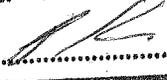


Submission No:	..... 40 .....
Date Received:	..... 5-2-09 .....
Secretary:	.....  .....

Dear Sirs,

We understand that you are seeking views from a variety of sources about the possibility of introducing Artists Resale Right in Australia. You may find it helpful to have some comments on our experience of ARR, which has now been in force in the UK for nearly three years. The Society of London Art Dealers represents 127 of the top fine art dealers in the UK, mainly in London, who are arguably the UK dealers most affected by this measure.

The British Government opposed the application of ARR in the UK but were finally outvoted in the EU, even though the UK alone accounts for more than 60% of the EU art market. We opposed it because we feared that it would damage our market, handing a competitive advantage to other countries who do not have ARR, especially the USA, and because experience in continental Europe has shown that it is a cumbersome measure which is hard to administer and monitor and which does little to benefit the large majority of artists.

One of our predictions has not yet proved right. We do not, so far, seem to have lost out competitively. We believe however that this is due to the fact that ARR at present applies only to the work of living artists – if and when it is extended to the work of artists who have died in the previous 70 years, 4 times as many works would be affected – and because the global art market

and art prices have been quite exceptionally buoyant over the last few years. Sadly this is not longer the case and we remain very concerned that as times get tougher we will indeed risk losing out to other markets.

Our other predictions do seem to have proved correct. Relatively few artists in the UK have benefited at all from ARR. Of 50,000 artists on the books of the main collecting society, DACS, only 568 received anything in the first 18 months of ARR, and most of these received very little – between £28 and £260. The top 20 artists received 40% of the total, and the top 10% 80% of the total. Almost all of the top 10% are already doing well financially and virtually none of the money is going to artists who really need help. This is not surprising. If an artist's work is being resold at prices over the threshold of €1,000, he is likely to be doing quite well.

DACS have tried to argue that administering the right is simple and costs dealers and auction houses very little. But this is simply not correct. The mistake is due to the assumption that all dealers have to do is to complete a quarterly return. In practice extra work is required at every stage of the process, when you buy a work (is it liable for ARR and if so how much?), when you sell a work (can I charge extra for the ARR due, if so should I mention this on the invoice?), in record keeping (what works liable to ARR have I bought or sold and how much do I owe?), in completing the quarterly return, in checking the collecting society's quarterly invoice and in paying over the money. We estimate the costs of all these activities at about £30 per item.

ARR is also very cumbersome for the collecting societies to collect and it is almost impossible to ensure that all who should be paying. If ARR were confined to auction house sales it would be relatively easy as these are public and well documented. But the UK has about 8000 dealers, of whom about 7000 do not belong to a trade association. How can the transactions of all these be monitored?

Artists like earning money as much as anyone else and few are going to say no if offered more. But it is important to remember that the lion's share of any artists' income will always come from selling his work. If the art market is adversely affected by the introduction of ARR, this will have a negative effect on artists' incomes out of all proportion to any benefit from ARR.

It follows that we are totally opposed to ARR in any form and believe that its disadvantages far outweigh any advantages. But if it is nevertheless introduced in Australia, some things could still be done to mitigate its worst effects.

It should apply only to living artists. It is they you are trying to help whereas tracing heirs can be very complicated.

There should be a relatively high threshold, e.g. €3000, to ensure that the cost of collection is not out of proportion to the sum collected.

Collective management should be voluntary, i.e. artists should be able to choose whoever they like, probably their dealer, to collect the right on their behalf. Why should artists be compelled to pay a proportion of the right to a collecting society when their dealer is prepared to collect the right for nothing? The only people who definitely benefit from ARR are the collecting societies. DACS has seen its income increase hugely since ARR was introduced here 3 years ago.

Artists should be allowed to waive the right. Why should it be compulsory?

And a system should be introduced to avoid dealers having to pay ARR twice, when they buy and when they sell a work, which often happens in quick succession. We suggest that any payment made for ARR when buying should be offset against any further liability when the work is sold. In other words after the first ARR payment, you would only pay on the profit, if any, rather than the full price in any further transactions.

A final thought. It is often claimed that ARR encourages young artists. The evidence suggests the contrary. ARR positively discourages dealers from buying new works rather than taking them on consignment. Moreover, the arts scene has been much more lively over the last 10 or 20 years in the US and the UK, who have not had ARR but have had very successful art markets, than in Germany or France who have had ARR for many years.

Best wishes,  
Christopher Battiscombe  
Director General

### **The Society of London Art Dealers**

Ormond House  
3 Duke of York Street  
London  
SW1Y 6JP

Tel: 020 7930 6137 Fax: 020 7321 0685  
[www.slad.org.uk](http://www.slad.org.uk) [office@slad.org.uk](mailto:office@slad.org.uk)