



THE CHAMBER OF ARTS AND CULTURE WESTERN AUSTRALIA

Response to the Productivity Commission's
Aboriginal and Torres Strait Islander Visual Arts and Craft Draft Report

August 2022

Chamber of Arts and Culture WA
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Acknowledgements

The Chamber of Arts and Culture Western Australia (The Chamber) wishes to make the following acknowledgements:

1. The Chamber acknowledges Traditional Owners of Country throughout Western Australia and recognises the continuing connection to lands, waters, and communities. We pay our respect to Aboriginal and Torres Strait Islander cultures and to Elders both past and present.
2. The Chamber is not an indigenous-led organisation.
3. In producing and publishing this response, The Chamber does not attempt to speak on behalf of indigenous communities or individuals in this response.
4. When producing this response, The Chamber consulted with two other organisations in the preparation of this response and thanks Arts Law Centre of Australia and Aboriginal Art Association of Australia for their assistance and consultation.

Overview

Purpose

- The purpose of this document is to provide a response from the Chamber of Arts and Culture WA to the Aboriginal and Torres Strait Islander Visual Arts and Craft draft report paper produced by the Productivity Commission in July 2022.

Objective

- The first objective of this response is to analyse the Productivity Commission's Aboriginal and Torres Strait Islander Visual Arts and Craft draft report paper.
- The second objective of this response is to provide general suggestions for improvements and considerations to the Productivity Commission for the preparation of their final report.

Scope

- Indigenous Cultural Intellectual Property (ICIP) Laws and Regulations
- Mandatory Authenticity Labelling
- Assistance for Artists and Organisations
- Education for Consumers

The Chamber Calls for Stronger Indigenous Culture and Intellectual Property (ICIP) Laws

The Chamber agrees with The Productivity Commission's assessment that current Indigenous Cultural Intellectual Property laws are indeed patchy and incidental. The Chamber defines ICIP Laws as rights that Indigenous people and communities possess to protect their heritage, culture, and art and notes that ICIP covers various forms of indigenous arts and culture, including:

- Music
- Literature, and Poetry
- Dance and Ceremonies
- Visual Arts and Crafts
- Languages
- Cultural Property and Sites
- Stories and other intangible property
- Films, reports, and other documents

We acknowledge that there are many cases where ICIP is used without correct authorisation, and Indigenous Culture is misappropriated and abused. This is of deep concern to us, and we encourage the Productivity Commission to continue engagement with First Nation communities to ensure they lead the direction, content, and outcomes of the report. We strongly believe in providing ample opportunities to provide indigenous communities with self-determination.

The Chamber acknowledges the points raised by Aboriginal Art Association of Australia and acknowledges that written contracts can be problematic for Aboriginal artists due to "prior experience where contracts have been used to remove freedoms to express their talent"¹ The Chamber believes that it is potentially problematic to implement non-indigenous methods to protect indigenous culture. Aboriginal Art Association of Australia writes, "a written contract is a non-Indigenous construct"². Therefore, The Chamber encourages the Productivity Commission to work with indigenous communities and artists to ensure that culturally relevant and indigenous constructs are considered and investigated.

Mandatory Labelling System

The Chamber supports the Productivity Commission's objective of guiding consumers to make more informed and ethical purchases through a mandatory labelling system.

We believe that a mandatory labelling system is a pragmatic option and cost-efficient process and will assist consumers in quickly identifying authentic aboriginal art from fake indigenous-style art.

There are limitations of the Mandatory Labelling System:

1. A cosmetic solution that does not tackle the production of fake indigenous-style art.
2. Once the packaging is removed, the consumer may neglect and ignore that it is still an inauthentic product and does not possess any true connection to indigenous culture or indigenous communities.
3. It limits the awareness, of consumers, about the effects of purchasing fake indigenous-style art.

¹ Aboriginal Art Association of Australia response to the Aboriginal and Torres Strait Islander Visual Arts and Craft Draft Report 2022 page 22

² ibid

Increased awareness and Education for Consumers

The report would be strengthened by including a variety of education and engagement tools for consumers on the effects and implications of purchasing fake indigenous-style art.

We encourage the Productivity Commission to work with First Nation communities to lead the discussion on appropriate and respectful mechanisms for engaging with and educating consumers about the value of authentic art and the impact of inauthentic art. Examples of possible tools and mechanisms include:

1. Introducing accessible fact sheets, placed by inauthentic products, for consumers to read before purchasing goods, which clearly state the economic and social damages caused to communities through the production and sale of fake indigenous-style art.
2. Providing consumers with information and fact sheets about the artist and their artworks to create a deeper connection between the work and the consumer.

The state government and IWA should encourage retailers to develop their relationships with First Nation communities to create a deeper connection and learn more about the stories and culture of the indigenous work they sell. This will have a positive impact on encouraging tolerance and entrenching the notion that the cultural landscapes in which the business operates are an integral part of ensuring an authentic cultural experience.

Further Considerations

The Chamber of Arts and Culture WA encourages the Productivity Commission to take a multi-faceted view and consider the overall infrastructure which supports the indigenous art community. We encourage the Productivity Commission to work with Infrastructure Western Australia to develop an Aboriginal Cultural Infrastructure Plan. Considering an Aboriginal Cultural Infrastructure Plan is an important step in working and collaborating with the indigenous arts and cultural sector. A strong infrastructure will bring together the various strands of policies and institutions in this area from their current silos to a more coherent and comprehensive plan to support Aboriginal arts and culture. This involves modernising policies and programmes, ensuring that organisations working in this area are fit for purpose, adequate resourcing, and empowering Aboriginal leadership at all levels of engagement to represent cultural values and knowledge throughout.

About the Chamber of Arts and Culture WA.

The Chamber of Arts and Culture WA Inc. (the Chamber) is the State's representative arts body, providing an independent, cohesive voice for the sector in Western Australia. We research, advocate, support, develop and activate to ensure the value and impact of the industry are articulated within and across other industry platforms.

It has a high-profile Board of Management comprising Western Australian business leaders, cultural policymakers, and arts practitioners. With a membership of over 260 arts organisations, individuals, and businesses, we represent a broad spectrum of the arts, individual members, and associate members.

The Chamber advocates to the government regarding policies and funding for the arts and culture sector. We believe that to be internationally significant, we need to be locally relevant. As such, our ambitions for the Western Australian arts and culture sector are:

1. The arts and culture sector is a growing, healthy, and vital part of WA's diversified economy and a pivotal contributor to the State's aspirations and societal well-being.
2. Arts and culture inspire, connect, and attract people in our capital city and regional centres.
3. Our arts and culture infrastructure signals our global sophistication and community spirit.
4. WA artists are showcased and celebrated locally, nationally, and worldwide as critical contributors to WA's sense of place and identity

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The Chamber of Arts and Culture Membership List

Aboriginal Art Centre Hub WA Adrenaline	ClayMake Studio
Theatre Association	Community Arts Network (CAN)
Áine Whelan	Contemporary Dance Company of WA
Alan Dodge AM	Copyright Agency
CitWA	Craig Dalton
Alex Desebrock	Daisy Sanders
Alison Gaines	David Downie
Ali Martin	Deena Appleby
Amy Welsh	Denmark Arts
Andrew Lu AM	Di Ingelse
Andy Farrant	Dominique Monteleone
APPARATUS	Ellis House Arts Centre
Art Gallery of Western Australia	Embroiderer's Guild of WA
ART ON THE MOVE	Encounter Theatre Inc
Artgold	Esperance Community Arts
Artist Relief Fund WA	Fliptease Pty Ltd
Artitja Fine Art	FORM building a state of creativity Inc.
ARTRAGE Inc / FRINGE WORLD	Freeze Frame Opera
Festival Arts Margaret River Inc	Fremantle Press
Artsource	Fremantle Theatre Company
Ashely Yihsin Chang	FutureNow
AUSTA WA Australian Baroque	Gary Mack
Australian Museum and Galleries	Gene Tilbrook
Association Western Australia	Geoffrey Lancaster AO
Awesome Arts Australia Ltd	Goolugatup Heathcote (City of Melville)
Barking Gecko Theatre	Grace Crogan
Barrie Le Pley	Graham Hay
Black Swan State Theatre Company	Half The Sky Limited
Bunbury Regional Entertainment Centre	Helen Carroll
Carmen Lawrence AO	Helen Cook
Cassandra Lake	Henry Boston OAM
Centre for Stories	Hesperia
Ceramic Arts Association of WA	History Council of Western Australia
Christopher Young	Ingrid Puzey
CinefestOZ	Isaak Karagoglou
CircuitWest Inc	James Boyd
CircusWA	Jan Stewart PSM
City of Albany (Vancouver Arts Centre & Town Hall)	Jane King
City of Bunbury	Janet Carter
City of Cockburn	Janet Holmes à Court, AC, HonFAHA, HonFAIB
City of Fremantle	JCG (John Curtin Gallery)
City of Greater Geraldton	Jessica Machin
City of Joondalup	Jim Cathcart
City of Mandurah	John Barrington AM
City of Perth	Jude van der Merwe OAM
City of Rockingham	Juliana Areias Vasconcellos Mendes
City of Stirling	June Moorhouse
Clare Travis	Kate Parker
	Kathryn Preston

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 Library Board of Western Australia
 Liesbeth Goedhart
 Localise Pty Ltd
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 Mandurah Performing Arts Inc.
 Margaret Seares AO
 Margrete Helgeby Chaney
 Mark Clapham
 Mary-Ellen King
 Matthew Blampey
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 Media Entertainment Arts Alliance
 Melville Community Arts Assoc
 Michelle Hall
 Minderoo Foundation
 Mollie Hewitt
 Monique Beaudoire
 Morgan Solomon
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 Mundaring Arts Centre Inc
 Musica Viva
 North Metropolitan TAFE
 North Midlands Project
 Paula Silbert
 Performing Arts Connections Australia
 Performing Lines
 WA Perth Festival
 Perth International Jazz Festival
 Perth Symphonic Chorus
 Perth Symphony Orchestra '
 Perth Theatre Trust
 Peter Kift
 Phil Thick
 PICA
 Pippa Davis
 Poolman Taxation Management
 Professional Film Crew of Western Australia
 Professional Historians Association (WA)
 Propel Youth Arts WA
 Randal Humich
 Rania Ghandour
 Rebecca Bencivenni
 Regal Theatre Foundation Limited
 Regional Arts WA
 Revelation Perth Film Festival
 RTRFM 92.1

Ryan Marano
 Sally Richardson
 Sam Nerida
 Sam Walsh AO
 Screenwest Australia Limited
 Seesaw Magazine
 Shane Colquhoun AM
 Shire of Broome
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 The Last Great Hunt
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 The West Australian Music Industry
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 Vivienne Glance
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 WA Youth Jazz Orchestra Assoc.inc
 WA Youth Theatre Company (WAYTCo)
 Warwick Hemsley AO
 WASO
 West Australian Ballet Company Inc
 West Australian Opera
 Western Australian Academy of Performing
 Arts
 Western Australian Museum
 Wicked Strategies
 Yirra Yaakin Theatre Company

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