



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

Government Response to the  
Culture, Media and Sport Select Committee  
Report on the Market for Art (HC414)  
Session 2004-2005

*Presented to Parliament by the  
Secretary of State for Culture, Media and Sport  
by Command of Her Majesty  
July 2005*

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# GOVERNMENT RESPONSE TO THE CULTURE, MEDIA AND SPORT SELECT COMMITTEE REPORT ON THE MARKET FOR ART, HC414, SESSION 2004-05.

## Introduction

The Government is pleased to be able to present its response to the Committee, and outline how we intend to take action, where appropriate, on the recommendations that have been given.

The recommendations made will be of interest to a number of departments across government, and we are committed to working in a joined-up way, and with the supportive sector, to ensure that work undertaken is of maximum benefit to the art form and us all.

## Conclusions and Recommendations

- **(1) We recommend that the UK takes the important opportunity afforded by its forthcoming presidency of the European Union to promote international co-operation in cultural development. (Paragraph 9)**

The Department for Culture, Media and Sport (DCMS) agrees with this recommendation and has plans in place to promote such international co-operation.

During 15-17 September this year, Arts Council England, the English Regional Cultural Consortiums and a number of other partners will host a conference in Liverpool and Manchester entitled 'Catalyst'. The aim of this conference, which we hope will attract up to 500 delegates from across the European Union, will be to encourage an exchange of ideas about cultural entitlement and cultural learning in Europe. DCMS will provide up to £30,000 to support the conference, and the European Commission has also pledged matching funding.

In November, there is also planned a conference in Manchester on the mobility of museums collections. We hope that up to 100 expert delegates will attend this. The aim of the conference is to make practical recommendations to increase the volume of loans between museums in different member states. DCMS will provide up to £45,000 to support this conference, and the European Commission has again pledged matching funding.

More generally, the Government hopes that the UK Presidency of the EU will see good progress in discussions on a new Culture programme to build on the success of Culture 2000.

- **(2) We recommend that the Government commissions research aimed at providing an accurate assessment of the primary, secondary and retail art markets. Only by such research can government support for the visual arts be rooted in evidence and be of a scale that is proportionate to the economic and wider societal benefits brought by art. (Paragraph 21)**

The Department for Culture, Media and Sport fully acknowledges the benefits of evidence based policy, and is working hard to improve the evidence base across all of our sectors. Most of the detailed research on specific sectors is commissioned by our Non Departmental Public Bodies (NDPBs). We have ensured that Arts Council England are aware of this recommendation, and are exploring options with them for taking this forward.

- **(3) We recommend that the DCMS actively pursues the development of best practice guidelines for the art market. (Paragraph 32)**

- **(6) We recommend that the Government establish a forum of interested individuals, including artists, dealers and auction houses, to work towards identifying key areas of agreed best practice in contractual relationships between artists and art market professionals. Compliance with the code of practice that emerges should be a prerequisite for the receipt of public funds. (Paragraph 38)**

Recommendations 3 and 6 are answered together.

The Department for Culture, Media and Sport acknowledges the potential benefits of providing best practice guidelines and will work closely with key stakeholders to assess how best this might be achieved. The proposed forum of interested individuals would provide a way of canvassing the views of key stakeholders, and we will consider it closely.

We are aware that a variety of arrangements already exist between artists and dealers and that codes of practice for the visual arts are currently in use, for example a-n The Artists Information Company's *Code of Practice for the Visual Arts*. We would wish to build on these when considering what might be needed. We expect any resulting guidelines to incorporate advice on contractual arrangements.

We recognise that the market for the arts is a free market and that any guidelines would not be compulsory. We do not plan to legislate in this area and the guidelines will have no legal force. Furthermore we would ensure that any guidelines avoided imposing any unnecessary regulatory or bureaucratic burdens on the industry.

- **(4) Auction houses represent an important sector of the art market in the UK. However, some of the relevant legislation dates back to 1845. We believe a review is overdue. (Paragraph 34)**

The only legislation which seems to be specifically relevant to auction houses is the Auctioneers Act 1845. The Department of Trade & Industry (DTI) has no evidence of difficulties with the working of this legislation. In these circumstances, the DTI does not see it as a current priority for review.

- **(5) We recommend that Arts Council England promotes the widespread adoption by galleries, and other outlets, of practices modelled either on the Own Art scheme rules, or on alternatives offering similar protection for both artist and art market professional. (Paragraph 36)**

The Own Art scheme requires all galleries to have written agreements with the artists that they represent in order to protect the interests of both parties. The Arts Council believe that this should be standard business practice throughout the industry from small independent galleries through to major museums and other businesses that may from time to time act as agents for, or contract the services of, artists and other arts practitioners.

- **(7) We recommend the further development of an online portal offering business advice to artists, supporting networking opportunities, and providing access to the arts more generally. (Paragraph 39)**

This facility already exists through a-n The Artists Information Company, a not-for-profit company limited by guarantee set up in 1980, with 25 years of research and publishing around artists' practice. It would be worth investigating the expansion of this service. We will consider this closely.

- **(8) The Government should renew its efforts to achieve universal adoption of *droit de suite*, through all available international channels. (Paragraph 45)**

The DTI, which leads on *droit de suite* for the Government, agrees with the Select Committee's views that the universal adoption of *droit de suite* would reduce any adverse impact of the right on the UK Art Market. The UK has pressed for this to be made a priority for the EU and will continue to seek to exert pressure on the relevant parties with a view to having article 14 of the Berne Convention made mandatory and the right applied internationally.

- **(9) We recommend that the Government closely monitors the impact *droit de suite* has on the market. The Government should publish its conclusions in time to inform the first review of the Directive's impact which, according to its own provisions, must take place by 1 January 2009. (Paragraph 47)**

The Government accepts this recommendation and will review the impact of the Directive in the UK. A study of the UK market will be commissioned and used as a baseline for future measurements. This study will then be updated periodically to identify and track any changes which have occurred following the introduction of *droit de suite*. The Government will aim to publish these findings before the review of the Directive, currently scheduled for 2009.

- **(10) We recommend a system of compulsory collective administration for artists' resale right. This is the preferred model throughout the European Union. It is relatively efficient and better secures compliance, seeing that money reaches the artist. (Paragraph 52)**

The Government welcomes the Committee's careful consideration of this issue. Our recent consultation on the details of the implementation of the Directive has led to 147 responses from interested parties. These responses will need to be carefully considered, together with the recommendation of the Committee before a final decision can be reached.

- **(11) We are not intrinsically opposed to the introduction of the artists' resale right into UK law, though we do believe it should not benefit solely the richest artists. We recommend that the Government lowers the threshold at which the resale right applies from 3,000 to 1,000 euros. (Paragraph 55)**

The Government welcomes the Committee's careful consideration of this issue. Responses to the recent consultation will need to be carefully considered and the views of the Committee will help to inform the Government's assessment.

- **(12) We recommend that the Government apply a royalty rate of 5% to the price band up to 50,000 euros. (Paragraph 57)**

Although this issue was not specifically raised in the recent consultation, the option of raising the rate on the lowest price band has been explored. There are many advantages and disadvantages to adopting this option and a number of respondents to the consultation have expressed an opinion on this issue. The Government will need to consider all views received before a decision is reached and welcomes the Committee's contribution to the debate.

- **(13) We recommend an extension of the Gift Aid arrangements, so that donations of significant art works to public collections can be offset against income tax. (Paragraph 61)**
- **(14) We note that the DCMS has implemented the Goodison recommendations in so far as they apply to the Department. We look to the Treasury to follow suit. Where it does not do so, justification, if any, for the corresponding decisions should be published. (Paragraph 62)**

Treasury, the lead Department on these areas, have grouped recommendations 13 and 14 together and responded as follows:

The Government has in place a wide range of tax reliefs for giving to all charities, including museums and galleries. The Government believes these are generous and there is scope for these to be used more widely. Where works of art are donated, these are exempt from capital gains tax and inheritance tax. In addition, the Acceptance in Lieu enriches museum and gallery collections. We will keep any proposals for new reliefs under review.

Since the publication of the Goodison Review in January 2004, the Government has made substantial progress in taking forward many of the recommendations set out.

In the 2004 Spending Review the Government announced that:

- annual funding for the National Heritage Memorial Fund will double by 2007-08, compared to 2004-05;
- the Renaissance in the Regions programme for regional museums will be extended to all nine English regions; and
- the free access commitment, which currently covers the main national museums and galleries, and the VAT refund scheme that helps deliver free access, will be extended to university museums and galleries.

Furthermore, HMRC (HM Revenue & Customs) have recently released externally a page in the Business Income Manual on the costs of maintaining business archives. This manual is the HMRC guidance on computing trading profits for tax purposes.

- **(15) We urge the Government to build on Creative Partnerships and actively to encourage the provision of artists' space in extended schools. (Paragraph 64)**

The Creative Partnerships (CPs) programme, delivered through Arts Council England, endorses this recommendation. The provision of artists' space in extended schools would allow it to build on existing work with extended schools in the 36 areas Creative Partnerships operates. Such provision would facilitate the work of Creative Partnerships in developing long-term sustainable relationships between schools and artists. In addition, it would make available a valuable resource for the wider community, particularly in rural areas where the potential benefits would be greatest.

Some good work is already underway, in Leicester, Creative Partnerships is building on its existing residency work by collaborating with the LEA's extended schools programme to develop 'community hubs' in four primary schools with art spaces established under the Space for Sport and Arts programme. The hubs – to be developed in partnership with the schools, young people and creative practitioners – aim to build creative learning programmes through which schools can meet the community focused parts of their development plans. In London, the four Creative Partnership areas are set to support a partnership programme for up to 20 new secondary schools and partner arts organisations to aid the implementation of the extended schools approach.

### **Local Authority Provision**

Local authorities provide varied support for artists including affordable arts space, incubator programmes and professional development.

*Affordable workspace:*

**(South East) Brighton & Hove City Council's** New England House offers workspaces at the low end of the market rent scale. The units have been adapted for a variety of uses and

approximately 75% of occupants are in the creative industries sector (including artists). Relatively low rents, close to the town centre and with 'easy in, easy out' terms means that the building plays an important role in the city for creative start-ups and businesses moving into their first commercial premises.

**(Yorkshire & The Humber) Leeds City Council** are working with the city's property forum to set up a sustainable system to match artists with vacant spaces before property developers take over the space. If successful it will establish a computerised alert and booking system where property developers can register space and artists can book that space for exhibitions or a working studio.

#### *Incubator programmes*

**(Derby County Council)** are planning Incubator programmes that will allow a variety of start-up organisations including the creative industries to develop into sustainable businesses.

They will provide small business start-up space and offer a programme of learning and development and access to support agencies – for example accountancy, professional service, tax lawyers and intense business support.

#### *Professional Development*

**(East Midlands) Newark and Sherwood District Council** are funding partners with Arts Council England, East Midlands and Nottinghamshire County Council in Southwell Arts Space Studios, a subsidised studios project. 6 artists will be selected and will have the opportunity to work in a subsidised studio space and gallery as well as receiving mentoring, business support and marketing guidance through project partners. The studio space will be available for 3 years in order to make the project available to as many people as possible and ensure progression.

**(East of England) Suffolk County Council** are leading on 'Making art work', a professional development scheme for visual artists. The scheme will offer one-to-one advice sessions, creative renewal retreats (giving mid-career artists the chance to step back from their work and engage in critical debate), coaching opportunities, how to sessions (on issues such as dealing with finances, applying for grants and negotiation skills) and training days.

- **(16) We strongly support the four Arts Councils having continued status as distributors of National Lottery funds. (Paragraph 70)**

In its Five Year Plan published in March 2005, the DCMS announced that it will review how National Lottery money has been spent so far on arts, sport, heritage and film projects and then consult about how proceeds should be spent in these areas after 2009. A decision will be announced in June 2006. All the existing good causes will be retained and the Department does not propose ending the role of any of the existing distributors.

- **(17) The Department for Culture, Media and Sport must view the active promotion and sponsorship of the arts as one of its primary roles. This is particularly important in view of the large number of government departments with some claim to responsibility for different locations in the world of art. Regrettably, in Government, the Department seldom punches, if it punches at all, at a weight commensurate with the centrality of the arts to our national life. (Paragraph 71)**

As was stated in the written evidence presented to the Committee, DCMS, through Arts Council England (ACE), encourages the development of new artists and innovative art. ACE has a central role in supporting the development of the visual arts. Exchequer funding in the arts has increased from £197 million in 1997-98 to £412 million in 2005-06.

DCMS is particularly committed to enhancing access to opportunities for young people, ensuring they get the opportunity to develop their talents, whether in the visual or other artforms, and promoting lifelong learning and participation. Our overarching strategy for arts education is to identify coherent pathways for young people, whatever their background or financial means, to progress from:

- first access to art;
- to opportunities to deepen their interest or develop their talent;
- to support for the most talented; and
- to making a living in the arts.

Current work under our key priorities for visual art includes:

#### *First access to Visual Arts*

- DCMS is investing at least £155 million up to 2008 in the ***Creative Partnerships*** (CPs) programme, a national initiative to develop sustainable partnerships between schools and creative and cultural organisations and individuals. There have been 964 visual arts- based projects supported by CPs to date. For example, CPs in Durham/Sunderland run a project called ‘Creative Spaces’ with artist Lothar Götz. Lothar is working with staff and pupils at Westlea Primary School in Sunderland to create an inspiring communal entrance area for the school. Using blocks of brilliant colour and often dividing walls into bands and grids, Lothar devises special colour schemes to accentuate the particular characteristics of the buildings he works with. Lothar Götz uses walls as canvases to create 'walk-in' three-dimensional abstract paintings, so that when encountering his works one feels to be inside fields of saturated pigment. Each work is conceived specifically for the place for which it is realised, and each is on an architectural scale, rather than that of conventional painting. Götz is Senior Lecturer at the University of Sunderland;
- the popular ***Artsmark*** scheme, managed by ACE, seeks to recognise schools in England for their arts provision and requires them to dedicate a minimum amount of time per week to art and design and to provide additional out of hours opportunities in art and design/the visual arts. By May 2004, a total of 2,708 primary, secondary and special schools were Artsmark schools. 27 per cent of all secondary schools are Artsmark schools.

#### **Deepening interest and developing talent**

- the ***Young People’s Arts Award*** provides a means for young people aged 13-25 to increase and sustain their participation and enjoyment in the arts. The Award is currently being piloted by Arts Council England (ACE) in over 100 settings across the country. ACE has allocated £700,000 in 2005/06 to roll out the programme nationally, with further funding to follow;
- there are now 304 ***Specialist Arts Colleges***, many of which will be offering high quality visual arts experiences. They are also having a positive impact on first access to the visual arts in their feeder primary schools.

#### **Support for the most talented**

The national programme for gifted and talented education, led by DfES, is designed to support gifted children and young people aged up to 19 in all schools and colleges throughout England. It provides support for those with ability in a range of different fields, including the artistically talented.

Support for artistically talented young people is offered at local level through the gifted and talented strands of the Excellence in Cities, Excellence Clusters and Aim Higher – all designed to improve the education of those from relatively disadvantaged backgrounds. At regional level, London Gifted and Talented (part of the London Challenge) is developing support for pupils and teachers across London and this includes provision for the artistically talented. At national level, support and guidance for educators of artistically talented pupils has been provided through the online resource at [www.creativegeneration.co.uk](http://www.creativegeneration.co.uk)<sup>1</sup> and the National Academy for Gifted and Talented Youth are beginning to engage the arts sector more systematically in providing outreach activities for the artistically talented.

### **Making a living in the arts**

DCMS has been a keen champion and a member of the development group for the Creative and Cultural Industries Sector Skills Council. The new body, Creative & Cultural Skills, is an industry-led organisation which aims to have real influence over the supply of education and skills across the UK.

It will ensure that employers and individuals have access to high quality education and skills. It will aim to increase the vocational relevance of qualifications on offer and provide students with informed choice on courses and career pathways.

The National Endowment for Science, Technology and the Arts (NESTA), was established in 1998 to help create a vibrant, dynamic culture and economy by supporting and promoting innovation and creativity in the UK. To this end, their aims are to help talented individuals reach their potential, to help innovative ideas reach the market, and to contribute to public knowledge and appreciation of science, technology and the arts. NESTA run a series of programmes supporting innovation and creativity, two examples of which are:

- the NESTA Creative Pioneer Programme, which focuses on the creative industries and the unique issues facing individuals wanting to practice in the areas of design and the moving image. The programme offers opportunities for personal and professional development for creative graduates who are at the entry stages of their career. The programme offers a residential course where graduates receive personal coaching alongside intensive experiential training in business practice. They then have the opportunity to win an award of up to £35,000 in start up finance; and,
- the NESTA Fellowship Programme which is aimed at providing exceptional individuals with the time, space and resources to pursue their creative goals, undertake speculative research, experiment, break new ground and develop their talent. Help is in both cash and kind with support tailored to individual needs. 20-50 ‘Fellows’ are selected each year, with awards of up to £75,000 spread over 3-5 years.

NESTA also has a pilot fellowship project “*Ignite*”, launched in Autumn 2003, for exceptionally creative young people aged between 10 and 21 years old. This is being piloted in 2003-04 and aims to reach young people “whose creative ability leaves you standing” and provide them with opportunities to develop their potential.

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<sup>1</sup>Sponsored by DCMS, DfES, ACE, NESTA, Raising Standards and the Centre for British Teachers

- **(18) It is time for Government to commit itself to a flourishing arts scene. And nowhere will such a commitment be more visible than in the visual arts. (Paragraph 72)**

Government acknowledges the need to do all it can to maintain the vibrancy of the current arts sector. As stated in the written evidence presented to the Committee, Government already commits a lot. Due to a combination of free entry and capital investment in new gallery spaces, many more people have been able to enjoy and experience contemporary art. Since the opening of Tate Modern, with free admission, in May 2000 and the introduction of free admission at the V&A, in combination with the opening of the British Galleries, the number of visits to DCMS-sponsored Art Galleries has increased by 6 million per annum from 9 million to over 15 million (an increase of 67 per cent). This national trend has been further enhanced by the provision of new gallery spaces in the regions, such as the Baltic in Gateshead and the Walsall Art Gallery. Many contemporary regional galleries, such as the Ikon in Birmingham, also provide free access.

These galleries mount regular exhibitions of cutting edge contemporary art, widely supported by the public.



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