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Art failure

The proposed levy on the sale of European artwork will devastate Britain's dealers and auction houses

Max Hastings
Monday January 3, 2005
The Guardian

If our rulers wanted to accomplish one small, useful and achievable thing in the next 363 days, they would address the EU's droit de suite directive. Never heard of it? It represents the sort of bureaucratic folly which gives the union a bad name. It has prompted alarm throughout the British art world. It is due to be implemented on January 1 2006.

The measure will give artists, and their descendants for 70 years after their deaths, claims upon a levy imposed every time one of their works is resold. Very fair, some will say. Yet in practice, it will simply cause owners of contemporary art to send works for sale in markets where the levy is not applied, notably Switzerland and the US.

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It will deal a devastating blow at the London market, which today accounts for half of all European art sales. Experience in countries such as France, where a droit de suite already operates, shows that it is very costly to collect. It chiefly benefits not impoverished living artists, but the relations of rich dead ones.

In France, an estimated 70% of the levy raised in 1996, for instance, went to the families of seven famous dead artists. Likewise in Germany, collecting agencies represented 7,454 artists in 1998, but only 274 artists and 206 heirs benefited. Heirs received seven times as much money as living practitioners. The most notable beneficiaries where the levy is imposed have proved to be lawyers and agents, who cream off between 25% and 40% of the take.

For our purposes, it is the political history which deserves attention. A levy has existed since the 1920s in several European countries - it is no coincidence that these are minor players in art dealing. In 1996, the European commission decided that harmonisation of artists' resale rights was desirable, "to eliminate distortions to the EU art market and to promote creativity by ensuring equal treatment of artists in all member states".

In short, countries which already have a levy set about eliminating the advantage of nations which do not. As so often with Brussels's follies the directive simply ignores the fact that there is a universe beyond the borders of Europe, where markets rub their hands at the business that will accrue to them beyond the reach of EU writ.

The British government vigorously opposed the measure. Some concessions were secured. Yet this is an issue on which qualified majority voting holds sway. At high noon, Britain lost. The levy is to be imposed on a falling scale, starting at 4% on works worth between €3,000 and €50,000, the maximum single payment capped at €12,500.

The commission expressed a pious expectation that other countries, including the US and

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Switzerland, would see justice, and impose a levy of their own. Amazingly, they show no sign of doing so. A study of the French market by Arthur Andersen concludes that it will become worthwhile for the owner of any painting worth more than €22,000 henceforward to sell it in Switzerland. Anything valued at over €33,000 will be worth sending to New York.

About now, I hear sceptical voices say: for heaven's sake, is it so wicked to do something for artists at the expense of dealers and auctioneers, who make up one of the shadiest and least lovable groups in our society? After reading *The Art of the Steal*, a recent account of the misdeeds of Sotheby's and Christie's in the 1990s, a lot of people count their fingers after shaking hands with anyone who occupies an auctioneer's rostrum in Bond Street, or owns a shopfront in St James's.

Yet this is a serious business, employing 37,000 people in Britain and responsible for exports worth more than £2bn in 2002. Many living artists, including Hockney, Caro and Hodgkin, have expressed passionate opposition to *droit de suite*.

This is the sort of measure which puts a song into the heart of every Eurosceptic. It is a Brussels intervention which will demonstrably level a market down, not up. It offers significant profit only to middlemen and descendants of a few star practitioners.

Time is running out, but it is not too late for our own government to block this nonsense, by using the sort of tactics the French adopt daily to protect national interests of their own. The obvious course is to delay implementation of the directive until major players outside the EU are willing to join in imposing a levy. Such action would merely acknowledge the reality of the global marketplace. This, of course, is exactly what EU flat-earthers often seem tragically unwilling to do.

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