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# Quality, Market Freshness and Visual Power Carry the Day at the New York Sales

Despite the global economy's problems, the May sales in New York produced strong results with collectors and dealers spending more than \$1.2 billion in four evening sales at Sotheby's and Christie's. The works that performed best were strong iconic images new to the market with post Second World War works and modern sculpture leading the way. Here we examine why some lots left their estimates far behind while others failed to sell in a complex market where auction successes and failures are very public and the latter can affect the future sale prospects of a work of art.

**Francis Bacon, *Triptych*, 1976**, at Sotheby's Contemporary Sale. The record \$86.2 million paid, reportedly by the Russian billionaire Roman Abramovich, made it the most expensive post war artwork ever auctioned. Three telephone bidders chased the painting sold by the Moueix family, producers of Château Pétrus wines. The picture had everything going for it. Regarded as one of Bacon's most important works and one of the few large triptychs remaining in private hands, it was fresh to the market having been bought by the vendors from the Marlborough Gallery in 1977. Next year is the centenary of Bacon's birth, which will be marked by a major retrospective at Tate Britain in London, and this may be contributing to soaring prices for his best works. The night before *Triptych*, 1976, broke the record at Sotheby's another Bacon, *Three Studies for Self-Portrait*, fetched \$28 million at Christie's.



FRANCIS BACON  
*Triptych*, 1976  
oil and pastel on canvas, 78 x 58.1 inches  
sold for US\$86.2 million



In June 1999 it sold for \$2.9 million at Christie's and in November 2005 the Seattle-based collectors Richard and Elizabeth Hedreen acquired it for \$5.1 million at Sotheby's. In just two and a half years they got an impressive return on their investment. With Abramovich also believed to be the buyer of Lucian Freud's *Benefits Supervisor Sleeping* for \$33.6 million at Christie's prices for late 20th century British art are moving into uncharted waters.



**Alberto Giacometti, *Grande Femme Debout II***. The Gagosian Gallery paid a record \$27.4 million for this bronze which had been expected to fetch

ALBERTO GIACOMETTI  
*Grande Femme Debout II*, 1959 - 1960  
bronze with brown patina,  
107.9 inches  
sold for US\$ 27.4 million

\$18 million at Christie's Impressionist and Modern Art Sale. Seven people competed for the 9ft high figure which, like the Bacon, ticked all the boxes for the present art market. Modern sculpture is popular with buyers and Christie's produced a separate catalogue for three Giacomettis, a Rodin and a Moore, all of which sold above their auction estimates. *Grand Femme Debout II* had not been on the market for 15 years and is one of a series of four tall standing women executed by Giacometti in 1960 which are the largest sculptures he ever made. This one is the biggest, has instant impact and is wonderfully expressive. No wonder it fetched half as much again as the previous record for a Giacometti.

**Mark Rothko, *No 15* and *Orange Red Yellow***. These two paintings enjoyed very different fortunes in the New York salerooms but both showed how a previous big price can alter the market's expectations. In May 2007 Rothko's *White Center (Yellow, Pink and Lavender on Rose)*, which had been consigned

by David Rockefeller, fetched a record \$72.8 million at Sotheby's in New York. This time both Sotheby's and Christie's had Rothkos with high estimates doubtless encouraged by the Rockefeller picture. *No 15* proved a good investment for the San Francisco collector Roger Evans who had bought it at Sotheby's in 1999 for the then record price of \$11 million. He consigned several works to Christie's Post War and Contemporary sale on May 13 but *No 15* made the top price of the night, \$50.4 million. But, with potential buyers made cautious by the forbidding unpublished estimate of \$40 million to \$50 million, only two telephone bidders competed for the painting. This is a powerful and monumental Rothko with strong colours and 1952, when it was painted, was his most creative year and a groundbreaking period for the Abstract Expressionists, but Christie's were fortunate to get such a high price for it. At Sotheby's contemporary sale the following evening the lesser



MARK ROTHKO  
No. 15, 1952  
oil on canvas, 91.9 x 80 inches  
sold for US\$50.4 million



MARK ROTHKO  
Orange, Red, Yellow, 1956  
oil on canvas, 79.5 x 68.9 inches  
unsold

*Orange Red Yellow* revealed the limitations of this market. The 1956 Rothko was consigned by Heinz Eppler, a philanthropist and collector from New York, with an estimate of \$35 million but failed to sell. Both paintings should have been priced at around \$20 million to \$30 million and although a buyer was found for the better picture there are limits to what the market will absorb.

Claude Monet, *Le Pont de chemin de fer à Argenteuil*. This high Impressionist painting with a wonderful springtime feel to it, was one of the few such pictures left in private hands and fetched a record \$41.4 million from a telephone bidder at Christie's Impressionist and Modern Art sale. The telephone bidder only just edged the Monet past the hefty guarantee. This picture made \$12.6 million at Christie's in 1988.

Fernand Leger, *Etude Pour La Femme en Bleu* and *La Partie de Campagne*. As with the Rothkos the market gave very different verdicts on two paintings by Leger, this time both of them in the Impressionist and Modern Art sale at Sotheby's. *Etude Pour La Femme en Bleu*, dating from 1912-13, is a classic Cubist image and a milestone on the path to abstraction. Sotheby's, which placed a \$35-45 million estimate on the picture, guaranteed the painting for a rumoured \$38 million. Because of this, although it fetched a record \$39.2 million from the Zurich dealer Doris

Amman, who was speaking to a client on a mobile phone, it may not have been a big money-maker for the auction house. It had the advantage of being new to the market, the vendors being the heirs of Hermann Lange, a German silk manufacturer who had bought it in 1928. But the demand for Leger is narrow and the air very thin at this price level and only two people competed for the work. *La Partie de Campagne* is a late Leger completed only two years before his death in 1955 and is far less art historically important than *Etude Pour La Femme en Bleu*. Impossibly burdened by a \$12 million to \$18 million estimate, it did not attract a single bid.

Henri Matisse, *Le Géranium*. While auction houses can sometimes be accused of over-ambitious estimates, this was certainly not the case with this rare 1910 still life in Sotheby's Impressionist and Modern Art sale. The modest prediction of \$2.5 million to \$3.5 million was left far behind by a contest between six bidders that was eventually won by New York's Acquavella Gallery, which paid \$9.5 million for the picture. Owned since 1971 by the late Catherine Gamble Curran, this lush, richly coloured painting dates from one of the most inventive periods in Matisse's long working life. Fresh to the market, visually stunning, historically significant and with a low estimate – of course people wanted it.

## UK and US Tax and Law News – Points of Interest

### Fractional Gifts of Artworks in the US.

The Tax Technical Corrections Act 2007 (TTCA) corrects some of the tax anomalies created by the Pensions Protection Act 2006 (PPA) when US taxpayers make fractional gifts of artworks to US institutions. The PPA had the effect of making a donor liable to gift or estate tax on a secondary fractional gift where the value of the artwork had increased after the first gift. Under the TTCA a donor will not be liable for US gift or estate tax on a fractional gift although the income tax deductions that were previously applicable under the PPA still apply.

Under the PPA, a US donor may continue to deduct up to a maximum of 30% of his annual gross income by making fractional gifts of artworks and he may retain the artwork for the same fraction of any year as the retained fraction of ownership. However the donor will have to give the artwork to the Institution within 10 years of the first gift or on his death, whichever is earlier. An artwork will be valued as at the first fractional gift and no account is taken of any increase in value on any future fractional gift, although a decrease in value will be.

### UK Export Licensing of Cultural Goods

It was generally accepted that the UK Export Licensing regime had not worked well for UK institutions in relation to Sir Joshua Reynolds' *Portrait of Omai*, which is now on loan to the National Gallery of Ireland in Dublin even though a matching offer was produced to secure the painting when it was offered for sale and export.

Following the Omai saga, the Quinquennial Review of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest produced recommendations that UK institutions should have a binding right to purchase in certain circumstances and this was endorsed by the Goodison Report with the proviso that the exact nature of the commitment required of a vendor should be made totally clear. Failure to comply with a binding offer to sell to a UK Institution would then lead to the application for a licence being refused and an 'indefinite stop' being imposed.

These reforms were considered at a ministerial level and in October 2007 it was decided not to implement them and that, therefore, the existing regime will continue as usual.