

CHAPTER 9

Professional practice issues

In this chapter we examine some practical issues in the organisation and management of a professional career as an artist, including promotion and the use of agents, managers or gallery dealers; changes to the tax system; insurance coverage; future financial security arrangements; use of computers and the Internet; intellectual property protection; and access to financial assistance in the form of grants or subsidy.

Use of agents and promotion of work

Many artists use agents to handle the promotion of their work. It is customary for actors, for example, to depend on their agent to find them engagements and to negotiate contracts to their advantage. Visual artists, too, may be attached to a gallery or dealer on whom they rely to show their work and to handle arrangements with buyers. Overall, around 40 per cent of all artists use an agent, gallery or dealer, with the highest proportion among actors, three-quarters of whom use an agent always or some of the time. Details are shown in Appendix I Table 9.1.

Since it is likely to take artists time to find the right arrangement for handling their work, it is expected that use of agents is less prevalent among artists starting out or becoming established than among established artists. Indeed, the proportion of all artists using an agent or gallery rises to 45 per cent among established artists, including 71 per cent of established actors and 52 per cent of established visual artists. Only relatively small numbers of community cultural development workers, composers, writers and dancers use an agent to handle their work.

Of those artists whose work is handled by an agent or gallery, just over a quarter are completely satisfied with the service provided by their representative, and just over half are at least partially satisfied, as seen in Appendix I Table 9.1. This leaves around one in five who are not satisfied, including one in three musicians.

When asked who does the most to promote their work as an artist the great majority of artists nominate themselves. In fact three-quarters of all artists see themselves as the most important promoters of their work. Around 20 per cent of dancers consider their employer as their most effective promoter and about 10 per cent of writers and visual artists look to their literary agent or gallery/dealer as the best promoters of their work.

It is only among actors that promotion is handled, to a significant extent, by someone other than the artist; one-third of actors regard their agent as doing the most to promote them. Yet, even here, more than half of all actors rely principally on their own efforts. Details are given in Appendix I Table 9.2.

Despite—or because of—their self-reliance in promotion, the majority of artists are reasonably satisfied with their promotional arrangements; three-quarters of all artists regard their arrangements as satisfactory or highly satisfactory. Nevertheless, there is always scope for improvement, and artists who are less than completely satisfied were asked what suggestions they would make. As Appendix I Table 9.3 shows, the most significant suggestion is that artists themselves need to devote more time and effort to promotion.

Also, 25 per cent of all artists say they need an agent. Considering 40 per cent of artists already have their work handled by an agent (Appendix I Table 9.1), we can calculate that about 42 per cent of those artists whose work is not handled by an agent believe they need one, with the highest proportions being

among visual artists and composers (each about 60 per cent). Further, 23 per cent of artists say that their agent, manager or gallery dealer could spend more time promoting their interests, a feeling expressed especially by actors.

Expressing this as a percentage of only those artists who already have an agent, we calculate that almost 60 per cent of artists with agents believe their agent could do more to promote their work. This result is consistent with the observation that around 70 per cent of artists with agents are only partially satisfied or not at all satisfied with the level of service their agent provides (Appendix I Table 9.1).

Business arrangements

In the year 2000 the Australian Government introduced a new tax system with far-reaching impacts on financial management for individuals and businesses. In particular, the replacement of earlier indirect taxes with a goods and services tax (GST) had a major effect on small businesses and individuals carrying on business on their own account. Since most artists operate not as employees but as small independent contractors (Chapter 7), they are likely to have been significantly affected by these changes.

Along with others in the community engaged in business, artists had two choices at the time the new tax system was introduced. First, they had to choose whether to apply for an Australian Business Number (ABN). As Table 43 shows, almost 80 per cent of artists have registered. This includes the great majority of those artists who are engaged in their PAO not as employees but as freelance or self-employed persons.

The second choice facing artists was whether or not to register for GST. Under the new system, artists who are employees (for instance working on long-term contracts for a dance company or in local government as community cultural development workers) would not need to register for GST. On the other hand, artists who are freelance or self-employed would either be required to register (if annual turnover is greater than \$50,000) or might choose to register in order to claim the GST component on goods and services used in the production of their art.

Table 43 shows that just 38 per cent of all artists have registered for GST. The highest proportions of artists registering are craft practitioners and visual artists, whose expenses relating to their practice are the highest (see Chapter 8). The relatively low overall proportion of GST registration is probably a reflection of the modest incomes most artists earn from their creative work.

One area where artists may have been affected by the new tax system is in their capacity to claim losses in their arts businesses against other income. Such claims may be disallowed if other income earned exceeds \$40,000 in a given year. Two-thirds of our sample earned some income from sources other than their creative practice in the year 2000-01. Of these, 12 per cent indicated that they had been, or expected to be, affected by this provision, and a further 20 per cent were unsure. Assuming that at least some of those not sure of their position are likely to be affected, the impact of this provision of the new tax system could affect a considerable number of artists.

Prior to the introduction of the new tax system, it was widely thought that artists, like other small business people, might experience difficulties under the new arrangements. Table 43 shows the proportions of artists reporting whether or not their artistic practice was adversely affected as a result of the new tax system. Fifty-two per cent of artists indicated that they felt adversely affected. Among those most likely to be adversely affected—freelance and self-employed individuals—the proportion rises to 57 per cent.

Table 43 Impact of the new tax system on artists

	Proportion of artists registered for:		Proportion of artists adversely affected by new tax system:	
	ABN	GST	All artists	Freelance/ self employed artists(a) %
	%	%	%	%
Writers	75	42	46	50
Visual artists	82	48	54	56
Craft practitioners	86	50	59	64
Actors	68	33	52	57
Dancers	69	25	35	50
Musicians	81	28	47	57
Composers	81	41	56	56
Community cultural development workers	69	37	69	77
All artists	78	38	52	57

(a) Proportions are of artists who are freelance or self employed in their PAO.

The main adverse effects that artists report relate to administration—the need to spend more time dealing with financial matters, the need to use an accountant where this was not necessary before, or the need to purchase new software for accounting purposes.

About one-third of artists reporting adverse effects (or 17 per cent of all artists) claimed they felt discouraged about continuing creative practice because of the financial and administrative burden of the new tax system. A small proportion of artists claimed that the new tax system had led to decreased work opportunities or sales. Details of the types of adverse effects experienced by artists are given in Appendix I Table 9.4.

Insurance and superannuation

About half of all artists hold insurance related to their art practice. Typically, visual artists, craft practitioners, writers and composers are likely to need coverage for their studio or office space and for freight and travel; performing artists are particularly likely to require insurance for accident or injury. The details of types of insurance held by artists are shown in Appendix I Table 9.5 as proportions of those actually holding insurance.

If expressed as a proportion of all artists, some worrying statistics emerge. For example, only about 20 per cent of all actors, dancers and musicians hold accident or illness insurance, and only 20 per cent of all visual artists (and around 40 per cent of all craft practitioners) hold public liability insurance. Overall, one half of all artists hold no art-related insurance of any sort.

On the other hand, the great majority of artists (80 per cent) have some form of arrangement to cover their future financial security, as shown in Table 44. Nevertheless, the table also indicates that well over half of these artists do not regard their arrangements as being adequate to meet their future needs. Dancers in particular appear to be worried about future financial provisions.

Table 44 Artists' future financial security arrangements

	Proportion of artists with:		Proportion of artists(a) who believe arrangements will be adequate to meet future financial needs:			
	Membership of one or more superannuation schemes %	Arrangements for future financial security(b) %	Yes	No	Not sure	Total
			%	%	%	%
Writers	77	83	42	52	6	100
Visual artists	61	69	31	59	10	100
Craft practitioners	60	67	29	68	3	100
Actors	87	87	31	65	5	100
Dancers	81	84	19	70	11	100
Musicians	84	87	28	60	11	100
Composers	78	84	28	60	11	100
Community cultural development workers	77	81	22	65	13	100
All artists	75	80	31	60	9	100

(a) Proportions are of artists with arrangements for future financial security.

(b) Including investments, property, etc. in addition to superannuation.

Of those artists with some financial provision, the most common form of arrangement is membership of one or more superannuation schemes. Just over 60 per cent of these artists (50 per cent of all artists) participate in schemes sponsored by employers. No doubt, this relatively high proportion reflects the compulsory requirement for employers to make superannuation contributions on behalf of their employees.

About 10 per cent of all artists (and one-third of all actors) are participants in a superannuation scheme designed specifically for artists. Details of types of financial arrangements are shown (as a proportion of those artists with some arrangement) in Appendix I Table 9.6.

Computer use

As noted earlier in this report, artists have been profoundly affected by personal computers and the Internet; the effects have been felt in both creative and administrative pursuits. Survey results indicate that around 80 per cent of artists use a personal computer in their art practice in some way, and around 70 per cent make use of the Internet for artistic purposes (see Table 45).

Table 45 Computer and Internet use by artists

	Proportion of artists who:	
	Use a computer in relation to art practice %	Use the Internet in relation to art practice %
Writers	97	83
Visual artists	79	72
Craft practitioners	71	70
Actors	73	66
Dancers	75	81
Musicians	73	64
Composers	88	72
Community cultural development workers	95	77
All artists	79	71

Of those artists who use a computer in their work, about three-quarters use it for record keeping and/or administration; 56 per cent use it to run programs that facilitate the creative practice; and 48 per cent use

the computer as a creative medium. The details for individual artforms are shown in Appendix I Table 9.7.

The principal use of the Internet by artists is in research related to their creative practice. Almost 85 per cent of artists who use the Internet do so for this reason (some 60 per cent of artists overall). Other reasons for using the Internet include promotion and marketing, either through a personal website or that of some organisation (about 30 per cent of Internet-using artists in each of these cases). Only about 10 per cent use the Internet for e-commerce, in selling their own work or services. Details of Internet usage are shown in Appendix I Table 9.8.

Intellectual property

If artists are to gain the full economic benefit to which their creative endeavour entitles them, their intellectual property in their work must be adequately protected against unauthorised exploitation or appropriation. The copyright held by writers, visual artists, craft practitioners and composers in the literary, dramatic, artistic and musical works that they create is essential to their economic survival. Furthermore, performers such as actors, dancers and musicians, as well as stage directors and choreographers, may hold copyright in particular performances that they create.

The great majority of writers, visual artists and composers believe that they hold copyright in work that they produce (see Appendix I Table 9.9). Craft practitioners and performing artists generally are somewhat less sure.

All creative artists have the opportunity to join a copyright collecting society in their artform in order to participate in collective action on copyright matters. But the extent to which this happens varies between artforms depending on the nature of copyright arrangements in each case.

The copyrights of authors in their published work is generally handled by contract between author and publisher, and membership of a collecting society to administer primary rights is usually unnecessary, although writers may join a society such as the Copyright Agency Limited (CAL) in order to exploit certain secondary rights such as in the photocopying of their work.

Composers, on the other hand, traditionally collect their primary royalties via a collecting society such as the Australian Performing Rights Association (APRA) or the Australian Mechanical Copyright Owners Society (AMCOS). Visual artists and craft practitioners have, since 1995, been able to join Viscopy, a collecting society specifically established to protect rights of artists for visual material. Secondary rights in audio-visual material are handled in Australia by Screenrights, which distributes some part of its royalty collections through other collecting societies.

Altogether, one-quarter of all artists are members of one or more collecting societies. The highest proportion, 93 per cent, is among composers, where collective copyright administration is long established and common practice. Around two in five writers are members of a society but fewer than one in five visual artists and craft practitioners are members, where a specialised collecting society has only existed for a short time (see Appendix I Table 9.9).

The collecting societies to which artists belong are shown in Appendix I Table 9.10 for all PAOs except dancers and community cultural development workers for whom membership in collecting societies is too small to allow valid inference. The results in this table confirm the significance of artform-related collecting societies as a means of administering artists' rights.

Of course membership of a collecting society does not guarantee payment. Artists only receive revenue from a collecting society if usage of a particular work that is covered by the society's operation is monitored, and if this usage triggers a payment. As indicated in Appendix I Table 9.9, the majority of composers and musicians who are members of a collecting society have received payment in the last 12 months, but smaller proportions have received payment in other artforms.

Sometimes artists yield their copyright to another party, by choice or by necessity. About one-third of artists reported assigning their copyright to someone else, at some point. In the vast majority of cases this has been because assignment of copyright was required by contract or was necessitated because the work in question was produced when the artist was an employee (see Appendix I Table 9.11).

It is a disquieting fact that artists are often in a vulnerable position in regard to retaining their copyright.

For example, in producing work under contract, artists may be offered a ‘take it or leave it’ deal—either the copyright is assigned to the commissioning party or the deal does not go ahead. In these circumstances artists are forced to forgo future economic returns from the use of their work.

A copyright infringement occurs when a party other than the rights holder uses or exploits the work without permission and without payment. Infringement may occur unknowingly, for example if the user is unaware that the work in question is protected. It may also occur knowingly but without the rights holder ever finding out.

About one-quarter of all artists claim that their copyright has been infringed on some occasion, but of these only one in four artists have actually taken action to seek restitution (see Appendix I Table 9.9). Of the relatively small number of cases where action has been taken by an artist against copyright infringement, about 60 per cent have been successful.

Recent legislation has been passed in Australia aimed at protecting the moral rights of artists—the right to be acknowledged as the author or creator of an artistic work, and the right to ensure the integrity of the work against alteration or destruction. Just over 20 per cent of artists claim that their moral rights have been infringed in some way at some time. As Appendix I Table 9.12 shows, most of these infringements have come from a failure of the infringing party to recognise the artist as creator of the work in question. Unauthorised reproduction or alterations of work are also significant causes of infringement.

How effective are current measures to protect the economic and moral rights of artists? The opinions of artists on this issue are shown in Appendix I Table 9.13, and summarised in Table 46, which draws together the main indicators of the protection of artists’ rights in Australia at the present time. Fewer than half of all artists regard copyright protection as adequate and only one-quarter of artists believe current moral rights legislation is adequate. However, in considering these figures we have to remember that significant numbers of artists don’t know or are unsure about the adequacy of protection in either of these areas, suggesting that education about artists’ rights remains an important area to be addressed.

Table 46 Protection of artists’ copyright and moral rights

	Proportion of artists who:				
	Are members of one or more copyright collecting societies	Have experienced infringement of:		Believe current legal protection is adequate for:	
		%	Copyright %	Moral rights %	Copyright %
Writers	42	24	21	58	33
Visual artists	12	28	30	33	20
Craft practitioners	18	31	20	31	20
Actors	11	24	17	39	20
Dancers	9	19	19	41	34
Musicians	32	18	16	40	29
Composers	3	22	22	71	42
Community cultural development workers	8	31	37	42	21
All artists	25	24	22	42	26

Financial assistance

In earlier chapters we noted the critical role played by financial constraints in artists’ careers, especially in curtailing the amount of time many of them spend at their creative practice. One way to alleviate this, to some extent for some artists, is to provide financial assistance such as grants, scholarships and awards. This support is important both for the artists, who are anxious to do their work, and for funding agencies, which seek to encourage quality creative activity.

There are a number of sources of financial assistance available to individual artists. The Australian Government provides funding for artists through the Australia Council, and some state and territory arts agencies and local government cultural programs also provide assistance. There are a small number of private foundations, some of which are oriented towards particular artforms. And there are various arts organisations, arts industry bodies and companies which sometimes give grants and other assistance to artists.

Altogether, just over 40 per cent of artists in our survey applied for financial assistance to one or more funding agencies between 1996 and 2001, and 25 percent of all artists received some help, as shown in Table 47. Not surprisingly, the highest proportion of artists receiving assistance is among community cultural development workers, half of whom have received some form of funding to carry out their projects in the community context. The lowest proportion is among musicians, who are also the least likely to apply for a grant; only 20 per cent of musicians have applied and only around 10 per cent of all musicians have received funding.

Table 47 Financial assistance applied for and received by artists

	Proportion of artists(a) who have:	
	Applied for financial assistance	Received financial assistance
	%	%
Writers	47	29
Visual artists	58	33
Craft practitioners	48	31
Actors	28	15
Dancers	44	38
Musicians	20	11
Composers	59	41
Community cultural development workers	71	53
All artists	41	25

(a) Proportions in both columns are of all artists, covering the period between 1996-2001.

Note that the ratio between the columns in Table 47 cannot be interpreted as 'success rates'. What these data show is, for example, that around 60 per cent of writers who applied for a grant during the five-year period received some funding. Artists in our survey may have applied many times to several different sources and may have been successful one or more times. In other words, the probability of success in any specific grant application may be quite low, yet repeated application or application to multiple sources may eventually score a hit.

How many artists have applied for and received funding from specific sources? Appendix I Table 9.14 shows what proportion have applied to the Australia Council, state or territory arts agencies, local government, and other sources. Appendix I Table 9.15 shows the proportions of applying artists who received funding from the various sources. Again these figures must be interpreted on the understanding that some artists have applied more than once to more than one source in the five year period, and some artists have been successful more than once. Hence they cannot be used to determine success rates for applications to the sources mentioned.

The figures in Tables 9.14 and 9.15 are calculated as proportions of artists applying to any source. It is interesting also to express these data as proportions of all artists in our survey, and hence, under appropriate assumptions, of all artists in the population.

Table 48 shows the proportions of all artists in each artform who received some funding from the nominated sources of assistance between 1996 and 2001. We see that just under 10 per cent of Australian artists have received individual artist funding from the Australia Council, and just over 10 per cent from state and territory governments. Smaller proportions have received assistance from other sources.

Because some artists have received funding from more than one source, the percentages in Table 48 cannot be added across rows. In addition some other minor sources are omitted from this table. Nevertheless it is probably safe to say that approximately 25 per cent of practising professional artists in Australia received a grant or other financial assistance between 1996 and 2001.

Table 48 Sources of financial assistance for artists

	Proportion of artists(a) who received financial assistance between 1996–2001 from:				
	Australia Council	State/territory arts agency	Local government	Private foundation	Arts organisation or company
	%	%	%	%	%
Writers	5	10	2	3	7
Visual artists	7	21	7	6	9
Craft practitioners	9	14	11	5	9
Actors	5	7	3	5	4
Dancers	19	22	9	3	13
Musicians	6	1	2	1	1
Composers	22	22	6	10	10
Community cultural development workers	21	31	27	8	11
All artists	8	12	6	4	6

(a) Proportions are of all artists, including those who have not applied for assistance.

In what ways have these grants helped artists in their work? Appendix I Table 9.16 shows the effects of financial assistance on the artistic practice of recipients, and Appendix I Table 9.17 measures what artists judge to have been the most important effects. In both tables the most significant effect by far is the freedom from financial worry, and the opportunity a grant provides to an artist to devote more time to artistic work. About half of all artists mention this effect, and one-third see it as the most important; this is about three times as many as nominate the next most important effect—enabling access to equipment and resources otherwise unavailable.

A similar result emerges when all artists (not just grant recipients) are asked to nominate the most important purposes of financial assistance to artists. As Appendix I Table 9.18 shows half of all artists indicate income maintenance or 'buying time' to concentrate on arts work or research as the most important purpose.

Significantly, about one-quarter of all artists nominate support for the production, exhibition or performance of their new work as the most important purpose of financial assistance. This opinion is prevalent, no doubt, among artists such as playwrights or composers who can manage to support themselves financially but who desperately need the services of a theatre company or symphony orchestra in order to have their work performed. This result underscores the important role of financial assistance in bringing new creative work to public attention.