

Commercialising First Nations art

Background

- 3.1 The market for First Nations art and craft can be roughly divided into two categories:
- fine arts typically sold in a gallery, art centre or at an art fair, and
 - cheaper craft items and artefacts, which are commonly sold as souvenirs in gift shops and local markets.
- 3.2 This chapter examines the current markets for First Nations art and craft and the challenges faced by Indigenous artists in accessing them. As will be discussed, many First Nations artists and art centres are finding it very difficult to compete with the huge prevalence of inauthentic items in mainstream retail outlets.

Current Market

Size and scope of the industry

- 3.3 Knowledge of the size and structure of the commercial market for First Nations art is crucial to assessing the opportunities available to Indigenous artists and the scope for future growth. The current scale of the inauthentic market is equally important to this evaluation. Frustratingly however, there are no reliable data on this at present.
- 3.4 Professor Jon Altman poses five questions related to this issue:
- What is the size of the Indigenous visual arts sector?
 - What proportion is Indigenous art and crafts products and merchandise as distinct to fine art, bearing in mind that the boundary between the two categories is often blurred?

- Of Indigenous arts and crafts products and merchandise what proportion might be deemed to be 'authentic' and what proportion 'inauthentic'?
- Of Indigenous arts and crafts products and merchandise, what proportions of authentic/inauthentic is imported/ domestically manufactured?
- Of Indigenous arts and crafts products and merchandise, what proportion is manufactured under legitimate licencing arrangements with Indigenous art organisations or individuals and what proportion is not?¹

3.5 Professor Altman further comments:

Answering these questions is a difficult task that the Australian government and numerous stakeholders have grappled with for decades. Currently there seems to be no accurate estimate of the size in financial (final sales) terms of the entire sector, let alone the component parts described above.²

3.6 The Treasury confirmed to the committee that few data are available on this issue and that although the ABS publishes information on arts and culture, these statistics incorporate multiple forms of art and do not drill down specifically to Indigenous art.³

3.7 The Treasury further highlighted the difficulty in collecting information on the sale value of authentic versus inauthentic products and that specific parameters would likely need to be established to enable this:

...I think it would probably be difficult, particularly in terms of trying to distinguish between authentic and inauthentic art...It would sound to me like something you'd do via a special data release, because they currently don't go to that level of granularity in the national accounts data. I think they would need some pretty clear guidance on what those definitions meant.⁴

3.8 The Department of Communications and the Arts (DCA) also commented that this issue of valuing different parts of the art market is complicated by the number of players in this sector and the fact that attempts to get any information on commercial sales have proved problematic:

...one of the top three accounting firms came to us, a few years ago now, and talked about gathering information about the value of commercial sales and after about six months they abandoned it, primarily because there was almost no response to their survey

1 Professor Jon Altman, *Submission 118*, p. 6.

2 Professor Altman, *Submission 118*, p. 6.

3 Mr Adam McKissack, Principal Adviser, Consumer and Corporations Policy Division, The Treasury, *Committee Hansard*, Canberra, 13 September 2018, p. 1.

4 Mr McKissack, The Treasury, *Committee Hansard*, Canberra, 13 September 2018, pp. 1-2.

questions. There's also a sort of reticence for some of these commercial [businesses] to provide that information, because it's commercial-in-confidence I guess.⁵

- 3.9 Mr Tim Acker noted that he was able to calculate the collective revenues of art centres during his research in this area, but also commented that his attempts to obtain mainstream commercial information were not successful:

We probably spent two years of our six-year project trying to pull data together, and that was from a very contained pool – art centres, working with a certain database – and so it was manageable. As soon as you relied on retailers providing sales data or stock data, people weren't interested. It's really difficult to quantify.⁶

- 3.10 Professor Altman stressed the importance of supply chains and market research on the demand in the tourist market for First Nations art and cultural experiences:

We just don't seem to have a very good grasp on it. We assume that there is demand for authentic products. We don't ask questions about what the consumer is willing to pay and then we don't ask questions around whether the supply is going to match what the consumer is willing to pay. This is pretty straightforward economics in a way. It raises questions that are often not answered not just in relation to manufactured Aboriginal art but also in relation to other aspects of Aboriginal cultural tourism, its supply and demand.⁷

Committee comment

- 3.11 It is frustrating to the committee that there are no robust and accurate data on the size of the markets for First Nations art, including the souvenirs that are bought by both domestic and international tourists. It is likely to be many millions of dollars. Tourism Research Australia data for 2017-18 indicate that 978 000 international and 715 000 overnight visitors participated in an Indigenous tourism activity, and that 198 000 international visitors purchased Indigenous art, crafts or souvenirs (see paragraph 3.20).

5 Ms Jane Barney, Director, Visual Arts and Design Section, Department of Communications and the Arts (DCA), *Committee Hansard*, Canberra, 13 September 2018, p. 2.

6 Mr Tim Acker, *Committee Hansard*, Canberra, 16 August 2018, p. 11.

7 Professor Jon Altman, Private Capacity, *Committee Hansard*, Melbourne, 8 March 2018, p. 21.

- 3.12 As discussed in Chapter 5, action needs to be taken to start to compile this information accurately. This will assist with future policymaking by revealing the extent to which First Nations communities are missing out economically from the commercialisation of their cultures, and also provide indicators of the cultural damage that is being caused by inauthentic products.

Retail sector and tourist market

- 3.13 Current practices and activities in the retail sector for art and craft are central to the strong prevalence of inauthentic products in shops. Many souvenir items on sale in mainstream retail outlets are made attractive to buyers using representations of First Nations cultures that are not genuine.
- 3.14 There are some wholesalers and retailers who make an effort to be respectful of First Nations art and cultural expressions but unfortunately a great many are either unaware of or uninterested in the issue of authenticity.
- 3.15 The tourist trade is a principal source of inauthentic Indigenous art and craft items. It also represents a major opportunity for First Nations communities to benefit commercially. There is clearly a market for affordable souvenirs that celebrate or portray First Nations cultures as evidenced by the thousands of boomerangs and other artefacts for sale in tourist hubs around the country.
- 3.16 Many of the individual submissions to this inquiry express anger and frustration that nothing is being done to curtail the large volumes of inauthentic products that are now sold throughout Australia. There is also frustration that Indigenous peoples do not have sufficient avenues to sell authentic products in a culturally appropriate way.
- 3.17 The City of Sydney noted that 394 000 domestic and international tourists participated in an Indigenous cultural tourism experience in NSW between September 2015 and September 2016, spending a total of \$1.14 billion during that time.⁸
- 3.18 At the hearing in Sydney on 7 March, the City of Sydney further explained these figures:
- This research comes from tourism in New South Wales. Obviously it is a survey so it doesn't unpack it terribly well. Something around 20 per cent of visitors, cultural tourists visited an Aboriginal cultural display or art gallery exhibition or maybe went shopping for some Aboriginal art. Another 11 per cent visited a

8 City of Sydney, *Submission 93*, p. 1.

community or a cultural site, and eight or nine per cent went to a performance so it is a very broad sense of cultural experience.⁹

- 3.19 The City of Sydney expressed concerns however that tourists who travel to Australia and connect with First Nations cultures are leaving with souvenirs that mostly have no connection to these cultures, and therefore, with an artificial understanding of them.¹⁰
- 3.20 Analysis by Tourism Research Australia for the 2017–18 financial year indicates that 978 000 international visitors and 715 000 overnight domestic trips included an Indigenous tourism activity. This includes art, craft and cultural displays, visiting an Aboriginal site or community, or attending an Aboriginal performance. These visitors collectively spent \$8.4 billion during these trips, although the proportion that can be attributed to Indigenous tourism is not known. Notably, 198 000 international visitors in that year purchased Indigenous art, crafts or souvenirs.¹¹
- 3.21 Mr Wayne Barker from the Kimberley Aboriginal Law and Cultural Centre commented that there are challenges for First Nations peoples when participating in tourist experiences of their culture:

...it puts enormous pressure on the Indigenous people to maintain their traditional integrity. I will use the analogy of what's happening in Hawaii, where when they get off a plane they expect you to put a lei around their neck. In this case it is some kind of Indigenous artefact. This commercial appetite or competition for the commercial integrity of it as opposed to cultural integrity is our greatest dilemma. We're always trying to find ways in which to use one to support the other but fundamentally use both to maintain a cultural economy equation that satisfies the continuance of traditional law and custom but also maintains our rights as owners of cultural artefacts.¹²

9 Ms Yvette Andrews, Manager, Community Engagement, City of Sydney, *Committee Hansard*, Sydney, 7 March 2018, p. 3.

10 Mr David Beaumont, Community Engagement Coordinator, City of Sydney, *Committee Hansard*, Sydney, 7 March 2018, pp. 1–2.

11 Unpublished data from the Tourism Research Australia *International Visitor Survey and National Visitor Survey*.

12 Mr Wayne Barker, Festival and Cultural Events Coordinator, Kimberley Aboriginal Law and Cultural Centre, *Committee Hansard*, Broome, 10 April 2018, p. 8

3.22 Creative Economy states that inauthentic products tend to be found at large markets and general souvenir stores in high volume tourist locations where they predominate over authentic items. Creative Economy also noted:

The retail market, especially prominent chains traditionally buy from distributors and large suppliers. There are small retail operators that do retail authentic product but generally they have less of a profile in the marketplace.¹³

3.23 FORM comments that 'there is far less best-practice procurement of ethically made/authentic Aboriginal and Torres Strait Islander merchandise...within tourist value chains'.¹⁴

3.24 The Indigenous Art Code (the code), a voluntary industry code of conduct designed to promote the fair and ethical trade of First Nations artworks, informed the committee that it could not consider many of the current souvenir businesses for membership because they stock so much inauthentic product.¹⁵ The code is discussed in more detail in Chapter 4.

3.25 Desart conducted a survey of its member art centres, which account for 40% of the remote art centres in Australia, and more than half stated that it is hard to compete with, or even access, retail and wholesale outlets because of lower-priced inauthentic art.¹⁶

3.26 Ms Nancy Bamaga discussed the gradual exclusion of genuine First Nations art and craft from the retail sector over the past 20 years:

A couple of decades back the retail tourism sector was a thriving industry with authentic Indigenous arts and crafts. However, over time it has changed drastically in the urban area. Aboriginal and Torres Strait Islander artists and retailers have been struggling financially in the retail tourism market, so they have cut their losses and closed their businesses. Slowly there has been a decline, so authentic arts and crafts are most likely to be found only at Indigenous festivals and art fairs, including local markets.¹⁷

13 Creative Economy, *Submission 99*, p. [3].

14 FORM, *Submission 61*, p. 4.

15 Ms Gabrielle Sullivan, Chief Executive Officer, Indigenous Art Code Ltd (IartC), *Committee Hansard*, Sydney, 6 March 2018, p. 42.

16 Mr Philip Watkins, Chief Executive Director, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, p. 10.

17 Ms Nancy Bamaga, Managing Director, Black Drum Productions, *Committee Hansard*, Brisbane, 16 July 2018, p. 1.

- 3.27 WW Souvenirs, Gifts and Homewares (WW Souvenirs), a supplier of genuine First Nation art and craft, commented that the influx of cheap inauthentic souvenirs from overseas was forcing the closure of some retailers who could not compete when selling Australian made products at lower profit margins.¹⁸
- 3.28 Ms Gabrielle Sullivan, Chief Executive Officer of IartC Ltd, also remarked on the very difficult situation facing First Nations artists who want to sell their products in this market:
- ...artists are making it because they want to generate income from it. But they're also doing it to share their culture, and they feel like they simply can't compete with all of that product that's in the market. There's just no room for it on the shelves.¹⁹
- 3.29 Ms Sullivan further expressed the view that the more disturbing issue was that tourists were mainly purchasing items with no connection to Aboriginal and Torres Strait Islander cultures and the staff in these shops are often telling them absolute rubbish about First Nations cultures.²⁰
- 3.30 Mr Joe Skeen, the Managing Director of an Aboriginal-owned business, Murra Wolka, addressed the issues facing First Nations producers with an actual dollar example:
- I've got a boomerang in front of me...It sells for \$4 retail in the shop. It's been hand painted. You can't even make a boomerang for \$4. Did an Aboriginal artist or person make that, paint it and then package it and sell it to the shop? It's just not possible.²¹
- 3.31 Mr Neil Cope, Director of wholesale company Cooee Brands, highlighted the economics of supplying a high demand souvenir item such as a boomerang:
- We have to produce this in Indonesia, for purely competitive reasons. We would all love to be buying Australian-made products. We've tried three times to work with communities in northern Australia, but we need a thousand boomerangs a week. We just can't get it. You've got this challenge of supply and demand. This is a classically Australian product. There' demand

18 Mr Richard Myles-Whittington, Managing Director, WW Souvenirs, Gifts and Homewares (WW Souvenirs), *Committee Hansard*, Brisbane, 17 July 2018, p. 24.

19 Ms Sullivan, IartC, *Committee Hansard*, Sydney, 6 March 2018, p. 36.

20 Ms Sullivan, IartC, *Committee Hansard*, Sydney, 6 March 2018, p. 36.

21 Mr Joe Skeen, Managing Director, Murra Wolka, *Committee Hansard*, Canberra, 21 September 2018, p. 7.

for it at \$20 retail, but there isn't the demand for it at \$120 retail, so there's a real problem.²²

- 3.32 WW Souvenirs further remarked that the stores that they supply with authentic products are generally the more up-market style of businesses, although these retailers will typically also sell inauthentic items.²³
- 3.33 The *Fake Art Harms Culture* campaign noted that retail outlets usually display authentic and inauthentic products side-by-side and that the labelling of these products is variable and confusing.²⁴
- 3.34 DCA and the Department of the Prime Minister and Cabinet also comment that confusing product presentation and insufficient or inconsistent labelling makes it very difficult for consumers to determine what is authentic.²⁵
- 3.35 Arnhem, Northern and Kimberley Artists Aboriginal Corporation (ANKA) argues that the side-by-side presentation of authentic and inauthentic products by retailers not only creates confusion for customers but devalues and disrespects genuine First Nations cultural expression.²⁶
- 3.36 DCA commented that inauthentic products not only erode economic opportunities for First Nations peoples, as well as the ownership and control of their culture, but also devalue tourist experiences of Australia.²⁷
- 3.37 The Darwin Aboriginal Art Fair Foundation (DAAF) queried why the prevalence of inauthentic products in retail outlets was not being addressed and whether a consumer could be expected to be aware of the authenticity issue:

...why should they [consumers] have to understand that?...As a foreign tourist, you should not have to question what is authentic and what is not authentic. That is not a tourist's responsibility.²⁸

- 3.38 DAAF also expressed the view that art centres would be perfectly capable of meeting the demand for souvenirs in the mainstream retail sector if given the opportunity:

I think one of the misconceptions we have in this country is that Aboriginal people are not able to produce the work required to sell

22 Mr Neil Cope, Director, Cooe Brands, *Committee Hansard*, Canberra, 21 September 2018, pp. 21–22.

23 Mr Myles-Whittington, WW Souvenirs, *Committee Hansard*, Brisbane, 17 July 2018, p. 25.

24 Victorian Government, *Submission 128*, p. 3.

25 DCA and the Department of the Prime Minister and Cabinet (PM&C), *Submission 131*, p. 1.

26 Arnhem, Northern and Kimberley Artists Aboriginal Corporation (ANKA), *Submission 132*, p. 7.

27 Mr Richard Eccles, Deputy Secretary, DCA, *Committee Hansard*, Canberra, 2 March 2018, p. 1.

28 Ms Claire Summers, Executive Director, Darwin Aboriginal Art Fair Foundation (DAAF), *Committee Hansard*, Darwin, 10 August 2018, p. 9.

in the volumes in our retail outlets, and I think that's anything but the truth...Our art centres are doing it brilliantly, so maybe part of the solution is not ostracising the people who are selling in these tourist environments; it's giving them the mechanisms to be able to purchase artwork that has been endorsed and supplied by our art centres. That is how we can, perhaps slowly, over a period of time, start ensuring that what is available in our retail outlets across this country is driven by Indigenous artists.²⁹

3.39 DCA surveyed 79 art centres in 2016 about the type and number of products they sell and a high proportion responded that they are producing items, up to 12 different products in some cases. DCA notes that these art centres are keen to build on this business but face resourcing challenges.³⁰

3.40 DCA remarked that the art centres gave a number of reasons for producing merchandise themselves, including diversifying income and providing artists with more opportunities.³¹

3.41 Martumili Artists commented that they already have ideas and ways to do merchandising in wholesale markets or online but lack capacity and staff.³² Martumili Artists further commented:

If you were providing the industry with the support to have the professionals in place that could help each arts centre, you could look at marketing or the development of tool kits like Arts Law do. If there were structures in place for arts centres to create more merchandise, if it was done correctly, you could start having it in more of a wholesale market as well.³³

3.42 Desart summarised these concerns in this way:

...knowing who to deal with was a threshold barrier. Is the manufacturer ethical or not? Will copyright be respected? These were some of the questions that came back to us.

Art centres generally have limited human or financial resources to undertake the market research, diversify the existing business models and market their product in ways that would compete with the existing saturation of cheap, inauthentic Aboriginal-style products.³⁴

29 Ms Summers, DAAF, *Committee Hansard*, Darwin, 10 August 2018, p. 11.

30 Ms Barney, DCA, *Committee Hansard*, Canberra, 2 March 2018, pp. 2-3

31 Ms Barney, DCA, *Committee Hansard*, Canberra, 2 March 2018, p. 4.

32 Ms Carly Day, Manager, Martumili Artists, *Committee Hansard*, Newman, 10 April 2018, p. 5.

33 Ms Day, Martumili Artists, *Committee Hansard*, Newman, 10 April 2018, p. 5.

34 Mr Watkins, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, pp. 8-9.

- 3.43 DCA further commented on the challenges involved with supply chains, stating that only 0.05% of art centres sell their products through wholesalers. Some connect directly with individual retailers through art fairs or industry events but most are selling their merchandise themselves. This poses particular challenges for remote communities, and DCA noted that more work need to be done to facilitate the connection between centres and wholesalers to give them better access to regular supply chains.³⁵
- 3.44 Desart further remarked that supporting such activities has the potential to support the future viability and sustainability of remote and regional art centres, reduce their dependence on government funding, and help to mitigate the risks associated with fluctuations in the fine art market.³⁶

Committee comment

- 3.45 There are some considerable barriers to the successful commercialisation of authentic First Nations art and craft, particularly in the souvenir market. There are two fundamental issues here: (1) retail businesses that stock more inauthentic First Nations souvenirs than authentic; and (2) First Nations artists have trouble competing with cheap inauthentic products due to cost, scale and lack of knowledge of supply chains.
- 3.46 It is unacceptable that a large part of this valuable market for First Nations souvenirs is not readily accessible to the only people who have any right to supply it and benefit from it commercially. First Nations peoples are also among the most economically disadvantaged in Australia, and their lives and communities could be transformed by earning a sustainable living from their own culture.
- 3.47 The long-term goal of policy development in this area needs to be the predominance of authentic and culturally appropriate First Nations products in Australia's art and craft retail sector. The way forward in the shorter term however is a) to ensure that consumers have more access to authentic products and can readily distinguish them and make informed choices; and b) have a campaign that highlights the benefits of having authenticity as a purchasing criterion. This is discussed further in Chapter 4 in relation to education and labelling.

35 Ms Barney, DCA, *Committee Hansard*, Canberra, 2 March 2018, pp. 2-3.

36 Mr Watkins, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, p. 9.

Sector-specific practices

Fine art

- 3.48 The evidence to the inquiry indicated that authenticity was less of a problem in the fine art sector of the market, as a system of checks is already in place in terms of provenance and buyer knowledge for these typically far more expensive purchases.
- 3.49 The Australian Aboriginal Art Association (AAAA) states that the level of inauthentic Indigenous fine art was not meaningful as there is a successful system for provenance certification in place and legal arrangements are adequate.³⁷
- 3.50 The AAAA also remarked that care must be taken not to associate the prevalence of inauthentic craft- or souvenir-type products with all Indigenous art as this will have a detrimental impact and reduce consumer confidence in the quite distinct market for First Nations fine art.³⁸
- 3.51 Creative Economy agreed that the Indigenous fine art market did not have the same issues with authenticity as the tourist market due to buyer caution.³⁹
- 3.52 The Cairns Indigenous Art Fair (CIAF) noted that the way people buy fine art acts as a protection of authenticity:
- Buyers of fine art are more in tune with provenance and they understand how the system works, whereas people who go to the night market aren't going to know. It's a totally different system the way people buy. That's pretty much it. They're more educated if they're buying fine art.⁴⁰

Art fairs

- 3.53 Art fairs are a major platform for First Nations artists to showcase and sell their work. The committee was fortunate to be able to visit three major annual Indigenous art fairs during the inquiry; Revealed in Fremantle, the CIAF, and DAAF.

37 Australian Aboriginal Art Association (AAAA), *Submission 52*, p. 3.

38 AAAA, *Submission 52*, p. 3; Ms Brenda Colahan, Treasurer and Executive Member, AAAA, *Committee Hansard*, Sydney, 6 March 2018, p. 8.

39 Ms Helene George, Founder and Managing Director, Creative Economy, *Committee Hansard*, Melbourne, 8 March 2018, p. 3.

40 Ms Janina Harding, Artistic Director, Cairns Indigenous Art Fair (CIAF), *Committee Hansard*, Cairns, 15 July 2018, p. 3.

- 3.54 These site visits gave the committee a valuable opportunity to experience First Nations art and crafts, and to speak with many Indigenous artists and art centres about their work and careers, and about the impacts of inauthentic art.
- 3.55 The importance of art fairs was highlighted by a number of contributors to the inquiry. CIAF states that it provides artists with opportunities to extend their skills and promote their culture.⁴¹
- 3.56 CIAF further emphasised its value, and that of other fairs, as a safe place for remote artists and art centres to sell their work:
- Because they're not actually locally here, getting their work consistently down here to somewhere safe to be sold is an ongoing issue. They all work. They spend months working towards CIAF because they know that this is a fabulous platform for sale and then they go to the Darwin art fair equally.⁴²
- 3.57 DAAF commented on their importance in protecting culture from the aspect of both First Nations laws and mainstream Australian law:
- We're all about protecting Indigenous art...what I think we as a foundation and we as an art fair in protecting our membership and our artists are doing is ensuring that that lore system is understood in the first instance but equally that there is equivalent legislation, non-Indigenous law, that protects and reinforces that as well.⁴³

Committee comment

- 3.58 The committee is cognisant of the fact that inauthenticity is far less prevalent in the fine art sector than in the souvenir trade and that fine arts could be negatively impacted by a lack of understanding of this. Future policies need to be designed accordingly and take care not to confuse these two different sectors of the art market in relation to this problem.
- 3.59 There is a wonderful tradition of First Nations fine art in Australia which must be given every opportunity to flourish and grow in the future. Art fairs will continue to be a particularly important part of this. As will be discussed in more detail below and in Chapter 4, there are ethical issues in the market for First Nations fine art that will need to be addressed.

41 CIAF, *Submission 117*, p. [1].

42 Ms Vanessa Gillen, General Manager, CIAF, *Committee Hansard*, Cairns, 15 July 2018, p. 3.

43 Ms Franchesca Cubillo, Senior Curator, DAAF, *Committee Hansard*, Darwin, 10 August 2018, pp. 7-8.

Art centres

3.60 Indigenous art centres are a cornerstone of the First Nations art industry. The joint submission from DCA and PM&C highlights the importance of these entities both from a business and professional perspective and as part of the social and cultural fabric of the local Indigenous communities they serve:

Art centres provide the infrastructure and relationships that allow artists to create new art, generate income, develop professional skills and connect to the commercial art market through partnerships with dealers and galleries, online sales and marketing strategies.

As community-owned organisations, art centres are responsive to local needs. While their primary purpose is to support professional art practice, they also play an important role in enhancing social cohesion, promoting respect for traditional knowledge, ensuring the transmission of culture, and providing economic and leadership opportunities for Aboriginal and Torres Strait Islander peoples.⁴⁴

3.61 These centres now exist throughout Australia, including regional and remote areas. More than 30 of these organisations made contributions to this inquiry (Appendix D).

3.62 ANKA, representing 47 art centres and more than 5000 Indigenous artists, argued that art centres play a wide range of roles:

Art Centres, are a uniquely Australian invention and the model is at the heart of the successful Indigenous art movement. There is no equivalent institution to the Aboriginal owned and governed Art Centre in the mainstream art world – combining as it does, functions of commercial art galleries, art and design studios, art schools and community resource centres.⁴⁵

3.63 ANKA notes that art centres are often the only Indigenous-owned enterprise, or indeed business of any kind, in remote communities, and are thus vital for local employment and livelihoods in these areas.⁴⁶

44 DCA and PM&C, *Submission 131*, p. 2.

45 ANKA, *Submission 132*, p. 8.

46 ANKA, *Submission 132*, p. 8.

- 3.64 Art centres are typically owned and governed by the local First Nations communities, but will often employ a non-Indigenous manager with the requisite administrative experience and skills. About 80 art centres are supported through the Commonwealth Government's \$20 million Indigenous Visual Arts Industry Support (IVAIS) program.⁴⁷
- 3.65 Desart, representing art centres from across the Central Desert, also emphasised the cultural and economic importance of this model:
- Artists working in the art centre context have a framework that supports their artistic and cultural expressions. The support to artists is not only for the art-making but, importantly, supports how the presentation of our arts and cultures is negotiated and presented within a broader market. Management in our member art centres are tasked with negotiating those terms and conditions of sales by way of legal contracts for galleries and collectors and, in some cases, are required to negotiate license agreements for products aimed at the tourist market, merchandising and branding.⁴⁸
- 3.66 Tjanpi Desert Weavers too highlighted the importance of peak bodies and regional alliances with respect to art centres:
- Tjanpi is also a part of the APY Art Centre Collective and Western Desert Mob. Both entities are a regional alliance of art centres, one in the APY lands and the other in the Ngaanyatjarra lands, created to promote community based, owned and governed Aboriginal art centres; support and protect intergenerational learning and Aboriginal culture through art; celebrate artistic and cultural integrity and the ethical sale of authentic art; and encourage sustainable Aboriginal enterprises.⁴⁹
- 3.67 The Indigenous Art Centre Alliance, representing 14 art centres, remarked that its core functions are to promote, advocate, support, train and build careers for Indigenous artists.⁵⁰
- 3.68 FORM highlighted that the art centre model 'has fostered greater awareness of the importance of provenance and ethical artwork procurement'.⁵¹

47 Ms Barney, DCA, *Committee Hansard*, Canberra, 2 March 2018, p. 2.

48 Mr Watkins, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, p. 1.

49 Ms Michelle Young, Manager, Tjanpi Desert Weavers, NPY Women's Council, *Committee Hansard*, Alice Springs, 2 May 2018, p. 9.

50 Ms Pamela Bigelow, Manager, Indigenous Art Centre Alliance, *Committee Hansard*, Cairns, 14 July 2018, p. 1.

51 FORM, *Submission 61*, p. 4.

- 3.69 In addition to supporting and fostering the creation of the art itself, art centres provide a crucial avenue for sales. Notably however, there are many centres that are struggling financially and find it difficult to reach mainstream art markets. Ninti One notes from the results of its 2016 *Aboriginal and Torres Strait Islander Art Economies* project that ‘the financial circumstances of many art centres are fragile, with falling profitability.’⁵²
- 3.70 Ninti One further notes that 70% of the funding for art centres comes from grants but that staffing is most critical to their success:
- A nationwide project to transform staff recruitment and retention practices in remote art centres is urgently needed, with research showing this to be the single biggest success or failure factor that Aboriginal art centres negotiate.⁵³
- 3.71 Desart concurs fully with this view and remarked that the lack of infrastructure is a major issue for art centres when trying to recruit staff. Desart commented that quality managers are difficult to recruit and often leave because the available accommodation in particular is so poor.⁵⁴
- 3.72 ANKA also remarks that despite the enterprise demonstrated by many art centres, many are becoming financially unviable due to chronic understaffing and lack of resources.⁵⁵
- 3.73 Further, artists living in very remote areas may not have access to an art centre and only very limited access to a field officer who could assist them with selling their art.⁵⁶
- 3.74 DCA noted a considerable diversity of roles among different centres:
- They perform very different roles in very different communities. You’ve got some, such as the arts centre in Yirrkala, which produce globally significant art. Some of the artists there, Djambawa and others, have items on display in some of the best galleries around the world. It has huge export potential; it’s almost the economic centrepiece of the community. It brings the community together. It’s the most impressive art centre you’ll see. And then there are others that are very much about a social and community hub for the community.⁵⁷

52 Ninti One, *Submission 1*, p. [1].

53 Ninti One, *Submission 1*, p. [3].

54 Mr Watkins, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, p. 14.

55 ANKA, *Submission 132*, p. 9.

56 Ms Young, Tjanpi Desert Weavers, NPY Women's Council, *Committee Hansard*, Alice Springs, 2 May 2018, p. 11.

57 Mr Eccles, DCA, *Committee Hansard*, Canberra, 2 March 2018, p. 2.

- 3.75 DCA also commented that success is unpredictable and varies among the centres that it monitors who receive IVAIS funding.⁵⁸ DCA stated:
- An arts centre's success can happen very quickly. It can be a little community with a small art centre, nothing much going on, and then suddenly there's critical acclaim.⁵⁹
- 3.76 Evidence to the committee from the Aboriginal Art Centre Hub of Western Australia (AACHWA) emphasised that their art centres are very entrepreneurial and are looking to better access different markets and interact with more Indigenous artists in remote areas.⁶⁰
- 3.77 While Tourism Australia currently has a program to promote Indigenous tourism, 'Discover Aboriginal Experiences', it appears that only one art centre and one art gallery are included among the 38 businesses promoted by this scheme.⁶¹

Committee comment

- 3.78 Fostering the Indigenous art centre model will be a critical component of any policy changes aimed at protecting the integrity of First Nations artistic expressions and cultures.
- 3.79 The committee believes that with adequate resourcing and access to proper business, legal and marketing expertise, art centres could become a much larger presence in the souvenir market and be a key driver in reducing the prevalence of inauthentic souvenirs. This will also provide significant opportunities for First Nations artists to earn a sustainable living from their work, particularly those in very remote areas.
- 3.80 The committee would also like to see a culturally sensitive qualification established for administration/manager traineeships for art centres. These positions would need a mentoring element and, once established, a very firm monitoring process.

58 Ms Barney, DCA, *Committee Hansard*, Canberra, 2 March 2018, p. 2.

59 Ms Barney, DCA, *Committee Hansard*, Canberra, 2 March 2018, p. 2.

60 Mr Chadwick Creighton, Chief Executive Officer, Aboriginal Art Centre Hub of Western Australia (AACHWA), *Committee Hansard*, Perth, 9 April 2018, p. 12.

61 Tourism Australia, 'Discover Aboriginal Experiences', 2018, <<http://www.tourism.australia.com/en/about/our-programs/signature-experiences-of-australia/discover-aboriginal-experiences.html>> viewed 31 October 2018.

Independent artists

- 3.81 Not all First Nations artists are attached to an art centre, with some operating and working independently. However, this can place these artists in a vulnerable position when selling their work.
- 3.82 Testimony from the AACHWA suggested that in some cases artists are persuaded to work away from an art centre by unscrupulous organisations:
- Their protection really needs to be an important part of the conversation because they are being exploited by what are known as carpetbaggers and organisations that cherrypick.⁶²
- 3.83 Desart concurs, stating:
- There are many independent artists in our region here in Alice Springs who I engage with every day. These artists sell their work to passing tourists and/or locals in the Todd Mall and CBD environs. They operate independently in the local community market, at events and even at the hospital. These artists don't have the safety net of an art centre or a peak body that can work on their behalf to negotiate equitable terms, help resolve disputes or negotiate or interpret contracts for use of their work. These artists are most vulnerable to being exposed to unscrupulous conduct.⁶³
- 3.84 Ananguku Arts and Culture Aboriginal Corporation (Ku Arts) stated that there has been progress in ensuring fair dealing for First Nations fine arts, but made the important point that authenticity is not necessarily indicative of ethical behaviour:
- Whilst many galleries are reputable and respected, even within these structures there are dealers who operate outside of these standards with little consequence. Carpetbagging is prevalent and a major concern for much of our membership. Artwork may be authentic; however, a fair deal is not always the case.⁶⁴
- 3.85 In some cases artists are being taken advantage of by being forced to work under duress. They may be receiving unfair remuneration or inappropriate payments of drugs, alcohol or vehicles for their work. As well as artists, art centre staff have been intimidated and threatened. These practices are referred to as carpetbagging.

62 Ms Charmaine Green, Chairperson, AACHWA, *Committee Hansard*, Perth, 9 April 2018, p. 14.

63 Mr Watkins, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, p. 9.

64 Ananguku Arts and Culture Aboriginal Corporation (Ku Arts), *Submission 86*, pp. 2-3.

- 3.86 Ms Gabrielle Sullivan of the IartC discussed a number of cases of artists being taken advantage of by businesses preying on their need for money. Examples included a non-Indigenous-owned souvenir business purchasing artwork from Indigenous artists at unfair prices, and importing products, such as boomerangs and digeridoos, and getting artists 'to fill in a component of it [to cover off on] *hand painted by an Aboriginal person in Australia,*' with each artists being paid a unit price per object. One artist told Ms Sullivan that she had cultural concerns and 'felt terrible about...the things that she was painting', but that she needed money to look after her children.⁶⁵
- 3.87 Even artists working within art centres are commonly at the receiving end of carpetbagging behaviour. Examples shared by Ms Skye O'Meara, the manager of the APY Art Centre Collective, and Ms Tuppy Goodwin of Mimili Maku Arts, included instances of artists being approached and pressured in Alice Springs – sometimes when there for medical treatment or during family crises – artists painting in sweatshop environments, and staff being threatened with physical violence.⁶⁶
- 3.88 Ms O'Meara also discussed the Collective's strategies for supporting artists affected by carpetbagging, including opening their own Sydney gallery in 2018. She noted however that they receive no operational funding to support this particular work and is unaware of any other organisation providing this type of direct support.⁶⁷
- 3.89 The City of Melbourne's *Code of Practices for galleries and retailers of Indigenous Art* addresses these practices and behaviours by prescribing that:

Retailers and galleries will not put pressure on Indigenous artists to paint certain styles and imagery that are not part of the individual Indigenous artist's cultural heritage.

Retailers and galleries will not force or induce Indigenous artists to sign their names to paintings not created by them, or produced under their direction and control.⁶⁸

65 Ms Sullivan, IartC, *Committee Hansard*, Sydney, 6 March 2018, p. 37.

66 Ms Skye O'Meara, Manager, APY Art Centre Collective, *Committee Hansard*, Darwin, 10 August 2018, pp. 13–16.

67 Ms O'Meara, APY Art Centre Collective, *Committee Hansard*, Darwin, 10 August 2018, pp. 13–16; B Humphreys, 'APY Art Centre Collective to open gallery in heart of Sydney, taking indigenous art directly to the public', *The Advertiser*, 16 November 2017, <<https://www.adelaidenow.com.au/news/south-australia/apy-art-centre-collective-to-open-gallery-in-heart-of-sydney-taking-indigenous-art-directly-to-the-public/news-story/ad61c4c2a3c88aab1a4a81f5f432d1fd>> viewed 31 October 2018.

68 T Janke, *Code of Practice for galleries and retailers of Indigenous Art*, City of Melbourne, 2017, p. 9, <<https://www.melbourne.vic.gov.au/SiteCollectionDocuments/code-of-practice-indigenous-arts.pdf>> viewed 2 August 2018.

- 3.90 Desart suggests that increased resourcing of copyright agencies such as Arts Law and rigorous outreach programs in remote and regional areas would go some way to reducing these vulnerabilities.⁶⁹
- 3.91 Tangentyere Artists remarked that some artists have been able to acquire skills and training at their centre and then successfully launch an independent career but that others have become exposed to exploitation, even by their own relatives:
- ... there are many instances of people who are incredibly vulnerable to manipulation within their own families. Just the whole question of who actually painted the painting that's being sold on the lawns in town? Is it really the person doing the selling? Where's the money really going? It's a very complex domain. When I meet people like that, all I ever do is try to encourage them to think about an arts centre.⁷⁰
- 3.92 There are also other challenges in relation to connecting with certain independent artists and enabling them to show and sell their work. This was outlined by evidence from the Fremantle Arts Centre:
- Certainly we found that there is a great challenge in reaching independent Aboriginal artists, because they don't have the same resources or support networks. They are not represented by an Aboriginal art centre. It is harder to find them... We've slowly been building up our kind of communication network to let these artists know that Revealed is for them as well. I think there has been a perception that Revealed is for Aboriginal artists that are represented by art centres.⁷¹
- 3.93 The Fremantle Arts Centre further commented that independent artists operate on a spectrum from the very famous and high-profile individuals who are represented by commercial galleries to local artists with no formal training or support structures.⁷²

Committee comment

- 3.94 As good and important as art centres are in providing training and opportunities for First Nations artists, some of these artists are not affiliated with a centre and may wish to operate independently. They are also a crucial part of the First Nations art community.

69 Mr Watkins, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, p. 9.

70 Ms Sue O'Connor, Assistant Coordinator, Tangentyere Artists, *Committee Hansard*, Alice Springs, 2 May 2018, p. 7.

71 Ms Erin Coates, Revealed Coordinator and Special Project Curator, Fremantle Arts Centre, *Committee Hansard*, Perth, 9 April 2018, pp. 21–22.

72 Ms Coates, Fremantle Arts Centre, *Committee Hansard*, Perth, 9 April 2018, p. 25.

- 3.95 The committee is concerned however about the vulnerabilities that can arise in some instances with independent artists. There needs to be consideration in the future of how to provide them with the information and resources needed to fairly sell and license their art and also deal with unscrupulous behaviour if it occurs.
- 3.96 An Indigenous-based NEIS (New Enterprise Incentive Scheme) could possibly be investigated, so that income support is maintained while the artist develops markets and still has financial security. This scheme has a supervisor and involves close monitoring, usually only for brand new ideas, but perhaps could be modified.

Licensing arrangements

- 3.97 First Nations artists often enter into formal agreements and sign contracts to supply and sell their art. Many such agreements are mediated through an art centre which coordinates the contractual arrangements for its artists. Notably however, some of these business arrangements are a lot less formal and involve questionable ethical practices.
- 3.98 Desart discussed its practices in relation to working with members of its art centres to enter into business arrangements:
- Desart, through our strong business program, has a service agreement with Arts Law to ensure our members have access to introductory legal support, pro-forma best practice contracts and, particularly relevant to this inquiry, a licensing toolkit that supports art centres to manoeuvre through the tasks required to license art for merchandising.⁷³
- 3.99 Tjanpi Desert Weavers commented that it has robust agreements in place with its artists that are based on best practices as developed by Arts Law, including the use of audio translations:
- Tjanpi regularly utilises Arts Law contract templates to ensure that we work in an ethical and transparent manner. We also continually strive to review our practices, and last year we reviewed our artist agreement with Arts Law to ensure best practice and compliance with the code, and had plain English statements of the agreement drafted by Arts Law, which were then translated into two languages and then spoken and recorded as audio files.⁷⁴

⁷³ Mr Watkins, Desart Inc., *Committee Hansard*, Alice Springs, 1 May 2018, p. 8.

⁷⁴ Ms Young, Tjanpi Desert Weavers, NPY Women's Council, *Committee Hansard*, Alice Springs, 2 May 2018, p. 9.

3.100 As noted by Tangentyere Artists however, licensing can be confusing and requires skills and resources that not all art centres have:

Opportunities may be missed by artists from arts centres because of a conservative approach by arts centre personnel regarding reproduction and licensing of the product...informed by a desire to do no more harm to the profile of artists and the value of their work, and an ongoing commitment to the maintenance of quality. But, more importantly, art centres are informed by cultural considerations.⁷⁵

3.101 Professor Altman commented that enhancing the capacity of art centres to enter into commercially-sound licensing agreements is imperative, and that offshore manufacturing under licence is an important component of this that can benefit Indigenous peoples.⁷⁶

Committee comment

3.102 Aside from positive effects on Australia's cultural integrity and standing, there will be overall economic benefits to the nation from promoting different business and licencing opportunities in the art and craft market for First Nations communities. This includes increased employment and training, most notably in regional and remote areas, and a higher output of domestically manufactured goods.

3.103 Strong consideration also needs to be given to ensuring that artists operating independently of an art centre can access these same opportunities.

⁷⁵ Ms Terazita Turner-Young, Arts Administrator, Tangentyere Artists, *Committee Hansard*, Alice Springs, 2 May 2018, p. 3.

⁷⁶ Professor Altman, *Submission 118*, p. 10.