

House of Representatives Standing Committee on Indigenous  
Affairs

The growing presence of inauthentic Aboriginal and Torres Strait Islander  
'style' art and craft products and merchandise for sale across Australia

**RESPONSE TO COMMITTEE REQUESTS AT HEARING on 6 March 2018**

April, 2018

## **Introduction**

At the public hearing on 6 March, 2018, the Committee talked with AAAA's representatives about the labelling concept proposed in our initial Submission.

Arising out of those discussions, AAAA was asked to offer suggestions on two aspects:

1. A recommendation designed to distinguish and separate the ATSI fine art market from ATSI style art and craft products and merchandise in the tourist and souvenir market. We are asked for a formulation that would help to make it clear that methods based on 'sliding scales of attribution' are unlikely to be workable methods of authentication in the souvenir/tourist sector.
2. A 'code of conduct for authentication/labelling', spelling out the ethical dimensions of the relationship between commercial agents and Indigenous artists, and containing the necessary ingredients for how such a protocol should be structured.

## **The Basis of an Effective Authentication/Labelling System**

AAAA's Submission considers what lessons can be learnt from the failure of the 1999 attempted authentication system.

A key lesson, and thus a key ingredient of a successful authentication system, is to separate 'fine art' from tourist and souvenir product.

The Committee recognises the significance of the distinction between fine art and souvenir / tourist product and has invited AAAA to help frame a recommendation that will help policy-makers focus attention on the relevant part of the market.

In the course of discussions at the hearing, it became evident that one of the techniques used in certain circumstances in the Indigenous fine art sector would not be workable in the souvenir/ tourist sector, and may indeed make authentication more problematic, rather than easier.

The Committee asks AAAA to frame a recommendation to help decision-makers understand that a ‘sliding scale of attribution’ method should not be thought of as applicable in the souvenir/ tourist part of the art market.

AAAA offers the following suggestion:

Recommendation:

1. A successful system for restricting inauthentic product and promoting authentic product must recognise that the market for ATSI style art and craft for sale in souvenir and tourist outlets, and the market for Indigenous fine art and craft, are separate markets and should be seen as separate and distinct for policy-making and regulation-making purposes.
2. The Committee finds that, although certain cataloguing practices in the Indigenous fine art market can in certain circumstances help to determine authorship and provenance, such practices are ultimately a matter of professional judgment and could not efficiently or effectively be applied in the ATSI style souvenir and tourist market.
3. The Committee recommends that the ‘sliding scale of attribution’ method, although used in some circumstances to assist in the valuation of Indigenous fine art, would not be an efficient or effective method for determining or promoting authenticity in the souvenir and tourist market, and that its use should therefore be restricted to the Indigenous fine art sector.

### **Designing a better system of Labelling/Authentication**

At the hearing, the Chair anticipated that a successful authentication/labelling system may need three levels of certification.

The first level, covering ethical and moral dimensions, would have to be an accepted code of authentication/labelling conduct, known to, accepted by, and practiced by all Indigenous artists and all Indigenous art-centres, on an opt-in basis, that was comprehensible, affordable and easily accessible.

AAAA are asked to, 1st, comment generally; 2nd, suggest a possible structure; and 3rd, frame an appropriate recommendation.

## General Comments

The authentication system proposal we outline below, while probably not perfect, does address and will eliminate the bulk of the unfair conduct apparent in the souvenir and tourist sector at the moment. We say the perfect should not be allowed to be the enemy of the good.

It is worth repeating the general comment from our Submission that our ideas on the design and operation of an effective authentication code of conduct can't safely be removed from the broader context:

- A new labelling/authentication code needs to learn from the previous unsuccessful attempt.
- There is no safe way to avoid *proper* analysis of the range of issues that are fundamental to any regulatory authentication system's workability. So get the decision-making right.
- Target the new system at the correct market sector.
- Resource enforcement properly, using industry resources and 'user-pays' funding where possible.
- Support all of that through an expanded partnership between government and the Indigenous art and craft sector to improve information content and delivery to potential tourist customers, to tourist and souvenir retailers, and their purchasing agents.

## A Possible Structure for an Effective Authentication/Labelling Protocol

A successful authentication system must start with the correct design principles and objectives.

Broadly stated, the key objective is to achieve standards of information-access and/or labelling (on tourist/souvenir product using Indigenous imagery) that *properly, clearly, and unambiguously reflect the manner in which such product reaches the point of sale.*

Doing otherwise would be to permit information-access or labelling that undermines and insults Aboriginal cultures.

Specifically, the Code of Authentication/ Labelling would require information-access/labelling of ATSI style souvenir and tourist product which:

- Unambiguously, completely, and clearly informs the consumer of the manner in which the item has reached the market; and
- does not, by its wording or otherwise, invite the consumer to misinterpret the information/labelling or form incorrect conclusions about:
  - the source of the product,
  - the authorship of the product, or,
  - the manner in which the souvenir was produced.

The access to information, the language, layout, font-size and all other relevant design characteristics must be designed having special regard to all possible Indigenous audiences, wherever located.

### **An Information/Labelling System That Works**

AAAA is invited to identify what it believes are the ‘non-refundable, non-negotiable’ ingredients of a successful information/labelling regime for ATSI style art and craft products and merchandise in the Australian souvenir and tourism market, including the nature and amount of ‘education to support such a labelling system’.

Since the Hearing, AAAA has developed its thinking about a workable system, key elements of which we now share.

### **An Indigenous Product–Information Access/Labelling Protocol**

AAAA envisages that any ATSI style art or craft product or merchandise for sale in Australia’s souvenir or tourism sector be registered in a new, purpose-built computerised registration and information access system.

Registration could be through a voluntary, opt-in system, but mandatory in a commercial sense, based on our expectation that properly-designed and delivered public education would create a consumer and retailer awareness of and preference for ATSI style product that had been registered, certified, and checkable through an easy to access computerised system, available through an purpose-designed computer application, easily downloadable to a mobile-phone, or to the retail point-of-sale computers.

The bigger picture elements would include:

Every ATSI style art, craft product offered for sale in the souvenir /tourist sector which uses any form of Australian Aboriginality must be entered into the system.

The System provides a unique registration/authorisation number. Various fields are completed to accurately describe the items form, manufacturing process and artistic elements.

The registration Number must appear on or attached to every item available for sale.

This system allows the consumer to confirm a product's legitimacy by entering the item's code into an 'application' at which time its legitimacy and approval is identified and image of the item provides visual confirmation. This visual identification would overcome one of the problems with current 'trust-mark' labelling in the souvenir sector.

The operational detail is potentially valuable intellectual and commercial property.

To protect that property, AAAA offers that operational detail in the attached document on the basis that the attached document is to be treated as confidential by the Committee under its usual arrangements.

AAAA offers these ideas as the basis for a discussion involving the relevant Government, non-government, and commercial operators.

We invite the Committee to endorse and recommend such a process.

## **Public education and other support**

*Any* scheme seeking to identify authentic product and hoping to remove culturally inappropriate product from any part of the ATSI style art and craft souvenir market must, if it is to succeed, be designed, supported and promoted by a broad industry alliance.

To be effective, it must become synonymous with branding, including labelling, that customers can trust and seek out because it guarantees that Indigenous artists will benefit.

It must be designed in such a way that the consumer is not turned away from Aboriginal art or craft because it is perceived as too problematic.

The Department for the Arts' advice to the 2007 Senate Inquiry remains an apt summary:

The label [in 1999] was not successful for a number of reasons, including being expensive and administratively complex and not distinguishing between fine art and manufactured tourist art. As such it did not have broad support across the sector. If a national Indigenous art label was to be introduced in Australia, significant research and consultation would be necessary to ensure that it was developed appropriately and was supported by Indigenous artists and art centres.

## **Concluding Remarks**

The Aboriginal Art Association of Australia is grateful for the opportunity to assist the Committee on this important Inquiry.