7 July 2017

**Submission to the hearings on the Copyright Amendment Bill**

**From Aspire Art Auctions**

Currently, visual artists benefit from a legislated Artist’s Resale Right (ARR), originally known as a droit de suite (literally, ‘right to follow’) in 80 countries around the world, largely following provisions in the Berne Convention. The ARR provides an intellectual property right for artists to benefit via royalty payments on the sale of their works in the secondary markets. In some countries the right extends to the estate, heirs and foundation of the artist, enabling a sustainable approach to the heritage of these particular artists.

Currently there is no legislative framework for ARR in South Africa, though this has been mooted by the existing Copyright Amendment Bill for 5% of work sold in the secondary market. While royalty structures in some art forms exist and are enforced – notably in music, literature and performance (including stage, television and film acting), no such structure currently exists for the visual and plastic arts, or craft, which is also introduced in the Bill.

The art world in SA has a strong, established secondary market, and an extensive corporate and private collection profile. Aspire Art Auctions launched into this market in 2016, with successful inaugural auctions in Johannesburg and Cape Town. The company is focused on secondary markets in SA contemporary and modern historical art, and from the outset committed to the economic sustainability of the art market. It is motivated by a wish to improve the economic conditions of artists in the country and help keep them making art. This extends to contributing to the redress of the structural inequality on racial lines that exists in SA art, which is one of the cornerstones of the legislation as it is currently amended.

Accordingly, Aspire introduced their own Artist’s Resale Rights effective immediately from its inaugural auction in Johannesburg in 2016. The in-house scheme offers a sliding scale of royalties on the current European model, and is only offered to living artists, not to estates, heirs or foundations. In the absence of a legislative framework, and unlike other countries, where collection agencies are established by law, South Africa currently offers no legislative provision for the work of its artists to attract royalties from secondary market sales, and the current provisions in the Bill have little by way of implementation detail or detail on which agencies would collect royalties and how.

The long-awaited implementation of the Artist Resale Right (ARR) is an investment back into the industry, acknowledging the value of authorship and ensuring support for artists. The inequality of artists only profiting from the initial sale is compounded when one considers the rise in value of an art work over time, in relation to the growing success of the artist; Aspire’s resale royalties initiatives endeavours to return some of that value to the living artist.

Accordingly Aspire currently undertakes the total cost of the undertaking. This is by no means enough to sustain the market, but if other players follow and a legislative framework exists that includes royalties for secondary market sales of the work of visual artists, then the cultural and heritage value of the country’s visual artists can be sustained for all South Africans.

As Aspire we therefore call for an urgent amendment to the existing legislation under discussion to include the provision and extension of royalty rights to visual artists for sales of their work in the secondary market, and its proper implementation and administration by a legislated, independent and industry-specific agency or agencies.

Please contact:

Cape Town

Emma Bedford | emma@aspireart.net | +27 83 391 7235

Marelize van Zyl | marelize@aspireart.net | +27 83 283 7427

Johannesburg

Jacqui Carney | jacqui@aspireart.net | +27 71 675 2991

Mary-Jane Darroll | mj@aspireart.net | +27 82 567 1925

Ruarc Peffers | ruarc@aspireart.net | +27 84 444 8004

*About Aspire Art Auctions*

Aspire Art Auctions is a South African-based, specialist auctioneering company formed to respond to the requirements of the country’s rapidly growing art industry.

Specialising in historical, modern and contemporary art, the company is headed by a grouping of partners with formidable collective knowledge and expertise – together representing the longest combined secondary art market presence in South Africa.

With collective art industry experience of more than eighty years, Art Specialists Emma Bedford, Jacqui Carney, Mary-Jane Darrol,l Ruarc Peffers and Marelize van Zyl produce curated auctions of top-quality international, African and South African art.

What makes Aspire Art Auctions unique in the local auction world is this knowledgeable team whose exclusive focus on fine art ensures that works of art are presented in comprehensive historical and cultural contexts and on the best possible display platforms.