The Senate

Finance and Public Administration Legislation Committee

Annual reports (No. 2 of 2010)

November 2010

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ISBN 978-1-74229-375-2

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Printed by the Senate Printing Unit, Parliament House, Canberra.

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Report on Annual Reports

Introduction

1.1 This is the Senate Finance and Public Administration Legislation Committee's (the committee) second report on annual reports for 2010. It provides an examination of annual reports for the 2008–09 financial year tabled in the Senate between 1 November 2009 and 30 April 2010. Copies of this and other committee reports can be obtained from the Senate Table Office, the committee secretariat or online at: www.aph.gov.au/senate_fpa.

Terms of reference

1.2 Under Senate Standing Order 25(20) the annual reports of certain departments and agencies stand referred to committees for examination and assessment. Each committee is required to:

(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; and

(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.

Allocated portfolios

1.3 In accordance with the resolution of the Senate of 13 February 2008, the committee has responsibility during the reporting period for the oversight of the following portfolios:

- Parliament;[1]
- Prime Minister and Cabinet;
- Finance and Deregulation; and
- Human Services.

1.4 Since the committee's first report on annual reports for 2010 (March 2010), two changes have been made to the portfolios which the committee oversights. First, on 12 May 2010, the Senate agreed to amend the order of the Senate of 13 February 2008 relating to the allocation of departments and agencies to legislative and general purpose standing committees and transferred the Department of Climate Change and Energy Efficiency from the committee's oversight to that of the then Environment, Communications and the Arts Committee. [2] The amendment of the allocation reflected the establishment of a new Department of Climate Change and Energy Efficiency in March 2010.

1.5 The second change arose within the Prime Minister and Cabinet portfolio following the commencement of the 43rd Parliament. Two functions were transferred to the Department of the Prime Minister and Cabinet: the sport outcome from the Department of Health and Ageing; and the arts outcome from the former Department of Environment, Water, Heritage and the Arts. At the same time the new Department of Regional Australia, Regional Development and Local Government was established within the Prime Minister and Cabinet portfolio. In addition, on 29 September 2010, the Senate allocated departments to the standing committees for the new Parliament and as a result the Department of Human Services was allocated to the Community Affairs Committee.

1.6 The changes to the portfolio arrangements and allocation of departments to the standing committees will be reflected in the committee's first report for 2011.

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1 As a matter of comity between the Houses, neither House inquires into the operations of the other House. For this reason, neither the annual report of, nor the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

2 *Journals of the Senate*, 12 May 2010, p. 3462.

Method of assessment

1.7 Senate Standing Order 25(20) requires that the committee examine reports referred to it to determine whether they are timely and 'apparently satisfactory'. In forming its assessment, the committee considers whether the reports comply with the relevant legislation and guidelines for the preparation of annual reports. The principal Acts which apply to departments, statutory agencies and authorities, and Commonwealth companies are:

- *Public Service Act 1999;*
- *Parliamentary Service Act 1999;*
- *Financial Management and Accountability Act 1997* (FMA Act); and
- *Commonwealth Authorities and Companies Act 1997* (CAC Act).

1.8 Statutory authorities report under their respective enabling legislation. For example, the Australian Electoral Commission reports under section 17 of the *Commonwealth Electoral Act 1918*.

1.9 The committee also assesses whether reports comply with the *Requirements for Annual Reports: for Departments, Executive Agencies and FMA Act Bodies* (the PM&C Requirements), issued by the Department of the Prime Minister and Cabinet (PM&C) with the approval of the Joint Committee of Public Accounts and Audit under subsections 63(2) and 70(2) of the *Public Service Act 1999*. This is the authoritative source outlining the requirements for preparing and presenting annual reports for bodies prescribed under the FMA Act.[3]

1.10 Commonwealth authorities and companies report under the CAC Act and thus have different reporting requirements.

1.11 The annual report of a Commonwealth authority must include a report of operations as set out in the *Commonwealth Authorities and Companies (Report of Operations) Orders 2008* (otherwise known as the Finance Minister's Orders made under section 48 of the CAC Act),[4] financial statements and the Auditor-General's report on those financial statements.

1.12 Commonwealth companies must include in their annual report a copy of the company's financial report, director's report and auditor's report as required by the *Corporations Act 2001*. Where the auditor's report is not provided by the Auditor-General, the company must also include a report by the Auditor-General.

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3 These guidelines may be found at: www.pmc.gov.au/guidelines/docs/annual_report_requirements.pdf.

4 These orders may be found at: www.finance.gov.au/financial-framework/cac-legislation/cac-finance-ministers-orders.html.

Commonwealth companies that are wholly-owned by the Commonwealth must also supply any additional information or report required by the Finance Minister's Orders.

1.13 The Finance Minister has a role in the oversight of commonwealth authorities that are also classified as a government business enterprise (GBE) as set out in the CAC Act. The annual reports of GBEs must provide an assessment of the company's financial condition, dividends and community service obligations over the financial year.

Reports examined

1.14 During the period between 1 November 2009 and 30 April 2010, eight annual reports that were tabled in the Senate, or presented out of sittings to the President of the Senate, were referred to the committee for examination. These reports are categorised as follows:

Commonwealth authorities

- Australian Industry Development Corporation—Annual Report 2008–09—pursuant to section 9 of the CAC Act and section 37 of the *Australian Industry Development Corporation Act 1970*.

Commonwealth companies

- ASC Pty Ltd—Annual Report 2008–09—pursuant to section 9 of the CAC Act; and
- Tuggeranong Office Park Ltd—Annual Report 2008–09—pursuant to section 9 of the CAC Act.

Reports not examined

1.15 The committee is not required to report on Acts, statements of corporate intent, surveys, corporate plans or errata. The following documents were referred to the committee but not examined:

- Australian Public Service Commissioner—State of the Service Report 2008–09;
- Commonwealth Services Delivery Agency—Data-matching program—reports on progress—2004–2007;
- Department of Finance and Deregulation—Campaign advertising by Australian government departments and agencies—Report for the period 1 July to 31 December 2009;
- Department of Finance and Deregulation—Certificate of compliance—Report for 2008–09; and
- *Freedom of Information Act 1982*—Report 2008–09 on the operation of the Act.

Non-reporting bodies

1.16 Standing Order 25(20)(h) requires that the committee inquire into, and report on, any bodies which do not present annual reports to the Senate but should present such reports.

1.17 The committee continues to approach this in two ways. First, the committee examines the *Administrative Arrangements Order* for the list of legislation administered by portfolio ministers and consequently, departments and agencies. Second, the committee consults the Department of Finance's listing of Australian Government Bodies. The list identifies the agencies that are required to report and the Acts under which they report.[5]

1.18 Based on the above checks, the committee considers it has received all reports that it is required to receive.

Timeliness

1.19 Most reports are required to be tabled in Parliament by 31 October each year unless another date is specified, for example, in an agency's legislation, charter and/or terms of reference. Commonwealth companies reporting under the CAC Act are required to provide an annual report to the responsible minister four months after the end of the company's financial year.[6] For example, where the company's financial year ends on 30 June, the report must be furnished to the minister by 31 October.

1.20 Commonwealth authorities are required to report by the 15th day of the fourth month after the end of the financial year, which for authorities reporting on a standard financial year basis would be 15 October.[7]

Assessment of reports

1.21 The committee determines whether the report of an agency satisfactorily meets reporting requirements by assessing against the PM&C Requirements, in particular, the checklist at Attachment F in the Requirements; its respective enabling legislation; and where necessary, the *Corporations Act 2001*.[8]

1.22 The committee has found that one report, ASC Pty Ltd Annual Report 2009, has neglected to include information in accordance with the *Freedom of Information Act 1982*.[9] However, all other reports are 'apparently satisfactory'. The committee

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5 This list may be found at: http://www.finance.gov.au/publications/flipchart/index.html (accessed 4 November 2010).

6 *Commonwealth Authorities and Companies Act 1999*, s. 36.

7 *Commonwealth Authorities and Companies Act 1999*, s. 9.

8 *Corporations Act 2001*, chapter 2M.

9 *Freedom of Information Act 1982*, ss. 8(1).

notes that all financial statements included in the reports received an unqualified report from the Auditor-General.

Senate debate

1.23 Few annual reports are debated in the Senate, but many remain on the Senate Notice Paper for future consideration. The committee is not aware of any Senate debates relating to the reports examined.

Assessment of reports

1.24 The committee has assessed the annual reports tabled between the required period and has selected the annual reports of the Australian Industry Development Corporation and ASC Pty Ltd for detailed scrutiny:

Australian Industry Development Corporation

1.25 In its report, *Annual reports (No. 2 of 2009)*,[10] the committee found that the Australian Industry Development Corporation's (AIDC) annual report for 2008 did not include information in accordance with the *Freedom of Information Act 1982* (FOI Act), subsection 8(1). The committee is pleased to note that, while the AIDC is in its shut-down phase, the AIDC's annual report for 2009 has provided a clear and adequately detailed statement on FOI matters to meet this requirement.

1.26 The committee also notes that it is stated in the annual report that the AIDC continues to manage down its residual obligations and undertakings with a view to a complete shut-down by 2010. As at the time of reporting, no statement indicating that the shut-down has been completed has been made.

ASC Pty Ltd

1.27 ASC Pty Ltd (ASC) is prescribed under the CAC Act as a Commonwealth company limited by shares under the *Corporations Act 2001*, and is also classified as a GBE. As such, ASC must fulfil the requirements outlined in the Commonwealth Authorities and Corporations (Report of Operations) Orders and requirements set out under the *Corporations Act 2001*.[11]

1.28 The report includes a thorough breakdown of significant changes in the company's financial structure; uncertainties effecting reported financial information and the amount of dividends paid, as required under the CAC Orders for a GBE. Detailed information on the activities and direction for ASC's two major operations,

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10 Senate Finance and Public Administration Legislation Committee, *Annual reports (No. 2 of 2009)*, September 2009, pp 9–10.

11 These may be found at http://www.finance.gov.au/financial-framework/cac-legislation/cac-finance-ministers-orders.html.

submarines and shipbuilding, is clearly provided in the report, facilitating the committee's scrutiny. The committee also notes that the report includes information about the ASC's environmental performance and environmental management system as well as the details of the one environmental incident which occurred during the reporting period.

1.29 The committee commends ASC Pty Ltd on its annual report for 2009.

Senator Helen Polley

Chair

Appendix 1

Dates relating to the timeliness of presentation and debate in the Senate

Reporting Body	Sent to Minister	Received by Minister	Tabled in the Senate or presented out of sitting(*)	Consideration in the Senate – debate
PRIME MINISTER AND CABINET PORTFOLIO				
Public Service Commissioner – State of the Service Report	05/11/2009	05/11/2009	02/02/2010	-
Freedom of Information Act 1982, Annual Report 2008–09	27/10/2009	27/10/2009	22/12/2009*	-
FINANCE AND DEREGULATION PORTFOLIO				
ASC Pty Ltd	02/10/2009	17/11/2009	17/12/2009*	-
Australian Industry Development Corporation	08/09/2009	10/09/2009	02/02/2010	-
Department of Finance and Deregulation – Campaign advertising by Australian government departments and agencies – Half year report	09/03/2010	09/03/2010	31/03/2010*	-
Department of Finance and Deregulation – Certificate of compliance 2008-09	30/11/2009	30/11/2009	29/01/2010*	-
Tuggeranong Office Park Pty Ltd	30/10/2009	30/10/2009	02/02/2010	-
HUMAN SERVICES PORTFOLIO				
Commonwealth Services Delivery Agency – Data-matching program – reports on progress 2004-2007	19/11/2009	19/11/2009	16/12/2009*	-