

No Stimulus for Small Business in the Arts

By Adrian Newstead, on 14-Jun-2016

Commercial galleries are the most essential element in the entire enterprise that is the Australian Visual Arts, Here, artists first exhibit their works, and institutions, and collectors purchase them, thereby providing artists with the lion's share of their income. Classic small businesses, they employ less than 10 people and turnover less than \$3 million. According to the ABS there were 514 of them in Australia in 2000. Today no more than 50% of these survive. When commercial galleries go broke, as has been the case consistently since 2008, the flow-on effects hit a network of small businesses that support them - framers, art transporters, packers, conservators, materials suppliers, storage providers, insurance companies and an array of ancillary consultants.

During the past decade, galleries that represent indigenous artists have been hit worst of all. While the Federal Government pumped more than \$160 million into remote area art centres in the decade between 2003 and 2013, more than two in every three of the commercial indigenous art galleries that support them closed their doors.

Malcolm Turnbull, Bill Shorten and many of their colleagues may be well educated, urbane and cultured but it is unlikely they'll have their photographs taken during the pointy end of an election campaign sipping a cappuccino or a glass of chardonnay with a commercial art dealer. Far better to arrange a photo opportunity in a pub with a beer, or on a factory floor with a spanner in your hand. This election is, above all, about tough contests in marginal seats on city fringes. Middle and upper income art collectors spending their discretionary funds on perceived luxury items are unworthy of attention in the hurly burly of this pitched battle. The demise of hundreds of small businesses in the arts can be seen as a pox on both their houses. Economic stimulus, jobs and growth are mere platitudes to those watching their profits shrink due largely to misconceived legislation and regulation. Two measures in particular, both enacted with good intentions and supported by both parties, have done the majority of the damage.

The first was changes to the regulations governing collectables in self-managed superannuation funds. Unless fund managers are prepared to comply with the new regulations, collectables must be either purchased out of the funds or sold on the open market before June 30 this year. As a direct result of recommendations by Jeremy Cooper, artworks have been dumped onto a market so over-supplied, that the value of works by hundreds of indigenous and non-indigenous artists have crashed to record lows.

Commercial galleries that have tried to hold the line have been buried under a Tsunami of artworks offered by auction houses at up to 60% below previous market

values. The situation is worst in the indigenous art context. Government subsidy, most especially from employment agencies, has resulted in a massive oversupply from the burgeoning art centre archipelago. More than half could not operate without it, raising questions about their long-term viability.

Cooper's ideology is based on the sole purpose test. The superannuation system exists solely to provide retirement income. Yet fund managers can invest in shares and real estate, which are subject to fluctuations in value just as art is. There is no doubt that the regulations in this area needed to be tightened. However this could have been achieved by requiring fund managers to seek independent expert advice from approved and accredited valuers and consultants. The Federal Ministry of the Arts already has an accreditation scheme for the purpose of cultural gifts and bequests. Members of the Art Consulting Association of Australia and the Auctioneers and Valuers Association can be trusted to give independent advice in this area.

Instead of fine-tuning the scheme in order to appropriately safeguard the future of retirees, the Cooper changes have robbed potential collectors of their only source of discretionary funds, thereby impoverishing the gallery sector and throwing the market into disarray.

The second measure was the universal application of the Resale Royalty Scheme that was introduced in 2010. Under the scheme 5% of the sale price of a work of art must be remitted to the Copyright Agency Limited to be distributed to the artist's estate, less an administration fee. Again, a seemingly noble and reasonable piece of legislation.

Every time a work of art is sold a 5% tax is charged to the seller on the cost of purchase plus any profit. But it also applies regardless of loss and it takes no consideration of the annual CPI.

Once more the impact on the indigenous art sector is the greatest. Here, an artwork may be bought and sold three or four times between the artist and the collector. Consider a painting sold by the artist to their remote art centre. After this first sale the piece may be sent to a distributor who may sell it to a gallery, which then sells it to a tourist or collector. That is three, yes three resale royalties to be paid. In the case of a sale to an overseas gallery possibly four. The compounding cost to art galleries that buy works up-front is adding up to 40% to the price of a work of art.

This scheme, which was never intended to be an impost on galleries, has compromised dozens of small businesses. Many are paying as much as \$30,000 annually in this direct impost on their bottom line. There is nothing inherently wrong with requiring collectors who make huge profits from investing in art to return a percentage to the creators. However to tie up the normal commercial value chain with a scheme that was never intended to ensnare it, and to require those who lose money or make a modest return on their investment to pay a tax on their asset, is a

major deterrent to business. Quite the opposite I'm sure you will agree, of economic stimulus.

About The Author

Adrian Newstead co-founded Coo-ee Aboriginal Art Gallery, Australia's oldest continuously operating Aboriginal art gallery, in 1981. He is a valuer of Aboriginal and contemporary Australian art accredited by the Federal Department of the Arts, and acted as the Head of Aboriginal Art for Lawson~Menzies Auction House 2003-2006, and Managing Director of Menzies Art Brands 2007-2008. Adrian Newstead Fine Art Consultancy compiles and maintains the AIAM100 web site and acts for, and advises, collectors when buying and selling collectable Australian artworks at auction and through private sale. A widely published arts commentator and author, Adrian is based in Bondi, New South Wales.