



PMB 102 via Winnellie  
Northern Territory Australia  
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Committee Secretary  
House of Representatives Standing Committee on Indigenous Affairs  
PO Box 6021  
Parliament House  
Canberra ACT 2600

1 November, 2017

***The growing presence of inauthentic Aboriginal and Torres Strait Islander 'style' art and craft products and merchandise for sale across Australia***

Maningrida Arts & Culture is an Aboriginal owned and operated arts and cultural organisation in Maningrida, Arnhem Land, Northern Territory that includes an art centre, Djomi Museum and Cultural Research Office and Babbarra Women's Centre. Maningrida Arts and Culture also has a growing arts and cultural tourism industry. The art centre has operated formally since the early 1970s.

Cultural diversity in this region is expressed through 12 languages, song, dance, customs, artwork and design. Art, craft and design created in this region, marketed and sold includes: bark painting, sculpture, weaving, musical instruments, printmaking, textiles, cast works, installations, sound, music, artefacts, jewellery, merchandise and licensed works through Maningrida Arts & Culture (the art centre), Babbarra Designs at Babbarra Women's Centre.

Maningrida cultural leaders have a long and strong history of upholding their rights. See for example the case Johnny Bulunbulun and the reproduction of his work on textiles:  
[http://www.wipo.int/edocs/pubdocs/en/tk/781/wipo\\_pub\\_781.pdf](http://www.wipo.int/edocs/pubdocs/en/tk/781/wipo_pub_781.pdf) page 50

The arts and cultural industry is vital to the economy of the region. Works of art are often an important arts and cultural expression that communicates the power of djang (dreaming) and connection to country.

This industry is supported and protected through the Indigenous Art Commercial Code of Conduct, copyright and related laws and increased consumer education over the past 10-15 years. However, there is still a long way to go in understanding the harm and disrespect shown to Aboriginal and Torres Strait Islander people in works made, marketed and sold as 'generic' Aboriginal motifs or objects that have been misappropriated and the negative economic ramifications.

As an example - three iconic artefacts that are widely misappropriated include:

- Didjeridus – in Maningrida this instrument is called many different names according to the language group including mako (Kuninjku) ngorla (Burarra) littung (Rembarrnga)
- Clap sticks – manberlginj (Kuninjku), an-gujaparndiya (Burarra) boerlmoerr (Rembarrnga)
- Boomerangs – karlikarli (Kuninjku), garligarli (Burarra) garligarlih (Rembarrnga)





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These artefacts have important cultural meaning that varies from site to site, language group to language group. They have been misappropriated by the mainstream and non-authentic works are marketed and sold undermining artists. Similar examples can be seen in the misappropriation of First Nations people in the USA and Canada including beading, headdresses, designs and artefacts. A well known example is the 'Dream catcher' - 'Dream catchers' have been misappropriated from the Anishinaabek Indigenous peoples of the Great Lakes region' causing distress to the cultural custodians. <https://www.sfu.ca/ipinch/outputs/blog/dreamcatcher/>

"The harm done by cultural appropriation is often moral or symbolic in nature, so it can be tricky to pin down. But, there are some very concrete economic concerns. Dr. Keene points out that the so-called "tribal" prints and replicas of Native American designs that we see everywhere from Urban Outfitters to runway shows can be thought of as the intellectual property of the tribes and communities that invented them. If that's the case, she says, "they should have the right to have power over [the designs], and to economically benefit from them." Sound far-fetched? As she points out, "Christian Louboutin has a trademark on red soles, [which gives him] power over that design element and right of ownership. Why can't Native peoples ask for the same?"

- <http://www.refinery29.com/cultural-appropriation>

In Maningrida and the surrounding homelands artists and senior cultural custodians have directed staff since the early 1970s to ensure that all works are documented, to ensure locally that people with the correct cultural authority to depict certain stories are the makers of works and at a national and international level to educate people on the power and meaning of their artwork.

Not every Aboriginal person in this region has the right and permission to make and create all stories and images. Locally, if a person makes a work that they do not have the cultural authority or permission to make they are held to account by community members, but externally they have no power or recourse to hold to account people making works without permission. As Maningrida Arts & Culture senior Artworker Derek Carter has said, "They should recognise Aboriginal people and their culture and not do this."

### **The definition of authentic art and craft products and merchandise**

Authentic Aboriginal art and craft products and merchandise are either created by artists and makers identifying as and accepted as members of Aboriginal and Torres Strait Islander communities OR licensed / collaborative works created in partnership with companies such as manufacturers, foundries, other parties where licensing and other agreements are in place but where the Aboriginal or Torres Strait Islander artist determines the appropriate use of images or design elements for reproduction.

### **The current laws and licensing arrangements for the production, distribution, selling and reselling of authentic Aboriginal and Torres Strait Islander art and craft products and merchandise**

Are inadequate. 'Aboriginal' style products that undermine and undercut artists and cultural custodians are widely available. Cheap textiles, didgeridus, clap sticks, boomerangs, generic dotting and souvenirs and merchandise made and manufactured by non Aboriginal and Torres Strait Islander people should be banned and fines imposed for misrepresentation and misleading consumers.





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## **An examination of the prevalence of inauthentic Aboriginal and Torres Strait Islander 'style' art and craft products and merchandise in the market**

Fabric and textiles featuring 'generic' Aboriginal 'style' motifs are widely available in major chain stores. Searching the internet for 'clap sticks,' 'didjeridu' or 'boomerang' results in a plethora of non-authentic made artefacts and instruments. There are fake works widely available on e-bay, in souvenir type shops and other galleries and retail outlets ranging from Wandjina to dotting to mimihs.

## **Options to promote the authentic products for the benefit of artists and consumers**

### Increased resourcing and support directly to Art Centres

Aboriginal owned and operated Art Centres and arts and cultural business such as Babbarra Women's Centre who operate Babbarra Designs textile studio and the Maningrida Arts & Culture art centre produce authentic Aboriginal art and craft and provide contract management, liaison between artists and companies with license agreements, ensure fair remuneration – more resources are needed to support this industry to provide authentic Aboriginal art and craft.

### Public awareness campaign

The Australian general public does not have an understanding of the depth and breadth of Aboriginal and Torres Strait Islander cultures and languages or the deep and sacred cultural belief system behind the creation of art, craft and designs in order to fully understand the reasons why the plethora of 'Aboriginal' style art, craft and merchandise is so disrespectful and how it impacts an important economy.

Educated choices empower consumers and in turn make them ambassadors for best practice.

A widespread public advertising campaign that communicates the depth, breadth and meaning of Aboriginal and Torres Strait Islander cultures and beliefs to educate the general public would provide consumers with information to make better choices and assist in protecting a vital economy.

The campaign can also engage with the increasing awareness, respect and value of the work of an artisan and their labour being appropriately remunerated, as opposed to supporting 'sweat shop' labour that often pays workers in our neighbouring east Asian countries less than \$100 dollars a month in appalling and often dangerous conditions.

"The federal minimum wage per hour in the United States is currently at 7.25 dollars, while it is 1.48 dollars in Thailand, 69 cents in the Philippines, and 67 cents in China. However, workers are frequently paid less than these estimates suggest—amounts barely enough to survive on even considering the lower cost of living in these regions"

- ***Two Faces of Economic Development: The Ethical Controversy Surrounding U.S.-Related Sweatshops in Developing Asian Countries***, Annabelle Wong, Global Ethics Network, May 1, 2013, <http://www.globalethicsnetwork.org/profiles/blogs/two-faces-of-economic-development-the-ethical-controversy>



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#### Resourcing for organisations such as the Artists in the Black program through Arts Law

The Artists in the Black program run through Arts Law in Sydney has expertise in dispersing information, providing advice, providing workshops, and legal advice in remote Aboriginal communities.

#### Resourcing and support for a National Indigenous Arts Advisory Body

See Janke 2008, "Guarding Ground – a vision for a National Aboriginal Arts and Cultural Authority"  
<https://www.dropbox.com/sh/xs9msdrddrxh5a9/AABXASZkcNo26dJi7G6bx6kpa?dl=0>

#### **Options to restrict the prevalence of inauthentic Aboriginal and Torres Strait Islander 'style' art and craft products and merchandise in the market**

Unless there are penalties and fines there will be no impetus for those marketing and selling these products to stop.

"The Indian Arts and Crafts Act of 1990 (P.L. 101-644) is a truth-in-advertising law that prohibits misrepresentation in marketing of Indian arts and crafts products within the United States. It is illegal to offer or display for sale, or sell any art or craft product in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian Tribe or Indian arts and crafts organization, resident within the United States. For a first time violation of the Act, an individual can face civil or criminal penalties up to a \$250,000 fine or a 5-year prison term, or both. If a business violates the Act, it can face civil penalties or can be prosecuted and fined up to \$1,000,000."

- <https://www.doi.gov/iacb/act>

Do not revisit previous failed options such as labelling for example the NIAAA label  
<http://www.culture.com.au/exhibition/niaaa/labelqa.htm>

Education, information for consumers and harsher penalties for misleading companies selling art, craft and products need to be implemented.

Tony Albert's 'Hopeless Romantic' currently on display at the National Gallery of Australia is a critique on the misrepresentation and appropriation of Aboriginal peoples images, art, craft, culture in Australia over the years – this misrepresentation is something that Australia needs to leave in the past, finally.

For example, the below image is of a fax circulating 20 years ago initiated by the Yothu Yindi foundation regarding the treatment of the 'didjeridu'.





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# YIDAKI • GANBAK MALUK • YIGI YIGI BORNE WARNGING **DIDGERIDU**

The undersigned Indigenous Australians hereby state that the instrument commonly known as the didgeridu is integral to the cultural life of Aboriginal Australians.

We ask that the instrument be treated with respect.

We express our concern that the instrument is being exploited for commercial gain without due concern or care for the impact on the Australian bush environment.

We express our concern that the instrument is being exploited for commercial gain without due concern for the spiritual significance of the instrument to Indigenous Australians.

We ask that the instrument is recognised as having spiritual and religious significance.

We ask that an information campaign be supported for Indigenous Australians to explain the origin, role and significance of the instrument.

We ask that support and expertise urgently be made available to develop a sustainable and culturally appropriate policy for the harvesting, manufacturing, marketing and distribution of the didgeridu.

Individuals please sign in the space above. If you are signing on behalf of your community or organisation, please sign on a separate letterhead.

Please be sure to include your signature, your name; the date; your language, tribe or clan grouping, position held eg Chairman or Elder; your contact address and numbers, and any other relevant information.

Please return to Yothu Yindi Foundation Aboriginal Corporation: GPO Box 2727, Darwin NT 0801



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