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## NOTICE OF INQUIRY ON RE SALE ROYALTY RIGHT GESAC COMMENTS

The European Grouping of Societies of Authors and Composers (GESAC) represents 33 of the main copyright management societies (authors' societies) in the European Union, Iceland, Norway and Switzerland, administering the rights and remuneration of almost 700 000 authors, composers and writers in a variety of sectors (music, audiovisual, literary and visual and graphic arts) and music publishers. Behind authors' societies are thus hundreds thousands of authors and composers who are members of these CMS and managing and controlling them.

GESAC wishes to highlight the importance of the resale right for the artists and therefore for the art market economy

### **I. Resale right is an essential intellectual property right; it contributes to creativity and consequently to the growth of the art market**

Authors of graphic, plastic and photographic arts derive most of their income from sales of original works. Only the most highly-reputed are able to benefit from reproduction right. Resale right enables authors to share in the subsequent physical resale of their works, which therefore makes it their **paramount economic right**. By ensuring continuity of artists' remuneration, resale right acts as a corrective to a constant of the art market whereby artists - especially early on in their career - most often let their works go for low prices to collectors or dealers who put them aside and place them back on the market again once the author's reputation is made. These works are then sold on in successive transactions between sellers, dealers and collectors. And an artist's price index will not uncommonly skyrocket after death, as their works will become scarce. **It is therefore wholly reasonable and fair for the artist or his successors-in-interest to share in the economic success of the works and receive a share of the transactions carried out.**

Resale right contributes to make artists earning their living from their art. It helps developing a vigorous and flourishing creative and artistic economy.

Apart from its economic aspect, resale right is a **major source of information** for artists to see how their career is progressing, auction by auction.

Artists set great store by resale right. 20 000 EU visual artists represented by GESAC and EVA testified as much in 1997 when the proposal for a Resale Right Directive was going through the European Parliament.

In a recently adopted (20 November 2012) Resolution on the implementation of this Directive, the European Parliament gives clear recognition to the importance of resale right to

artists and their successors-in-title and the significant contribution the art market makes to the global economy.

## **II. Resale right has no negative effect on the EU art market and on its location**

An analysis of the global market in recent years clearly shows resale right to be very much a side issue to the interests involved. The market is in the hands of a small number of operators who speculate and invest huge amounts in their activities. The amount of these investments far outweighs the amounts they have to pay in resale right. The art market has slumped in approximately 10-year cycles (1980, 1990, 2001, and 2008) since 1980, but has recovered each time. The sharp fall in art prices between January 2008 and late 2009 (- 43%) was followed by +8% in annual terms recorded in July 2010 and by 23% in July 2011<sup>1</sup>. Considering how small a component it represents of total art market turnover, resale right cannot seriously be considered as a shaping factor on the art market: the art market was valued at USD 10 billion in 2010 and almost USD 12 billion in 2012 and that the resale right accounts for only 0,03 % of those sums. **It is an important market from which artists and their heirs should receive fair remuneration.**

Extending resale right EU-wide through Directive 2001/84/EC has been largely beneficial for artists and had no negative impact on the art market. This was recently underlined by the European Parliament in its Resolution on the implementation of this Directive;

Where **the art market is located depends on a wide range of factors** (geographic closeness, public taste, market size and structure, tradition, the presence of experts, the expertise and pro-activity of operators, legislation, taxes, etc.). It starts up where the general climate, and the cultural, social and economic environment is most conducive.

## **III. The art market is globalizing and a global strategy is needed for resale right**

In the first half of the 20<sup>th</sup> century, Europe exercised a predominant influence on the art market. After World War II, creation and the art market flourished more in the United States. The dawn of the 21<sup>st</sup> century brought a challenge to Anglo-American and European dominance: globalization and the Asian countries taking the driving seat of global growth have shifted the centre of gravity of art and its market. China, Taiwan, South Korea, Singapore and Japan have become key marketplaces. Contemporary Russian art is also up and coming, while India is capturing an increasingly large market share. And by the recognition of the resale right, the artists in the US will benefit from the resale of their works in other countries thanks to the reciprocity principle.

### **Conclusion**

**A global art market requires a global strategy.** Art market operators, artists, sellers, several member states and the European Parliament are unanimous in their request to extend resale rights on a global scale, to ensure coherent conditions across the different markets. **Numerous draft laws aiming to reinstate resale rights are underway in many countries, including the United States and China. GESAC strongly supports these efforts for the resale rights to be applied the world over.**

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<sup>1</sup> The Contemporary Art Market 2011/2012 – Artprice Annual Report

