The Senate

Environment and Communications Legislation Committee

Annual reports (No. 2 of 2010)

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Report to the Senate

Introduction

1.1 By virtue of Senate Standing Order 25(20) and Senate orders of 12 May 2010[1] and 29 September 2010,[2] the Senate refers to this committee for examination and report the annual reports of departments and agencies of the following three portfolios:

- Broadband, Communications and the Digital Economy;
- Climate Change and Energy Efficiency; and
- Sustainability, Environment, Water, Population and Communities (formerly Environment, Water, Heritage and the Arts).

1.2 Standing Order 25(20) requires that the committee shall:

> (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory.
>
> (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration.
>
> (c) Investigate and report to the Senate on any lateness in the presentation of annual reports.
>
> (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate.
>
> (e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates.
>
> (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.
>
> (g) Draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports.
>
> (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

1.3 This report deals with reports tabled in the Senate during the period from 1 November 2009 to 30 April 2010 as required by standing order 25(20)(f).

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1 *Journals of the Senate*, No. 121, 12 May 2010, p. 3462.

2 *Journals of the Senate*, No. 2, 29 September 2010, pp 88–89.

Annual reporting requirements

1.4 On 17 June 2009 the Joint Committee of Public Accounts and Audit agreed to revised *Requirements for Annual Reports for Department, Executive Agencies and FMA Act Bodies* put forward by the Department of the Prime Minister and Cabinet. The Requirements apply to annual reports for departments of state pursuant to subsection 63(2) and executive agencies pursuant to subsection 70(2) of the *Public Service Act 1999*. They also apply to prescribed agencies under section 5 of the *Financial Management and Accountability Act 1997* (FMA Act).

1.5 Under the Requirements, annual reports of departments and executive and prescribed agencies must be tabled by 31 October. If a department is unable to meet this deadline, an extension of time to report can be sought under subsections 34C(4)–(7) of the *Acts Interpretation Act 1901*. These provisions provide for the secretary to advise the responsible minister of the reasons for the slippage. The responsible minister is to table this explanation in the Parliament on the next available sitting day.[3]

1.6 Under section 48 of the *Commonwealth Authorities and Companies Act 1997* (the CAC Act), the Minister for Finance outlines the annual reporting requirements for Commonwealth authorities and companies in the *Commonwealth Authorities and Companies (Report of Operations) Orders 2002*. Section 9 of the CAC Act applies to Commonwealth authorities and specifies the deadline for the presentation of an annual report to the responsible minister. Section 36 of the CAC Act outlines the reporting obligations of Commonwealth companies.

1.7 Some statutory authorities are required to follow the Requirements if their head has the powers of a secretary as defined under the *Public Service Act 1999*.

1.8 Requirements for the annual reports of non-statutory bodies are set out in the Government Response to recommendations of the then Senate Standing Committee on Finance and Government Operations in its report entitled, *Reporting Requirements for the Annual Reports of Non-Statutory Bodies*. The response was incorporated into the *Senate Hansard* of 8 December 1987.[4]

Purpose of annual reports

1.9 As stated in the Requirements, the primary purpose of annual reports is accountability, in particular to the Parliament. They inform the Parliament, other stakeholders, education and research institutions, the media and the general public

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, Canberra, 17 June 2009, p. 2.

4 *Official Senate Hansard*, 8 December 1987, pp 2643–45.

about departments' performance in providing services. They are a key reference as well as an internal management document and form part of the historical record.[5]

Reports referred to the Committee

1.10 This report reviews six reports from the Broadband, Communications and the Digital Economy portfolio, and six reports from the former Environment, Water, Heritage and the Arts portfolio.[6]

1.11 The following reports have been referred to the committee:

Department of State

Department of the Environment, Water, Heritage and the Arts

Report of the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999*, October 2009

Energy use in the Australian Government's operations

Prescribed agencies

Murray-Darling Basin Authority, including final report of the Murray-Darling Basin Commission

Correction: Great Barrier Reef Marine Park Authority, Great Barrier Reef Outlook Report 2009

Statutory authorities

National Environment Protection Council – Annual Report 2008–2009

Correction: Screen Australia Annual Report 2008–2009[7]

Reports on the operation of Acts/Agreements

Australian Broadcasting Corporation

Equity and Diversity Annual Report 1 September 2008 to 31 August 2009

Australian Communications and Media Authority

Communications Report 2008–2009

Australian Competition & Consumer Commission

Telstra's compliance with the price control arrangements 1 July 2008 to 30 June 2009

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5 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 17 June 2009, p. 3.

6 On 14 September 2010, this portfolio was renamed the Sustainability, Environment, Water, Population and Communities portfolio.

7 On 14 September 2010, all arts and cultural related matters were transferred to the Prime Minister and Cabinet portfolio which is overseen by the Senate Finance and Public Administration Committee.

Australian Postal Corporation (Australia Post)
Equal employment opportunity program – Report for 2008–2009

Department of Broadband, Communications and the Digital Economy
Funding of Research and Consumer Representation in relation to Telecommunications – Annual Report 2008–2009
Report on Digital Television Transmission and Reception, February 2010

1.12 Appendix 1 provides an alphabetical record in more detail, including:

- the basis under which the organisation operates, for example, department or statutory authority;
- dates indicating the progressive stages in presentation of the annual reports; and
- the date each report was tabled in, or deemed to be presented to, the Senate.

Remarks made in the Senate

1.13 As required under the terms of Standing Order 25(20)(d), the committee notes that none of the annual reports dealt with in this report were the subject of comment in the Senate.

1.14 However, the committee notes that two annual reports, which were dealt with in the committee's Report No. 1 of 2010, were the subject of comment in the chamber:

- Australian Broadcasting Corporation: Senators Farrell, Fierravanti-Wells and Cameron;[8] and
- the NBN Co: Senators Macdonald, Polley and Fisher.[9]

Timeliness

1.15 As noted above, the annual report requirements state that if a department is unable to meet the tabling deadline, the secretary may seek an extension of time to report by advising the responsible minister of the reasons for the slippage. The responsible minister is to table this explanation in the Parliament on the next available sitting day.[10]

1.16 All reports reviewed in this report were tabled after the 31 October deadline. The terms of section 9 of the CAC Act, require that annual reports be given to the

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8 *Senate Hansard*, 18 March 2010, pp 2319–22.

9 *Senate Hansard*, 19 November 2009, p. 8472; 11 March 2010, p. 1694; and 18 March 2010, p. 2314.

10 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, Canberra, 17 June 2009, p. 2.

responsible Minister by 15 October. As a matter of policy, they also apply to prescribed agencies under section 5 of the FMA Act. Under section 36 of the CAC Act, the content of annual reports of Commonwealth companies is based on reporting requirements under the *Corporation Act 2001*.[11]

1.17 The committee notes that the first annual report of the Murray-Darling Basin Authority did not meet all the reporting deadlines. The report was tabled in the House of Representatives on 23 November 2009 and in the Senate on 24 November 2009, thereby missing the 31 October tabling deadline. The report was submitted to and received by the Minister on 22 October 2009.

1.18 In previous reports on annual reports, the committee has acknowledged advice from the National Environment Council that its enabling legislation requires it to include reports by each member of the Council (ie Commonwealth, State and Territory ministers) in its annual report which leads to its report being tabled after 31 October each year.[12]

1.19 The Requirements state that 'where an agency's own legislation provides a timeframe for its annual report…that timeframe applies… However, it remains the Government's policy that all annual reports should be tabled by 31 October'.[13] The committee encourages agencies to table annual reports in a timely manner.

Comments on annual reports

Murray-Darling Basin Authority

1.20 This is the first annual report of the Authority which was established on 8 September 2008. On 15 December 2008, the Authority subsumed the functions of the former Murray-Darling Basin Commission which then ceased to exist. This report also contains the final report of that Commission.

1.21 The reporting period therefore covers the transition from the former agency to the Authority; the development of its first Corporate Plan to cover the period 2009-13; and the appointment in May 2009 of the Chair and members of the Authority who held the first meeting in June 2009.

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11 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, Canberra, 17 June 2009, p. 2.

12 See Environment, Communications and the Arts Legislation Committee, *Annual reports (No. 2 of 2009)*, September 2009; *Annual reports (No. 2 of 2008)*, September 2008; and the Environment, Communications, Information Technology and the Arts Legislation Committee, *Annual reports (No. 2 of 2007)*, September 2007; *Annual reports (No. 2 of 2006)*, September 2006; *Annual reports (No. 2 of 2005)*, September 2005; *Annual reports (No. 2 of 2004)*, September 2004; *Annual reports (No. 2 of 2003)*, September 2003, p. 4; and *Annual reports (No. 2 of 2002)*, September 2002, pp 28–29.

13 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, Canberra, 17 June 2009, p. 2.

1.22 The report notes that the centrepiece of the Authority's activities is the development of a Basin Plan to manage the Basin's surface water and groundwater resources and set sustainable diversion limits based 'on the best scientific, social, cultural and economic knowledge, evidence and analysis'.[14]

1.23 The report flags a number of developments to be undertaken including:

- stakeholder engagement and community consultation processes during development of the Basin Plan;
- developing a program for monitoring and evaluating the effectiveness of the plan, including reporting requirements for the Commonwealth and Basin states;
- further consolidation and streamlining of the Authority's systems and processes; and
- assessing the most effective ways of delivering reliable water resources to users dependent on the Basin.[15]

Bodies not presenting annual reports to the Senate

1.24 Standing Order 25(20)(h) requires the committee to report to the Senate each year whether there are any bodies which do not present annual reports to the Senate which should present such reports. The committee is aware of no such body.

Summary

1.25 Standing Order 25(20)(a) requires the committee to report to the Senate on whether annual reports are apparently satisfactory. In making this assessment, the committee considers such aspects as timeliness of presentation and compliance with relevant reporting requirements.

1.26 The committee finds that the annual reports referred to it have provided an appropriately comprehensive description of the activities of the reporting bodies and were of a commendably high standard of presentation. They generally met the requirements of the various guidelines that apply to them and were timely in their presentation to the Parliament, except where noted above.

14 Murray-Darling Basin Authority, *Annual Report 2008–2009*, p. v.

15 Murray-Darling Basin Authority, *Annual Report 2008–2009*, p. x.

1.27 Accordingly, the committee reports its finding that the annual reports referred to it for examination and tabled in the period under examination were apparently satisfactory.

Senator Doug Cameron
Chair

APPENDIX 1

Annual reports referred to the Senate Standing Committee on Environment, Communications and the Arts[16] between 1 November 2009 and 30 April 2010

Broadband, Communications and the Digital Economy portfolio

Name	Type[17]	Dates[18]	Tabled[19]
Australian Broadcasting Corporation Equity and Diversity Annual Report 1 September 2008 to 31 August 2009	Report on the operation of an Act	A. - B. 27/01/10 C. 27/01/10	23/02/10
Australian Communications and Media Authority Communications Report 2008–09	Report on the operation of an Act	A. 10/11/09 B. - C. -	02/02/10 (Received 12/01/10)
Australian Competition & Consumer Commission Telstra's compliance with the price control arrangements, 1 July 2008 to 30 June 2009	Report under paragraph 151CM(1)(b) of *Trade Practices Act 1974*	A. - B. 08/02/10 C. 08/02/10	16/03/10
Australian Postal Corporation (Australia Post) Equal employment opportunity program Report for 2008–09	Report on the operation of an Act	A. - B. 29/09/09 C. 29/09/09	02/02/10
Department of Broadband, Communications and the Digital Economy Funding of Consumer Representation and Research in relation to Tele-communications Annual Report 2008–2009, November 2009	Report on the operation of a Grants Program	A. - B. 27/01/10 C. 27/01/10	02/02/10

16 On 29 September 2010, the title was change to the Environment and Communications Committee.

17 Statutory Authority includes statutory office-holders.

18 Dates shown are:
- A The date shown on a letter of transmittal printed with the annual report (if any)
- B Date submitted to the Minister, as recorded in the Senate's Order of Business (if any)
- C Date received by the Minister, as recorded in the Senate's Order of Business (if any)

19 The date in parenthesis shows the date that the report was presented out of session to the President / Deputy President / Temporary Chairman of Committees.

Sustainability, Environment, Water, Population and Communities (formerly Environment, Water, Heritage and the Arts) portfolio

Name	Type	Dates	Tabled
Department of the Environment, Water, Heritage and the Arts Report of the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999*, October 2009	Report on the operation of an Act	A. 30/10/09 B. - C. -	02/02/10 (Received 21/12/09)
Department of the Environment, Water, Heritage and the Arts Energy use in the Australian Government's operations Report for 2007–2008	Report under EEGO policy	A. - B. - C. -	02/02/10 (Received 23/12/10)
Great Barrier Reef Marine Park Authority Correction to Great Barrier Reef Outlook Report 2009	Prescribed agency	A. - B. - C. -	02/02/10 (Received 14/12/09)
Murray-Darling Basin Authority Annual Report 2008–2009	Prescribed agency	A. - B. 22/11/09 C. 22/11/09	02/02/10 (Received 14/12/09)
National Environment Protection Council Annual Report 2008–2009	Statutory Authority	A. - B. 22/01/10 C. 22/01/10	23/02/10 (Received 13/02/09)
Screen Australia[20] Correction to Annual Report 2008–09		A. - B. - C. -	02/02/10 (Received 03/12/09)

20 On 14 September 2010, all arts and cultural related matters were transferred to the Prime Minister and Cabinet portfolio which is overseen by the Senate Finance and Public Administration Committee.