



This brief highlights important issues to visual artists that should be considered during the Standing Committee on Canadian Heritage's review of the *Status of the Artist Act*. Universal Basic Income, Collective Bargaining, and the Artist's Resale Right are very important issues for our members. We thank you for reading this brief and we look forward to the upcoming report.

Canadian Artists' Representation / Le Front des artistes canadiens (CARFAC) and Regroupement des artistes en arts visuels du Québec (RAAV) work to improve artists' working conditions and we advocate for economic and legal rights. Both organizations were certified by the Canadian Artists and Producers Professional Relations Tribunal to be the collective bargaining representatives for visual artists in Canada and Quebec respectively, as recognized by the federal Status of the Artist legislation.

Introduction:

According to the [2016 Census](#), there are over **21,000 visual artists** in Canada, working in such mediums as painting, sculpture, printmaking, photography, and more. **Half of visual artists earn less than \$20,000/year** from all sources of income including the "day-jobs" that most artists need to support themselves. Most artists are self-employed gig workers who earn **less than half the average Canadian worker**, and their creative income often varies from different sources that are not always reliable or predictable.

Collective Bargaining:

In 1980, UNESCO made recommendations about the role of the creative worker that led to the *Status of the Artist Act* (SAA) in Canada. This law has made a difference to visual artists, who would otherwise struggle to organize for the purposes of collective bargaining. Without the Act, galleries and museums would not be compelled to engage in collective bargaining. The SAA compliments and reinforces the *Copyright Act* within a cultural policy toolkit. While copyright establishes the right to be paid, collective bargaining through SAA establishes the amount to be paid. Artists are better off because of agreements negotiated under the Act.

CARFAC and RAAV have had a collective agreement in place with the National Gallery of Canada since 2015. Artists have been paid **over \$1 Million** in fees and royalties from the National Gallery from 2016 to 2020, with an **average of \$190,000/year** in large or small payments to many artists. That is almost five times what they were paying before our agreement. While we would be pleased to see the SAA expanded to provide other means for



artists to receive fair compensation, **it is imperative that the collective bargaining rights remain in the legislation.**

Universal Basic Income:

The pandemic has been disastrous for the arts sector in many ways, but it has also demonstrated what is possible if those who need a social safety net in times of hardship can access one. Other countries, like [Ireland](#), have introduced a Basic Income Guarantee for artists as part of their recovery strategy because they understand that artists need access to employment insurance. While artists appreciate the federal government investments that have helped to keep the arts sector and many sectors afloat during the pandemic, we are hopeful that Employment Insurance consultations will lead to more responsive permanent programs for self-employed workers in the arts and culture sector.

Artist's Resale Right:

The *Copyright Act* is a major piece of legislation that helps artists earn income from their creative work. For visual artists, that is primarily through the Exhibition and Reproduction rights sections of the *Act*. We are pleased that the federal government is committed to introducing an Artist's Resale Right (ARR) clause to the *Copyright Act*, and we recommend that the *Act* be reviewed and revised in 2022 to certify this commitment. It uniquely provides a long-term economic benefit to artists which requires no public funding commitment once it is legislated.

Unlike artists in other countries, Canadian visual artists are not currently paid for sales of their work in the secondary market (art that has been sold at least once before) The ARR would entitle visual artists to receive a royalty payment each time their work is resold publicly. Art often grows in value over time, and artists currently have no legal right to receive income from the ongoing commercial success of their work. **CARFAC and RAAV propose that 5% of all eligible secondary sales of artwork sold for at least \$1,000 should be paid back to the artist.**

The ARR is a copyright royalty, not a tax. It would not be collected nor would it be spent by government. Furthermore, the government would not be involved with collecting, distributing, or monitoring the payment of royalties. To simplify the administrative process, it is recommended that mandatory collective management be used to administer payments, and that reporting enforcement measures be put in place. In many countries, it is required by law



that an artist collects the ARR through a copyright collecting society, such as Copyright Visual Arts, to allow for cost efficiency and effectiveness in the process.

Indigenous art is highly valued both in Canada and abroad. However, historically, First Nations, Inuit, and Métis artists have often been exploited by commercial secondary markets. It is common for art to be directly purchased from an artist at a low price, only to be resold at a much higher value. Kenojuak Ashevak's famous artwork, *Enchanted Owl* originally sold for **\$24** in the 1960s. It has been resold a few times, and in 2018 it sold for **\$185,500**. Since 2014, five different versions of The Enchanted Owl have sold for a **combined total of \$603,000**. **If the ARR had been in place, 5% of that would be approximately \$30,000, as additional revenue reflecting the increased value of her original work.** In 2010, an [economic impact study from the Government of Nunavut](#) estimated that **Nunavut's arts and crafts sector contributes \$33.4 million to the territory's GDP**. This includes work in the secondary resale market, made by Inuit artists whose work is popular in Canada and abroad. The *Copyright Act* can correct an historic imbalance through mechanisms such as the ARR, ensuring Indigenous artists may receive fair compensation for their work.

Once established in Canada, artists would be able to benefit from reciprocal arrangements with other countries where the Artist's Resale Right exists. There are **94 countries** around the world that have legislation – including the entire European Union, the UK, Australia, New Zealand, and several countries in Africa, Asia, and South America. It has brought greater financial security to artists in other countries. As of 2022, **\$11 million AUD** has been paid to 2,360 Australian artists (65% of whom are Indigenous) since 2010, and over **£100 million** have been paid to artists in the UK since 2006.

The sale of art is more complex than other items that are commonly resold, like houses or cars, because of copyright. Artists typically retain copyright even when their work is sold, allowing them to continue to collect royalties. Writers and performing artists are able to share in the ongoing financial success of their books, songs, etc through the payment of royalties. The ARR is a unique solution particular to the visual arts, as it enables artists to earn a living from the copyright in their work whenever it is resold, allowing them to share in its ongoing value.

In 2018, the Standing Committee on Canadian Heritage and the Standing Committee on Industry, Science, and Technology conducted consultations on the *Copyright Act*, and presented reports on their findings. The Canadian Heritage Committee specifically



recommended the Artist's Resale Right be established in Canada. **We ask that the Committee continue to support its 2018 recommendation and the government commitment in the Minister of Canadian Heritage's 2021 Mandate Letter to allow resale rights for artists, and to amend the *Copyright Act* before the end of 2022.** We have a detailed proposal for how the Artist's Resale Right should work, based on best practices from other countries. It has been studied many times internationally, and results are overwhelmingly positive.

We welcome the opportunity to provide further information on any of these proposals, and to engage in a discussion on improving the lives of artists in Canada.