

THE AUCTION PROCESS

Unlike the commercial gallery, the art auction offers a degree of transparency with its ostensibly public financial transactions. Auction results have therefore become a socially acceptable definition of the financial value as well as ownership of the art object. Despite appearing open to all, however, the auction remains a complex process of social actions and interactions requiring specialist knowledge as well as risk management. Art auctions differ from other auctions in that each commodity is unique, and therefore an absolute 'eternal' value can never be established: the value of each work can only be defined by what an individual was prepared to pay for it at the time of the auction. That resulting financial value is, nevertheless, greatly influenced by the manner in which the work is presented and marketed by the auction house, as well as by the psychological understanding and 'control' of bidders' behaviour by the auctioneer. Indeed, the final auction price can have a tremendous effect on the fame of the artist and their subsequent prices at both auction and in private treaty sales.

The international world of fine art auctions is dominated by two brand names, Sotheby's and Christie's. In spite of recent inroads into the market share by Chinese auction houses, the duopoly still accounts for 40–50 per cent of global annual auction turnover. Since their origins in eighteenth-century London, they have grown into multinational corporations with sales rooms and offices worldwide. Christie's and Sotheby's have the lion's share of the international market for fine art, while other international metropolitan and regional auction houses are better known for their sales of local contemporary art, decorative art, collectibles and niche sectors. The notion of the fine art auction as a glamorous evening event was constructed in 1958 by Peter Wilson (1913–84), Chairman of Sotheby's from 1957 to 1980, when, for the first time, a black-tie sale of

seven impressionist and post-impressionist paintings took place in front of VIP guests and TV cameras.

The function of the auction house is to act as an agent for the tertiary resale of art objects. The auctioneer's prime responsibility is to attain the highest price on behalf of the consignor. Today, the major auction houses have encroached on the traditional role of the dealer, providing a range of art investment advisory services to their 'preferred' clients. For example, in recent years both Christie's and Sotheby's have acquired several existing commercial galleries together with their stocks of art objects, which have then been offered for sale. This extends to contemporary art: the most famous example being the *Beautiful Inside My Head Forever* single-artist sale of 2008, in which the artist Damien Hirst circumvented his dealers and sold new work directly through Sotheby's in London (see 'Artist-Dealer Relationships'). Sotheby's has also established an annual sale of large-scale high-end sculptures at Chatsworth House in Derbyshire, the home of the Devonshire family. Many of these works are commissioned or being sold for the first time. The cultural and monetary value of these works is boosted by their display, although there is no eventual auction. In common with art dealers, potential buyers negotiate prices in private, and Sotheby's ensures that the sculptures end up in respected private or corporate art collections, in order to strengthen their future provenance value. Christie's imitated Sotheby's in 2013 by launching a similar sculptural display in the grounds of Waddesdon House in Buckinghamshire, home of the Rothschild family.

The auction process begins when the owner of an art object decides to sell it and becomes the 'consignor'. Most sales and resales of art at auction tend to be a consequence of 'the three Ds' – debt, divorce and death. In many countries, the estate will incur inheritance (or estate) tax, compelling beneficiaries to liquidate part of the estate. During this process of appraisal and valuation, the consignor will often solicit the opinion of more than one auction house and/or dealers before deciding on the best place to sell: at this point, auction houses will often attempt to win the consignment by offering a *douceur*. This can include lowering, or sometimes even waiving, the consignor's commission on any future sale; and, in the case of high-end works, guaranteeing a minimum price to the consignor, which is paid by the

auction house if the work fails to sell, or sells but falls short of the guarantee. The guarantee presents a risk to the auction house, and is therefore usually underwritten by a third party, who consequently benefits from a share of the commission in a successful sale.

Once a work has been consigned to an auction house, the cataloguing process begins. The catalogue is an important marketing tool, and illustrative exposure on the front, back and inside covers is considered prime. The early pages of the catalogue include the name and date of the sale, together with dates for the exhibition (preview), and a list of specialists. The final pages contain the 'small print' that includes important information regarding registration, taxes and conditions of sale. The main body of the catalogue comprises the objects in order of sale, and each catalogue entry provides a colour photograph and detailed description of the object, including the lot number, name and dates of the artist, and title of the work. This is followed by the work's physical and documentary qualities, including medium, signature and position, size and production date. There follows the estimated price, ranging from low to high estimate. Provenance, exhibition and literature details are accompanied by expert discussion of the formal and contextual qualities of the work, known as the 'catalogue note'.

The provenance lists the ownership history of the object in chronological order from its production to the present day. If a modern work, it will typically include the artist's primary dealer, followed by other galleries which have acquired the work on the secondary market, as well as dates when the work appeared at auction. Negative auction results are omitted, and prospective buyers should always check the work's sales history on auction databases. The provenance list will typically finish with a statement such as 'Acquired from the above by the family of the present owner(s) in 1936' or 'Purchased at the above sale by the present owner(s)' or, as in this case, 'Thence by descent to the present owner(s)'. The quality of the provenance, and the relative frequency of a change in ownership, can have a profound effect on the market value of the object. For example, if the work has never appeared on the market, or has not appeared for the last 25 years, it is considered to be relatively under-exposed, and therefore likely to prove more attractive to potential buyers. Works that have frequently changed hands, say every ten years or so, are far less attractive to buyers. 'Good provenance' can also include

works that have been in alpha galleries and/or important collections. For obvious reasons, international contemporary art is likely to have a shorter provenance history, but the same rules apply. The primary gallery is a crucial marker of 'good provenance'. In many jurisdictions the law demands auction houses pursue due diligence (see 'Due Diligence') when appraising consigned art. Auction houses are under particular pressure to investigate the provenance of art obtained from owners and traders in German-occupied Europe between 1933 and 1945.

Contemporary work that appears too quickly at auction should be treated with caution. Premature appearance at auction is an ambiguous sign: the artist might be rapidly gaining in value, with demand outstripping supply, and therefore the owner might be hoping to profit from the surge of interest; on the other hand, they might be trying to offload a work with no investment future. This regularly happens with immovable gallery stock in all art market sectors. There are no failsafe criteria in judging provenance. Sometimes works that appear to have an unattractive provenance will sell well for other reasons, including changes of fashion, a new appraisal of the work as a 'sleeper', or that it has been undervalued in previous market transactions because of a failure to assess its quality or to identify the artist. A famous example from 2008 was a glass crystal ewer, which was catalogued by a provincial English auction house as 'a nineteenth-century French claret jug' with an estimate of just \$130–\$265. To the delight of the consignor, it sold for \$290,000, only to reappear at Christie's, London and to sell for \$4.22 million. During this time the 'sleeper' jug had been correctly identified as an extremely rare tenth- or eleventh-century Fatimid ewer. Because of the controversy caused by the failure to correctly identify the object, the initial sale had been annulled, and all parties, including the first vendor and purchaser, came to a confidential agreement to reoffer the work at the subsequent Christie's sale, sharing in the profits.

The exhibition history of an art object at auction can also have a positive effect on its value, especially if this includes public exhibition as well as display in commercial galleries. The frequency and quality of these exhibitions is a clear marker of both the commercial and academic validation of the object and may also demonstrate whether the work is of local, national or international interest to dealers and museum curators. The exhibition

and display history often expanded upon in the catalogue note can be eloquent concerning the proactive marketing of certain types of art created in limited multiple editions, as well as unique art objects which nevertheless are similar to others by the same artist. In the case of Old Master paintings in particular, the catalogue description often refers to a 'similar' work held in an important museum collection, thus marketing the auction lot by means of 'reflected glory'; the implication is that by purchasing the work, you might own something of 'museum quality'. The catalogue entry of limited-edition works for sale such as bronze sculptures or photographs will often list other examples of the edition held in public or private collections. The literature section also serves to validate the work, by demonstrating whether it has been considered worthy enough to be included in both private and public exhibition catalogues as well as academic publications. Literature entries are particularly impressive if they include illustrations of the work, indicative of its particular importance in the *oeuvre* of the artist. In this section the catalogue raisonné will also be listed, providing further validation of the work. The catalogue note, also referred to as the description, can range from no description in day sale catalogues, to several paragraphs or even pages for the more important evening sales. The larger auctions are divided between an evening sale of a relatively small number of more important works, and the day sale, with a much larger volume of lesser works, often by the same artists as represented in the evening sale. Evening sales are often glamorous social events with invited guests, whilst the day sale tends to be less crowded and formal. Catalogue descriptions will often include further illustrations of the work, such as archive photographs of the artist in their studio, together with comparative images of other related art objects.

The number of lots in any particular auction will vary for different reasons. In a typical evening sale there could be between 40 and 70 works, whilst the lesser-value day sale will include between 120 and 180 works. The lots may be previewed at their associated exhibition, which usually begins four or five days prior to the actual sale. Because of the tight scheduling of auctions, the exhibitions often include weekend openings, facilitating the viewing of works of art during the non-working day. Significant works of art will be sent on an international tour of major art market centres such as New York, Paris and Hong Kong. This is a complicated logistical operation

requiring high-security transportation and attendant costs, but is considered worth the time and expenses incurred because of the high profile gained in marketing terms. Works of art within the catalogue are strategically placed. In order to strike a key note at the start of the auction, the first lot is always selected to catch audience interest, be it visually and/or in terms of its rarity, commerciality or contextuality. Lot 1 is rarely of high value, and is usually deliberately under-estimated in order to create early buyer confidence. The first five or six lots tend to be appetisers that prepare the audience for an important piece placed between lots 7 and 10. The positioning of 'star lots' varies from sale to sale, but usually they are preceded by a lesser work by the same artist, a work by an artist of the same nationality, or a work with a similar subject. Auction houses are aware of the intelligence of their audience, and the entertainment value of the auctioneer and the auction itself, and generally attempt to avoid predictability. The final lots of a sale are the hardest to sell. Many bidders will have left the sale during the anti-climax which can follow the auction of the 'star lot'. On occasion a 'star lot' will be the final lot, as happened successfully at the Old Master and British Paintings Evening Sale at Sotheby's, London, in July 2010, when the oil painting of *Modern Rome – Campo Vaccino* (1839) by J.M.W. Turner sold for \$46.03 million, doubling its low estimate. When the market is depressed, auction houses will reduce the number of lots in order to ensure reasonable turnover and to limit the 'bought in' rate of works that fail to sell. They will focus on the high end of the market because this portion tends to remain unaffected by economic downturns. Low and middle market art objects sell less well during a recession.

The auction itself is intended to be a dramatic and unpredictable event. It is never certain which works will sell for a good price or not at all, and this can create a tense and sometimes electric atmosphere. The auctioneer stands on a podium with assistants at his or her side. Portable lots are traditionally displayed as they come up for sale; larger works are sold 'as seen'. Purpose-built auction houses, such as Sotheby's, New York, have electric carousels that display the lots mechanically. A plasma screen at the front of the room above the auctioneer's head displays the current lot price in the major global currencies. To the right of the room lie banks of telephones over which poise auction house staff bidding on behalf of clients who instruct. The 'audience'

consists of rows of seated dealers and private collectors who form the bulk of those bidding in the room. At major auctions, the room will be packed with buyers, sellers, the press and observers. The auction commences with a brief legal statement from the auctioneer referring to the general rules and regulations of the sale. The auctioneer introduces the first lot, and announces an opening bid. This will be somewhere below the reserve price, the amount agreed with the consignor as being the minimum they are prepared to accept for the work. The reserve price remains undisclosed, but will never be higher than the low estimate as cited in the catalogue. The auctioneer, however, will often indicate when the reserve price has been reached, with a comment such as 'I can sell'. The auctioneer has a confidential logbook in which absentee (or commission) bids are recorded; it is the auctioneer's responsibility to bid on behalf of absentees until their maximum bids are surpassed by bidders in the room, on the phone or internet. Live online internet bidding is now available in most sales via the auction house websites.

The auctioneer will continue to take bids at increments of approximately 10 per cent of the previous bid until the last bidder, known as the underbidder, drops out. At this point the auctioneer will announce that he or she is going to sell, and give fair warning before finally bringing the hammer down on the podium. The auctioneer will then announce how much the lot has sold for, and move on to the next lot. If the lot fails to achieve its reserve price, auctioneers will discreetly announce 'not sold' or 'pass'. Such unsold works are referred to as 'bought in', and these will often be sold subsequent to the auction by private treaty if the consignor is willing to accept the offer of a post-sale buyer. Bought-in works can prove difficult to sell at future auctions, and it is common to see such works appearing in a different auction house and/or in a different location.

Both the consignor and the purchaser at auction have to pay a commission, also known as the premium. For the consignor, this amount is not published but is normally around 10 per cent of the hammer price, although this commission can be waived if the consignor is a regular or VIP client. The buyer's commission is listed at the back of every auction catalogue, and can vary from house to house, with the bigger names generally charging more. Most auction houses have tapered commissions. For example, Bonhams, Christie's and Sotheby's worldwide currently charge (2015): 25 per cent of the hammer

price for the first \$65,000; 20 per cent for \$65,000 to \$1.3 million; and 12 per cent for anything higher. Smaller auction houses generally offer significantly lower commissions in order to remain competitive.

There are other extra costs of which the buyer in particular needs to be aware. These are listed in the 'small print' at the back of all auction catalogues and include import and export duties and other taxes. There are different national and international import and export rates, including specific rates for transactions in the European Union. Symbols relating to any applicable special taxes appear beside the catalogue estimate for every work. For example a double dagger signifies that import duties must be paid as the work has been imported from outside of the European Union. A recent extra charge in the United Kingdom is the Artist's Resale Right, also referred to as *droit de suite*. This acknowledges that the living artist, or the estate of an artist up to 70 years following his death, has a continuing right to his creation and merits a proportion of its repeated resale income. The cross within a circle symbol signifies the Resale Royalty Right payable to the artist. Like the buyer's commission, this forms a tapering percentage of the hammer price, currently around 4 per cent with a maximum liability of \$14,230. The Artist's Resale Right applies throughout the EU, but does not apply in the US. With all these added extras, a buyer will end up paying an additional 30 per cent on top of the hammer price for a work by a contemporary artist, along with any applicable VAT and/or import/export taxes.

Auction houses offer assistance with transportation arrangements, but the costs remain the responsibility of the buyer. Sold lots are paid for and, if portable, taken by their buyers within the next 24 hours, or they are removed to a warehouse in transit to an international airport. It is remarkable that a significant number of such warehoused works are neglected by their buyers, and can remain unclaimed for years.

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