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

August 2022
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.

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\(^1\) 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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References

