

## Response to Competition and Consumer Amendment (Prevention of Exploitation of Indigenous Cultural Expressions) Bill 2019

### Response:

Thank you for providing us with the opportunity to respond to the Explanatory Memorandum for the *Competition and Consumer Amendment (Prevention of Exploitation of Indigenous Cultural Expressions) Bill 2019* and the to make this submission.

The following points outline our response as a general response to the Bill.

1. The terms of reference for this document need to be broadened to include design. The current proposal does not allow for new interpretations of Indigenous knowledge and, we believe, defaults to traditional tropes of an artefact. Indigenous cultural expression is manifested in a myriad of ways. The singular focus on 'art' is a limited means to fully embrace the changing dynamics of how Indigenous creativity has constantly adapted and evolved over many millenia.

The United Nations Declaration on the Rights of Indigenous Peoples make the point:

Indigenous peoples have the right to **maintain, control, protect and develop** their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, **designs**, sports and traditional games and visual and performing arts (United Nations, p.22).

2. The current bill addresses aspect of *rip offs* however it does not address the convergence of art, craft and design, which form the basis of current contemporary practice interpretations in Australia which are evolving and changing. This convergence of creative disciplines often involves collaborative or co-designed practice between Indigenous and non-indigenous stakeholders. This convergence also relates to Indigenous designers practicing off-Country.
3. It is without question that the creation and application of Indigenous art must be created and authorized by Indigenous people (the creator(s) of the art). However, what requires further exploration in this bill is the ethical and respectful representation and referencing of Indigenous culture in commercial design practice. Such practices involve communication design/branding (incl. place branding), advertising, the built environment including architecture, interior and landscape design. The bill does not address the emerging cohort of Indigenous and non-Indigenous designers and creatives across this broader range of disciplines, their overlap with Indigenous art, and its contribution to design and the built environment.

4. An 'Indigenous lead' mantra is key to maintaining integrity of such collaborative/co-designed projects. This bill might look at methods to assist designers to respectfully operate within the spirit of the United Nations Declaration on the Rights of Indigenous Peoples - Indigenous peoples have the right to **maintain, control, protect and develop** their cultural heritage. While there is an emerging cohort of Indigenous designer/creatives, many projects are invariably undertaken by non-Indigenous designers, requiring a degree of support in meeting their cultural responsibilities.

We propose the bill consider the protocols and principles that might be used to guide both Indigenous non-Indigenous designers and their clients. Supported by case studies, such guidelines would demonstrate how art, craft and design practice can be inspired by Indigenous knowledges. We also propose the bill consider how shared knowledge experiences might be managed with government guided processes and protocols.

We believe such guidance would build knowledge and understanding within the design and creative industries. It would create career paths for Indigenous designers and help elevate the visible lexicon of Indigenous culture within the broader understanding of Australian identity.

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<https://www.design.org.au/documents/item/216>

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