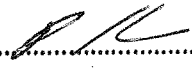


RE: RESALE ROYALTY RIGHT FOR VISUAL ARTIST BILL 2008

Submission No: 35 b
Date Received: 10-2-09
Secretary: 

FURTHER MEMORANDUM OF ADVICE

Arts Law Centre of Australia
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Attention: Libby Baulch

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RE: RESALE ROYALTY RIGHT FOR VISUAL ARTIST BILL 2008

FURTHER MEMORANDUM OF ADVICE

1. Further to my memorandum of advice dated 30 June 2008 I am asked whether in my opinion the *Resale Royalty Right for Visual Artists Bill 2008* (“**the Bill**”), if enacted, would be constitutionally valid if clause 11 were omitted.
2. Clause 11 provides that for existing artworks there is no resale royalty right on the first transfer of ownership of the artwork on or after commencement of the legislation.
3. In my opinion, for the reasons I gave in answer to Question 3 in my memorandum of advice of 30 June 2008, clause 11 would not be necessary to the constitutional

validity of the Bill if enacted: the omission of that clause would not result in the law being a law with respect to the acquisition of property on just terms from any person within the meaning of s. 51(xxxi) of the *Constitution*.

Chambers

A. ROBERTSON S.C.

18 December 2008

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