

Article for *Copyright World*

Visual Arts Industry Guidelines Research Project

Ian McDonald, Australian Copyright Council, 6 August 2001

On 8 August 2001, a *Code of Practice for the Australian Visual Arts and Craft Sector* was launched at a forum in Canberra, Australia.

The *Code* represents one of the outcomes of the Visual Arts Industry Guidelines Research Project (VAIGRP), which involved a number of researchers and commentators drawn from academia, the visual arts and crafts industries, non-profit organisations working in the visual arts and crafts sector and the legal profession. Over a three year period, the VAIGRP reviewed the professional, legal, industrial and economic conditions operating in the Australian visual arts and craft sector, identifying key challenges for visual artists themselves and for people either using visual art or dealing with visual artists. Another outcome of the VAIGRP is a set of research papers dealing the visual arts, including a report commissioned from the Australian Copyright Council on new and emerging copyright and moral rights issues.

Issues addressed in the *Code* include buying, selling and exhibiting art (including issues relating to the gallery/artist relationship and to relationships with agents); best practice for public art commissioning and artist-in residence programmes; and best practice for competitions, prizes, awards and fundraising exhibitions. Moral rights and copyright issues are discussed in relation to each area, and the VAIGRP also commissioned from the Australian Copyright Council best practice guidelines for dealing with copyright and with moral rights.

In addition to the launch of the *Code*, the Forum saw the presentation of proposals for policy and legislative reform (*Priorities for Policy and Legislation*). These proposals were generally drawn from the research papers produced during the VAIGRP. Policy and legislative recommendations relevant to copyright or moral rights included that:

- the Government act on the recommendation by the Australian Federal House of Representatives Standing Committee on Legal and Constitutional Affairs in its report *Cracking down on copycats: enforcement of copyright in Australia* that the Committee be given a reference to inquire into the mechanisms for the protection of Indigenous cultural and intellectual property;
- the period of protection for photographs be brought into line with the period of protection for other artistic works, and that the general period of copyright in Australia be extended to life plus 70 years, in line with the law in Europe and the United States;
- the Parliament review the operation of the moral rights provisions in the Copyright Act, particularly in relation to the consent provisions and the defence of “reasonableness”;
- a small claims jurisdiction be set up within the Federal Magistrates Court to deal with copyright matters;
- various miscellaneous provisions which provide defences in relation to reproduction of artistic works be repealed (for example, under the Australian Copyright Act, there are various defences available in relation to the

photographing, filming, drawing and painting of sculptures and works of artistic craftsmanship which are on public display other than temporarily);

- *droit de suite* legislation be enacted;
- owners of copyright in artistic works retain the right to prevent the parallel importation of reproductions of their work.

The responses of the Government and the various Opposition parties was not known at the time this news item was written.

The forum also presented an opportunity for the National Association for the Visual Arts (NAVA) to give a special presentation on the document *Valuing Art, Respecting Culture: Protocols for Working with the Australian Indigenous Visual Arts and Craft Sector*, written and researched by Doreen Mellor, with a legal section by Terri Janke.

For further information on the project and on the *Code*, the research papers and the policy and legislative recommendations, see NAVA's website at www.visualarts.net.au. *Valuing Art, Respecting Culture: Protocols for Working with the Australian Indigenous Visual Arts and Craft Sector* is also available from the NAVA site.