

## **Banning UK Sales of Ivory: Museums Association Response to DEFRA Consultation**

**December 2017**

### **About the Museums Association**

The Museums Association (MA) is a membership organisation representing and supporting museums and people who work for them, throughout the UK. Our membership of over 8000 includes all types of museums, from small volunteer-run local museums to large national institutions and people working in all types of roles from directors to trainees. Founded in 1889, the MA was the world's first professional body for museums. We lead thinking in UK museums with initiatives such as *Collections for the Future*, *Museums 2020* and, most recently, *Museums Change Lives*. We receive no regular public funding, and we do not wish to do so. For more information about the Museums Association, see our website: <http://www.museumsassociation.org/home>

### **Summary**

The Museums Association welcomes the government's proposals to ban the elephant ivory trade and recognises the strong environmental and ethical reasons for such a ban. We support an ambitious policy which:

- successfully reduces the UK's elephant ivory trade
- allows museums to continue to acquire items made of elephant ivory into their collections
- does not restrict the display of ivory in museums or the right to own, gift, bequeath or inherit ivory
- does not prevent museums from loaning, transferring or touring ivory between museums and other cultural organisations
- does not make museums large-scale repositories for unwanted or unsellable ivory items
- recognises the value of museum expertise, and the potential additional resourcing requirements for museums, in any regulatory system established under the ban
- does not incentivise the use of ivory substitutes from other endangered animals (e.g. in the antiques and musical instrument trades)

### **Acquisition and Disposal of Ivory Items in Museums**

There are over 2500 museums in the UK, including large national institutions, local authority museums, military museums, university museums and museums run by independent charitable trusts. Museums of all kinds hold elephant ivory in their collections and display items containing ivory in their galleries. These include whole tusks (most commonly in natural history, university and military museums) as well as worked ivory in many forms, including as decoration on furniture, cutlery, firearms, musical instruments, scientific instruments and objets d'art.

The proposed ban relates only to the purchase and sale of ivory items, and will have no impact on museums which simply hold and display elephant ivory. The ban is most likely to have a direct effect on the small number of museums – mostly larger national or university institutions – which continue to purchase ivory. For example, the British Museum and the Victoria and Albert Museum continue to purchase ivory relating to specific collections of interest. This type of specialist collection relies on deep expertise and only items that are judged of 'museum quality' are ever considered for purchase.

Sale of such items from museum collections is illegal for most national museums, and very rare for other museums. The ability of museums to sell items from their collections for profit is severely limited by the Museums Association's [Code of Ethics](#), which establishes strict rules on 'Financially Motivated Disposal' of museum items.

### **Museum Exemption**

We believe that there is a strong case for an exemption for museums from the ivory ban. This exemption would recognise the important place that ivory has occupied in different cultures and locations across the world, and would recognise museums as an appropriate place for the historic, cultural and scientific study and display of such items. This exemption would also recognise the public benefit and public access that museums enable, as distinct from most private collections.

There are a number of issues that will arise from implementing a museum exemption which we believe government will need to address:

Most importantly, the government will need to establish a definition of museums or list of museum organisations in order to limit potential abuse of the museum exemption. At present, there are a number of options open to DEFRA:

- **Use the widely accepted Museums Association [definition of a museum](#):** "Museums enable people to explore collections for inspiration, learning and enjoyment. They are institutions that collect, safeguard and make accessible artefacts and specimens, which they hold in trust for society."
- **Use participation in the UK Museum Accreditation scheme as the basis for the exemption.** The [Accreditation Scheme](#) is operated jointly by Arts Council England, the Welsh Government, Museums Galleries Scotland and Northern Ireland Museums Council as a quality standard for museums. The scheme includes requirements relating to good governance, collections management and public access. Most museums in the UK are either accredited or working towards accreditation – there are over 1700 accredited museums in the UK. However, some museums do not seek accreditation or move in and out of the system and would be left out of an exemption. Moreover, the accreditation scheme has no legislative basis and may be difficult to incorporate directly into primary legislation relating to the ban.
- **Use a list of exempted museums based on previous legislation.** Previous Acts have provided lists of museums eligible for other government schemes, such as [Schedule 3 of the Inheritance Tax Act 1984](#) relating to tax exemptions for private treaty sales to museums of inherited cultural works. A list of this type, which covers national museums, universities and local authorities, as well as the National Trust and several Arms-Length Bodies, would likely cover most of the museums which are currently purchasing ivory. However, it would exclude many independent and military museums and historic houses. We would recommend that if this option is taken up by government, that any list should be subject to further consultation with the museums sector, and should be relatively easy to revise.
- **Establish a licensing scheme requiring museums to apply for the right to purchase elephant ivory.** Many museums already have to apply for licences to hold some items in their collections. For example, the Home Office runs a well-established firearms licencing scheme for museums. An equivalent DEFRA scheme to allow the purchase of elephant ivory

would be relatively easy to set up and would have the benefit of not excluding any museum or cultural organisations from the outset.

There must also be clear guidance about how the proposed exemptions work in tandem with one another. We believe that the museum exemption would apply to those items not already covered by the de minimis exemption, and would supersede musical instrument and artistic and cultural exemptions where objects were being purchased by a museum.

### **Items of significant artistic, cultural or historical value exemption**

The proposed exemption of items of significant artistic, cultural or historical value must be sufficiently tight to achieve the aims of the ban.

Determining what constitutes artistic, cultural or historic value is clearly a subjective judgement and one which is potentially open to abuse. We recommend that items that are given this exemption should have to first gain approval from a committee drawing on the expertise of curators and other museum professionals.

We also believe that sufficiently tight criteria should be set to ensure that a licencing committee is not overwhelmed with submissions. If a de minimis and musical instrument exemption are also introduced, a committee should only have to judge works containing relatively large amounts of ivory.

We believe that there is a risk that museums will be seen as a 'dumping ground' for unwanted and illegal ivory collections, and would like to explore options to mitigate this possibility with Defra, including producing guidance for owners of ivory collections to understand their options for sale or disposal.

We also believe that there is a strong case for miniatures which are painted on an ivory background should be automatically included in the exemption, as their value does not lie in their ivory content and they represent an important part of our cultural heritage.

### **Musical Instrument Exemption**

We support the proposed exemption for musical instrument. This should be based on certain parameters – a maximum percentage of ivory, a maximum weight of ivory (270-300g has been suggested by the musical instrument industry representatives) and potentially also a date (1975 has been suggested) before which the ban does not apply.

We believe that where a musical instrument is purchased by a museum, the terms of the museum exemption should apply rather than the musical instrument exemption.

### **De Minimis Exemption**

We take no view on the precise parameters of the de minimis exemption, though we note that it needs to be sufficiently limiting to achieve the aims of the ban, and understandable by those enforcing the ban.

We are also concerned that a de minimis exemption that is very stringent could be counter-productive, as it may incentivise the wide-scale replacement of small amounts of elephant ivory with ivory from other endangered species by antique dealers. This has the potential to be both ecologically and culturally damaging.

For further information, please contact:

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