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Curators and the Art Trade: A Discussion of Opportunities and Dilemmas

Acquisition Funding: the Role of Foundations

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Good afternoon, ladies and gentlemen,

Thank you very much for the invitation and the opportunity to talk to you as a representative of the Kulturstiftung der Länder in Berlin, and to present our perspective on the conference theme: the role of foundations in the complex relationship of curators and the art trade. In my paper, I will argue that by distributing public funds to public institutions to support acquisitions, the Kulturstiftung der Länder is an actor in the process that defines Germany's culture heritage. By supporting those purchases, the foundation is also part of the national and international art market. Consequently, the Kulturstiftung der Länder maintains relationships – different in character and complexity - with museums as well as the art trade: The foundation acts as a partner to the museums and relies on their curators' professional expertise and in-depth knowledge of the market in evaluating applications for acquisition funding. The foundation can also take on the role of mediator between vendor and museum, while acting as client as well as occasional competitor to the trade.

What does the Kulturstiftung der Länder do? And how does it do this?

In the Federal Republic of Germany, authority in all cultural matters lies within the sixteen regional governments, the so-called Länder. This cultural autonomy on a regional level has historic reasons, Germany's past as a mosaic of larger and smaller principalities comes to mind as does the exploitation of cultural politics by the Nazi government. However, as early as 1973, the then West German government was contemplating the idea of setting up a national cultural foundation. In 1983, a dual initiative by the Federal and the regional governments led to the purchase of the Evangelary of Henry the Lion, one of the most important illuminated manuscripts of the 12th century. It is now kept in the Herzog August Library in Wolfenbüttel. This sale of a key piece of national cultural heritage highlighted the need for an agency that would

deal with such emergencies in a timely and professional manner. It took another nine years before the then eleven federal states set up the Kulturstiftung der Länder as a private foundation, with an annual budget provided by the Länder. The foundation started working in Berlin in spring 1988; after reunification, the East German states joined this now nation-wide coalition. As you can see, the Kulturstiftung der Länder is a typical child of German federalism, as an organization devoted to the national cultural heritage, it is a national foundation in all respects but in name, with a remit covering all public cultural institutions in Germany with publicly accessible collections, be it museums, libraries or archives. The foundation supports the acquisition, preservation and conservation of moveable cultural property. The foundation receives its annual budget from all sixteen regional governments and spends the majority of its funds on acquisitions. Smaller amounts are allocated to restoration and conservation projects, to exhibition funding, teaching and various initiatives in cultural politics related to our main purpose, such as the protection of cultural heritage or provenance research.

Why the legal format of a private foundation funded by tax-payers' money? You will recall that the Allied Four Power Status in Germany ended with reunification. Until then, it was de facto impossible to set up a government organization in Berlin. The legal solution therefore solution was to set up a private foundation. Today, this has the additional charm of reducing bureaucracy to a limit: the foundation is able to process funding applications with a minimum of bureaucracy and is not limited by certain budgetary requirements applicable to ministries and other institutions run directly by the state. As I said, the foundation's main prerogative has always been to support public collections in Germany in acquiring works of art and moveable cultural property deemed nationally important. Taking on this responsibility is, of course, also an indication of the state's intention to assist public institutions in times of shrinking or non-existent acquisition budgets. As a foundation representing all sixteen federal states, we see ourselves as a partner to Germany's public collections, we are there to help and to make things possible.

Operations at the Kulturstiftung der Länder are kept deliberately lean: The office is headed by a general secretary, her deputy and two directors of applications; or, in terms of training, a lawyer and three art historians specializing in different areas from medieval to 20th century art. Art market experience is part of the job profile.

When we were planning a special issue of the foundation's quarterly journal "Arsprototo" for the 25th anniversary of the Kulturstiftung last year, we thought well, let's put a diagram together of everything we do and how these activities relate to one another the result is what you see, a kind of astronomical chart, with our various fields of activities forming the constellations.

In theory, any German cultural institution with a collection that is publicly accessible, be it a museum, a library or an archive, can apply for funding. In our day-to-day work, there are applications for single objects as well as groups of objects, collections or entire archives. The Kulturstiftung der Länder will cover up to one-third of the total purchase price. In practice, this means that applicants will have to look for additional funding. It also means that the federal, regional or municipal government responsible for the museum will often step in with matching funds, demonstrating local responsibility and support for the institution. There is limited support, both public and private, for such purchases in Germany, but there are a number of other foundations that we work with on a continuous basis. This is a highly valuable network of partner organizations, and we will actively support our applicants in finding additional funding. Looking at the amount spent over the past quarter century, you will see that the Kulturstiftung has maximized its budget: About 1.000 artworks and other cultural property with a combined value of over 600 million Euros were successfully acquired for the nation's institutions. About 150 million came from our own budget, which was quadrupled by matching funds provided by our partner organizations.

What have we bought? The next slides give you a very selective overview, with an emphasis on Dutch and Flemish pictures. We also help to buy musical and literary autographs and manuscripts, and we're especially proud of our joint acquisition of Kafka's letters to his sister Orla that led to our first international cooperation, with the Bodleian Library in Oxford. If we had all evening, I could show you images of photographs, fashion, scientific instruments, coins, decorative arts from the middle ages to modernism and even some works of contemporary art by artists who have entered the canon, such as Joseph Beuys. We publish a quarterly journal and a series of monographs on outstanding acquisitions, and as I said, we allocate some of our annual funding to exhibition projects that fit our profile.

No application can be evaluated and approved without expert advice: We evaluate each application on the basis of two opinions by external experts. The foundation does not except valuations from the trade; expert opinions are provided by museum curators and other academics giving their opinions free of charge. Apart from discussing the object and its relevance, at least one of the experts is expected to give an opinion on market value. We therefore rely on our network of experts to know their market and would always encourage curators to get an in-depth knowledge of the market and the art dealers and auction house specialists in their respective fields. The Kulturstiftung der Länder does not subscribe to the idea that museums are somehow external to the market, on the contrary, as described in the opening statements of this conference, there is a close and intricate relationship between the two spheres, based on exchange of or access to information, and needless to say, access to works of art of museum quality that is offered by the trade.

How does the foundation influence museums?

As I said in the beginning, the Kulturstiftung sees itself as a partner of Germany's cultural institutions. Given the critical financial situation that most museums find themselves in, we especially consider ourselves partners in encouraging museums to collect.

The initiative for an acquisition usually comes from the institution itself. As you know, works are offered by dealers or they come up at auction, in some cases, private individuals will offer artworks directly to the foundation. Without a public collection as a prospective buyer, however, offers from private sources are rejected.

Usually, the museum will apply for funding to buy an object that fills a gap in an existing collection. Germany's 20th-century history, however, is the basis of a special category of purchases, namely, what could be called "re-acquisition": a number of objects were re-acquired after having been identified as either looted art from Jewish private collections following restitutions or settlements on the basis of the Washington Principles. One example of many would be Frederick the Great's writing desk which had been sold under duress by the Oppenheimer family of art dealers. Following its restitution and re-acquisition, the desk remains in the Stiftung Preussische Schlösser und Gärten in Potsdam. Then there are those objects that were subject to opportunistic looting at the end of World War II, when both members of the Allied Forces as well as civilians took advantage of unguarded museum collections. The reliquary casket from the so-called

Quedlinburg Treasure is one of the earliest and hugely important recoveries of war loot in the history of the foundation. In fact, it is one of the founding projects of the Kulturstiftung der Länder. In the case of war loot, the Kulturstiftung der Länder will not endorse paying full market value for what are in effect stolen goods, but will pay a share in a kind of “finder’s fee” to compensate the current holder. Other artworks and entire collections were bought from the heirs of East German collectors, especially noble families, who were expropriated by the Soviet Military Administration between 1945 and 1949. One example would be the collection of the Dukes of Mecklenburg. There is also a group of private owners expropriated by the East German regime between 1949 and 1989, and one of the most important examples is the Speck von Sternburg collection in Leipzig. I’m showing you here the Visitation by Rogier van der Weyden from that collection in the Museum of Fine Arts in Leipzig.

All of you know your collections better than we will ever do, but as part of our ongoing dialogue with museum curators, we do like to ask about their wish lists. Sometimes, these wishes can be realized when a painting or a sculpture comes on the market. The staff of the Kulturstiftung monitors the market to some extent: we go through the auction and dealer catalogues that arrive on our doorstep and visit the art fairs in Maastricht and Basel. Very occasionally, the foundation has taken its advisory role somewhat further and has pointed out potentially interesting objects to museums. In the case of an important picture by German artist Lotte Laserstein, this led to a successful bid at auction by the National Gallery in Berlin. One could argue that this successful bid initiated a renewed interest in this largely forgotten artist, and that through our support the Kulturstiftung helped create a market and a completely new price level for works by Laserstein that resulted in at least one other museum acquisition.

In acquiring certain works of art for their collections, museums are part of the process that shapes and defines the Germany’s diverse cultural heritage; in providing funds for those purchases, the Kulturstiftung is part of this process. Support by the foundation is an indicator of a certain standard and quality, and the willingness of the Kulturstiftung to support a purchase is very often initiates further support. It also means that the foundation carries an enormous responsibility, setting standards and providing expertise that others will rely on for their contribution.

How does the foundation influence the art market? / In what way does the foundation influence the price paid for works of art?

The application process and the channels through which artworks are offered, show that the Kulturstiftung is part of the national and international (given our range of objects, I wouldn't say global) art market. The foundation is however a largely indirect player; we will not bid at auction ourselves or purchase an art work at the Maastricht art fair directly from a dealer. To be able to approve funding, we rely on external expert opinions and their indication of the current market value of any given object. In the case of an object to be sold at auction, this suggested price will indicate the limit for bidding, if the object is offered for sale by an art dealer, it will often lead to negotiations regarding the final purchase price. In this case, the Kulturstiftung can take on the role of agent for the museum and enter into a discussion with the art dealer. On the other hand, time and again, art dealers have proven to be extremely patient partners in such instances when an institution is struggling to put funding together. Needless to say, there is an interest on the part of the trade to sell to public collections but we obviously acknowledge their willingness in supporting the process.

In my introduction to this paper, I mentioned that the Kulturstiftung der Länder is not only an (indirect) client for the art trade, but also a competitor. What do I mean by that? Germany keeps a register of cultural objects of national importance in private collections. These objects are under special protection by the state but they are also banned from export – which obviously puts the art market and its players at a certain disadvantage should the owner try to sell the work. If a piece of cultural property is exempted from export, the international market is automatically excluded, be it dealers or auction houses. This also affects market value: for items with a strong international market, their material value is diminished. However, as we all know very well, there are objects with a regional or even national importance which would not appeal to an international group of buyers, or at least not in the same degree. In the case of a sale, the Kulturstiftung aims to work with private owners in order to sell these objects to suitable public institutions; the intention of the trade, on the other hand, is to bring them to the market. The result can be either competition or cooperation, with the art dealer or auction house specialist as agent for the vendor.

Given the mechanisms involved, you could describe the position of the Kulturstiftung as one side of a triangle formed on the other two sides by the dealers and auctioneers and the museums themselves. The compliance rules set out by ICOM's Code of Ethics and in Germany, the guidelines of the Deutscher Museumsbund (the German museum association) are helpful in determining the boundaries of what constitutes a possible conflict of interest. When I started writing this paper, I came across a set of guidelines for museum staff published by the Museumsbund as early as 1918. Titled „Grundsätze über das Verhalten der Mitglieder des Deutschen Museumsbundes gegenüber dem Kunsthandel und dem Publikum“, the three-page paper outlines the relationship between the museums, the art trade and the public, with a special emphasis on what was then perceived to be blurred boundaries between curators and the trade and which prompted the guidelines. Like today's Codes of Ethics, the guidelines demonstrate the effort on the part of the museum association to find a critical distance to the trade while acknowledging the mutually beneficial aspects of this relationship.

For the Kulturstiftung der Länder, managing this critical distance vis-à-vis the art trade is key to our independence. Various German art dealers and auctioneers are members of our association of Friends of the Kulturstiftung der Länder. From our perspective, the Kulturstiftung aims to maintain respectful working relationships with all representatives of the art trade offering museum-quality art and cultural property.

In what way does the remit of the foundation differ from that of organizations in other European countries?

Before I come to the end of my paper, let me sketch out very briefly the differences between our foundation and at least one similar organization in the UK. The Kulturstiftung der Länder would be very interested in finding out more about other European organizations, either public or private, working in the same field. From our point of view, establishing European-wide relationships with other organizations would be most welcome.

The Art Fund here in the UK and the Kulturstiftung der Länder certainly have one thing in common: we love objects, we promote the importance of individual original artworks and our first and foremost objective is to support public cultural institutions to buy and display works of art for the public to enjoy. Our emphasis on supporting museums and

their staff is very similar, as is the vocal support and the discreet lobbying done in the field of cultural politics. The main difference lies in the fact that the Art Fund is a private charity with a hugely impressive number of members and individual donors whereas – as I said earlier – the Kulturstiftung is a private foundation under the umbrella of the sixteen German Länder, with a budget provided by the regional governments. And there is the respective size of our budgets – looking at the figures noted on the Art Funds website, I am deeply impressed by the amount of money raised by the Art Fund on an annual basis.

Comparing these to different approaches to acquisition funding in the field of cultural heritage, one should add that there still is large-scale support by the German state for the arts. When it comes to acquisition funding, it is not as easy, as I pointed out earlier. Despite other possibilities for funding, the Kulturstiftung der Länder remains the only nationwide agency with a remit that is tailor-made to the museums' needs because it is focused on objects. For the future, we would like to remain what we already are: the museums' most reliable publicly-funded partner for the acquisition of objects belonging to Germany's cultural heritage.

Thank you.