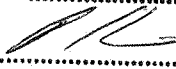


**Inquiry into Resale Royalty Right for Visual Artists Bill 2008**

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**SUBMISSION**

Submission No:	..... 39 .....
Date Received:	..... 28-1-09 .....
Secretary:	.....  .....

***Resale royalty Right for Visual Artists Bill 2008***

*(Environment Heritage and the Arts)*

***A Bill for an Act to create a right to resale royalty  
in relation to artworks, and for related purposes***

Presented  
by

**Alison May French**

**Contents**

<b>BACKGROUND</b>	page 2
<b>SUBMISSION</b>	
• Statement by Alison French	page 3
• Key statements by members of the Namatjira family in response to questions raised in <i>Resale Royalty Discussion Paper</i> , August 2004	page 4 – 5
<b>ATTACHMENT A</b>	
— Extracts from <i>2004 Resale Royalty Discussion Paper</i> (Appendix C Possible Questions)	page 6
— Statement by the members of the Namatjira Family, Alice Springs, NT, 10 August 2004 in response to questions raised in <i>Resale Royalty Discussion Paper</i> , August 2004	page 7 – 14

**Inquiry into Resale Royalty Right for Visual Artists Bill 2008**

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**BACKGROUND**

1. This submission presents the views, held by members of the Namatjira Family on the desirability and significance to them of payment of re-sale royalties for visual artists,. This views, together with statements which address practicalities of implementing the scheme, were expressed by them at a family meeting, which was held outside the Alice Springs Town Council Garden Room on the Tuesday 10 August 2004, from 11.30 am to 2.00 pm,
2. The meeting was arranged in order to finalise details of a voluntary payment by me to members of the Namatjira Family, of writer's royalties earned by me. In light of repeated expressions of concern that they "get no money from their grandfathers painting", I believed they would wish to respond to *Resale Royalty Discussion Paper*, which was prepared by Mr Mark Taylor, then General Manager, Arts and Regional, Department of Communications, Information Technology and the Arts, August 2004, in particular questions raised in Appendix C. Accordingly I discussed the issues with them and made a record of their views. It was not possible to submit that paper on their behalf on that occasion, due time constraints.
3. It has not been possible for me to reassemble this group of people to respond to new issues raised in the Bill currently under consideration— *Resale royalty Right for Visual Artists Bill 2008 (Environment Heritage and the Arts). A Bill for an Act to create a right to resale royalty in relation to artworks, and for related purposes* — nor to confirm whether all the members of the family whose names are recorded in *Attachment A* would still wish their private details to be widely circulated. This attachment is provided as an historical record and should not be widely circulated, without consultation with the family: it contains the names of members of the family have passed away. Of the seven members of the family, nominated in August 2004, to represent them on this matter, two have passed away: The names of the remaining nominees are: Kevin Namatjira, Lenie Namatjira (Lankin), Betty Wheeler, Merrill Namatjira and Mostyn Kantilja.

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**SUBMISSION**

**STATEMENT BY ALISON FRENCH, CANBERRA, 26 JANUARY 2009**

Members of the Namatjira family constantly repeat: "We get no money from our Grandfathers painting". This statement is a reflection of their extreme frustration with two concerns: that copyright in their grandfather's paintings was sold (without consultation with relevant members of the family), and that "the person who bought the painting gets all the money when they sell it". Whilst Namatjira family appeared not have heard of the term "resale royalty" before this meeting, they are familiar with the concept it represents. They have long been aware that they "do not get any money when [their] grandfather's paintings are sold.

The family's concern is both practical — a need to address extreme poverty — but it is also represents a strategy to maintain the rights and responsibilities of an important ancestral link, which they need to maintain: "We are Albert Namatjira's granddaughters and grandsons. If he was alive he would have given us a little bit of money when he sold his paintings". "We want our grandchildren after we have died to get a little bit of money from our grandfathers paintings when they are sold". I believe that this perspective is clearly conveyed in their insistence that I record the full lineage of their family (see extensive list of names recorded in Attachment A). Those members who were able to attend the meeting, sat for two and half hours with me to make sure that I got it right. Members of the family learnt to paint by watching their grandfather, Albert Namatjira and their fathers paint. They now pass on this tradition to their own children, however, the passage of this legislation is highly significant not only to the practising painters, but also to all members of the family.

They are aware that, if the income when distributed throughout the family may not be a large amount, however, they are aware of specific needs, which can be strategically addressed: "We want a funeral fund. We want fund for sickness and for education". They are also aware that, if the legislation is passed, it may take a while to implement: "We know this might take a long time. But we want this to happen". In light of the length of time that the Namatjira family have already waited, I submit their views, as follows, with the heartfelt hope that this legislation is passed in a manner that does not require them to wait even further.

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**SUBMISSION**

**KEY STATEMENTS BY MEMBERS OF THE NAMATJIRA FAMILY**

**Responses to questions raised in *Resale Royalty Discussion Paper*, August 2004.**

**See ATTACHMENT A for typed transcript of handwritten record of meeting**

**QUESTION**

Should Australia introduce a resale royalty arrangement? What are your primary reasons for your support or lack of support for such an arrangement?

**ANSWER**

**We are Albert Namatjira's granddaughters and grandsons. We do not get any money when our grandfather's paintings are sold. The person who bought the painting gets all the money when they sell it. ...This is the law now. We think that this law should be changed. We think we should get a little bit of the money when the painting is sold. If he [Albert Namatjira] was alive he would have given us a little bit of money when he sold his paintings. We want our grandchildren after we have died to get a little bit of money from our grandfathers paintings when they are sold.**

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**QUESTION**

What kind of resale royalty arrangement would best deliver benefits to the intended beneficiaries and why?

- A fully legislated scheme;
- industry self-regulation; or
- contract-based resale royalty.

**ANSWER**

**We think the government should make a law. This is strong. To just ask galleries and dealers is not strong. If it is a law people have to do it.**

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**QUESTION**

What duration should apply and why?

**ANSWER**

**We think 70 years is better than 50 years.**

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**Inquiry into Resale Royalty Right for Visual Artists Bill 2008**

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**QUESTION**

Should artists be able to assign, waive or sell the resale royalty in their works, and why?

**ANSWER**

**We do not think the artist or the artist's heirs - children, grandchildren or great, grandchildren - should be able to sell this resale royalty right. It should stay with the family.**

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**QUESTION**

What type of organisation should administer any arrangement?

**ANSWER**

**We would like one family association for Albert Namatjira painting money, trust fund for money ... We want a funeral fund. We want fund for sickness and for education.**

**We think there should be one place in Australia for all artists money to go to when the paintings are sold. This place can give the money for our grandfather's paintings to our trust.**

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**QUESTION**

Do you have any other issues?

**ANSWER**

**We have no money to pay a lawyer to set up a trust. We would like the government to help us find a lawyer and help us find money to pay the lawyer to run the trust.**

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