

Cutting Through the Politics of Envy

The seriousness of the Cooper Report implications was made apparent yesterday when an art consultant told me she has a client with \$65,000 set aside to purchase Australian contemporary art in her SMSF but this money has been on hold since the initial recommendations were made public on April 29. Just one tangible story of lost sales and employment opportunities.

In the latest developments:

1. Jeremy Cooper made a number of statements to The Weekend Australian in Michaela Boland's article "They say art and retirement don't really mix". We note that he has yet to provide any evidence for these comments, particularly "I look at the art market and think (my emphasis) it's got a way to go before it's completely legitimate."
2. Brian Toohey's column in The Weekend Australian Financial Review - "Paternalism on super destined to fail" articulates many of our concerns, particularly his comment that "any libertarian element in Cooper's review is almost entirely suffocated by its paternalism".
3. The Coalition has ruled out Cooper's recommendations, our last email may have given the impression that they are as undecided as the Federal Government. We thank Senator Ciobo for his principled stand and look forward to further discussions with him on their arts policy, particularly a review of the resale royalties legislation.

The recommendations made by Cooper carry significant implications to the Australian arts industry and to the retirement savings of thousands of Australians. These matters are complex but are being prosecuted by their advocates through the politics of envy. Artist Ben Quilty summed it up in a comment to The Australian last week when he said a similar whack to the sports industry in this country would never be contemplated the way the arts industry has been hit.

Cutting through these politics of envy are three of the most significant implications of the recommendation to ban artworks from SMSFs:

Cooper & Resale Royalties

Imposing a five-year moratorium to divest SMSFs of artworks will penalise thousands of retirees at least 5% of the value of those artworks due to the resale royalties legislation.

SMSFs that owned artworks bought before June 9 (the start date for RR) could have sold those artworks at some point in the future and not paid RR. Because SMSFs are not defined as individuals under RR legislation, if artworks were forcibly sold or bought back by the member due to the Cooper Report they would lose their first-transfer exemption.

This would mean the next time the artworks are sold there would be a 5% RR levy applicable. Surely this is not consistent with the objective of protecting retirement savings that was the overarching goal of the Cooper Report. (Of course there will also be an inevitable loss in value of SMSF artwork collections due to the flood of works entering the market over a five-year period - what Cooper describes as reducing uncertainty for art investors!)

The SAF Non-Option

It has been reported that some Small APRA Funds (SAFs) are looking at the possibility of accepting artwork collections from SMSFs. In my opinion if this was to occur it would only be for very large artwork collections and the type of artworks accepted would typically be of the deceased white artist variety such as Bunny, Boyd, Nolan and Norman Lindsay.

This would represent a dramatic shift from the role that SMSFs currently play in the Australian art market where they invest heavily into the contemporary and Aboriginal art sectors. It would also be at cross-purposes to the resale royalties legislation which I thought was meant to favour the living over the dead!

Cooper & Public Policy

Both Jeremy Cooper and Meg Heffron, another member of the Panel, have made public statements to the effect that their brief was to provide a report on superannuation and not to consider the impact their recommendations would have on certain industries – namely the arts.

This is like carrying out a study to build a fertiliser factory and deciding that it should go ahead even if it meant you would poison the town water!

In a similar way the Cooper Panel has abrogated its responsibilities to the Australian public by choosing to ignore the valid concerns of the visual arts industry in a single-minded determination to deliver their final report to a predetermined deadline of 30 June.

That is why we now call for a Federal Government parliamentary enquiry into the processes undertaken into both the initial Cooper recommendations and the circumstances surrounding delivery of their final report.

Michael Fox

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