

House of Representatives Standing Committee on Indigenous Affairs

Inquiry into the growing presence of inauthentic Aboriginal and Torres Strait Islander 'style' art and craft products and merchandise for sale across Australia

Aboriginal and Torres Strait Islander cultures are diverse and dynamic. They are essential to the wellbeing and identity of Aboriginal and Torres Strait Islander peoples, as well as being a vital part of Australia's identity. Culture plays an integral role in sustaining and strengthening Indigenous communities and provides opportunities for Aboriginal and Torres Strait Islander peoples to gain employment, develop professional skills and participate in the nation's economy.

Aboriginal and Torres Strait Islander cultures contribute to Australia's broader economy, particularly in relation to tourism. Australia's Indigenous tourism has an estimated value of \$5.8 billion annually, catering to 910,000 international visitors and 688,000 overnight domestic trips in 2016.¹ Research suggests expenditure on shopping comprises almost a third of total tourist spend,² with souvenir purchases forming a significant component of this. Tourism Australia reports that, for the year ending March 2017, 808,307 international visitors engaged in an Indigenous art or cultural experience, and 236,763 purchased Indigenous art or craft or products.

The demand from tourists for a memento or souvenir of their Australian experience creates an economic opportunity for Aboriginal and Torres Strait Islander artists and designers, which many have taken up. A growing range of Aboriginal and Torres Strait Islander designed or made products are available in retail outlets including giftware, jewellery, stationary, kitchenware and home decor. These products generally include proper acknowledgement of the artists and designers – respecting and protecting their intellectual property.

However, in Australia, these products compete with inauthentic products that are readily available in retail outlets and some galleries specialising in Indigenous fine art. These have been produced without the involvement of an Aboriginal and Torres Strait artist or designer and are often made overseas. Provided these products disclose their country of origin and do not give an overall impression that they are authentic, their sale is legal in Australia.

The myriad business arrangements in the production and supply of both authentic and inauthentic products, confusing product presentation and inconsistent or insufficient information on labels make it difficult for consumers to determine what is authentic and what isn't. For example, a product labelled 'made in Taiwan' can be considered authentic if it is made under an appropriate licensing agreement with an Aboriginal or Torres Strait Islander artist or designer who has the cultural right or permission to use the stories or imagery depicted.

¹ Tourism Research Australia, *International Visitor Survey 2016* and *National Visitor Survey 2016*

²Wilkins, Hugh, *Souvenirs: What and Why We Buy*, Journal of Travel Research, p.3 Griffith University, 2011

Conversely, a product may be made in Australia but not be authentic if it was not produced or designed by an Aboriginal or Torres Strait Islander person. Inauthentic products include objects, designs or images that imitate an Aboriginal or Torres Strait Islander 'style' without the creator having permission from the traditional cultural owners or the right to use the object, designs or images.

Inauthentic products erode Aboriginal and Torres Strait Islander peoples' economic opportunities, as well as ownership, responsibility and control of their cultural material and expressions. They can mislead consumers who may have purchased items thinking they are authentic, which in turn has the potential to devalue tourists' experiences of Australia. Inauthentic products undermine a unique aspect of Australia's identity, as well as governments' investment in Indigenous arts, culture and economic development.

[Australian Government Support for Aboriginal and Torres Strait Islander Artists through the Department of Communications and the Arts – Indigenous art centres](#)

Some of Australia's most dynamic and critically acclaimed visual art is produced in Indigenous-owned and governed art centres which provide opportunities for Aboriginal and Torres Strait Islander peoples to maintain and develop professional arts practice, develop skills, engage in the nation's economy and be part of the internationally-renowned Indigenous visual arts movement. These art centres are often at the heart of community life, and can be central to the social and economic wellbeing of remote communities.

In 2017-18, the Australian Government will provide around \$20 million through its Indigenous Visual Arts Industry Support (IVAIS) program to 93 organisations across seven States and Territories, with 64 activities located in remote areas. Funding supports the operations of around 80 Indigenous art centres, as well as a number of service organisations, marketing events and regional hubs. These organisations provide professional support to more than 8,000 artists and employ around 350 Aboriginal and Torres Strait Islanders arts workers, mostly in remote communities.

The outcomes supported by the IVAIS program are:

- a professional, viable and ethical Indigenous visual arts industry that features strong participation by Aboriginal and Torres Strait Islander people; and
- the continued exhibition, critique, purchase and collection of Indigenous visual art nationally and internationally.

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.

Art centres use IVAIS funding to support core operations and as a platform from which to generate income from art sales, with many able to leverage further support, including philanthropy, to sustain their operations. Most art centres have been funded through this program for many years.

The IVAIS program also provides funding for the employment of Aboriginal and Torres Strait Islander arts workers who typically support the day-to-day functions of an art centre including, but not limited to, administrative assistance, studio technical assistance, artist support, art centre maintenance and community liaison.

The Indigenous Art Code is also funded through the IVAIS program. The Code was established by the Australian Government in 2010, as part of its response to the 2006-07 Senate Inquiry into the Indigenous visual arts sector³. It is an industry-led voluntary code of conduct that aims to support fair and ethical trade between commercial fine art dealers and Indigenous visual artists. It provides advice and support to Aboriginal and Torres Strait Islander artists regarding their rights, and educates consumers and dealers regarding best-practice commercial arrangements.

More information about the IVAIS program and the Indigenous Languages and Arts (ILA) program can be found at **Attachment A**.

Authentic Products and Indigenous art centres

IVAIS funding is targeted to support the production and marketing of fine art, however art centres are also significant suppliers of authentic products. To gauge the extent to which artists and art centres in remote Indigenous communities are designing, developing and marketing products, the Department of Communications and the Arts sought information from art centres that are supported through the IVAIS program. Products were defined as items reproduced in multiples to sell at the lower-price point. These are not artists' unique, one-off original art works that are made for the art market.

Of the 79 art centres approached, 61 responded and 43 of these have products such as giftware, jewellery, cushion covers, clothing, crockery, kitchenware and stationary. These are made at the art centre or through a third party. Of those with products, approximately 70 per cent had products that were 100 per cent made in Australia, while the remainder had a proportion made off-shore. Almost 40 per cent of organisations with products distribute these themselves, and the majority are sold in the Australian market. Most organisations that have products are interested in continuing or building this aspect of their business. The reasons cited for having products ranged across promotional opportunities, diversifying income, meeting tourist and other demand at a lower price point, skills development for artists and staff, as well as self-sustaining youth engagement activities.

A number of art centres noted that they have fair trade arrangements in place for international production, even though this can increase costs. Aggregated data on authentic products from Indigenous-owned art centres can be found at **Attachment B**.

³ Standing Committee on Environment, Communications, Information Technology and the Arts. *Indigenous art - securing the future: Australia's Indigenous visual arts and craft sector*, Canberra, June 2007

There are many Aboriginal and Torres Strait Islander cultural and language groups and this diversity has given way to an enormous range of visual expressions, styles, stories and designs that can be unique to one community or language group, or intersect with others. In some cases a major story can belong to multiple communities, or different aspects or versions of it may belong to particular communities in the region. In many cases only select members of a community will have the authority to depict the story.

Products from art centres across Australia reflect this diversity. To ensure that their particular products are clearly identifiable and differentiated from others in the market, the art centres mostly use detailed labelling that includes artist and art centre information, an explanation of the whole story and sometimes information about the product or imagery. As well as differentiating the products, this labelling ensures artists are recognised and acknowledged, and demonstrates appropriate regard for culture. Of the IVAIS funded organisations with products, 39 (or 91 per cent) label their products, most commonly with the artist's details and art centre branding.

Outside of the art centre network, there are numerous independent artists, designers and businesses also creating a range of authentic products for the marketplace.

Australian Government Support for Aboriginal and Torres Strait Islander businesses and economic development through the Department of the Prime Minister and Cabinet

There may be opportunities for Aboriginal and Torres Strait Islander artists and designers to develop their businesses with support from programs delivered by the Department of the Prime Minister and Cabinet (PM&C). A key focus of these programs is to improve economic opportunities for Aboriginal and Torres Strait Islander people. By investing in today's Indigenous businesses and entrepreneurs, the Australian Government is fostering a generation who will build their own business knowledge, assets and wealth.

Through the Indigenous Advancement Strategy (IAS), the Government is delivering a range of programs specifically for Indigenous Australians. A key focus of efforts under the IAS is to support the economic development of Indigenous Australians.

As part of a 2016 election commitment, the Government announced it would introduce a \$115 million Indigenous Entrepreneurs Package (IEF) that has three components:

- a commitment to develop the first Indigenous Business Sector Strategy to provide Indigenous businesses with the support, finances and networks they need for their businesses to thrive;
- a commitment to refocus Indigenous Business Australia's business support program on early stage entrepreneurs across Australia; and
- a \$90 million Indigenous Entrepreneurs Fund (IEF) and business advisory service to assist Indigenous businesses in regional and remote Australia to access plant and equipment.

The support available under the IEF includes:

- Business Advisory Service – assisting businesses to identify market opportunities, business planning, considering viability and connecting businesses to other capital and specialist support services; and
- Grants for business plant and equipment – these are one-off grants for business plant and equipment, where finance is not available or additional support is required to attract finance. This can include grants for purchasing items required to start or grow a business.

Indigenous Business Australia plays a critical role in supporting Indigenous businesses. It has launched a new grant/loan finance package for start-ups, a new working capital product for businesses winning their first contracts, and entered into new business support partnerships. As a key source of business advice, IBA can also play a role in helping Indigenous businesses navigate processes for better protecting their culture through Intellectual Property protections.

The Indigenous Procurement Policy (IPP) is a mandatory procurement-connected policy under the Commonwealth Procurement Rules designed to leverage the Commonwealth's annual multi-billion spend to drive demand for Indigenous goods and services. In the two years since this program commenced, 956 Indigenous businesses have been awarded over \$594 million in government contracts. Supply Nation's Indigenous Business Register and certification is a successful verification model, with principles that could inform the design of other authentication systems.

In addition to these business-focussed programs, PM&C's Community Development Program (CDP) is the Government's remote employment and community development service. The CDP offers a broad range of flexible activities to increase job seekers' skills and contribute to their community. This can include the creation and sale of authentic mementos or souvenirs that can be sold for a profit and assist in the incubation of microenterprises.

Further, the Culture and Capability Program acknowledges the intrinsic value of culture to Indigenous society and funding for a range of activities supporting community and culture including elders programs, cultural camps and capability programs. Strong culture supports the achievement of outcomes across the Closing the Gap priority areas of schooling, economic participation and community safety.

Key Issues

A number of factors have emerged in relation to this issue:

Supply of authentic products. A consistent supply of authentic products to the marketplace is essential. Most of the IVAIS funded art centres that have products are interested in continuing or building this component of their business. Reasons cited for not having products, or not building this component, were lack of staff and other resourcing, difficulty of upscaling, lack of sustainability and lack of information about product research and development, including how to connect with relevant parts of the market. Almost 40 per cent of art centres with products distribute these themselves, and the majority are sold in the Australian market.

Education and awareness. It is important that consumers (often passing tourists) understand the value of buying an authentic product, where they can buy authentic products and how to differentiate an authentic product from an inauthentic product. There are existing education/promotion programs in the tourism and consumer areas which are potential resources. Retailers also need to have information about where to source authentic products and the diversity of authentic products available at all price points.

Labelling. Many authentic products already have excellent labelling, however consistent and detailed labelling is important so that consumers have sufficient information to determine whether a product is authentic. Providing information about the artist, art centre if applicable, and an explanation of the story behind a design is essential to assist consumers to determine whether a product is authentic.

Of the IVAIS funded art centres with products, 39 (or 91%) label their products. The two most common methods used are artist details and/or art centre branding. The four organisations with no labelling system are all considering how to introduce one in the future.

Regulation. There has been a number of calls for increased regulation, including by amending or strengthening the Australian Consumer Law, particularly in the area of misleading and deceptive conduct. The ACL is the national law for fair trading and consumer protection. It commenced on 1 January 2011 and is a cooperative reform of the Australian Government and the States and Territories through the Legislative and Governance Forum on Consumer Affairs (CAF). The ACL is administered and enforced jointly by the Australian Competition and Consumer Commission (ACCC) and the State and Territory consumer protection agencies. Potential changes to the ACL would need to be carefully considered, including agreement by state and territory governments through a COAG Regulation Impact Statement process.

ATTACHMENT A

Indigenous Visual Arts Industry Support Program - history

The Government has provided focussed support to Aboriginal and Torres Strait Islander visual artists since 1971 when it established Aboriginal Arts and Crafts Pty Ltd, which provided outlets for Indigenous art in most state capitals. By the 1980s, the Aboriginal Arts Board (AAB) in the Australia Council was providing communities with funding that formed some of the first Indigenous-owned art centres. In 1992, responsibility moved to the Aboriginal and Torres Strait Islander Commission (ATSIC) which put in place the Arts and Crafts Industry Support Strategy (ACISS), rebadged in 1995 as the National Arts and Crafts Industry Support (NACIS) program.⁴ In 2004, NACIS was transferred to the Arts Portfolio and, in 2012, became the Indigenous Visual Arts Industry Support (IVAIS) program. From 2015-16, IVAIS also includes funding for the employment of Indigenous arts workers in art centres across the country.

Other support - Indigenous Language and Arts (ILA) Program

The Australian Government recognises that language and art are essential to the wellbeing and identity of Aboriginal and Torres Strait Islander peoples and play an important role in ensuring the sustainability, vitality and strength of Indigenous communities. Indigenous languages and art also enrich Australia's cultural life, make a valuable contribution to our national economy and help promote Australia to international audiences.

In 2017-18, the Australian Government will provide around \$23 million through the Indigenous Languages and Arts (ILA) program. Funding is targeted to projects that contribute to the revival and/or maintenance of Australia's Aboriginal languages or Torres Strait Islander languages, and that develop, produce, present, exhibit or perform Indigenous arts projects that showcase Australia's traditional and contemporary Indigenous cultural and artistic expressions.

The ILA program also supports 22 Indigenous Language Centres across the country that provide for the revival and maintenance by coordinating local and regional language activities including: developing resources; conducting research; administering strategies to increase the number of proficient speakers; production of dictionaries and databases; facilitating training for community based language workers; and maintaining collections of language materials.

Funding includes an additional \$10 million over 2016-2020, announced by the Australian Government in June 2016, for protecting, preserving and celebrating Indigenous languages. The focus of the new funding is to engage and consult nationally, provide digital solutions and partnerships for ongoing capture and teaching of language, and develop career pathways for Indigenous language workers and linguists.

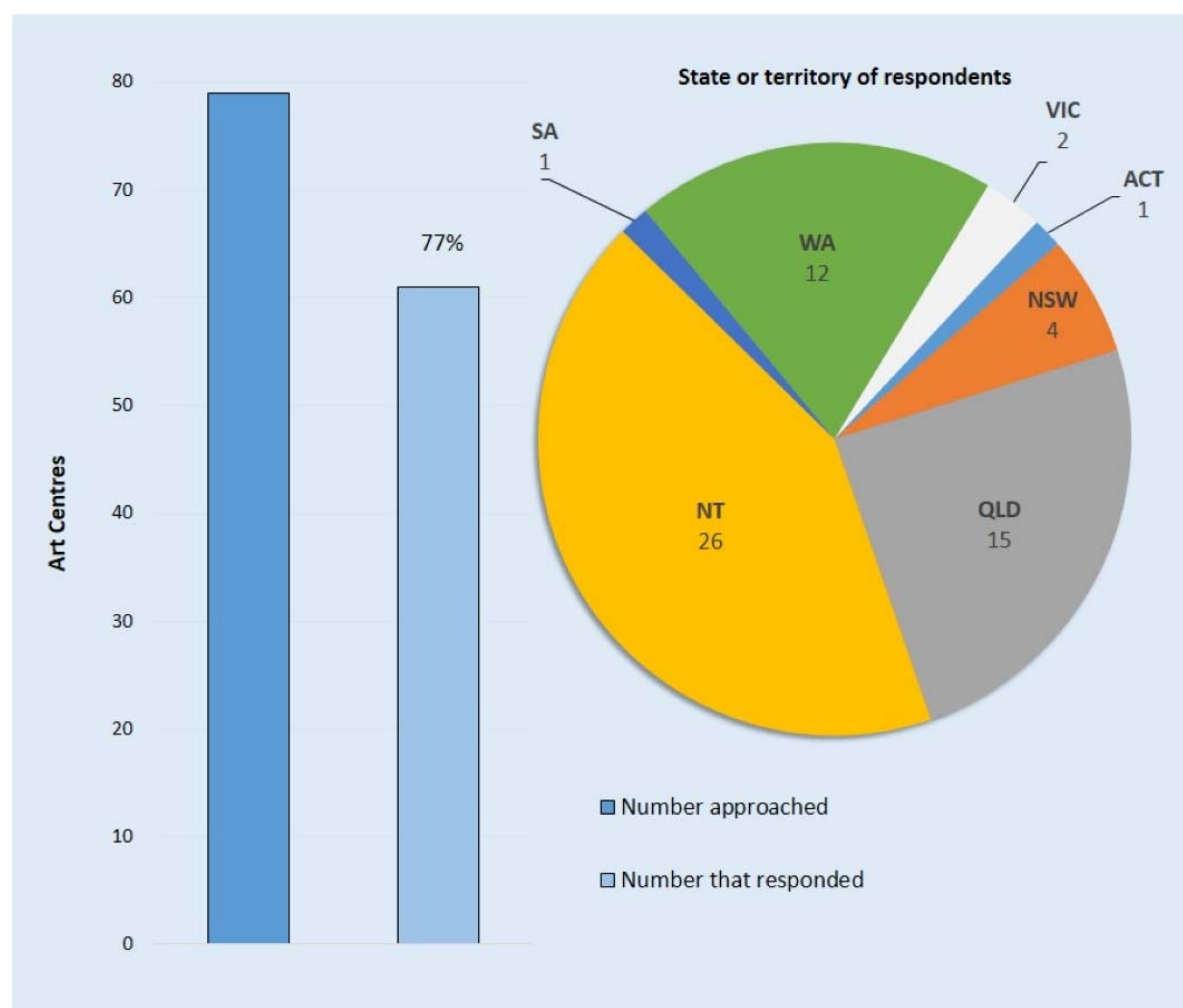
⁴ Wright, F, *The Art & Craft Centre Story: Volume One – Report: A survey of thirty-nine Aboriginal community art and craft centres in remote Australia, undertaken by Desart Inc.*, Aboriginal & Torres Strait Islander Commission, Canberra, 1999; and Altman, J.C. 'Art Business: The Indigenous Visual Arts Infrastructure', in H. Perkins and M. West (eds), *One Sun, One Moon: Indigenous Art in Australia*, Art Gallery of New South Wales, Sydney, pp. 43-9. 2007

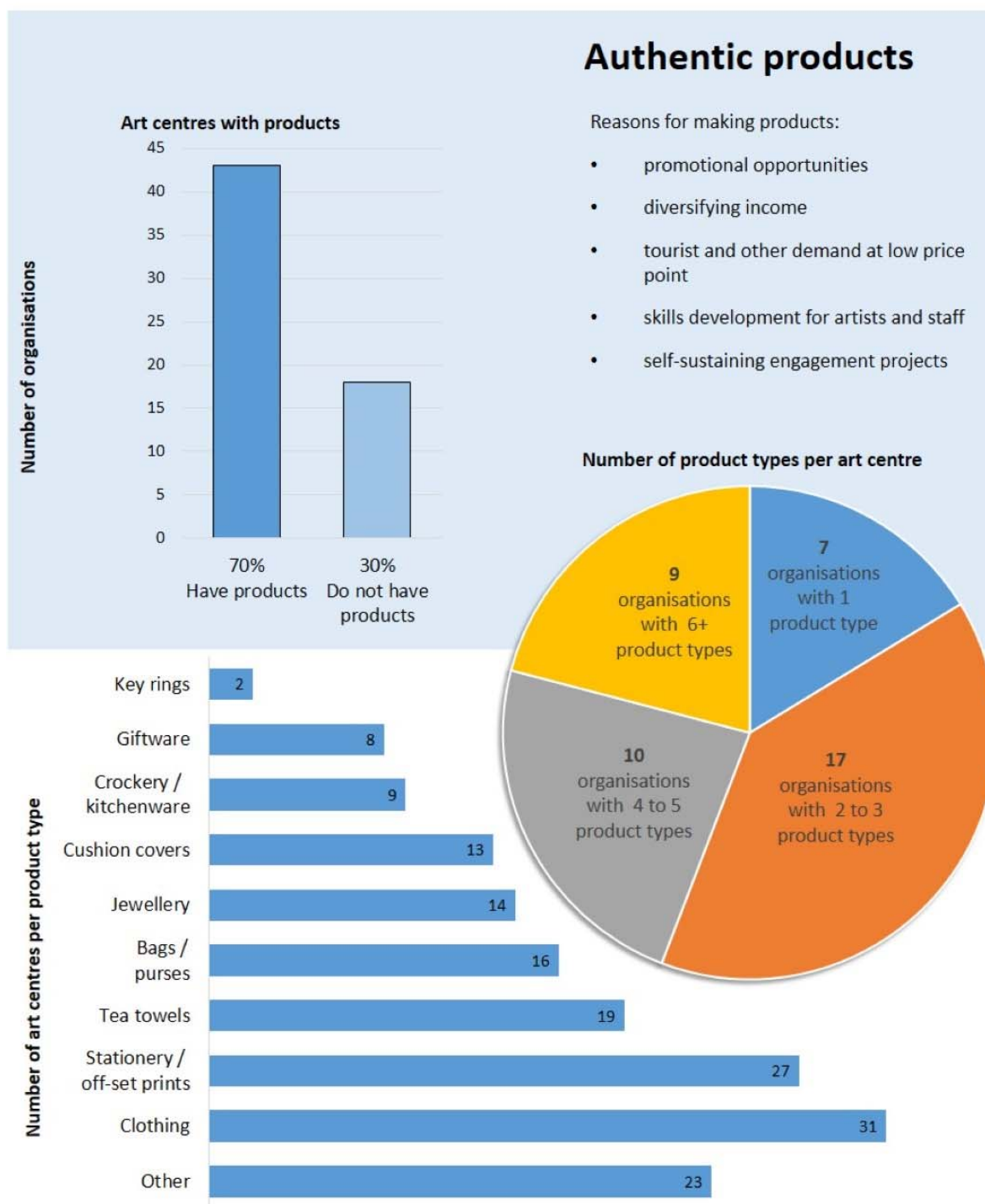
ATTACHMENT B

Authentic products from Indigenous-owned art centres

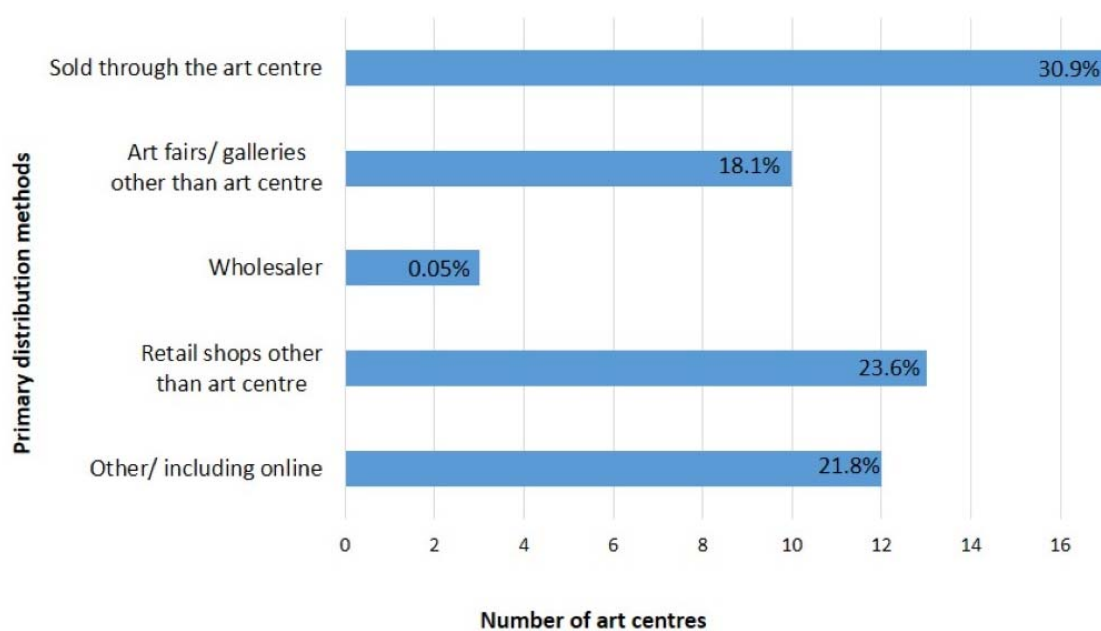
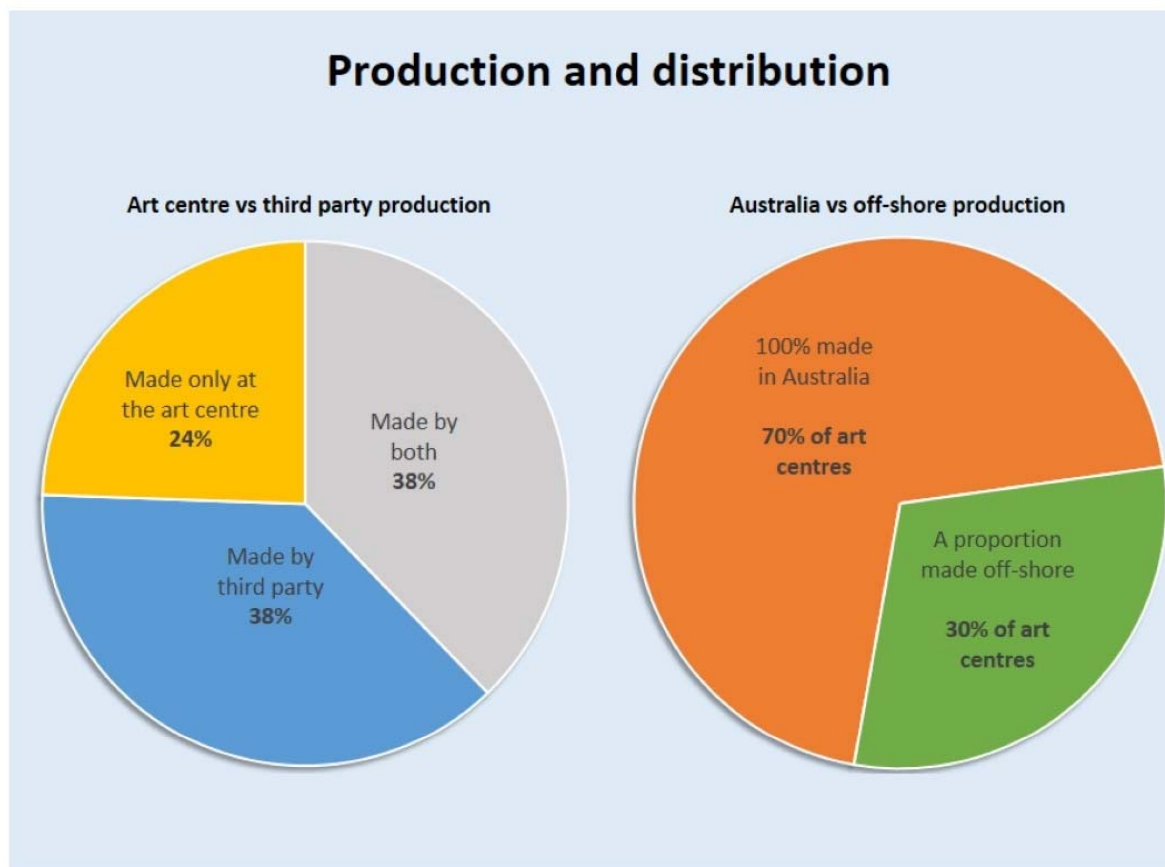
In March 2017, in order to gauge the extent to which artists and art centres in remote Indigenous communities are designing, developing and marketing products, the Department of Communications and the Arts sought information from Indigenous art centres supported through the IVAIS program.

Products were defined as items reproduced in multiples to sell at the lower-price point, not artists' unique, one-off original art works that are made for the art market. Of the 79 art centres approached, 61 responded and 43 of these have products.

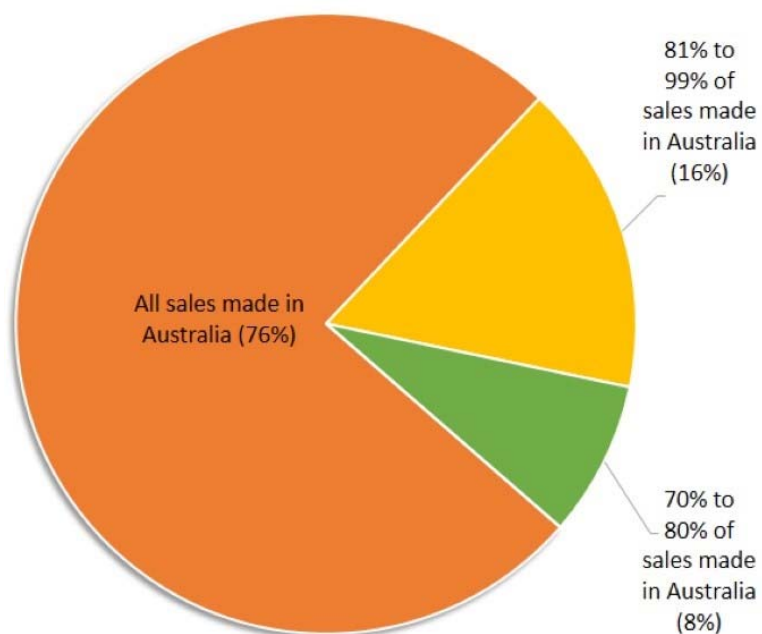




A wide variety of authentic products are available, with many noted as 'other'. 'Other' includes boomerangs, woomeras, spears, knives and axes, journals, wall paper, bean bags, floor covers, ties, baskets, feather flowers, CDs, picnic blankets, books, DVD's, phone covers, carved boab nuts, pearl shells, sun glasses cases, coasters, jigsaws, painted shells, dog collars, dog beds, head gear, decorations, place mats, candles and ipad covers.



Australia vs off-shore sales



- All organisations sold at least 70% of their products in Australia.
- 93% of organisations with products make at least one line in Australia.
- 4.7% made products solely off-shore.
- Seven organisations noted product manufacture taking place in Asian countries (mostly China), two in Europe and one in North America.
- A number of organisations noted that they have fair trade arrangements in place for international production, even though this can increase costs.

Product labelling

- Of the organisations with products, 39 of them (or 91%) label their products.
- The two most common methods used are artist details and / or art centre branding
- The 4 organisations with no labelling system are all considering how to in the future.

