respective resale royalty schemes. Caps remain the most effective mechanism in minimising impact on the market, while still delivering royalty benefits to artists. If Australia's scheme applied a \$12,500 cap, transactions up to and including \$250,000 would not be affected. In 2008, only 1.2% of all transactions royalty eligible transactions would have had royalty payments capped. The UK also applies royalties to the living artists only.

<sup>1</sup> T. Froschauer, *The impact of artist resale rights on the art market in the United Kingdom*, Antiques Trades Gazette, London, 2008

Hong Kong has established itself as a major art sales centre and remains a resale royalty free jurisdiction. Australia's leading auction houses have facilities established there and it is possible that high value transactions may be conducted offshore if royalty payments are not capped domestically. This may result in forgone tax revenue, loss of royalty payments to artists and suppression of public art auction sales.

**Committee Member, Mr Tony Zappia, MP** – *requested historical data which evidences auction house trends.*

Sotheby's is pleased to provide the following data requested by Committee Member, Tony Zappia, MP.

Please note the following assumptions/qualifications:

#### **Data information**

1. Data relates to Australian art auctions only
2. Data is supplied by Australian Art Sales Digest
3. It is not compulsory for auction houses to supply data to Australian Art Sales Digest
4. Data supplied is often skewed. Some auction houses do not provide accurate cataloguing or provenance work which will impact on accuracy of reporting

#### **Trends**

1. \$ volume increases in artworks sales were impacted by the establishment of new auction houses in
  - a. 2001 (LM),
  - b. 2006 (BG); and
  - c. 2007 (DH and JFA)
2. 2007 resulted in a 75% increase in gross art sales from 2006
3. 2008 saw a 35% decline in gross art sales

Kind regards,



Lesley Alway  
Managing Director, Sotheby's Australia

Australian Art Auctions 1998 - 2008

