


THE RESALE RIGHT IN FRANCE

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WHAT IS ADAGP ?

■ The French CMO for visual arts

- Reproduction right → Books, press, merchandising, advertising...
- Communication to the public right → TV, Internet...
- Resale Right
- Collective rights (private copying, reprography...)
- Cultural action, defense of visual artists

■ Created in **1953** by artists and style managed by authors

■ **50** sister societies worldwide

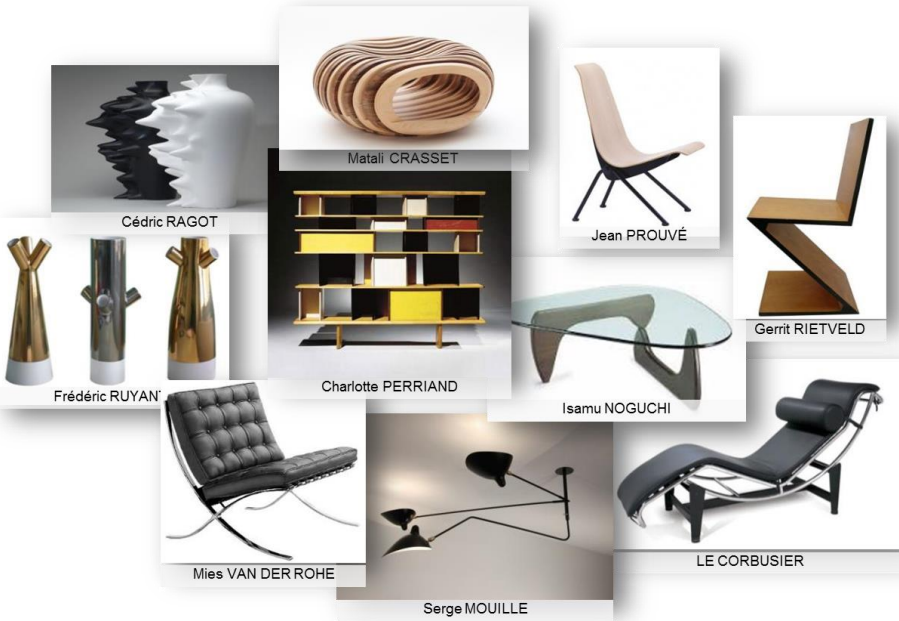
■ More than **130 000** authors

- 12 000 direct members
- 120 000 members of sister societies

■ More than **30** disciplines represented



**Painters, sculptors,
 photographers...**



**But also, designers,
 comics, architects and
 many others...**

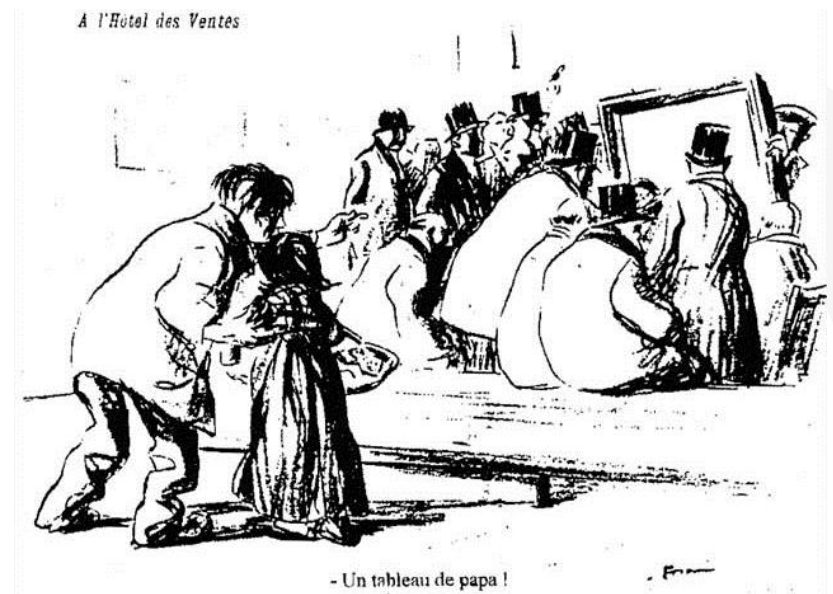
THE SOURCES OF RESALE RIGHT

Enshrined in French Law in 1920



The Angelus by Jean-François MILLET

- Initial selling price : 1200 francs
- Resold a few years later : 1M francs



In the Auction House, Jean-Louis FORAIN

AND TODAY...

- Enshrined in French Law in 1920
- Introduced into the Berne Convention in 1948
- Introduced into European Law in 2001
- Now recognized by more than 80 countries

Algeria	Costa Rica	Guatemala	Latvia	Nicaragua	Slovakia
Australia	Croatia	Guinea	Liechtenstein	Norway	Slovenia
Austria	Cyprus	Honduras	Lithuania	Panama	Spain
Azerbaijan	Czech Republic	Hungary	Luxembourg	Paraguay	Sweden
Belarus	Denmark	Iceland	Madagascar	Peru	Tunisia
Belgium	Ecua	United States	China	ppines	Turkey
Bolivia	Estor			nd	Ukraine
Brazil	Finland	Ireland	Mexico	Portugal	United Kingdom
Bulgaria	France	Italy	Monaco	Romania	Uruguay
Burkina Faso	Gabon	Ivory Coast	Montenegro	Russian	Venezuela
Chile	Georgia	Kazakhstan	Morocco	Federation	
Colombia	Germany	Kyrgyzstan	Netherlands	Senegal	
Congo	Greece	Laos	New Zealand	Serbia	

HOW DOES IT WORK?

Which works are concerned?



- paintings,
- sculptures,
- drawings,
- engravings,
- lithographs,
- photographs,
- tapestries,
- ceramics,
- design...

ORIGINAL WORKS OF GRAPHIC ART OR PLASTIC ART

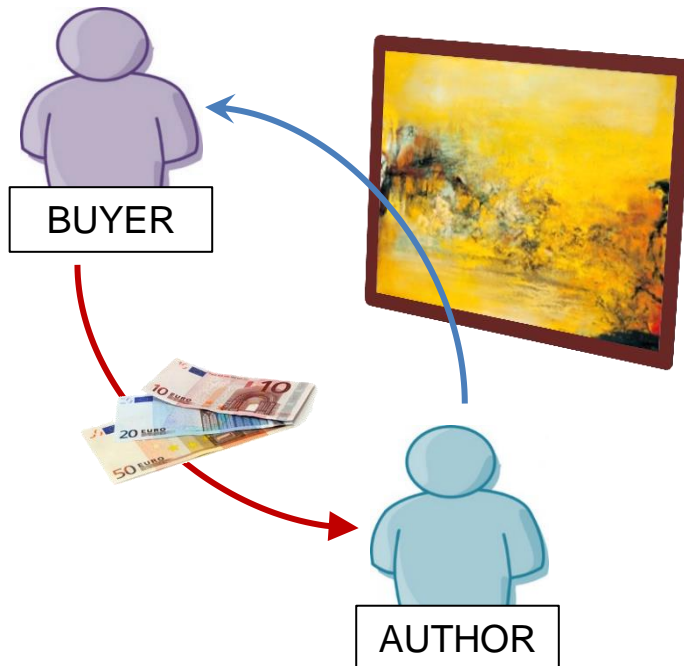
- they are made by the artist (e.g. unique artworks, prototypes...); or
- they are copies considered to be original works of art according to professional usage incorporated into law : limited productions, signed or numbered works.

The example of sculpture: 12 copies are considered to be original works



HOW DOES IT WORK?

When does resale right apply?



First transfer of the work by the author
or
Transfer **between private collectors**

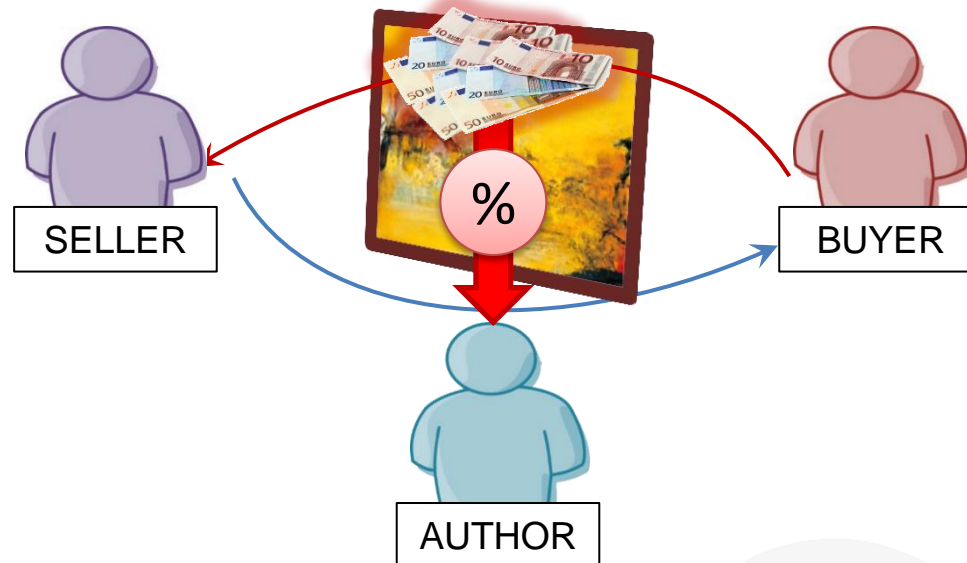
⇒ **NO RESALE RIGHT**

HOW DOES IT WORK?

When does resale right apply?

RESALE

(with the involvement of an art market professional)



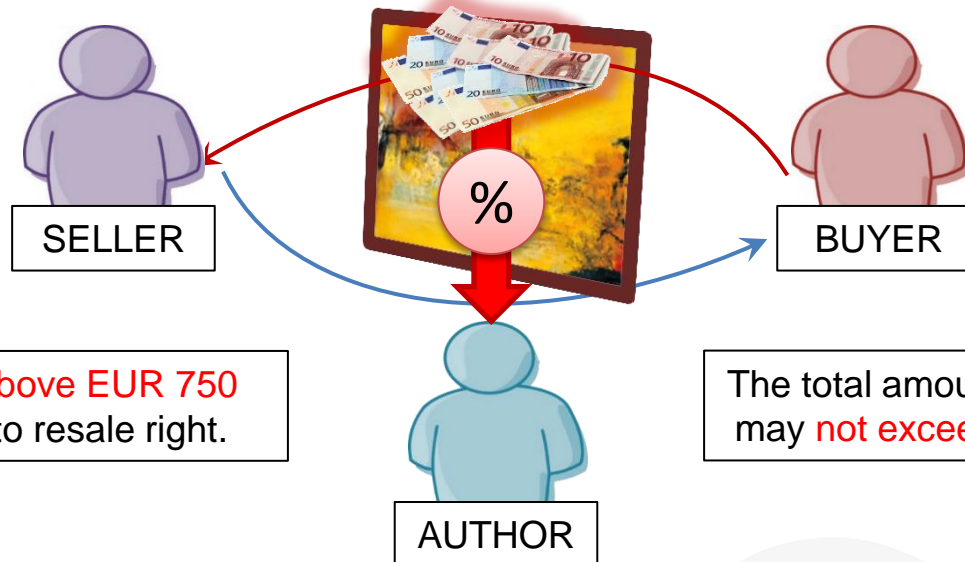
Degressive royalty rates:

- **4%** for the **portion of the sale price** up to EUR 50 000
- **3%** for the portion of the sale price between EUR 50 000,01 and EUR 200 000
- **1%** for the portion of the sale price between EUR 200 000,01 et EUR 350 000
- **0,5%** for the portion of the sale price between EUR 350 000,01 and EUR 500 000
- **0,25%** for the portion of the sale price over EUR 500 000,01 euros.

HOW DOES IT WORK?

When does resale right apply?

RESALE
(with the involvement of an art market professional)



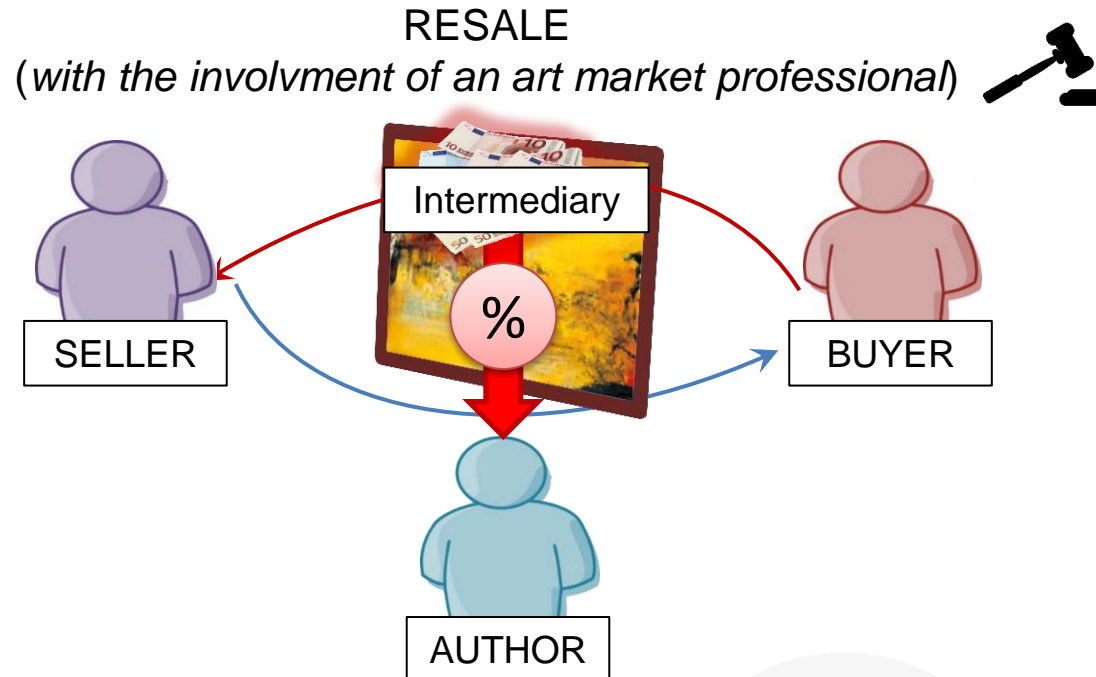
Only sales above EUR 750 are subject to resale right.

The total amount of the royalty may not exceed EUR 12 500.

No royalty is due when the seller has acquired the work directly from the author less than 3 years before the resale and where the resale price does not exceed EUR 10 000

HOW DOES IT WORK?

Who has to pay?



Resale right applies when the resale involves an art market professional as

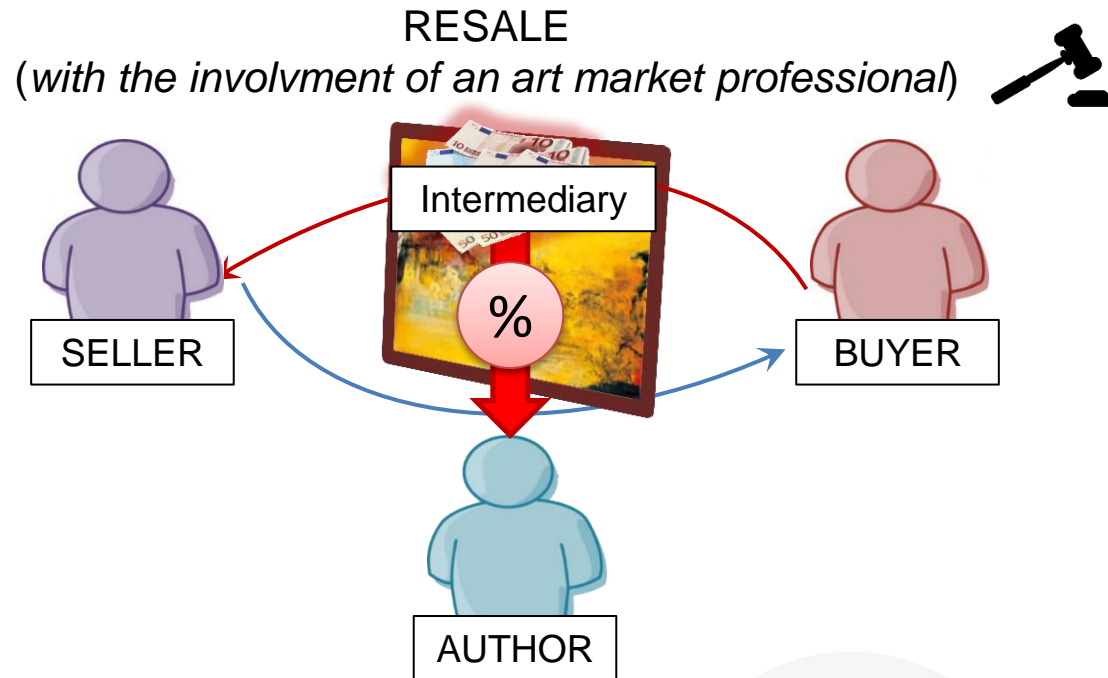
- a seller,
- a buyer,
- or an intermediary.

The royalty is payable **by the seller or the buyer** (french legal case currently pending).

But the art market professional is liable for its payment.

HOW DOES IT WORK?

Who can enjoy it?



Resale right **can be claimed by living artists or their successors in title** (for 70 years after the artist's death), on condition

- the artist is (or was) European, or
- the artist is (or was) a national of a country whose legislation permits resale right protection for European authors and their successors in title (reciprocity).

CONCRETE OPERATING PROCEDURES

Things run smoothly...

- The collection process is managed by a Collective Management Organisation (CMO) → efficiency, transparency, simplicity
- ADAGP informs art market professionals, facilitates the process, gives access to practical tools

Fr | En

Adagp SOCIÉTÉ DES AUTEURS DANS LES ARTS GRAPHIQUES ET PLASTIQUES

Home > User > Resale right

RESALE RIGHT

The resale right was created in France in 1920.

A 2001 European directive, integrated by the act of 1 August 2006 and an order of 9 May 2007, extended it to galleries, antique dealers and on-line dealers, etc. from 1 June 2007.

The resale right is the royalty received by creators of original graphic and plastic artworks when their works are resold by an art market professional.

This right is non-transferable which means that the artist cannot assign it, donate it or bequeath it.

Accredited by the French Ministry of Culture, Adagp receives and handles declarations of sales covered by the resale right and collects and distributes the royalties to the artists and beneficiaries it represents.

Our website offers an informative and practical space for auction houses and various professionals to help them fulfil their obligations resulting from current legislation concerning the royalty right.

Legal provisions
Article L. 122-8 CPI
Articles R. 122-2 to 122-12 CPI

CATALOGUE RESALE RIGHTS
Check the artists whose resale rights are managed by ADAGP
Enter name of artist concerned...
SEARCH

CALCULATING RESALE RIGHT
Total sale (€) :
Enter total sale...
Total resale right (€)
0

SEE THE LIST OF COUNTRIES WHO HAVE ADOPTED THE RESALE ROYALTY >

RESEARCH RESALE ROYALTY

CATALOGUE RESALE RIGHTS

Check the artists whose resale rights are managed by ADAGP

Enter name of artist concerned...

SEARCH

CALCULATING RESALE RIGHT

Total sale (€) :

153000

Total resale right (€)

5090

HOW DO WE DO ?

An ongoing dialogue with the art market professionals

- Daily contacts with art dealers (questions on the scope of resale right, on filling the reporting form, on payment..;)
- Regular meetings with art market professionals (workshops, trainings, conferences, debates...)
- Adoption of commun rules to facilitate the management of resale right by art dealers (e.g.: the vademecum on the management of resale right on design works)

VADEMECUM
relatif
A L'APPLICATION DU DROIT DE SUITE
AUX ŒUVRES DES ARTS APPLIQUÉS (design)

Des interrogations s'étant fait jour sur les modalités d'application du droit de suite aux œuvres des arts appliqués (design), le Syndicat National des Antiquaires (SNA) et la Société des Auteurs dans les Arts Graphiques et Plastiques (ADAGP), réunis avec le Ministère de la Culture et de la Communication, ont travaillé au présent vademecum. Ce document a pour seul objet d'apporter une présentation synthétique de la législation et de la réglementation, les seuls textes officiels restant applicables, dans le cadre de l'interprétation éventuelle des juridictions compétentes.

Les œuvres des arts appliqués (ou design) protégées par le droit d'auteur bénéficient aussi du droit de suite, de la même manière que les autres œuvres des arts graphiques et plastiques. Cependant, il doit être tenu compte du fait que les œuvres des arts appliqués sont des créations bien spécifiques soumises à des dispositions particulières.

SOME FIGURES...

- **€ 12,8 million** in resale right received by ADAGP (2016)
France : € 7,9 million
From abroad : € 4,9 million
- **12%** management fees
- **400** auction houses and **800** galleries
- **73%** royalties paid by auction houses / **27%** royalties paid by galleries
- **2** litigations against a gallery and an auction house in 10 years
- **43%** of beneficiaries are living authors

SOME PRECONCEIVED IDEAS

Administration costs for AMPs ?

Statistics based on 99 000 sales reports

- Top 10 operators:

Average of **682** sales/year = **57** sales/month

- Others operators (around 500):

Auction houses: **30** sales/year = **2,5** sales/month (av.)

Galleries: **14** sales/year = **1** sale/month

Detrimental effect ?

- **0,027%** : percentage represented by the resale right on the turnover of art market

NO DETRIMENTAL EFFECT ON ART MARKET

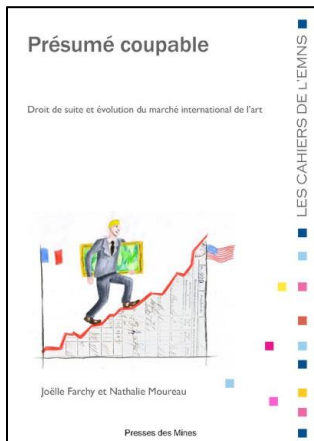
Official Reports and Economic Studies



Report from the European Commission of the Implementation and Effect on the Resale Right Directive (2001/84/EC), Dec. 2011

→ Impossibility to establish a link between the evolution of EU's share in the global market for modern and contemporary art with the application of the resale right in the EU from 1st January 2006.

→ No clear patterns that would indicate trade diversion within the EU away from those Member States which introduced the right for living artists in 2006.



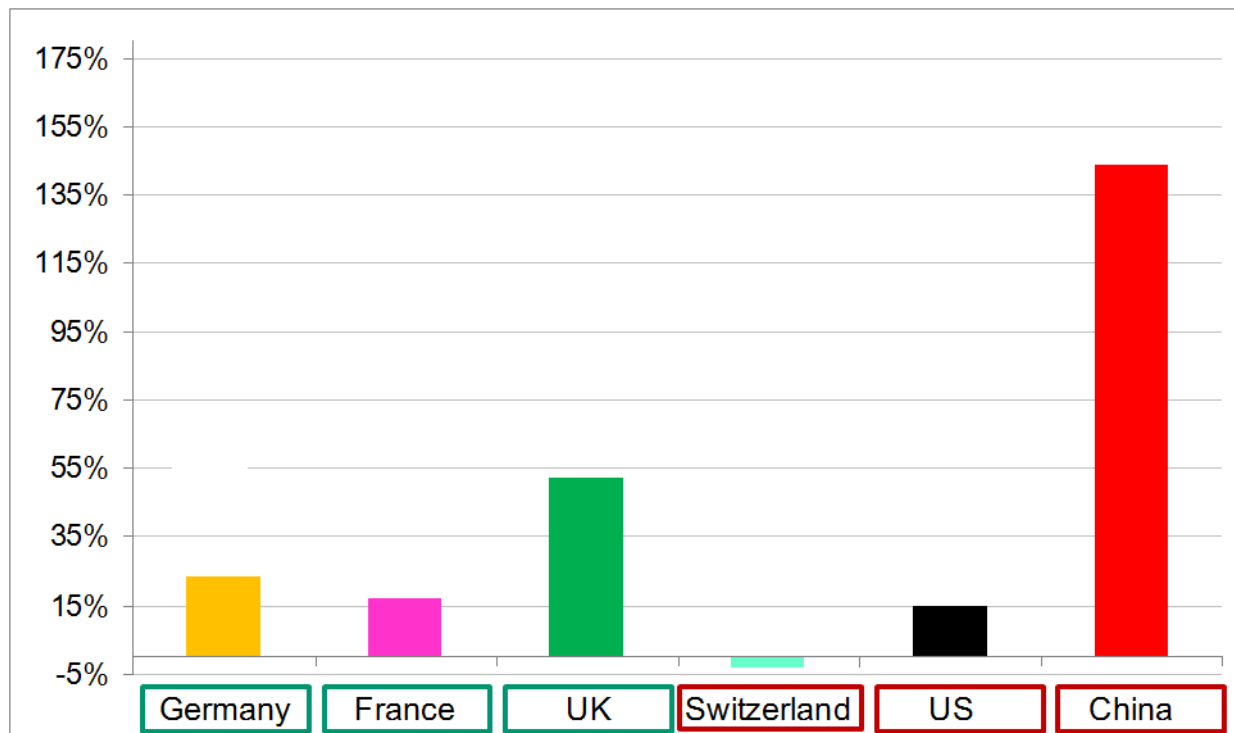
J. Farchy & N. Moureau, “Présumé coupable” (“Alleged Offender”). Economic study on the impact of resale right on the evolution of the international art market

“All the empirical analysis carried out in this study, using different methodologies, question the predictions based on theoretical analysis that resale right may have an impact on the location of art market. There is no evidence of a relocation effect on auctions.”

NO DETRIMENTAL EFFECT ON ART MARKET

Figures reveal no incidence

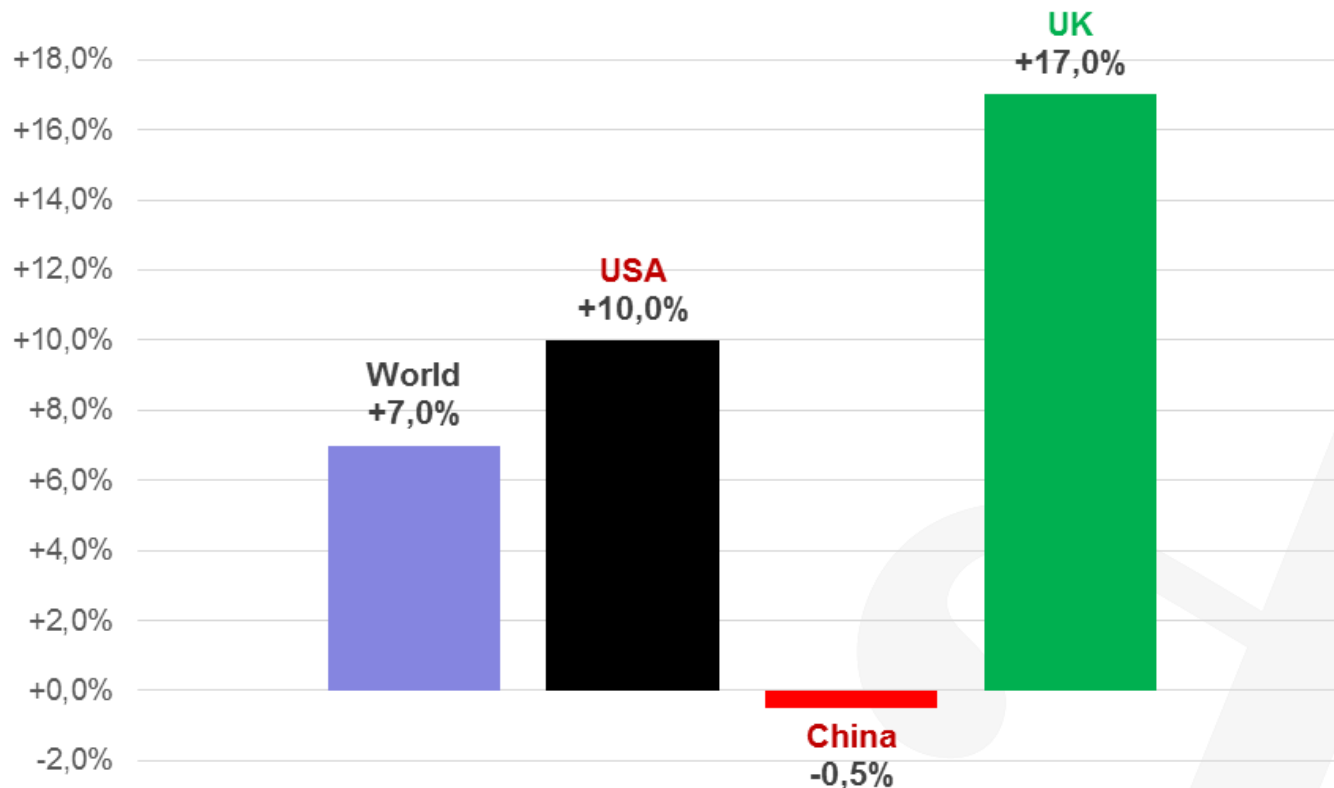
- Change in Art Market Turnover (1998-2008)
(Source: TEFAF 2011 Report)



NO DETRIMENTAL EFFECT ON ART MARKET

Figures reveal no incidence

- Change in Art Market Share between 2013 & 2014
(Source: TEFAF 2015 Report)



NO DETRIMENTAL EFFECT ON ART MARKET

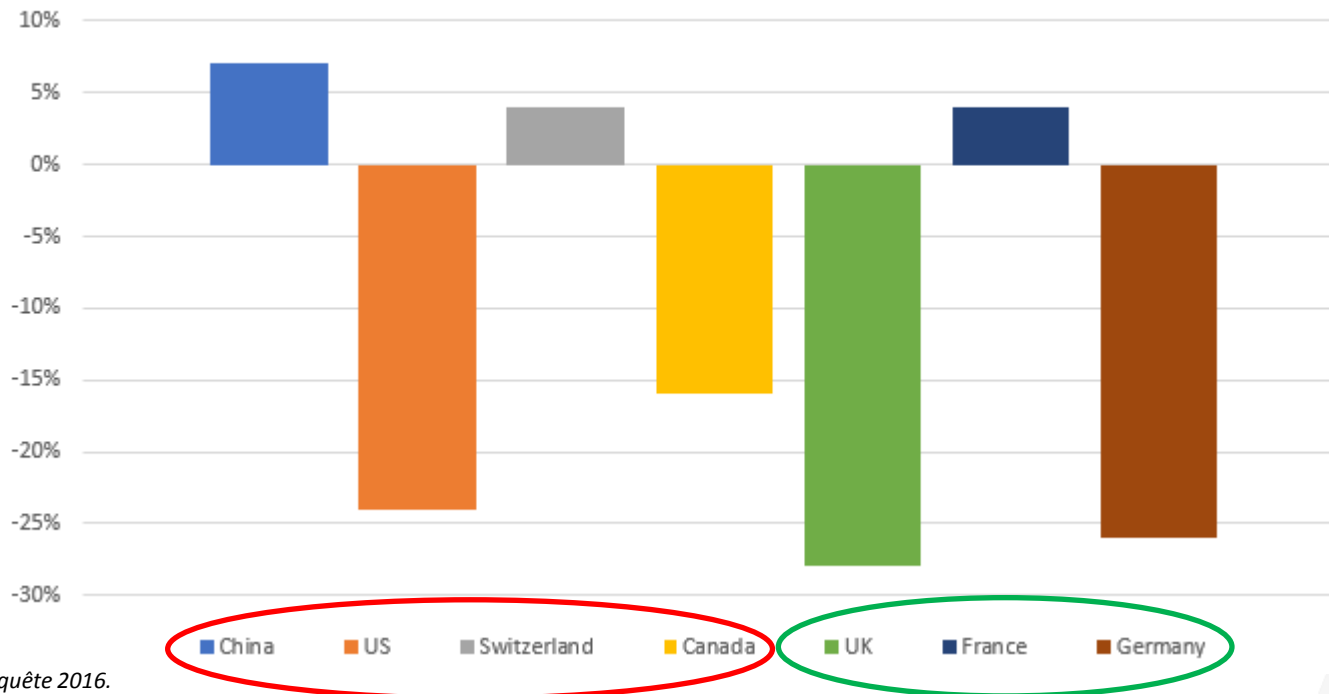
Figures reveal no incidence

The exemple of the international artistic auction results



TOTAL AMOUNT AWARDED WORLDWIDE : € 26 BILLION

Evolution of sales by geographical area



China US Switzerland Canada

UK France Germany

Don't recognize resale right

Recognize resale right

There is no link between whether or not a country recognizes resale right and its 2016 results

A LEGITIMATE AND FAIR AUTHOR'S RIGHT

Testimonies of authors and rightholders



Jérôme MESNAGER, painter:

“For our children, it is also the hope that, by receiving something some day after our death, they feel that we have done something during our artist life.”

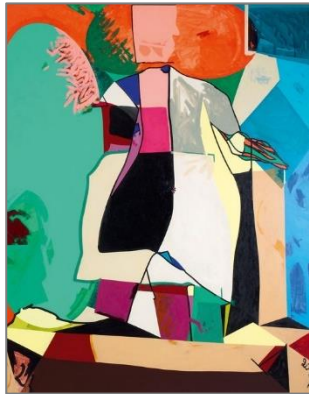


Igor USTINOV, sculptor:

“As it is, an artist already has no coverage, no guarantee and no unemployment benefits. He has no safety either for himself or his family. Their commitment is difficult ; don't make it worse by depriving them of what little recognition is granted to them by the Community and the world of commerce.”

A LEGITIMATE AND FAIR AUTHOR'S RIGHT

Testimonies of authors and rightholders



Hervé TELEMAQUE, painter:

“Today I am 78 years old and my monthly pension is 800 €. Suffering Wegener disease and having suffered a cerebrovascular accident I can hardly paint since then. Resale royalties are an important, rather a very important, source of revenue and simply help me to live.”



Milena PALAKARKINA, heir of the painter and sculptor Jean Tinguely :

“It seems to me legitimate that the direct heirs take their modest share on the resale of the work of their father or mother for 70 years. For my son, who has not known his father, and who, logically, has a chance to touch this right throughout his working life, utility is not only financial but also moral.”

A LEGITIMATE AND FAIR AUTHOR'S RIGHT

Testimonies of authors and rightholders



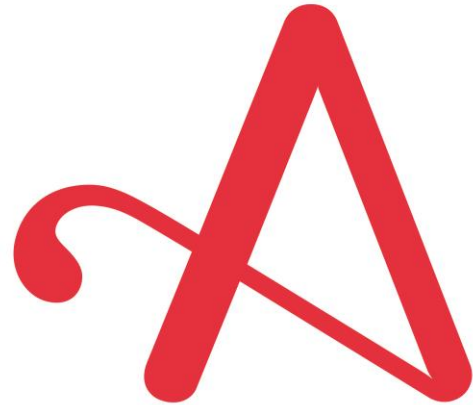
Sylvie Debré-Huerre, heir of the painter Olivier Debré :

“Thanks to this right, there is a follow-up of the work, information everywhere in France and in countries where the droit de suite exists.”



**Ousmane Sow, sculptor
Former Vice President, CISAC**

“The works of creators enrich our world in all senses of the word. They elevate our human experience and create prosperity for many. But the creator cannot live on air alone and his ability to create must be protected. Creators share their gift with the world, so it is only fair that those who make money from their works share a portion of this wealth with the creator.”



 Adagp
société des auteurs
dans les arts graphiques
et plastiques

