European Commission Consultation on the Implementation and Effect of the Artists' Resale Rights Directive

Summary of Research Conducted by Arts Economics

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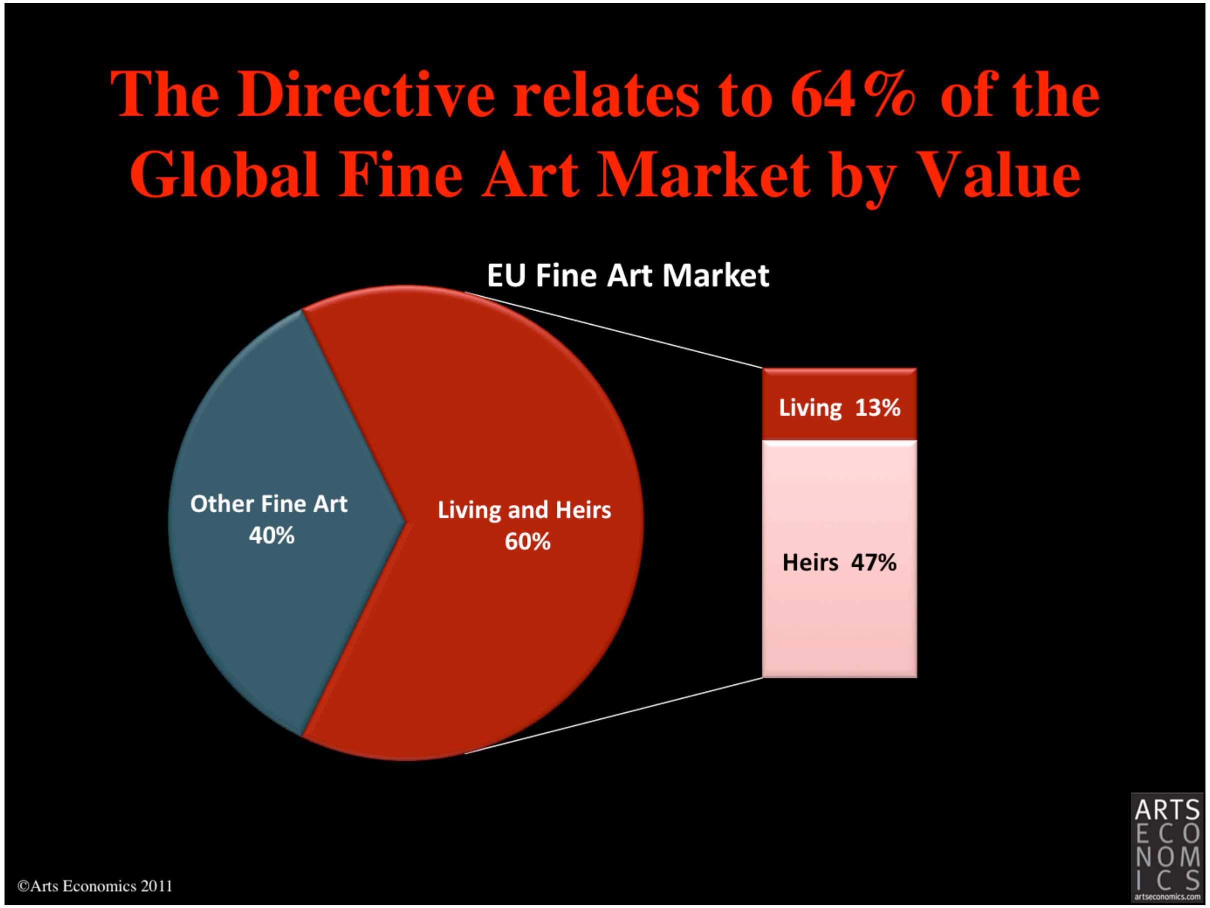
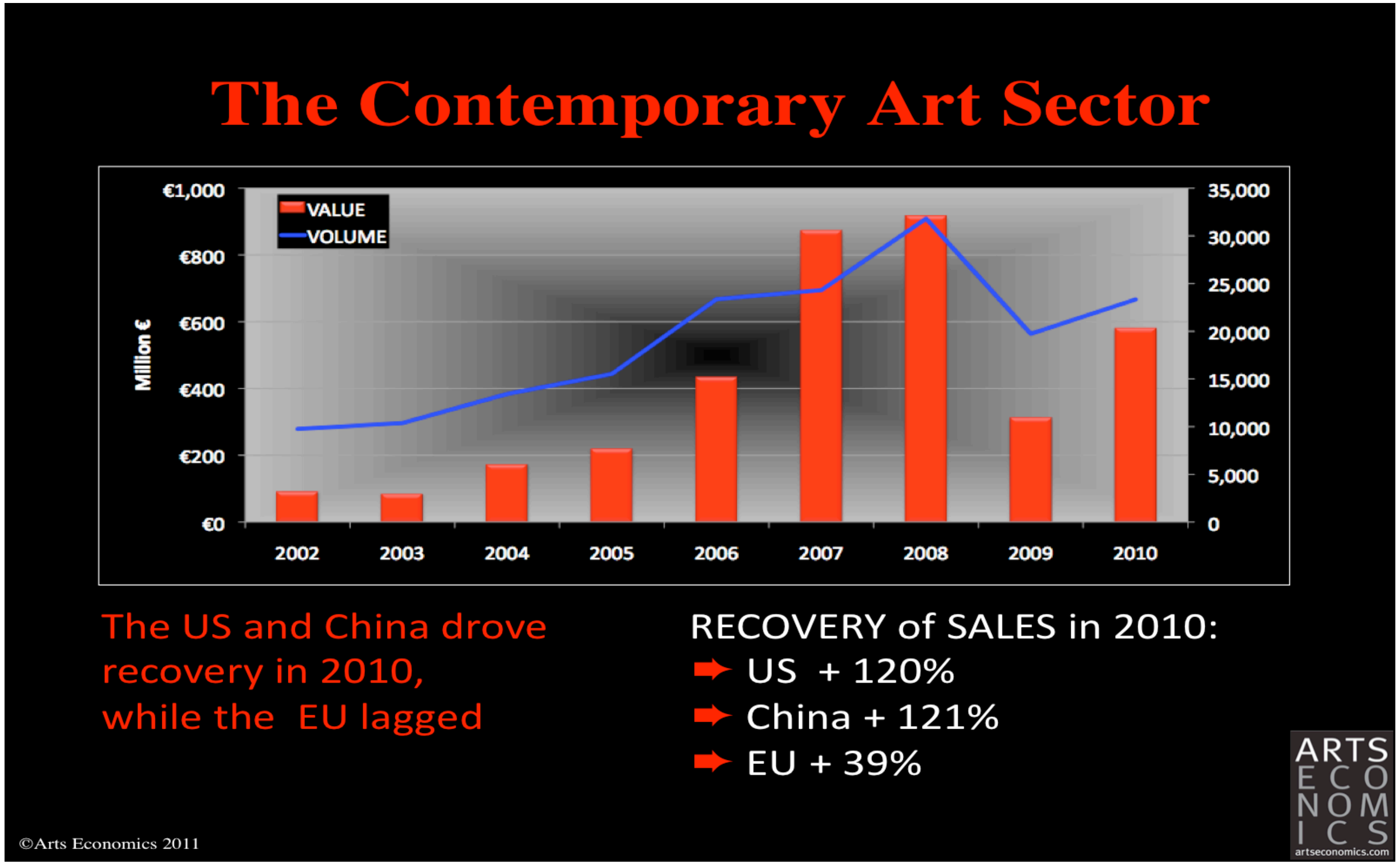
- This research was commissioned by the European Art Market Coalition to address the questions laid out in the European Commission's recent consultation on the implementation and effects of the Directive.

- This presentation does not offer an opinion on the merits or otherwise of the ARR itself, or of the Directive, but it attempts to analyse the actual or potential impact that ARR has had, or may have in the future, on the sectors of the art market to which ARR applies.



- The general term 'art market' covers many different sectors - antiquities, decorative art and fine art including Old Master paintings, Modern and Contemporary art and others. This research specifically examined the fine art market, which in total accounted for of €5 billion in sales in the EU in 2010, by both dealers and auction houses, and, within this market, the two sectors where ARR applies are works by living artists (Contemporary sales) and by artists deceased within 70 year of the sale (referred to here as the 'heirs market').

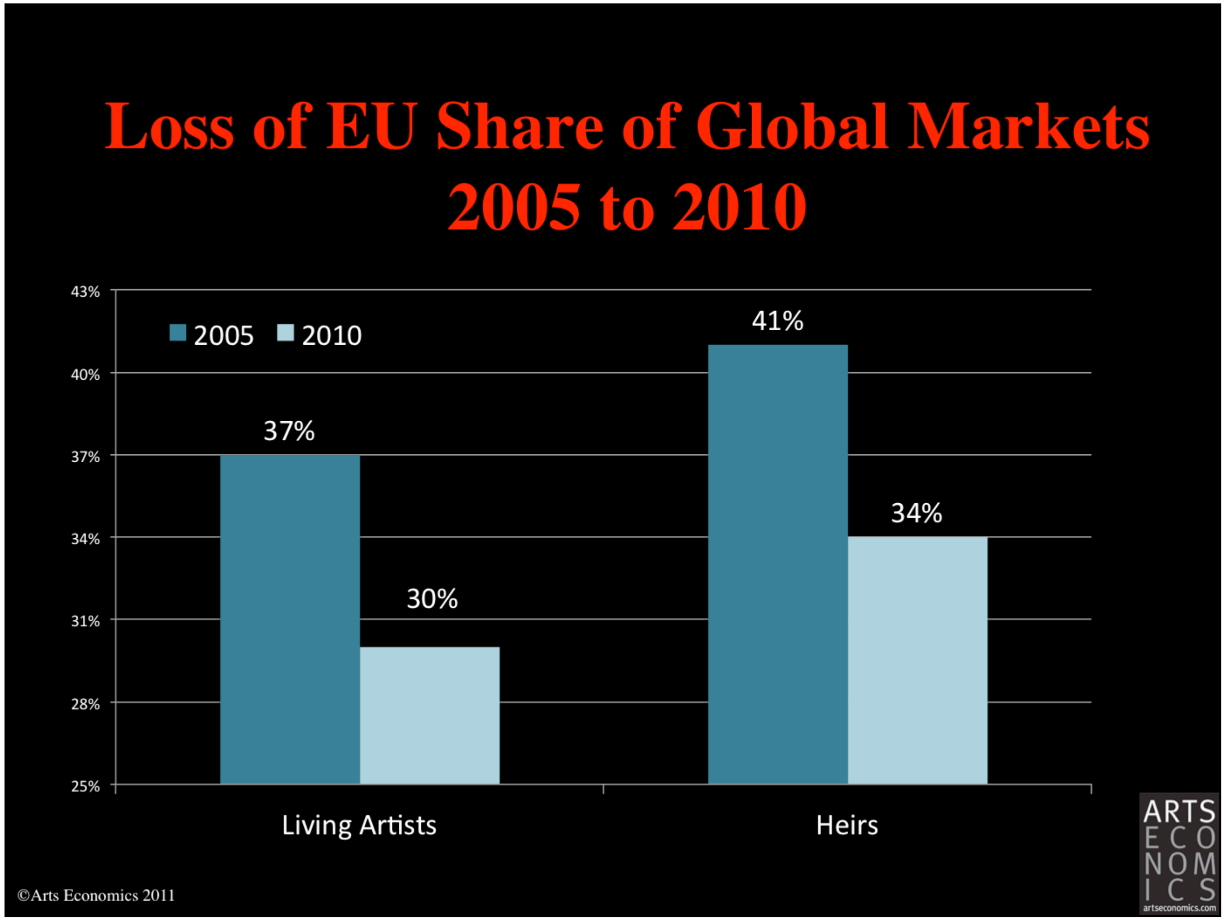
- The 'living' and 'heirs' sectors combine to make up 60% of the EU fine art market as a whole and the 'heirs market' accounts for most of the value in the EU with about 4 times the value of sales and double the number of transactions than the 'living artist' market. It is the single largest sector of fine art, accounting for about half of its total value in 2010.



- The driver of growth during the recent boom in the art market was fine art and Contemporary art (the 'living artist' sector, which is already harmonised under the Directive), and is one of the most volatile sectors of that market.

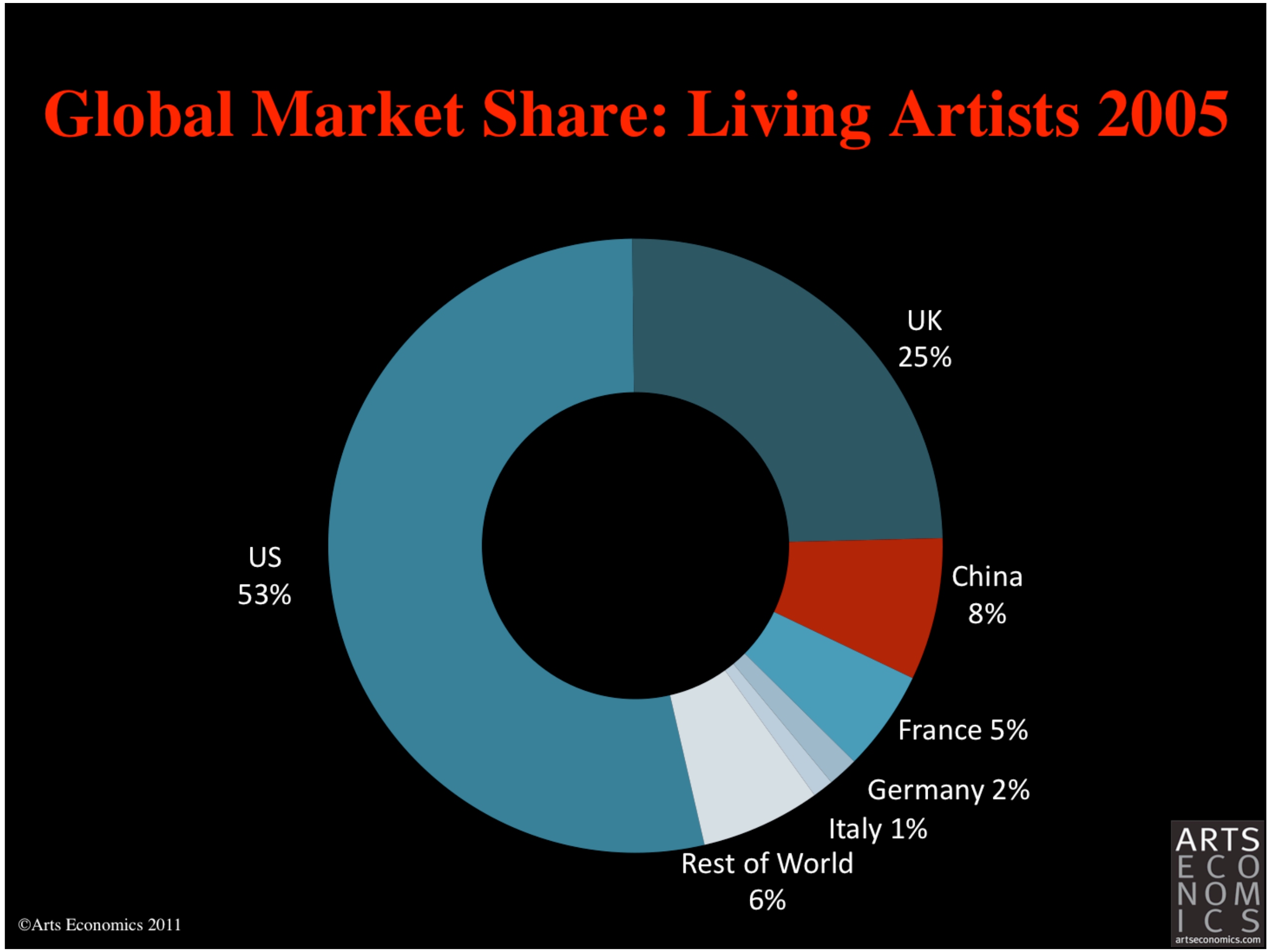
- ARR was introduced during an unprecedented boom in this sector. The global Contemporary market doubled in size from 2006 to 2008. But it was also the hardest hit in the recession and the market dropped by nearly 70%.

- 2010 was a significant year which saw the market return to a more even equilibrium, but the recovery was much stronger outside Europe. While the US and China recovered by 120% and 121%, the EU recovery was only 39% on 2009. The UK recovered by 43% but many EU counties experienced stagnation or low growth.



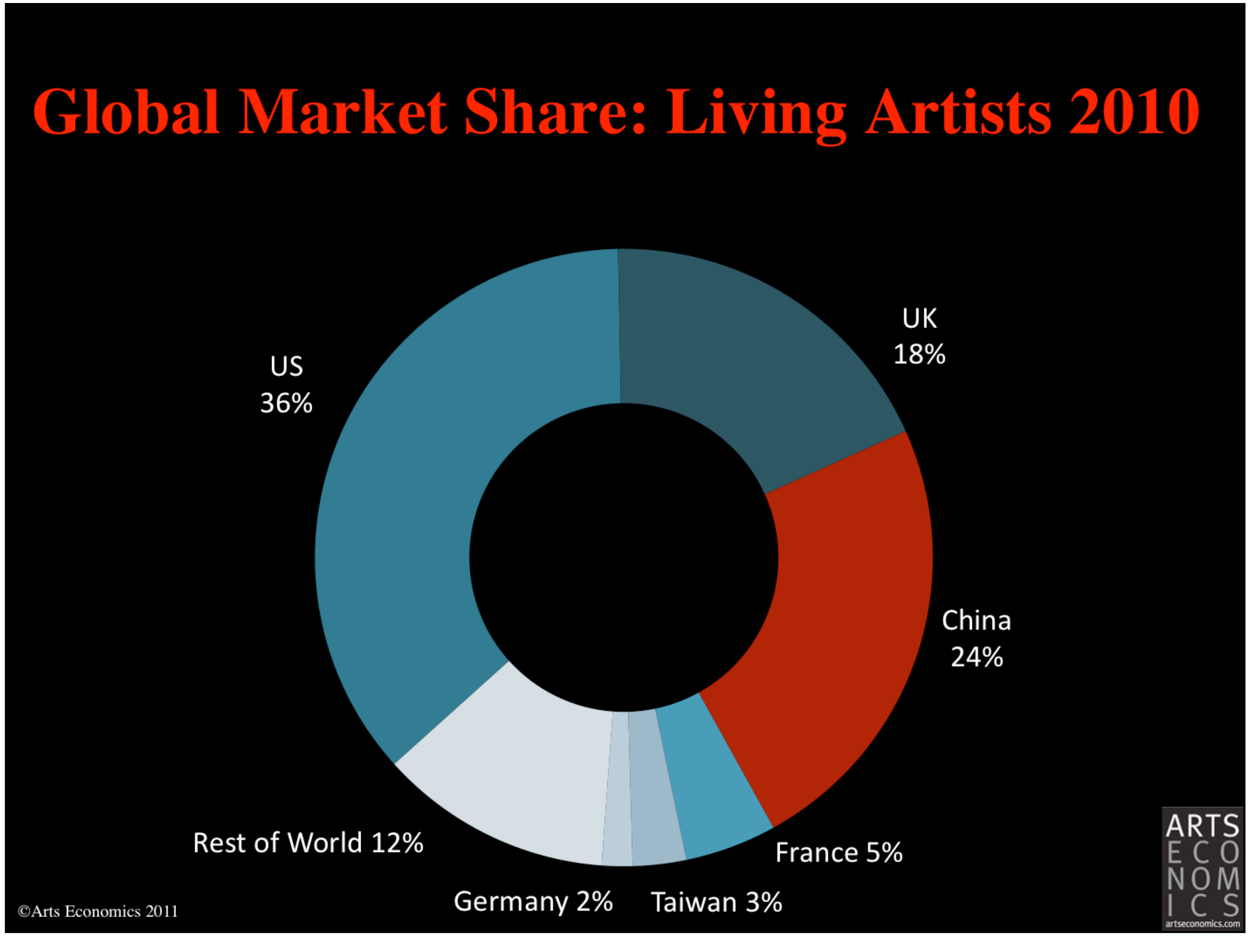
- The internal distribution of the market has also changed significantly in recent years and the dominant markets for Contemporary art, especially, are now outside Europe.

- During the period 2005-2010, the EU's share has been diminishing in the markets subject to the Directive.



- Looking at the harmonised "living artists " sector, it is apparent that for the last 50 years the market has been geographically concentrated in value terms in the two main centres of London and New York (with 78% of global sales in 2005).

- But their lead has been gradually eroded, as the market became increasingly globalised.



- Going forward 5 years to 2010, the global landscape has changed significantly. The US is still the largest market (with 36%), but its combined share with the UK is just 54%.

- Most noticeably China is now the second largest market with a share of 24% versus the UK's 18%. (Other large European markets such as France and Germany are more or less unchanged.)

Global Market Share by Value: EU Sales of Works by Living Artists

	2005	2010	Gain/ Loss
Austria	0.7%	0.8%	0.1%
France	5.3%	4.8%	-0.5%
Germany	1.6%	1.6%	0.0%
Italy	1.1%	1.6%	0.5%
Netherlands	0.6%	0.6%	0.0%
UK	24.8%	18.6%	-6.2%

- EU has lost share to 3rd countries
- No internal redistribution (dead weight loss to EU)

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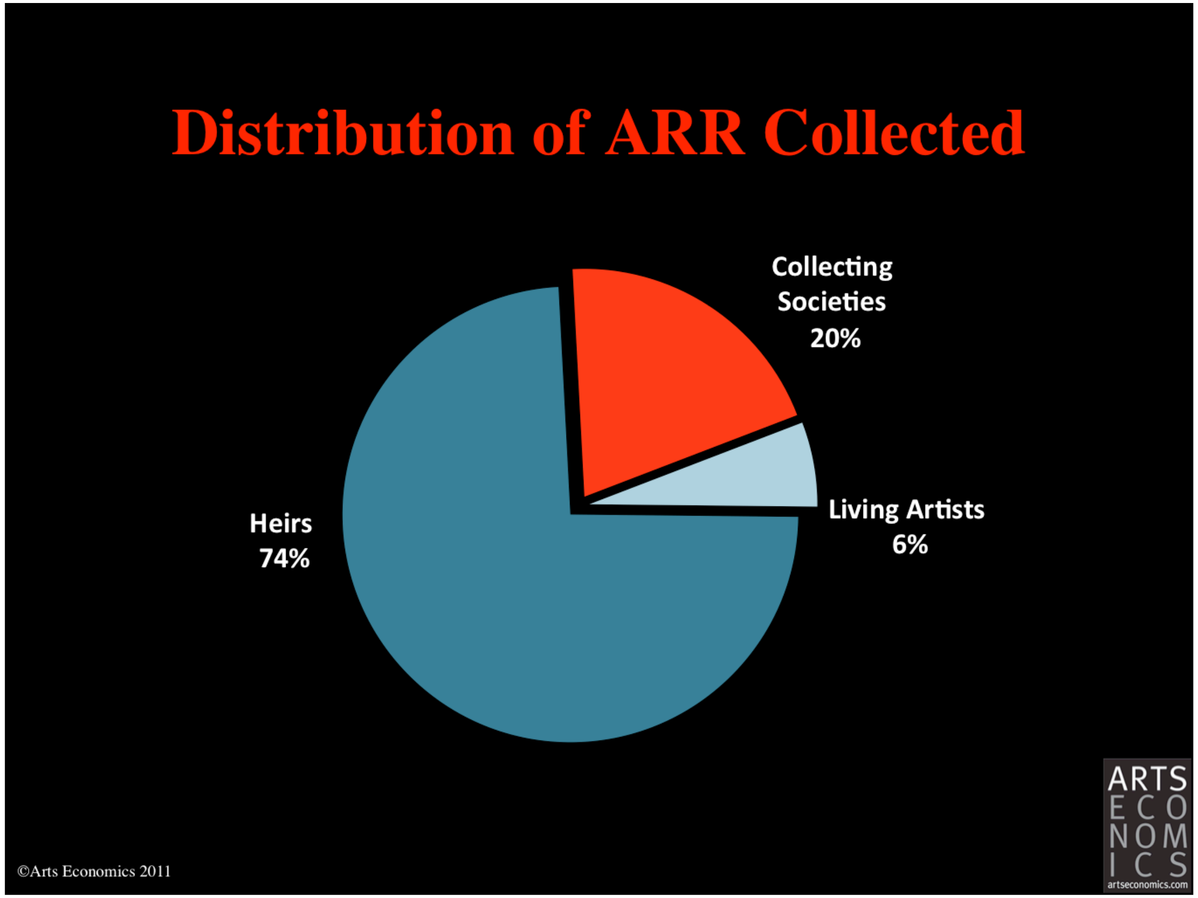
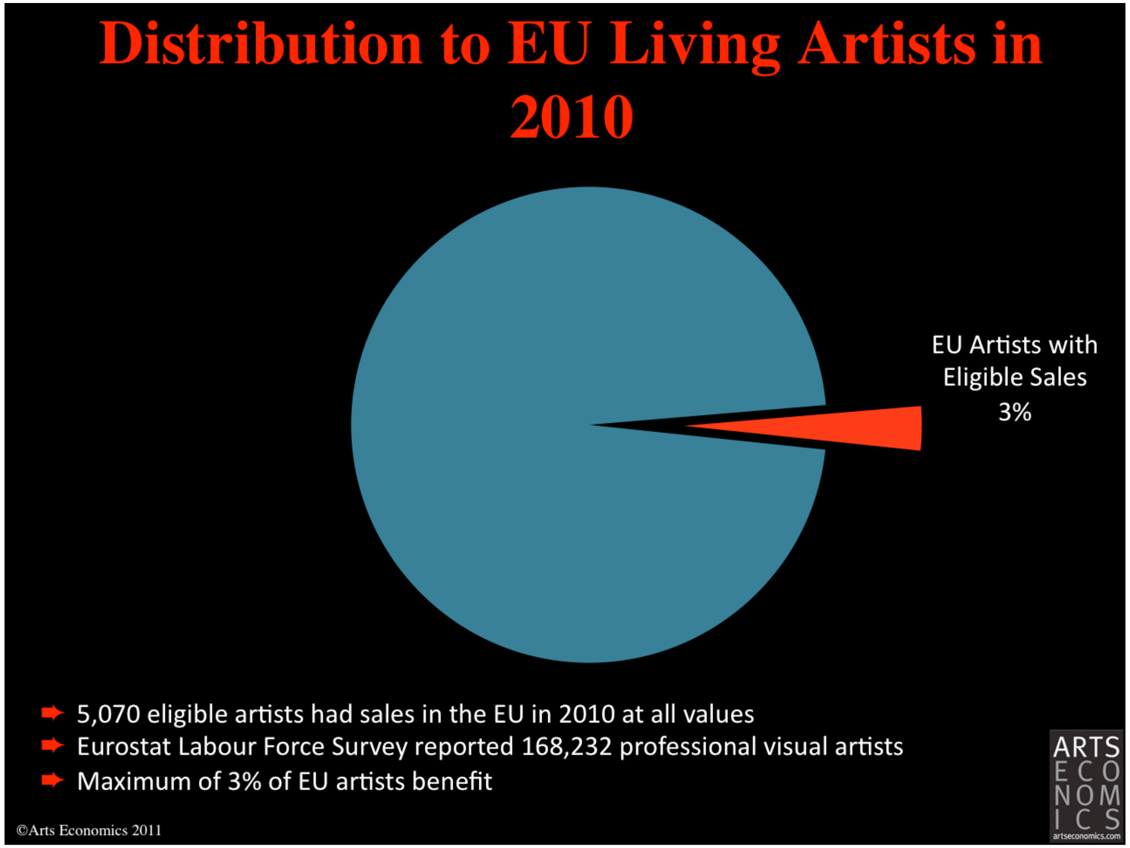
- One of the main objectives of the Directive was to create a level playing field in the European art market. However the evidence shows that the Directive has not lead to a redistribution of art sales across Europe in the sector that is already harmonised.
- In the market for works by living artists in the period between 2005 and 2010, the global market share of all EU states was either stable or declining.
- Internally, the EU hierarchy of sales values and market shares remains much as it did in 2005, with the UK as the largest art market, and there is no sign of transfers to other markets. Instead the EU as a whole has lost share to third countries.



- While it seems clear that the EU Contemporary and Modern art markets are in decline relative to the rest of the world, it is worth examining what counterbalancing benefits might result from the Directive and who gains from them.
- This chart examines how the ARR collected on art sales is distributed. The bulk of ARR goes to heirs of deceased artists rather than to living artists.
- The other main beneficiaries are the collecting societies who have set up to collect and distribute ARR to artists and heirs. They charge commissions ranging from 12% to 30%.
- In terms of stimulating artistic creativity (one of the aims of the Directive), the creators themselves only receive a tiny proportion of what is collected, as living artists receive by far the smallest share.



- There were about 5,070 European artists that had sales eligible for resale royalties throughout the EU in 2010. (These are sales at all levels from very low prices to higher prices).
- According to Eurostat's Labour Force Survey, there were 168,232 employed professional visual artists in the EU, indicating that only 3% of artists had eligible sales in 2010. (Note that the Eurostat figure significantly understates the number of artists in Europe, as many artists do not register on the Survey, for example because they are recorded under other employment such as art teachers, or are unemployed).
- Only a small fraction of artists benefit and these are predominantly well-known, late career artists whose works have made it to the resale market. Younger, emerging artists are far less likely to see their work sold on the resale market.
- This is significant because ARR is often portrayed as a means of distributing income to poorer artists. These figures demonstrate that this is not the case, since ARR benefits only the minority of established artists whose work is resold.

Economic Impact of the EU Art Market

- EU market directly employs 300,000 + 113,000 in ancillary industries
- €4 billion spending by art trade on ancillary services
- 59,000 business – almost all SMEs
- Major contributor to 4 million jobs in cultural tourism
- High value employment (skills, education, multiplier effects)
- Highly mobile businesses and individuals

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- These figures set out what is really at stake when the EU art market loses share.
- One of the biggest fears is that, unless preceded by a global agreement to level competition, the Directive risks causing further declines in the competitive position of the EU and of the art markets within it. If this happens, there would be a consequential decrease in employment, not only in the art market itself, but also in related industries supported by the art trade.

Key Findings

- EU market share has declined in all major sectors and external markets have led recovery
- No evidence that Directive has resulted in redistribution of sales in EU internal art market
- Evidence of loss of EU sales to external markets
- ARR can only benefit the 3% (maximum) of living artists whose work is resold (therefore successful artists only)
- Key beneficiaries- heirs, collecting societies

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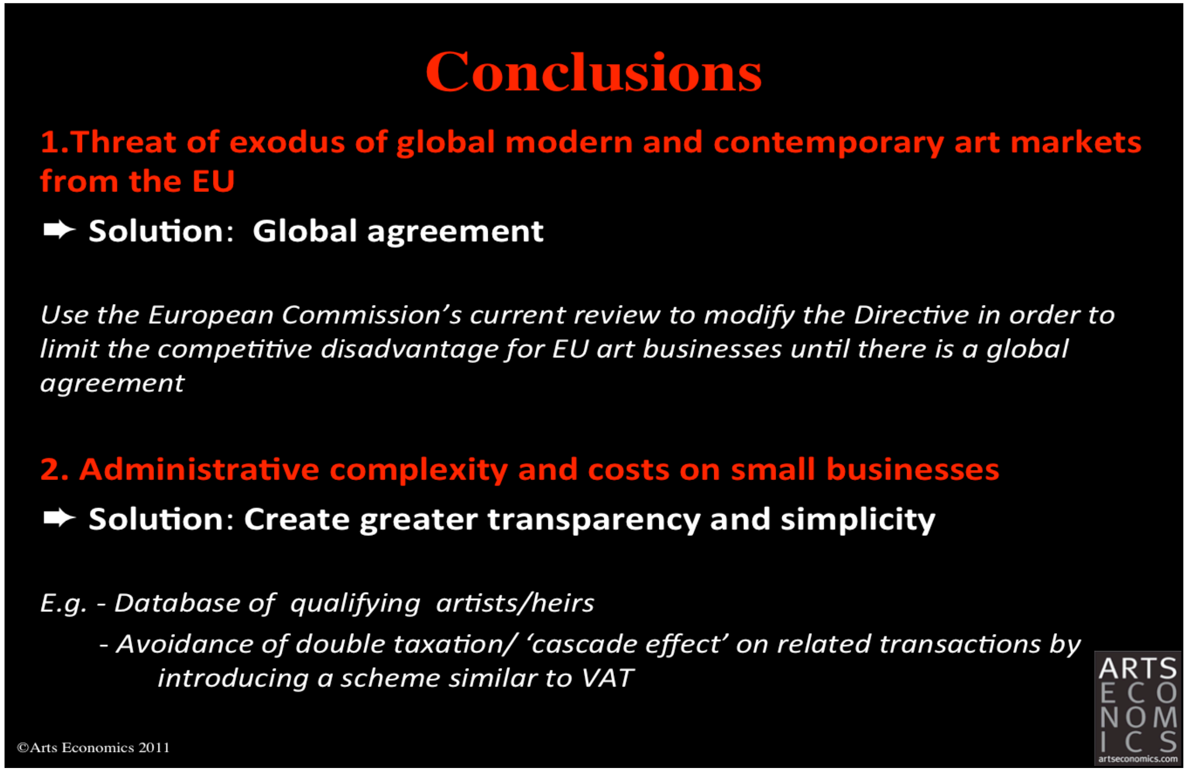

1. What can be done to counter the threat of the exodus of global Modern and Contemporary art markets from the EU?

- The solution is to implement ARR globally. Until this is possible, the Directive could be modified to limit the competitive disadvantage of the EU compared to external markets without ARR.

2. What can be done to reduce the administrative complexities and costs on small businesses?

- One of the major criticisms of the ARR system is the high cost of collecting and distributing ARR payments especially for small art businesses. For the countries that have a derogation, the nearly 250% increase in the number of sales that would be liable by extending ARR to the work of deceased artists will add to that burden.
- Solutions might include a database of qualifying artists/heirs to cut down on search costs for small businesses and reduce current uncertainties over eligible artists and heirs.
- The 'cascade effect' created by ARR is an issue that gallery owners have mentioned. They are often required to make the payment twice or more on the same transaction. Since the levy is charged on the transaction price, and not on the profit or value added, it is due on the full value of each related transaction and it takes no account of the profit (or loss). The VAT margin scheme allows tax payments made on purchase to be offset against tax payable on resale.