

NAVA in conversation, Episode 14

[Introduction Music]

Voiceover: The National Association for the Visual Arts is the peak body protecting and promoting the professional interests of the Australian visual arts. NAVA: in Conversation is a series exploring the issues and challenges of working in the sector. We speak with artists, curators and administrators to gain insight into the experiences of contemporary practice and seek to propose ideas for change, progress and resilience in both local and global contexts.

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Brianna Munting: For this episode we discuss the Fake Art Harms Culture campaign. The Fake Art campaign is being run by Arts Law, the Indigenous Art Code and Copyright Agency to introduce policies to protect Indigenous artists against fake art being made and sold in Australia. For this episode we speak with Gabrielle Sullivan, Bibi Barba and Judy Grady about why this campaign is so important, and how artists and arts workers can get involved with the current Parliamentary Inquiry. The Fake Art campaign estimates over 80% of Aboriginal products sold in Australia are not authentic, meaning they're not made by, or credited to Australia's Indigenous peoples. It is important that Aboriginal and Torres Strait Islander people's rights are protected, and this means stopping the fake art and holding companies, individuals and dealers to more transparent and ethical processes. The campaign is encouraging artists to make a submission to the inquiry. For more information search 'inauthentic art' on the Australian parliamentary website. This discussion was part of the NAVA book club held during Artspace's Volume: Another Art Book Fair 2017. Stay tuned for the next podcast from this event which will discuss Indigenous protocols, policies and critical methodology.

Judy Grady: My name is Judy Grady, I'm the manager of visual arts at Copyright Agency | Viscopy. Our visual arts team is responsible for delivering Viscopy licensing services to visual artists and those who wish to use the artist's work and we also manage the Resale Royalties Scheme for visual artists.

Gabrielle Sullivan: I'm Gabrielle Sullivan, I'm CEO of the Indigenous Art Code, the Code exists to give artists a fair go and to try and ensure that there is transparent dealings with Aboriginal and Torres Strait Islander artists when it comes to selling their artwork.

Bibi Barba: My name is Bibi Barba I'm from Arts Law and I'm the Coordinator for Artists in the Black and I will say that Arts Law is the only national community legal service that pretty much helps all the artists with legal problems, and regarding the Artists in the Black program that is national and it's there to help artists with contracts, information about protecting their work, and wills and also cultural awareness, we make sure they understand exactly their rights.

[Music]

Bibi Barba: Oh, sister look as an artist, it's just a sad fact of reality that this is happening.

Amala Groom: Yeah.

Bibi Barba: We are trying to put a stop to it, this is why the campaign is so crucial, because you know as creators, as an artist myself, you know, to be in middle and see all the information, you know, the background information, who in this industry and the artists that are being ripped off, and most importantly the consumers. They are being ripped off to the

max. And it really puts a shadow over my culture because they are always saying "Is it authentic?" I mean I'm getting that asked now "Is it authentic?" So you know it's serious and it's really, something has to be done so this is why the campaign is so important.

Brianna Munting: So what's involved in the Fake Art campaign? What's been done, what are you doing and what's next?

Gabrielle Sullivan: How it started.

Bibi Barba: You've had the privilege of starting it and I've come on in the last six months to help this year.

Gabrielle Sullivan: We started it in the sense in of this Fake Art Harms Culture campaign, but I think it's important that you know artists have been trying to stop this from happening for decades and decades, and that is why we've got the Wandjuk Marika quote there because that's from 1975 and I guess not a lot has changed and we can include that like we've got permission from the Marika family to use that as part of this campaign.

Judy Grady: Gabe originally phoned me really in response to, you had numerous, numerous contacts from Aboriginal artists saying do something about this. It sort of built up and built up to the point where Gabe then was discussion with Arts Law and then ourselves to say what do you think we can do.

Gabrielle Sullivan: Artists were like I know the Code does stuff about do artists get paid fairly, but this isn't just a fair payment thing, this is like a rip offs and fakes and who's going to do anything about that. And I think it was, you know, it's something the Code should play an advocacy role in but definitely Arts Law and Copyright Agency and they were just the immediate orgs around, and we said "Hey what do you reckon?" and then we just sort of cobbled a bit of funding together through all of the peak arts orgs for the arts centres ANKAAA, Desart, Umi Arts, IACA, AACHWA, Ku Arts, Gab Titui on Thursday Island, all chucked in a bit of money and that's when we went out and started purchasing all the of the products. So the process for that was going to The Rocks and East Circular Quay, Swanston St, Queen Vic Markets, Paddy's Markets, Smith St Mall, Todd Mall, later on Cairns and just other places where you would see it. And asking every single seller the same questions and that was from, like, a place that was very obviously a souvenir shop, some museum shops, markets, but also other places that were galleries, and again I think it's that we might not call it a gallery, because we have all been involved and participated in the sort of the fine art end of the market, but if you're a tourist getting off a cruise ship and you walk into a big space and there's paintings on the walls that are for sale for thousands of dollars, you would call that a gallery. So you know, galleries and yeah just asking the same questions like "Who is the artist? Where are they from? What's their language group? How does the artist get remunerated? Can you give us some background?" So that's all been documented, all of that information and we got mixed responses.

Amala Groom: Is it published?

Gabrielle Sullivan: No not yet, I mean its published in the sense that it's informed this information stand, it will come out when we make our submission to the Parliamentary Inquiry, some of the information will need to be de-identified as far as the businesses, we need to think about that. And look we could do that at a much more in depth level, I mean if we had the resources, even to choose to a postcode area and you just choose The Rocks, east Circular Quay or Darling Harbour you went ok there's 40 shops here and of these 40 shops that sell some sort of Aboriginal and Torres Strait Islander merchandise or product, of those 40 shops 15% are selling stuff we are absolutely certain is authentic, this many of them are selling this other product, you know just to get a bit more of a sense of what is on offer, because we don't have any, I guess we've got the data from those experiences but it's not, nobody is sort of looking at base line data or figures for sales amounts or any of that. So if it's

got a red dot we like, the red means we think the product is fake or inauthentic, the artist isn't attributed the product is made overseas.

Amala Groom: It doesn't mean its sold.

Gabrielle Sullivan: Yeah, we were told it wasn't made by an Aboriginal artist and we are confident that no licensing fee was paid to the artist. The orange dot means we aren't entirely sure and that we have some questions about the product. The seller told us it was made in Australia by an Aboriginal artist, but the same product was available in another shop where we were told it was made in Indonesia, the label on the product gave unclear or confusing information. And the green dot means it's fine. No Aboriginal and Torres Strait Islander artists I know call themselves authentic, I guess that's the word we use because we don't have another word to use, you know to explain it. So yeah, all of those products were purchased but at the same time we went and purchased products that were absolutely 100% authentic, so you know for every inauthentic clapstick you can go and buy the real clapstick made by an Aboriginal artist, the same for boomerangs the same for yidaki digeridoo, the same you know, a fake t-shirt from china, a real hand printed screen printed from Tangentyere in Alice Springs and the same for the, you know, fabrics and everything. The thing is it was very hard to access any of that authentic product or merchandise in the shops and galleries that were targeting tourists in the places I visited. Sure if you go to the Museum of Contemporary Art shop down at the harbour you can get the real stuff. But that stuff wasn't on offer and so to purchase that it either meant then going directly to the art centre or going to a gallery or shop that I knew had relationships with either independent artists, or Aboriginal owned and governed art businesses, or going to the Darwin Aboriginal Art Fair or the Cairns Indigenous Art Fair.

[Music]

Brianna Munting: What the Senate Inquiry that's happening now, what's your role?

Gabrielle Sullivan: So it's a Parliamentary Inquiry so that came into being from, look I think a few things triggered it. So the campaign first launched at the Darwin Aboriginal Art Fair in August last year and then there's been a lot of positive media which has been great, we haven't really had to look for the media they've come to us. Then in January this year it must have been an interview on AM on ABC and Bob Katter heard it and his chief of staff contacted me said "Oh Bob Katter wants to put in a private member's bill and stop fake stuff" and we're like "Ok wow we didn't think that that was where the support was going to come from, but you know great!" [Laughter]

Bibi Barba: So Robyn was like yes, ok!

Gabrielle Sullivan: So that's what Katter wants to do, so very quickly, you know, we contacted his office, we have had excellent pro bono support from the competition team at Allans Linklaters and his staff have been great, his drafter, and we had conversations about, he wanted to do it very quickly, like within one week so I think it was just, and then Copyright Agency put the funding in to support us.

Judy Grady: But it was interesting time in that because we had actually planned a planning day and we had Indigenous board members from all of our boards coming together and some other people and then it was like Bob Katter wanted to join us, so he did. [Laughter] We were like ok we will all be here next Thursday, and that worked for him, so yeah so it all happened from there. But then it come out pretty quickly didn't it.

Gabrielle Sullivan: Yeah it happened really quickly. February this year.

Bibi Barba: So Arts Law has got their submission getting ready now, getting it drafted and it's just been an incredible, you know, experience to see that when we go round to some of the art centres and we do our workshops at various art fairs, it's really good to inform the artists that are there from different centres and to encourage them to put their submission in

too. And I think the overall response was a fantastic one in Cairns when we had the likes of Terri with the Copyright Agency and Rhoda Roberts, so you know having really strong Aboriginal women that are very well respected in the community to start saying ok we've had enough of this, something has to be done. So it's kind of like ok with Artists in the Black it's that cultural connection that Arts Law has and that will be able to get through to the Indigenous community and specifically artists to say you know, lets pull together and this is where, you know, we are here to facilitate to help and advocate with Copyright Agency and the Art Code.

Gabrielle Sullivan: The other key thing with Katter's bill, like we never thought Katter's bill was going get up, but that meant that we could get to Canberra and get an audience with MPs that otherwise would have been difficult to meet with, so when we went for the reading of the bill, Leesa Watego came.

Judy Grady: You had like eight meetings that day didn't you?

Gabrielle Sullivan: No we had 14 meetings, so we met with...

Amala Groom: Yeah cause some of them only last 15 minutes each right?

Gabrielle Sullivan: Some of them, like we were in with Scullion for an hour and we were in with Ken White for an hour, we were in with Tanya Plibersek for half an hour, who else did we meet? Anthony Albanese, Tim Hammond, and Fifield's advisors, the Prime Minister's senior advisor. So we met with, if it wasn't a Minister it was sort of the Minister's advisor.

Judy Grady: It was yourself, Gabe, Robyn from Arts Law and it was a couple of artists.

Gabrielle Sullivan: It was Leesa Watego came from your board and we had Djambara Marwilli from north east Arnhem land who is on the Prime Ministers Advisory Council, and we had Banduk Marika who is now a board member of the Code but at the time it was just because of Banduk and her family's long, kind of, relationship with trying to do something about this, so she was like "Yep I'm coming" so she came to Canberra as well. And yeah and then that's when we started having more conversations with MPs. From that within government they formed their own, I guess committee or working group from within government to do something. Then like Bibi said at CIAF we had an overwhelming response and we had a Fake Art Harms Culture postcard, where we had 1000 postcards printed and I've had it confirmed from Comms and Arts that I think they have received over 700 of those postcards which were directed to the Prime Minister asking him to do something about the issue. And it wasn't that long after those would have been received that the Parliamentary Inquiry was announced.

Amala Groom: They legally have to respond to letters don't they?

Gabrielle Sullivan: They can view it as a campaign if they receive a lot "Oh that's like a political campaign, we won't get back to everybody", we understand that they are going to respond to everybody.

[Music]

Brianna Munting: In all of this that is happening what role can we as individuals, as artists and art workers also play within this campaign. What are our responsibilities or could be?

Gabrielle Sullivan: Make a submission. And I know people are cynical around, you know, inquiries, and will anything ever result from that, but you know the more submissions that go in from people that understand what is going on and understand how wrong it is, they are going to have to take notice or some notice of it.

Judy Grady: Volume counts. And Katter's bill, the postcards, the copyright conversation that Copyright Agency | Viscopy put on NITV with the artists that Bibi mentioned were speaking about the importance of this campaign, I think all those things together actually meant that they went "Oh we better do something about this". So we've got to just keep up that pressure and the volume, so make a submission.

Gabrielle Sullivan: Because quite a lot has happened, in a 12 month period quite a lots actually happened, so if we keep the pressure on hopefully more can happen. I guess something that could be helpful from NAVA and your connections with all of the artists that you work with, is that you know, we work for organisations whether it's the Indigenous Art Code, Copyright Agency, Arts Law, we've got jobs to do, and yes, well not Bibi obviously, we're non-Indigenous people working in these organisations as well, and we've got to do our job and it is making sure that artists get a fair go. And there will be some people that are trying to, it's a minority, but there are some vocal agitators "The fake harms culture campaign is about telling Aboriginal people what they can and can't do" and it's not about that, it couldn't be further from the truth, it's about trying to stop fake art and if people want to throw red herrings out there and deflect, why would you be saying that? This isn't isolated issue that just for artists in central Australia you know, this is, without saying artist's names because I can't, this is impacting artists all over the country and artists on the east coast, and it's stealing, like it's actually stealing from Aboriginal and Torres Strait Islander people, so it's theft and we need to do something to stop people exploiting a resource that doesn't belong to them.

Bibi Barba: And this is where you know the ICIP comes in to it, where the intellectual and cultural property of Indigenous people and you know, the human rights of Indigenous people. We have the right to protect our culture but also none of these fake art has any connection whatsoever. So we are being ripped off, at the same time we have been ripped off in a financial way because, you know, we, how could I say this? Our culture means everything because it's the law. But yet we are not covered under copyright law in this country in terms of ICIP because there is Common Law, so this is what it so important, that we you know, try and put a stop to the fake art because it is harming our culture in such a big way. So please make a submission.

Gabrielle Sullivan: Artists can make a submission. Arts Front have created a webpage to make it easier for artists to make a submission. If people want to talk about making a submission they can call us and we can talk them through it. If they don't want to write a submission as well, they can just grab their iPhone or get somebody else to film them talking about it and that counts as a submission.

Brianna Munting: Amazing.

Gabrielle Sullivan: Because you know the crooks, the people that have been making money out of this business for a long time, they will be mobilising, and they will be saying they don't want the law to change. I mean, they will look pretty silly I think, but you know so you've got to make sure that you get in there and the artists voices are heard. The process isn't really very easy and accessible for a lot of Aboriginal and Torres Strait Islander artists you know, and that's some feedback that probably needs to be given back to the committee about making, you know, if you are having a Parliamentary Inquiry about protecting the rights Aboriginal and Torres Strait Islander artists then you should be having a process that is really accessible for them to participate in that conversation. So I think I think that's an issue, but we don't want take that, that issue to get in the way of people of still using the mechanism that is on offer at the moment and still putting something in.

Brianna Munting: And what other protocols or policies exist in this space that artists and arts workers should know about?

Gabrielle Sullivan: I guess all artists, you know if you are an Aboriginal artist sign up to the Art Code, its free. Sign up to Artists in the Black so you can get your free legal advice, sign up to Viscopy so you can get your licensing.

Judy Grady: Or at least go and look at the useful information about managing your copyright on our website.

Bibi Barba: I know 28 years ago when I started painting I mean, I really had no clue of my rights and how, you know, how I was going to be protected until I obviously, you know, I

discovered that hey I have got support. So if we are not out there advocating to other artists and the community, well how are they going to know? So really information is knowledge and knowledge is power. So this is why it is important now to, you know, spread the word and pass it on. Pass it on and get it out there.

Brianna Munting: Absolutely.

Gabrielle Sullivan: If you think something like you have been ripped off, or something wrong's happened as well, like cold callers, don't be embarrassed about it, so many people say "Oh I'm embarrassed I even let this happen to me, I feel so silly" like don't feel embarrassed about it, it's not about whether you are an Aboriginal artist or an non-Indigenous artist. Artists are often exploited and taken advantage of and so just, you know, there is help and there is assistance to do something about it.

Bibi Barba: I think too from my perspective, looking overseas, I mean for me personally fighting a case in another country, I mean what's happening internally in this country now, I mean they must be looking at us saying "What the hell is going on?" Because it is so easy to take, as you were saying, the culture and produce fake art and make a hell of a lot of money out of it. So you know we really got to tell the world no, no no, you can't touch it, let them know you can't touch it, you cannot touch our culture and it's Australian culture, it's the oldest living culture on the planet. So why haven't we got protection in place? That's what I can't fathom.

Amala Groom: That's why those international initiatives happening at WIPO are so important and have been happening for such a long time, those intergovernmental committee meetings, and it takes a really long time for International Law to take affect and there's a whole bunch of people, as you would know like, spearheading that and then once that gets passed, whatever it is, declaration, treaty, then it will eventually get ratified and become implemented in Australian Domestic Law.

Brianna Munting: Even the Copyright Law now, there is no protection whatsoever, which is just a horrendous state.

Amala Groom: But you are looking at diametrically opposed legal systems. Diametrically opposed in every single possible fashion.

Brianna Munting: 100%.

Gabrielle Sullivan: And that's why in our submissions what we're looking at is what does exist at the moment, and you know the only place at the moment under Australian Law where we feel like you can do something is the Australian Consumer Law around misleading and deceptive conduct. But we don't believe that is strong enough at the moment either, so we will be recommending in our submissions that the Australian Consumer Law is amended and changed so that it is misleading and deceptive to sell products like this. So if you look at these boomerangs, that's 100% made in Indonesia right, but it says on the back "Australia" and it says "handmade", it doesn't say "handmade in Australia by an Aboriginal artist" you know, so these ways around it so that you are not being misleading and deceptive, so this is the kind of stuff at the moment, you probably wouldn't get done for this because it's not misleading and deceptive.

Amala Groom: Oh it makes you sick.

Gabrielle Sullivan: But what we want, we do want the Australian Consumer Law to capture this.

Brianna Munting: But the consumer has to know as well.

Amala Groom: Yeah but do they care?

Gabrielle Sullivan: I think some do and some don't. But that's people go "Oh you've just got to have better education for consumers and stuff" and you do need that, but unless there is a really strong deterrent like a serious penalty, they will keep doing it. So I wanted to show you guys this because this is a good example. So you go and you buy this, and it's a bit tattered

now the box, and it's got dot dot, concentric circles, a bit of raak mixed in, you know, and that's what they all do, they mix the raak and dots and...

Amala Groom: Is that a Wanjina?

Gabrielle Sullivan: No not this time, but that is, the Wanjina comes up not so much on the souvenir products, that's more non-Aboriginal artists. But something like this has zero connection to Aboriginal culture, the packaging, nobody is attributed on that, you don't know whose work it is, it's got "Australian".

Amala Groom: But it's from the dream time.

Gabrielle Sullivan: But it's from the dream time. So again, it's got the Australian made logo, you pull the mug out, it's not a copyright infringement because they haven't copied anyone's work. So to make this artwork a graphic designer, again, just pulled some dots together, sent the design off to, oh look this probably could have been printed and made in Australia, but even the bottom of the thing says "dreamtime authentic work of Indigenous art". This, we don't think you should be able to sell it. We don't think you should be able to sell a lot of this stuff, it's just so obvious. Start with this and then get rid of this stuff, it would have a flow on effect.

Brianna Munting: Authentic work of Indigenous art.

Gabrielle Sullivan: Yeah but you know that in contrast to this mug over here.

Amala Groom: But you can still buy that at the airport right?

Gabrielle Sullivan: You can buy it everywhere.

Brianna Munting: Circular Quay.

Bibi Barba: Yeah, The Rocks.

Brianna Munting: Pick a shop.

Bibi Barba: They come off the boats it's right there, even on the boat.

Gabrielle Sullivan: In contrast this product is made in China right, but it's licenced with the full authority of the artist, it's a superior kind of product when you feel it, the artist's name is on the actual object, artist attributed on the packaging, there is a story about the original artwork and a licensing fee gets paid to the artist.

[Music]

Voice over: Head to our website visualarts.net.au for more information on NAVA's advocacy and campaigns for improving the working environment for Australian artists and arts organisations.