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Art market ripe for abuse, say campaigners

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The global art market has become so opaque that it is now difficult to estimate its size

The art world has become increasingly secretive and opaque in the past two years, according to the main authority on the industry, and it is now difficult to know even the size of the market.

“There were huge steps towards greater transparency in the past 20 years,” said Clare McAndrew, author of the TEFAF Art Market report. “But in the past couple of years it has been going backwards.”

She blamed a trend at auction houses to sell art privately, rather than openly, because buyers prefer certainty over prices and sellers do not wish to be seen selling.

Ms McAndrew’s report concluded that global art sales fell last year by 7 per cent to \$63.8bn and sales in China dropped 23 per cent to \$11.8bn.

To compile the figures, she relied in part on a survey of galleries. For this year's report, only 800 galleries out of 6,300 responded, though she had some private conversations with others. "It was a struggle," she said.

Some of the art world's biggest names, such as Christie's, the auction house, and the galleries Gagosian, Hauser & Wirth and White Cube are privately owned and do not need to disclose sales figures or which works they have handled.

The publication of what has become known as the Panama Papers last week shed light on some of the secretive practices of the art world, including how masterpieces collected by Victor and Sally Ganz, that fetched \$206.5m at auction in New York in 1997, were not actually owned by the Ganzes at the time, but by Joe Lewis, the British billionaire, who had bought the art and immediately resold it through Christie's.

Campaign groups have warned that the art market is ripe for abuse.

Robert Barrington, executive director at Transparency International, said regulation of the art market was both lax and poorly supervised: "The regime is just too dispersed to be effective."

"Large sums are involved and are often negotiated through agents without the ultimate purchaser being known, for an asset that is easily portable," he added.

Mr Barrington said the art market had thus far escaped close scrutiny, since other sectors such as the luxury property market had dominated the debate on money laundering. But he predicted that "partly because of the Panama Papers, attention will shift to fine art."

There has already been controversy over the role of Freeports, luxurious warehouses in Geneva, Luxembourg and Singapore, where art can be stored without the disclosure of ownership.

Stefan von Bartha, who owns a contemporary art gallery in Basel, Switzerland, said dealers in 19th and 20th-century art, which accounts for the most expensive pieces that come to auction, are also the most opaque. "They have old-school behaviour that everything has to be a secret," he said.

But Pierre Valentin, the head of art at the law firm Constantin Cannon, said it was important to note the distinction between secrecy and privacy.



Regulation of the market has been described as lax

There are good reasons a person might want to keep their art holdings private, he said, such as to avoid alerting the world to their wealth and rendering themselves a criminal target.

Auction houses and art galleries are under a legal obligation while acting as their agent to protect the privacy of sellers, and they extend this to buyers too. This had to be balanced, he added, against a need to uncover an artwork's chain of ownership if "question marks" arose.

Complaints about the secrecy of the art market are not new.

Richard L Brodsky spent 20 years as a New York State assemblyman unsuccessfully introducing bills to regulate the art market to ban practices he considered distorting and unethical, such as "chandelier bidding", when an auctioneer takes imaginary bids from the sale room, or where the auction house has an ownership interest in a work being sold.

Mr Brodsky said the art market was a "carbuncle of distortion" that required more regulation.

He added that the art market had "historically behaved like it was above scrutiny" and warned about the danger when an auction house, a traditional market maker, became a market participant.

Today, auction houses put a mark in the catalogue if they have a significant economic interest in an item, but do not spell out the size of their stake.

A further area of opacity is the art advisory business, as shown by the long-running dispute between Russian billionaire Dmitry Rybolovlev and his adviser Yves Bouvier over the fees Mr Bouvier allegedly charged Mr Rybolovlev.

One London gallerist, who did not wish to be named, said anyone could set themselves up as "an instant adviser" and might refuse to disclose their client, if they even had one and were not buying to sell to another adviser for their own commission.

What we have learnt from the Panama Papers

The art-dealing Nahmad dynasty has been revealed as the owner of a Modigliani painting at the centre of a Nazi restitution row. The painting is itself owned by a company set up for the Nahmads by Mossack Fonseca, the Panamanian law firm whose files were leaked. Swiss authorities have now seized it from the Geneva Freeport.



Dmitry Rybolovlev, a Russian billionaire involved in an expensive divorce, has denied using a Panamanian company to hide his Picassos, van Goghs and Monets from his wife.



Greek shipping billionaire Basil Goulandris apparently sold 83 paintings by Matisse, Van Gogh and Picasso, among others, to a Panamanian company for \$31.7m in 1985, when they were worth considerably more. Ownership of the paintings has long been unclear but the company now seems to have been owned by Mr Goulandris's sister.

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