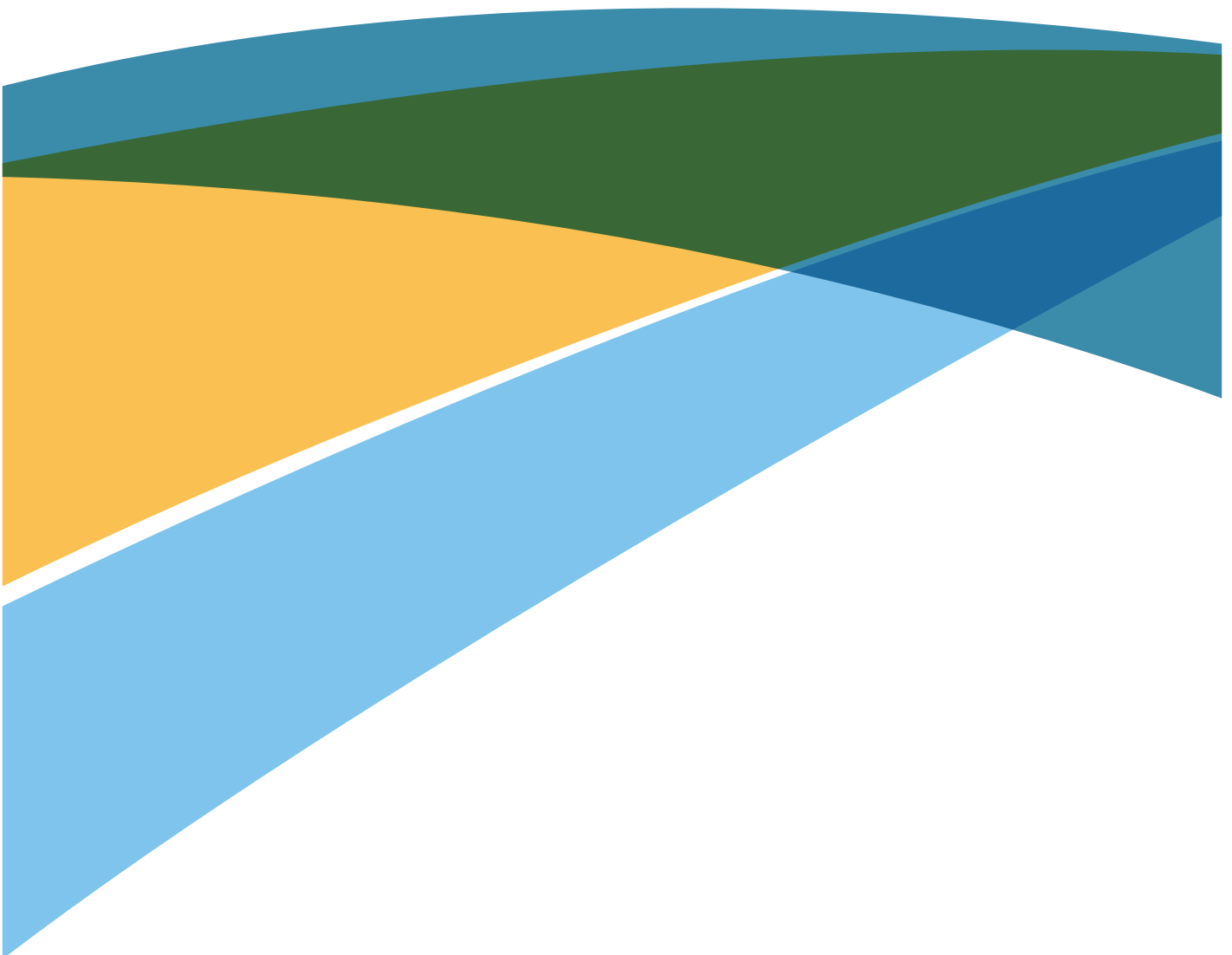




Intellectual
Property
Office

Artist's resale right - Summary of IPO survey findings



Purpose of the survey

In summer 2014 IPO carried out an online survey of art market professionals to seek evidence relating to the scale and cost of administering the artist's resale right (ARR), particularly in relation to the lower payment band.


IPO also contacted the two collecting societies – ACS (Artists' Collecting Society) and DACS (Design and Artists Copyright Society) - to seek evidence as to the numbers of artists who are benefitting from the Right, again with an emphasis on the lower payment band.

This exercise sought to gather up-to-date information, in part to inform any UK contribution to the periodic review of ARR by the European Commission, which is expected in 2015.

IPO would like to thank all who responded to this information gathering exercise, as well those who provided supplementary information on ARR, such as the British Art Market Federation (BAMF) and the Design and Artists Copyright Society (DACs) who conducted an additional survey of its members.

Overview of online survey results

1. There were 53 responses in total to the online survey, of which 43 responses were analysed. Duplicate, anonymous or empty responses were excluded.
2. The majority of respondents were art galleries / art dealers. Of the 43 respondents, 84% were 'art gallery / art dealers', 12% were 'auction houses', and 4% were 'other'.
 - **Questions 3, 4 and 5 explored the volume of sales each respondent handled, how many involved making a royalty payment to artists and how many payments were in the lower band €1000 - €3000.**
3. Annual volumes of art sales varied considerably between respondents. 19% made fewer than 50 sales annually; 16% made 50-100; 30% made 100-250; 12% made 250-500, 21% made over 500. (2% left the question unanswered).
4. Two thirds of respondents (67%) reported that ARR was payable on less than 25% of their art sales. 88% stated ARR was payable on less than half of their art sales.
5. Respondents stated that most of their sales that are liable to ARR are above €3000 (approximately £2,450). 60% of respondents reported that less than 25% of their ARR liable sales are below €3000. Only 7% stated that over 75% of their ARR liable sales were below €3000.
 - **Questions 6 and 7 sought information on the impact of the double payment or 'cascade' effect.**

- 
6. Of sales liable to payment of ARR, the proportion of sales that incurred 'double-payment' varied. Of those who gave an answer, 37% stated that double payment occurred on less than 25% of sales; 23% on 25-50% of sales; 14% on 50-75% of sales; 19% on over 75+% of sales. 7% did not provide a response.
 7. 35% of respondents invoice ARR as an additional charge to buyers. 63% bear the cost themselves. (2% did not respond.)
 - **Questions 8 - 13 sought information on time needed to complete various administrative tasks to pass on the payment from a sale price to one of the two collecting societies. (An example of a collecting society submission form is viewable on the DACS website [here](#).)**
 8. The median time to determine whether a transaction qualifies for ARR was 10 minutes. Two thirds of respondents (67%) took less than 20 minutes.
 9. The median time to complete the collecting society's resale royalty submission form was 15 minutes. Two thirds of respondents (68%) took less than 20 minutes.
 10. The median time to calculate liability each quarter was 30 minutes.
 11. The median time to check invoices from collecting societies against quarterly liability was 15 minutes. 58% of respondents took less than 20 minutes.
 12. 16% of respondents experienced errors in the invoice from collecting societies.
 13. Time median time required to issue payment for quarterly liability is 15 minutes.

Survey Questions and Answers

Having provided the name of their organisation, respondents were asked the following:

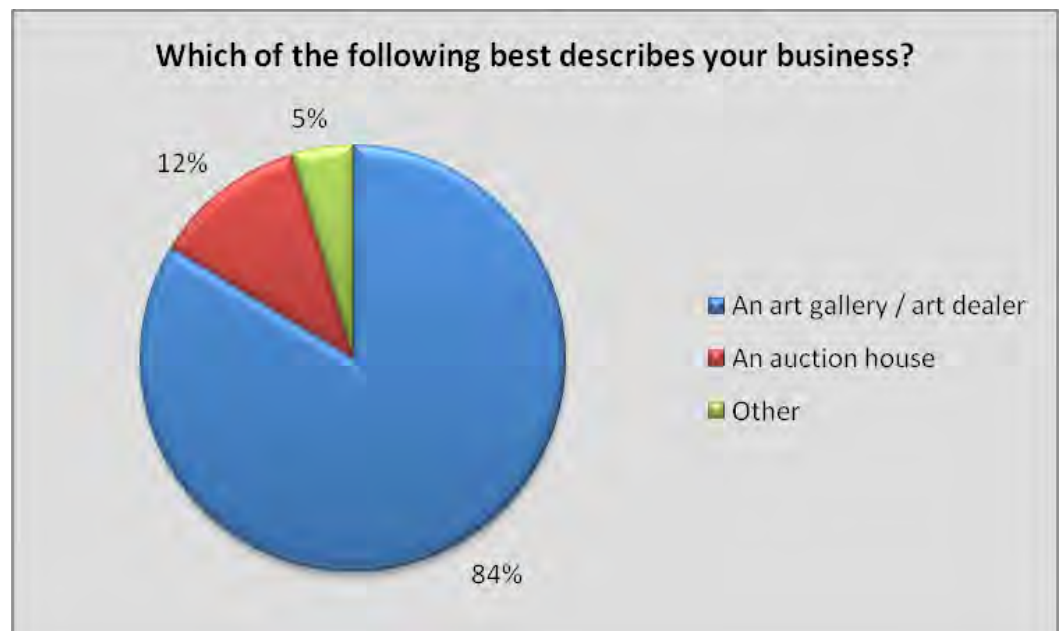
Question Two

2. Which of the following best describes your business?

- a. An art gallery /art dealer
- b. An auction house
- c. Other (please specify)

All responses

Response	Number of Responses	Percentage
An art gallery / art dealer	36	84%
An auction house	5	12%
Other	2	5%
Total	43	100%



The 2 responses listed as 'other' are:

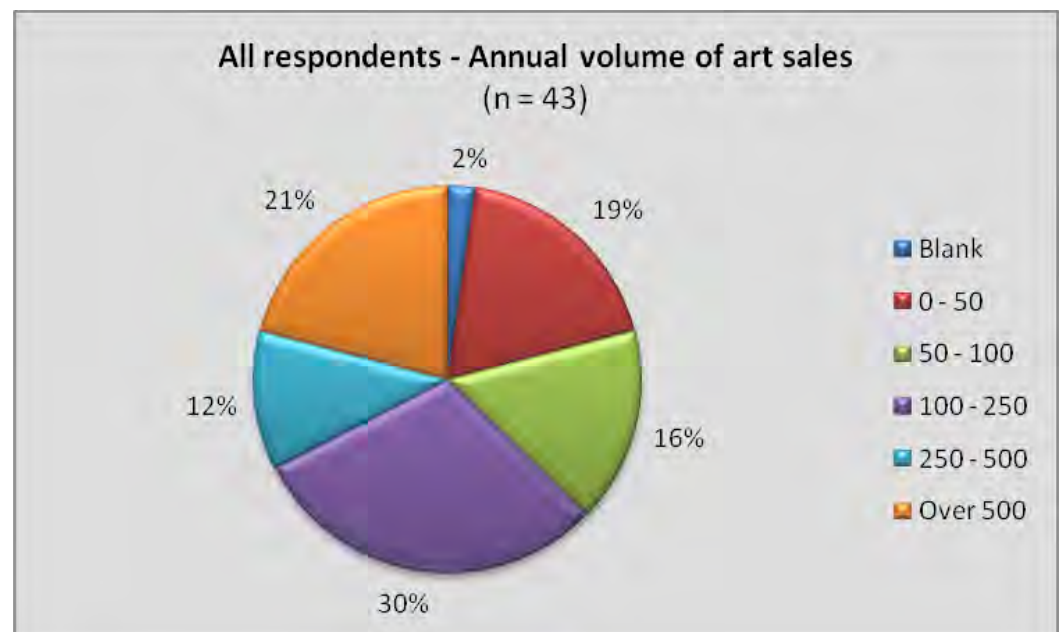
- 'an artist and artist estate beneficiary'
- 'an economics firm specialising in art, assisting clients to buy and sell with more information'

Question Three

3. On average, what is the approximate total number of art sales that your business makes annually (irrespective of whether those sales involve liability for payment of the ARR)?
- 0 – 50
 - 50 – 100
 - 100 – 250
 - 250 – 500
 - Over 500

All responses

Response	Number of Responses	Percentage
Blank	1	2%
0 - 50	8	19%
50 - 100	7	16%
100 - 250	13	30%
250 - 500	5	12%
Over 500	9	21%
Total	43	100%



Art gallery / Art Dealer

Response	Number of Responses	Percentage
Blank	0	0%
0 - 50	6	17%
50 - 100	6	17%
100 - 250	13	36%
250 - 500	5	14%
Over 500	6	17%
Total	36	100%

Auction House

Response	Number of Responses	Percentage
Blank	0	0%
0 - 50	2	40%
50 - 100	0	0%
100 - 250	0	0%
250 - 500	0	0%
Over 500	3	60%
Total	5	100%

'Other' Respondents

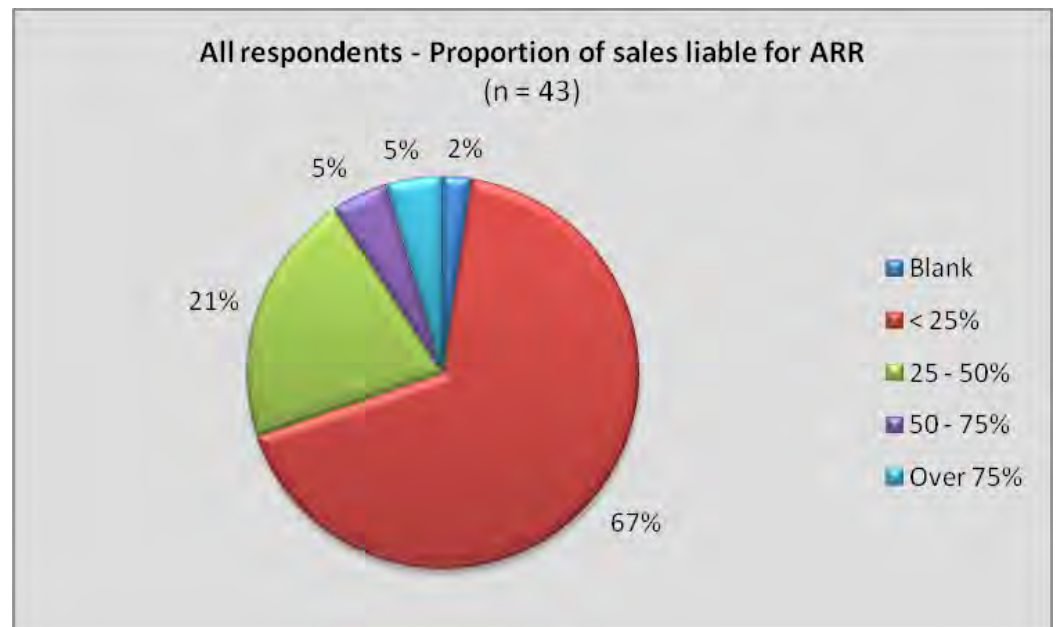
Response	Number of Responses	Percentage
Blank	1	50%
0 - 50	0	0%
50 - 100	1	50%
100 - 250	0	0%
250 - 500	0	0%
Over 500	0	0%
Total	2	100%

Question Four

4. What proportion of your sales are re-sales that give rise to liability for payment of the ARR?
- Less than 25%
 - 25 – 50%
 - 50 – 75%
 - Over 75%

All responses

Response	Number of Responses	Percentage
Blank	1	2%
< 25%	29	67%
25 - 50%	9	21%
50 - 75%	2	5%
Over 75%	2	5%
Total	43	100%



Art gallery / Art dealer

Response	Number of Responses	Percentage
Blank	0	0%
< 25%	24	67%
25 - 50%	9	25%
50 - 75%	1	3%
Over 75%	2	6%
Total	36	100%

Auction House

Response	Number of Responses	Percentage
Blank	0	0%
< 25%	4	80%
25 - 50%	0	0%
50 - 75%	1	20%
Over 75%	0	0%
Total	5	100%

Other

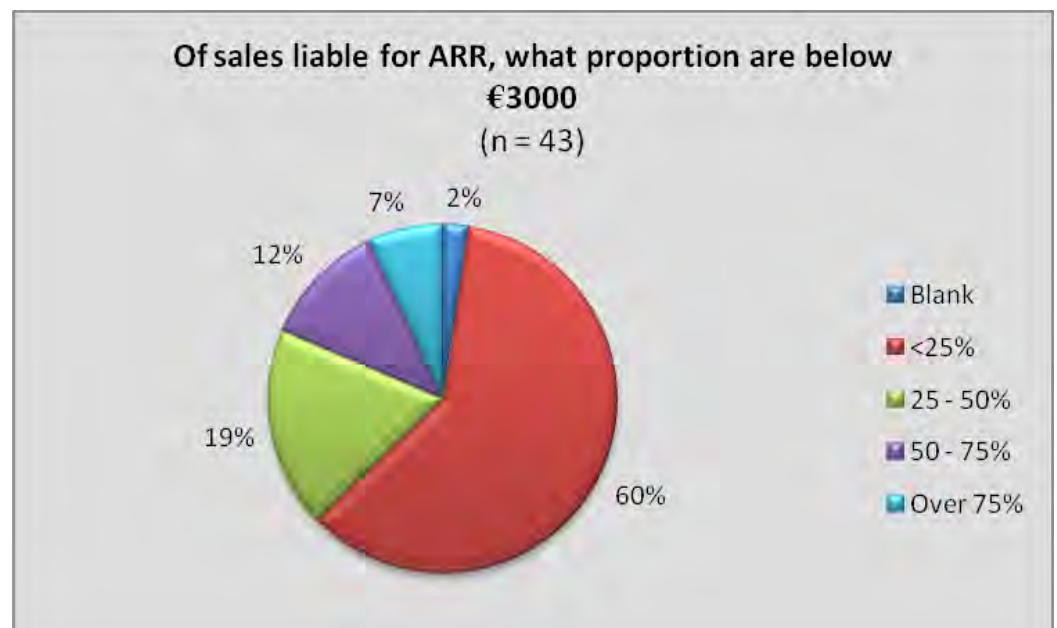
Response	Number of Responses	Percentage
Blank	1	50%
< 25%	1	50%
25 - 50%	0	0%
50 - 75%	0	0%
Over 75%	0	0%
Total	2	100%

Volume of sales and proportion liable for ARR

	Proportion of sales liable for payment of the ARR					
Volume of sales	Blank	< 25%	25 - 50 %	50 - 75%	Over 75%	Total
Blank	1	0	0	0	0	1
0 – 50	0	6	1	0	1	8
50 – 100	0	5	1	0	1	7
100 – 250	0	9	4	0	0	13
250 – 500	0	2	2	1	0	5
Over 500	0	7	1	1	0	9
Total	1	29	9	2	2	43

Question Five

5. Of your sales that give rise to liability for payment of the artist's resale right, what proportion is of a value below the pound sterling equivalent of €3000 (approx £2450)
- Less than 25%
 - 25 – 50%
 - 50 – 75%
 - Over 75%



All Responses

Option	Number of Responses	Percentage
Blank	1	2%
<25%	26	60%
25 - 50%	8	19%
50 - 75%	5	12%
Over 75%	3	7%
Total	43	100%

Art gallery / Art dealer

Option	Number of Responses	Percentage
Blank	0	0%
<25%	24	67%
25 - 50%	9	25%
50 - 75%	1	3%
Over 75%	2	6%
Total	36	100%

Auction House

Option	Number of Responses	Percentage
Blank	0	0%
<25%	4	80%
25 - 50%	0	0%
50 - 75%	1	20%
Over 75%	0	0%
Total	5	100%

Other

Option	Number of Responses	Percentage
Blank	1	50%
<25%	1	50%
25 - 50%	0	0%
50 - 75%	0	0%
Over 75%	0	0%
Total	2	100%

Proportion of sales liable for ARR payment and below €3000

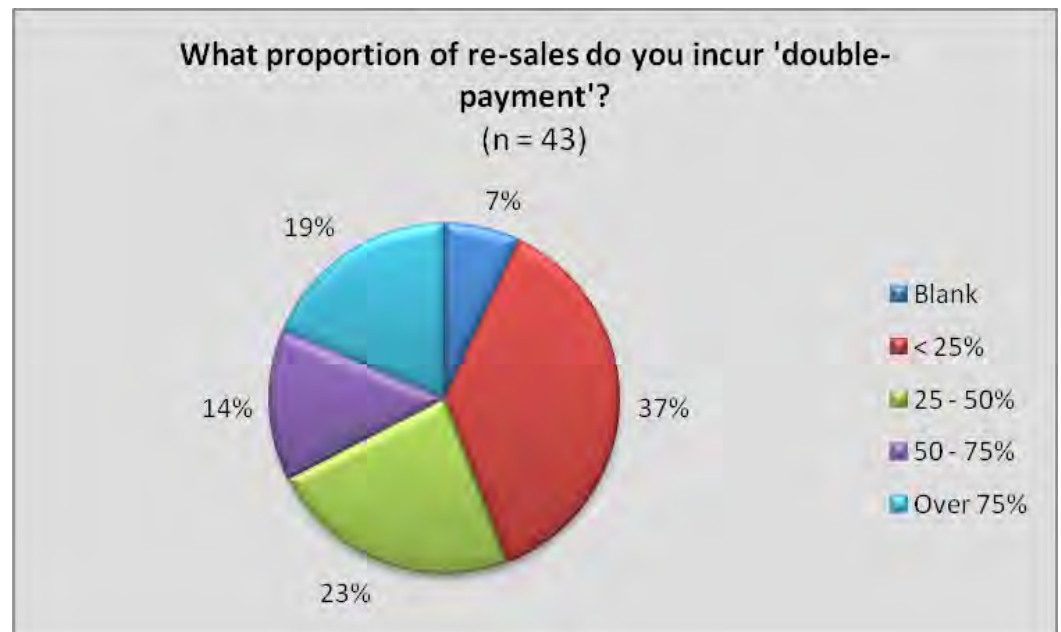
ARR liable sales below €3000	Proportion of sales liable for ARR payment					Total
	Blank	<25%	25 – 50 %	50 – 75%	Over 75%	
Blank	1	0	0	0	0	1
<25%	0	20	6	0	0	26
25 – 50 %	0	4	2	1	1	8
50 – 75%	0	2	1	1	1	5
Over 75%	0	3	0	0	0	3
Total	1	29	9	2	2	43

Question Six

6. Sometimes dealers buy an artwork at auction and pay the cost of a resale royalty on that purchase. When they resell the work they pay again (as well as administer) a further resale royalty. On what proportion of your sales do you incur this 'double-payment' effect?
- Less than 25%
 - 25 – 50%
 - 50 – 75%
 - Over 75%

Responses

Option	Number of Respondents	Percentage
Blank	3	7%
< 25%	16	37%
25 - 50%	10	23%
50 - 75%	6	14%
Over 75%	8	19%
Total	43	100%

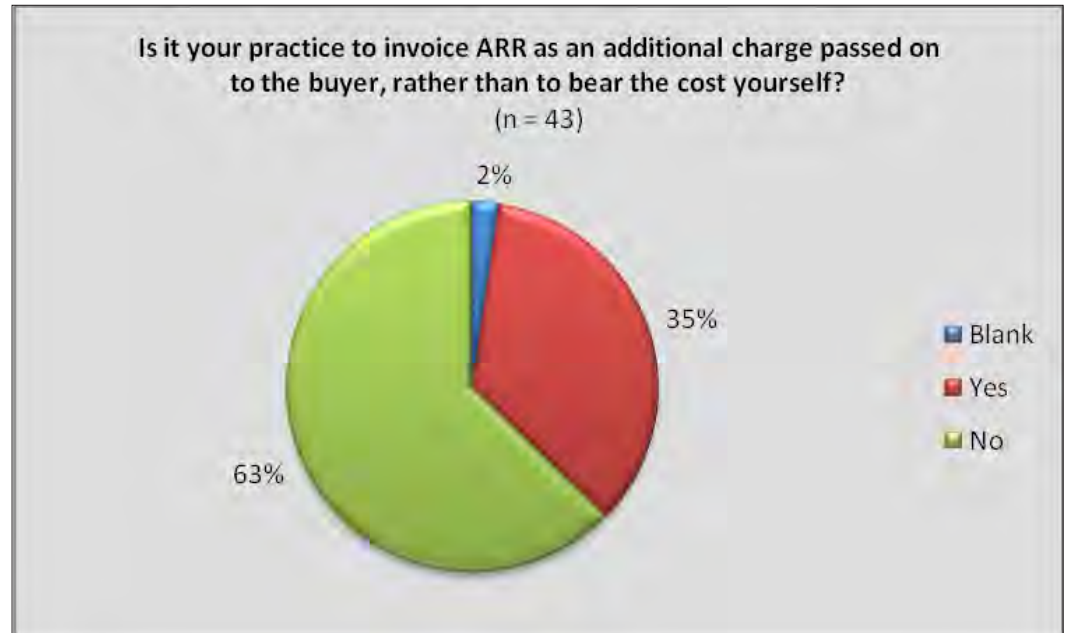


Question Seven

7. Is it your practice to invoice ARR as an additional charge passed on to the buyer, rather than to bear the cost yourself?
- a. Yes
 - b. No

Responses

Option	Number of Respondents	Percentage
Blank	1	2%
Yes	15	35%
No	27	63%
Total	43	100%



Type of respondent and whether ARR is invoiced as an additional charge to buyer

Respondent type	ARR as an additional charge to the buyer?			Total
	Blank	No	Yes	
Art gallery / art dealer	0	26	10	36
An auction house	0	0	5	5
Other	1	1	0	2
Total	1	27	15	43

Question Eight

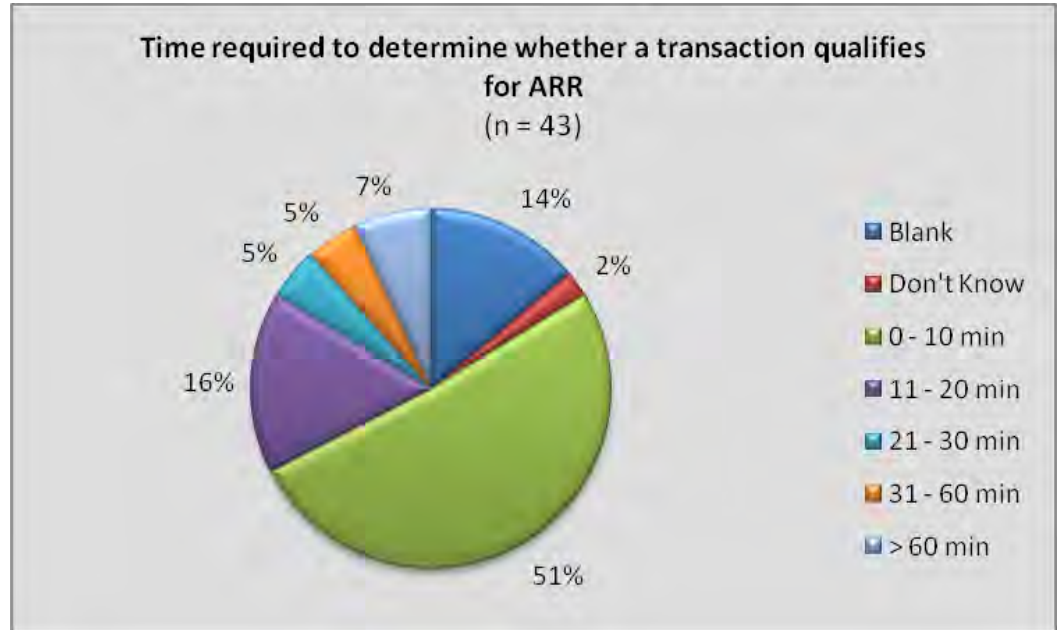
8. Time (in minutes) required to determine whether a transaction qualifies for ARR:

Responses

Responses	Number of Responses	Percentage
Blank	6	14%
Don't Know	1	2%
0 - 10 min	22	51%
11 - 20 min	7	16%
21 - 30 min	2	5%
31 - 60 min	2	5%
> 60 min	3	7%
Total	43	100%

Mean = 26 minutes

Median = 10 minutes



The highest responses were received by:

- Panter & Hall Ltd (Art gallery / Art dealer) = 300 minutes
- Sotheby's (Auction House) = 1-360 minutes (180.5 minutes)
- The Sladmores Gallery, Jermyn Street (Art gallery / Art dealer) = 67 minutes

Question Nine

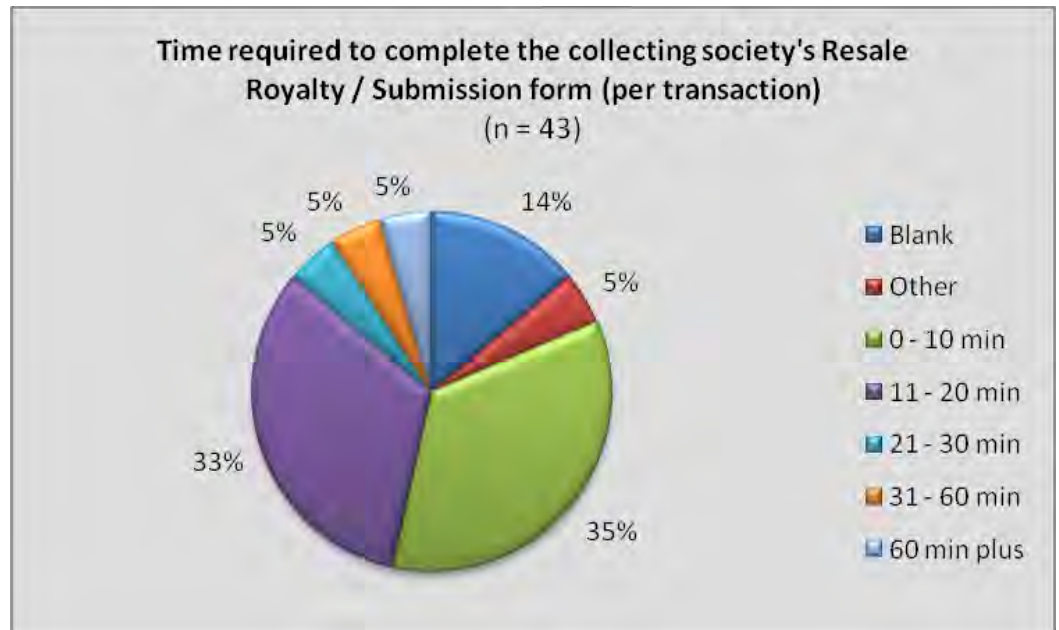
9. Time (in minutes) required to complete the collecting society's Resale Royalty / Submission form (per transaction):

Responses

Responses	Number of Responses	Percentage
Blank	6	14%
Other	2	5%
0 - 10 min	15	35%
11 - 20 min	14	33%
21 - 30 min	2	5%
31 - 60 min	2	5%
60 min plus	2	5%
Total	43	100%

Mean = 23 minutes

Median = 15 minutes



The highest responses were received by:

- Panter & Hall Ltd (Art gallery / Art dealer) = 240 minutes
- Bohun Gallery (Art gallery / Art dealer) = 120 minutes
- Ben Elwes Fine Art (Art gallery / Art dealer) = 50 minutes

Question Ten

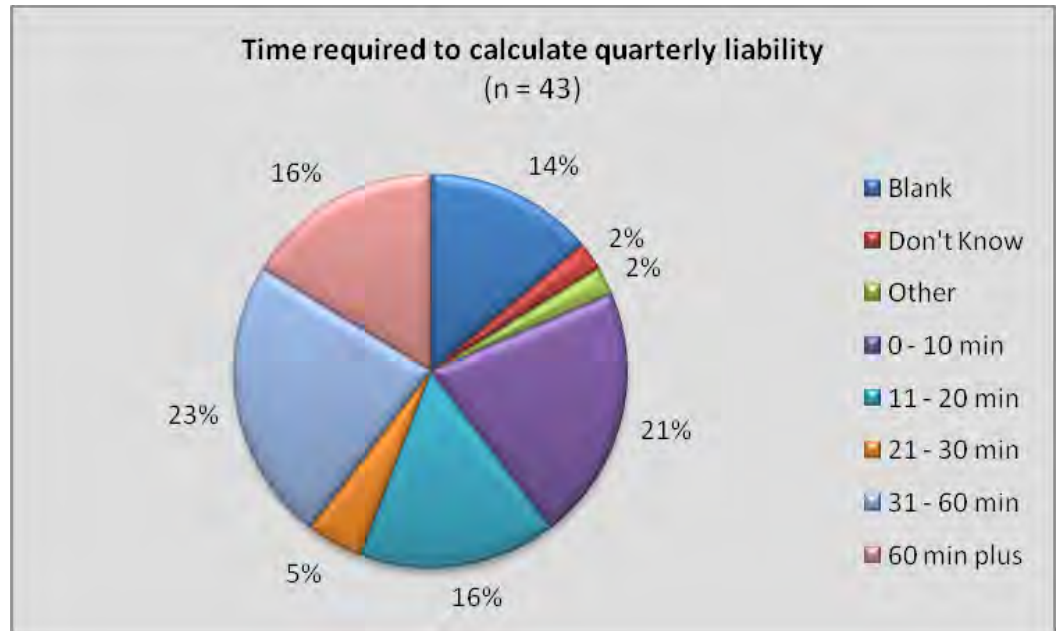
10. Time (in minutes) required to calculate quarterly liability:

Responses

Responses	Number of Responses	Percentage
Blank	6	14%
Don't Know	1	2%
Other	1	2%
0 - 10 min	9	21%
11 - 20 min	7	16%
21 - 30 min	2	5%
31 - 60 min	10	23%
60 min plus	7	16%
Total	43	100%

Mean = 53 minutes

Median = 30 minutes



The highest responses were received by:

- Jenna Burlingham Fine Art Ltd (Art gallery / Art dealer) = 240 minutes
- Kusin & Company / Artwire (Other) = 180 minutes
- Woolley & Wallis Salisbury Salerooms (Auction House) = 160 minutes

Question Eleven

11. Time (in minutes) to check invoice from collecting society against quarterly liability:

Responses

Responses	Number of Responses	Percentage
Blank	6	14%
Don't Know	1	2%
0 - 10 min	15	35%
11 - 20 min	10	23%
21 - 30 min	4	9%
31 - 60 min	4	9%
60+ min	3	7%
Total	43	100%

Mean = 36 minutes

Median = 15 minutes



The highest responses were received by:

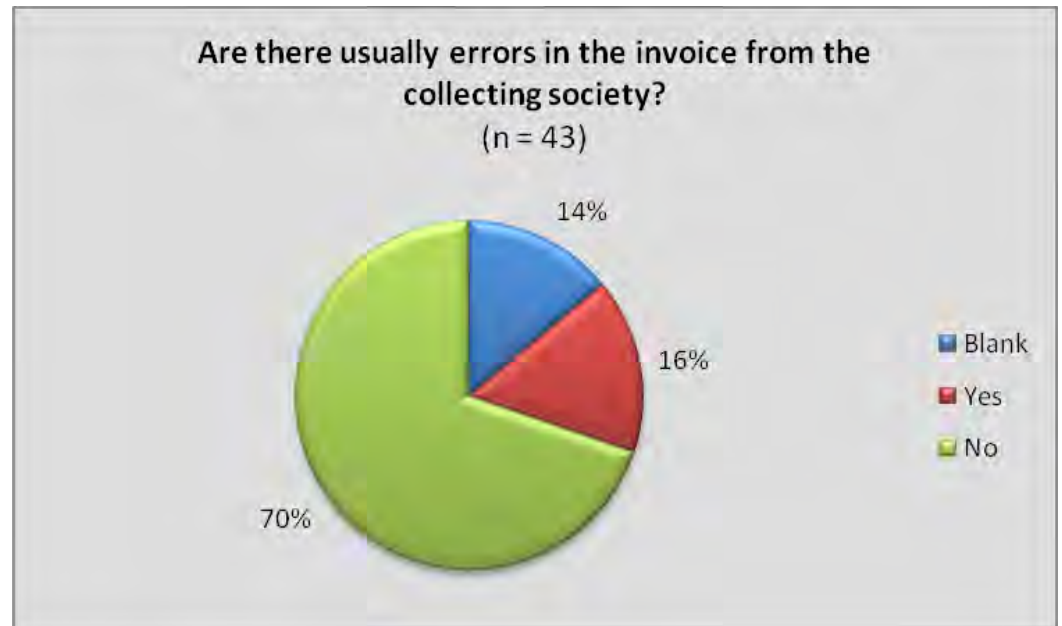
- Bonhams 1793 Ltd (Auction House) = 360 minutes
- Kusin & Company / Artwire (Other) = 180 minutes
- Panter & Hall Ltd (Art gallery / Art dealer) = 120 minutes

Question Twelve Part A

12a. Are there usually errors in the invoice from collecting societies?

Response

Response	Number of Respondents	Percentage
Blank	6	14%
Yes	7	16%
No	30	70%
Total	43	100%



Question Twelve Part B

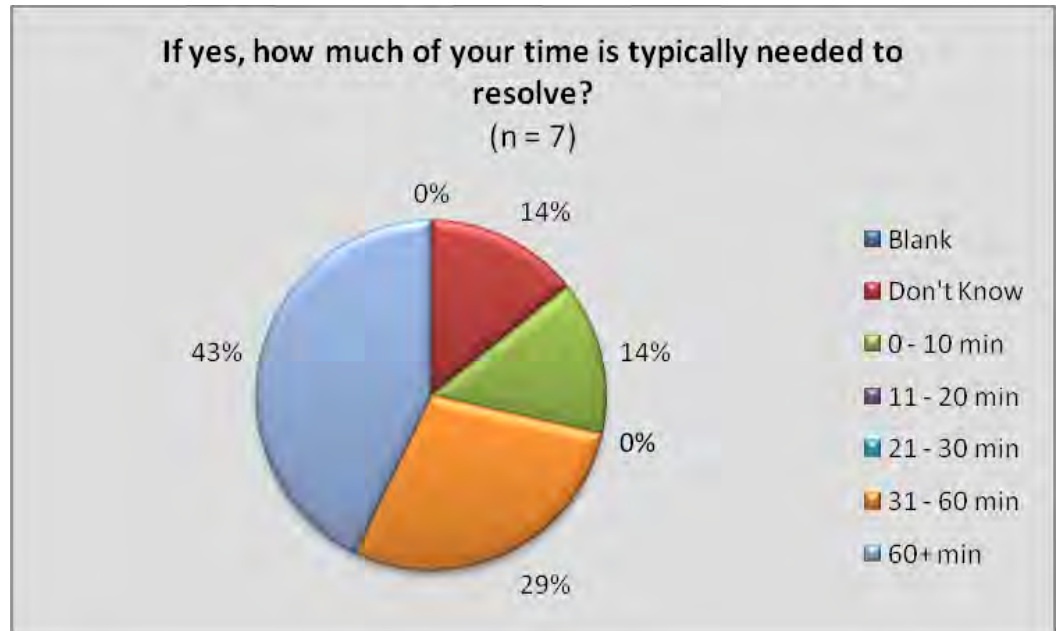
12b. If yes, how much of your time (in minutes) is typically needed to resolve?

Responses

Responses	Number of Responses	Percentage
Blank	0	0%
Don't Know	1	14%
0 - 10 min	1	14%
11 - 20 min	0	0%
21 - 30 min	0	0%
31 - 60 min	2	29%
60+ min	3	43%
Total	7	100%

Mean = 218 minutes

Median = 60 minutes



The highest responses were received by:

- Bonhams 1793 Ltd (Auction House) = 1440 minutes
- Sotheby's (Auction House) = 210 minutes
- Kusin & Company / Artwire (Other) = 180 minutes

Question Thirteen

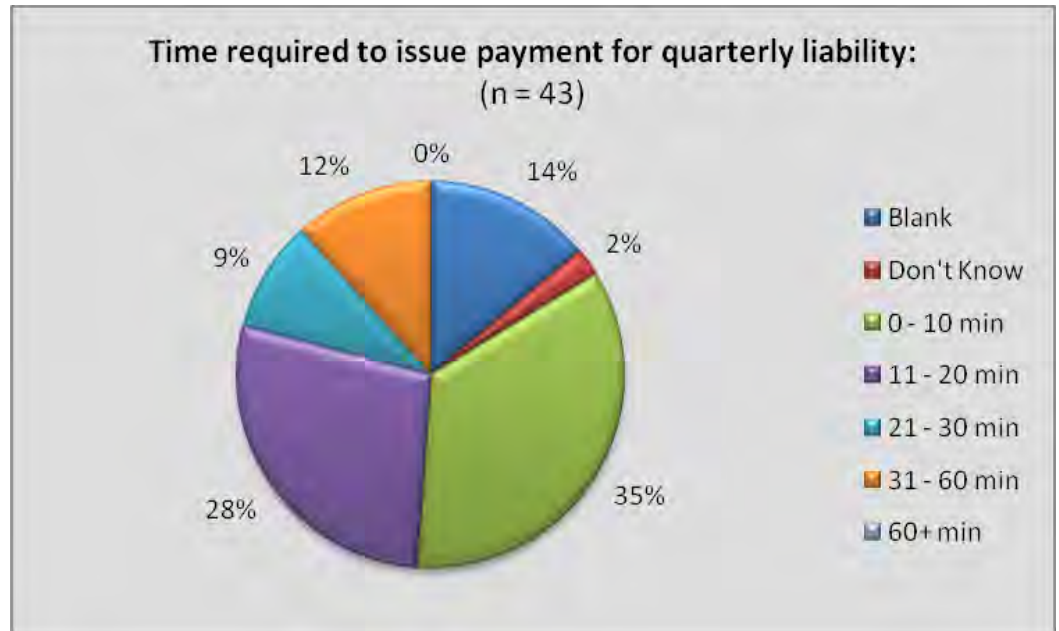
13. Time (in minutes) required to issue payment for quarterly liability:

Responses

Responses	Number of Responses	Percentage
Blank	6	14%
Don't Know	1	2%
0 - 10 min	15	35%
11 - 20 min	12	28%
21 - 30 min	4	9%
31 - 60 min	5	12%
60+ min	0	0%
Total	43	100%

Mean = 19 minutes

Median = 15 minutes



The highest responses were received by:

- Bonhams 1793 Ltd (Auction House) = 60 minutes
- Richard Green Gallery London (Art gallery / Art dealer) = 60 minutes
- David Messum Fine Art (Art gallery / Art dealer) = 60 minutes
- Walker Galleries Ltd (Art gallery / Art dealer) = 60 minutes

Questions Eight - Thirteen Summary

Total time to complete administrative tasks

Question	Time Taken to...	Mean (min)	Median (min)
8	Determine whether transaction qualifies for ARR	26	10
9	Complete collecting society's resale royalty submission form	23	15
10	Calculate quarterly liability	53	30
11	Check invoice from collecting society against quarterly liability	36	15
12	If errors, time needed to resolve*	35	10
13	Issue payment for quarterly liability	19	15
8 - 13	Total	192	95

*7 of 43 respondents stated that they experienced errors, which represents 16.3% of all respondents. For the 7 who experienced errors the median time taken was 60 minutes and the mean was 218 minutes. Given that 16.3% of respondents experienced errors, the figures in the table have been weighted accordingly.

Cost for 95 minutes time

Source	Hourly Wage	Cost for 95 min
National median gross hourly wage in April 2013 for individuals 21 and over in 2013 ASHE survey ¹	£13.03	£20.20
Median gross hourly wage for 'Artistic, literary and media occupations' in 2013 ASHE Survey ²	£14.43	£22.37
Median gross hourly wage for 'Estate Agents & Auctioneers' in 2013 ASHE Survey ³	£10.52	£16.31
Industry study submitted to the IPO by Niall Fairhead	£40	£62.00

Comment on the methodology

- The survey of art market professionals did not seek finite financial sales turnover of the galleries and other, or the monetary costs in administering the right. Nor did it enquire about dealers' typical gross profit margins. Given the sensitive nature of this information the survey instead provided ranges, in the belief that it would lead to a higher response rate.
- The survey takes into account the annual volume of sales, proportion liable for payment of ARR, and the proportion below the €3000 threshold. As a result, it is possible to determine which businesses are more disproportionately affected. Moreover, information provided by collecting societies provides further insight into numbers of transactions taking place in the lower band.

1 ONS ASHE Survey - http://www.ons.gov.uk/ons/dcp171778_335027.pdf

2 ONS ASHE Survey - <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tc-m%3A77-328216>

3 ONS ASHE Survey - <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tc-m%3A77-328216>

Responses from collecting societies

The artist's resale royalty is subject to compulsory collective management, so artists must receive it through a collecting society. The two collecting societies – ACS (Artists' Collecting Society) and DACS (Design and Artists Copyright Society) – provided evidence as to the numbers of artists on an annual basis for the last 3 years who are benefitting from the Right, particularly in the lower payment band.

ACS (Artists' Collecting Society)

1. To how many British artists (in each of the last 3 years) did your collecting society make a payment in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent)?

Year ending May 2012	109
Year ending May 2013	222
Year ending May 2014	269

2. To how many British artists overall – irrespective of value bandings – did your collecting society make a payment (in each of the last 3 years)?

Year ending May 2012	178
Year ending May 2013	304
Year ending May 2014	372

3. What is the overall number of resales that resulted in a payment to/by your collecting society (in each of the last 3 years)?

Year ending May 2012	664
Year ending May 2013	2,722
Year ending May 2014	3,282

4. What is the pound sterling total that your collecting society paid (in each of the last 3 years) in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent)?

Year ending May 2012	13,672
Year ending May 2013	52,349
Year ending May 2014	65,576

5. What is the pound sterling total that your collecting society has paid across all value bandings (in each of the last 3 years)?

Year ending May 2012	824,786
Year ending May 2013	1,109,199
Year ending May 2014	1,385,046

6. a. How many individual businesses do you deal with for ARR transactions annually?

We invoice in excess of 160 different businesses for ARR.

b. What proportion of these businesses are auction houses (rather than dealers or galleries)?

55%

7. Of those British artists to whom your organisation made a payment in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent), what percentage are living artists?

35%

8. Of the eligible transactions that your organisation processed in each of the last 3 years, in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent), what proportion are from (a) galleries or art dealers? (b) auction houses?

Information not available.

DACS (Design and Artists Copyright Society)

Evidence from DACS included the following points:

- Auction houses received 85% of all Artist's Resale Right royalty invoices over the past three years
- In 2013 each auction house sold on average 30 works in the value banding €1000 to €3000
- In 2013 each gallery or art dealer sold on average 5 works in the value banding €1000 to €3000
- On average, 70% of British artists to whom DACS made resale right payments in the last three years received their royalties in respect of sales in the value banding €1000 to €3000

DACS conducted its own survey on ARR in May 2014, to which it received 512 responses. Results of that survey are published on the DACS website.

DACS provided the following responses to the questions put to it by IPO

1. To how many British artists (in each of the last 3 years) did your collecting society make a payment in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent)?

- In 2011 DACS made payments to **256** British artists in respect of sales in the value banding €1,000 - €3,000. **156** of these artists were unique to this range, i.e. they did not make any sales above €3,000 in this year.

- In 2012 DACS made payments to **465** British artists in respect of sales in the value banding €1,000 - €3,000. **291** of these artists were unique to this range, i.e. they did not make any sales above €3,000 in this year.
- In 2013 DACS made payments to **469** British artists in respect of sales in the value banding €1,000 - €3,000. **82** of these artists were unique to this range, i.e. they did not make any sales above €3,000 in this year.

2. To how many British artists overall – irrespective of value bandings – did your collecting society make a payment (in each of the last 3 years)?

- In 2011 DACS made payments to a total of 375 British artists. This means that 71% of these artists received payments in respect of sales in the value banding €1,000 - €3,000.
- In 2012 DACS made payments to a total of 674 British artists. This means that 69% of these artists received payments in respect of sales in the value banding €1,000 - €3,000.
- In 2013 DACS made payments to a total of 663 British artists. This means that 71% of these artists received payments in respect of sales in the value banding €1,000 - €3,000.
- It is clear that even where the number of total sales increases, there is still a very high proportion of artists who receive resale royalties because they are selling their works within the €1,000 - €3,000 value banding. Between 2011 and 2013, there was an increase of more than 40% in the number of artists receiving royalties.

3. What is the overall number of resales that resulted in a payment to/by your collecting society (in each of the last 3 years)?

DACS invoices art market professionals on a regular basis, however DACS will also submit a request for information on a quarterly basis. This request for information is in relation to sales in a previous quarter. Therefore, in an instance where DACS receives a payment following a request for information in January one year, this is for a sale that happened between October and December the previous year. This time delay means that our annual figures for numbers of sales invoiced and numbers of sales paid will not match up year to year due to this ebb and flow of payments.

Year	Number of sales invoiced	Number of sales: artist payments
2011	3,838	3,078
2012	7,701	5,445
2013	9,618	8,931

4. What is the pound sterling total that your collecting society paid (in each of the last 3 years) in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent)?

Year	Gross payment	Net payment	Number of artists paid	Number of British artists paid
2011	£58,237.63	£49,501.95	332	256
2012	£106,315.79	£90,368.09	614	465
2013	£151,159.58	£128,484.85	710	469

In order to answer this question transparently and clearly, we have provided both net and gross payments in respect of sales in the value banding €1,000 - €3,000.

The amount of gross payment has increased by almost £50,000 each year. Whilst the extension to deceased artists receiving resale royalties from 1st January 2012 impacts on this increase, it does still demonstrate that art works are increasingly being sold in the value banding €1,000 - €3,000. This means that the lower threshold of €1,000 continues to benefit an increasing number of artists.

Our data also shows that a very high proportion of the artists paid each year in respect of sales in the value banding €1,000 - €3,000 were British artists. In 2013 alone British artists made up 66% of all artists paid.

5. What is the pound sterling total that your collecting society has paid across all value bandings (in each of the last 3 years)?

In order to answer this question transparently and clearly, we have provided both net and gross payments of resale royalty payments across all value bandings in each year.

Year	Gross payments	Net payments	Number of artists paid
2011	£3,012,689.31	£2,560,785.69	708
2012	£5,239,775.78	£4,453,808.94	1232
2013	£9,492,228.38	£8,068,392.87	2177

It is significant that the number of artists receiving royalties in respect of sales in the €1,000 - €3,000 value banding is very high. In 2011, the number of artists selling works for €1,000 - €3,000 made up 47% of all artists paid for Artist's Resale Right. In 2013, 710 artists were paid in the lower value banding.

6. a. How many individual businesses do you deal with for ARR transactions annually?

Between 2011 and 2013 DACS has dealt with a total of 115 auction houses and 214 galleries

In 2011 DACS dealt with 163 businesses

In 2012 DACS dealt with 223 businesses

In 2013 DACS dealt with 243 businesses

b. What proportion of these businesses are auction houses (rather than dealers or galleries)?

In 2011 DACS dealt with 163 businesses: 57 were auction houses and 106 were galleries.

In 2012 DACS dealt with 223 businesses: 87 were auction houses and 136 were galleries.

In 2013 DACS dealt with 243 businesses: 90 were auction houses and 153 were galleries.

DACS deals with a larger number of galleries, however it is actually the auction houses with whom DACS deals more frequently. Galleries only contributed 15% of all sales invoiced by DACS in the last three years, as demonstrated by the chart below. This represents 3,136 sales over three years across all galleries. In comparison, auction houses had 18,021 sales invoiced in three years.

7. Of those British artists to whom your organisation made a payment in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent), what percentage are living artists?

In 2011 we only made payments to living artists as the Artist's Resale Right was extended to cover deceased artists from 1st January 2012. In 2012, 74% of artists receiving royalties in respect of sales in the value banding €1,000 - €3,000 were living artists. In 2013, 58% of artists receiving royalties in respect of sales in the value banding €1,000 - €3,000 were living artists.

8. Of the eligible transactions that your organisation processed in each of the last 3 years, in respect of sales in the value banding €1,000 - €3,000 (sterling equivalent), what proportion are from (a) galleries or art dealers? (b) auction houses?

The table below shows the percentage of all eligible transactions for both categories of art market professional in respect of sales in the value banding €1,000 - €3,000.

The table also shows the number of galleries/auction houses and the number of sales made in the value banding, therefore providing an average of sales per institution. This is more representative of what the institutions were actually dealing with on a year to year basis.

Sales in respect of value banding €1,000 - €3,000					
Year	Institution type	Percentage of all eligible sales that were in this banding	Number of institutions that made a sale in this banding	Number of sales in this banding	Average sale per institution
2011	Gallery/art dealer	34%	51	191	4
2011	Auction house	31%	53	1020	19
2012	Gallery/art dealer	38%	91	474	5
2012	Auction house	30%	82	1910	23
2013	Gallery/art dealer	36%	99	481	5
2013	Auction house	31%	84	2526	30

As demonstrated by the table above, galleries and art dealers in particular made fewer sales in the value banding €1,000 - €3,000 per year on average than the auction houses. This would suggest that the administrative burden on the galleries is comparatively low.

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