

TERMS OF REFERENCE

Aboriginal and Torres Strait Islander Visual Arts and Crafts

I, the Hon Josh Frydenberg MP, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake a study into the nature and structure of the markets for Aboriginal and Torres Strait Islander arts and crafts and policies to address deficiencies in these markets.

Background

The Australian Government recognises that art is an important way for Aboriginal and Torres Strait Islander peoples to tell stories, share and strengthen cultures and connection to Country, promote understanding of history, strengthen communities, and expand economic opportunities. Aboriginal and Torres Strait Islander art is a vital part of Australia's identity and makes a large contribution to the economy.

A significant and increasing proportion of products in the 'style' of Aboriginal and Torres Strait Islander arts and crafts that are sold in Australia are imitations that do not have any connection to Aboriginal and Torres Strait Islander peoples and provide no economic benefit to their communities. These products cause offence and harm to Aboriginal and Torres Strait Islander peoples and cultures and mislead consumers.

The House of Representatives *Report on the impact of inauthentic art and craft in the style of First Nations peoples* (the Report), tabled in 2018, found that there is a lack of information and analysis on the markets for Aboriginal and Torres Strait Islander arts and crafts. Recommendation 1 of the report stated: The committee recommends as a matter of urgency that the Productivity Commission conducts a comprehensive inquiry into the value and structure of the current markets for First Nations art and crafts.

The Government Response to this Report was tabled in Parliament on 2 September 2020. The Government agreed to Recommendation 1 of the Report, stating: The Government will commission a Productivity Commission study into the nature and structure of the markets for Aboriginal and Torres Strait Islander arts and crafts and policies to address deficiencies in these markets.

Scope of the research study

The Productivity Commission is asked to examine the value, nature and structure of the markets for Aboriginal and Torres Strait Islander arts and crafts and policies to address deficiencies in the markets.

In undertaking the study, the Commission should:

1. examine the nature and structure of the different parts of the domestic and international markets including authentic and inauthentic products
2. identify deficiencies and barriers in the markets and how they affect artists and other stakeholders

3. assess costs, benefits, governance arrangements, risks, practicalities and implementation challenges of any policy responses. In doing so, the Commission should have regard to:
 - 3.1. both regulatory and non-regulatory responses to the problems in the relevant markets, including education and social marketing measures, labelling and other certification arrangements, industry codes and the role of existing consumer and intellectual property laws
 - 3.2. the impacts on Aboriginal and Torres Strait Islander artists, and more broadly, the Australian Indigenous and the wider community from policy and regulatory reform
 - 3.3. the advantages and disadvantages of current initiatives that intend to remedy problems in the Aboriginal and Torres Strait Islander art and craft markets, and the lessons that can be learnt from them
 - 3.4. proposing possible policy and regulatory responses to address the identified deficiencies in the markets
 - 3.5. where it is feasible, indicate any quantitative estimates of the benefits, costs and commercial impacts of policy reforms.

In undertaking this research, the Commission should also consider:

4. House of Representatives Standing Committee reports, including the *Indigenous Affairs inquiry into the impact of inauthentic art and craft in the style of First Nations peoples* and submissions received as part of the development of the Indigenous Visual Arts Industry Action Plan being led by the Australian Government and to be released in the first half of 2021.

Process

The Commission is to consult broadly, particularly with Aboriginal and Torres Strait Islander peoples, communities and organisations. The final report should be provided within 15 months of the receipt of these terms of reference.

THE HON JOSH FRYDENBERG MP
Treasurer

