

Gallic Shrug

FRANCE HAS LONG enjoyed—some would say endured—the world’s most idiosyncratic auction system. Until 2001 laws promulgated in 1556, tweaked first in 1841 and then again during World War II, granted a nationwide auction monopoly to state-appointed officials called *commissaires-priseurs* (roughly “appraisal commissioners”). Foreign firms were banned until 2001, and while the country has since opened its doors to Christie’s and Sotheby’s, the law has continued to enmesh both foreign and domestic auctioneers in red tape and restrictive legislation. Houses must obtain state licenses to operate and are severely restricted in arranging aftersales of unsold lots. They are also banned from offering new goods or vendor guarantees and from making private-treaty deals. All

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these rules are peculiar to France. Elsewhere, according to Sotheby’s and Christie’s, these two houses generate 10 percent of their turnover from private-treaty sales, derive massive income from the sale of new goods, notably jewelry, and have earned—and sometimes lost—fortunes on consignments obtained via guarantees.

Now the European Union is seeking once again

to impose greater flexibility on the recalcitrant French. The EU Services Directive, due to take effect January 1, 2010, mandates that service providers be allowed to operate on equal terms throughout the union. In response France, although accepting that auctions fall under the directive and that a new French auction law is therefore required, still clings to old tenets, convinced that it has the system right and the rest of the Continent has it wrong.

The draft of the new law allows auctioneers to sell new goods and provide guarantees. But it restricts the impact of private sales by not allowing houses to own the goods they sell. It also dilutes the effect of permitting aftersales for two months following an auction, in place of the previous two weeks, by retaining the nonsensical requirement that the prices of such transactions be no lower than the final (unsuccessful) bid in the saleroom.

In addition, the draft retains an archaic oddity of the French auction system: the existence of two types of auctioneers—one for voluntary sales, which most are, and the other for court-ordered sales, usually involving bankruptcies or disputed inheritances. The latter category will remain the exclusive purview of French firms, with a premium fixed at 9 percent (plus VAT).

Most extraordinary of all is the retention of the Conseil des Ventes, the auction watchdog created in 2001 to vet new firms. French houses hate the council’s

overstuffed opulence, bankrolled by a levy on auction turnover, and no similar body exists anywhere else in the world. Its *raison d’être*, moreover, has been eliminated by the services directive.

Yet the council’s new president, Francine Mariani-Ducray, speaking at the annual convention of the French auctioneers’ union, SYMEV, in Paris on October 12, insisted that the crisis of free-market capitalism had underlined the need for her organization to police the auction business. Her predecessor, the tenacious Christian Giacomotto, even claimed that the council should be the model for an EU-wide body, an idea that went over like a lead balloon at a June 2008 EU parliamentary hearing in Strasbourg.

Despite being one of the world’s major storehouses of art and antiques, France has seen its share of the world auction market drop alarmingly since World War II, when it enjoyed about 50 percent of the market, to just 6 percent today. Yet the French remain adamant that their system is best, ignoring the auction dominance of

New York and London, with their more laissez-faire approach. Another example of this mind-set was provided at the SYMEV convention when Arnaud Lelièvre, the third-generation scion of an auction dynasty from Chartres, called for the French training system of lengthy studies in law and art history to be extended throughout the EU.

That is unlikely to happen, but France has a track record of snubbing the EU when told to enact legislation it doesn’t like. It is true that some in France, such as Guillaume Cerutti, the head of Sotheby’s in Paris, feel the shortcomings of the new rules are outweighed by their benefits, notably provisions allowing private sales and guarantees and the right to sell new goods. Nevertheless, the country’s parliament is sure to chew the legislation over for months.

“A few points still have to be ironed out,” François Curriel, head of Christie’s Europe, remarked drily after the senate amended several of the draft law’s proposals in October. In fact, it is more likely to go into effect next spring than by January 1. The delay would offer French auctioneers time to dismantle one proposal to which they are all hostile: that *commissaire-priseur* be replaced by the more straightforward *directeur des ventes* (“sales director”).

“The title of *commissaire-priseur* comes with the right to be addressed as *Maitre*,” explains Henry de Danne, the general secretary of SYMEV. “Now, losing that right really would be a disaster!” ■ SIMON HEWITT



Francine Mariani-Ducray, the new president of the Conseil des Ventes.