



SCREENING CHAPTER 7 INTELLECTUAL PROPERTY LAW

AGENDA ITEM V: THE RESALE RIGHT

**Country Session: The Republic of TURKEY
2-3 March 2006**



RELATED LEGISLATION

Law No 5846 on Intellectual and Artistic Work (Art. 45)



RESALE RIGHT

This right entitles the author for any resale of the original works or accepted to be original works in the term of protection subsequent to the first sale of the work by him/her which provides economic benefits to him/her

Sale within the meaning of Art. 45 contains the sales at an exhibition or an auction or in a shop engaged in the sale of such items or by other means



WORKS SUBJECT TO RESALE RIGHT

- **Works of fine arts and their copies produced in limited numbers by the author himself or by other persons under the author's permission and considered as original works for having been signed or marked otherwise by the author (excluding architectural works)**
- **Scientific and literary works' original manuscripts of an author (Art. 2/1)**
- **Musical works' original manuscripts of a composer**

PAYMENT

- **There must be a considerable disproportionality between the first and the following price**
- **The author's royalty on resale will be paid by the seller (natural or legal person)**
- **The owner of the enterprise where the sale takes place is jointly liable with the seller**

BENEFICIARIES

The royalty will be paid to;

- The author of work**
- Author's heirs of first and second degree and the author's spouse after his/her death**
- The collecting society in the absence of spouse and legal heirs of first and second degree**



BENEFICIARIES (cont.)

The provisions of the Law No 5846 shall apply:

Irrespective of the nationality of the author, to all works communicated to the public for the first time in Turkey and to all works existing in Turkey but not yet communicated to the public

To all works of foreigners which have not yet been communicated to the public or which have been communicated to the public outside Turkey, subject to the relevant provisions of the international conventions which Turkey is a party (Art. 88)



BENEFICIARIES (cont.)

- **Authors can manage their resale right either on an individual basis or through relevant collecting societies**



THE ROYALTY

- **Law No 5846 envisages the adoption of secondary legislation concerning the threshold amount exempted from royalty and calculation of royalty (which should not exceed 10 % of the difference between the first and the following prices) to be paid to the rightholder**
- **The secondary legislation has not been adopted to date.**



THANK YOU FOR YOUR ATTENTION