

Chapter 5

A national anti-corruption body

5.1 Over the course of the inquiry, several submitters, including the Transparency International Australia (TIA), the Law Council of Australia (Law Council) and the Accountability Round Table (ART) supported the establishment of a federal anti-corruption agency, with coverage of the entire Commonwealth Government, including members of the judiciary and Members of Parliament.

5.2 The existing Commonwealth approach to anti-corruption was described in the Attorney-General's Department's submission in the following terms:

The Australian Government's approach to preventing corruption is multi-faceted and diverse. Under this approach, Australia's strong constitutional foundation, which establishes the separation of powers and guarantees the rule of law, is complemented by Australia's multi-agency approach, in which a number of Commonwealth agencies play a role in combating corruption by promoting accountability, transparency and effective enforcement. This holistic approach to anti-corruption includes standards and oversight, detection and investigation, prosecution and international cooperation.

The agencies which contribute to combating corruption at the Commonwealth level include:

- Australian National Audit Office
- Australian Crime Commission
- ACLEI
- Australian Federal Police
- Attorney-General's Department
- Australian Public Service Commissioner
- Australian Securities and Investment Commission
- Australian Transaction Reports and Analysis Centre (AUSTRAC)
- Commonwealth Director of Public Prosecutions
- Commonwealth Ombudsman
- Department of Foreign Affairs and Trade (and Austrade)
- Department of Finance and Deregulation
- Inspector General of Intelligence and Security
- Office of the Australian Information Commissioner
- Parliamentary Services Commissioner

- Treasury¹

5.3 The Law Council's submission provides an overview of previous parliamentary committee considerations of the establishment of a national anti-corruption body. The Law Council noted that back in 2011 it argued that 'parliamentary consideration of the arguments for and against a federal anti-corruption agency would be a useful exercise.'²

5.4 It then noted this committee's previous recommendation for a review of the Commonwealth integrity system, particularly examining the merits of establishing a Commonwealth integrity commission with anti-corruption oversight of all Commonwealth public sector agencies.³ The former Government noted this recommendation and stated that 'on the available evidence there is no convincing case for the establishment of a single overarching integrity commission.'⁴

5.5 The Law Council's submission also acknowledges a House of Representatives Standing Committee on Social Policy and Legal Affairs recommendation for a Parliamentary Joint Select Committee to 'investigate the feasibility and cost of establishing [a federal anti-corruption body], taking into account the threshold issue of desirability of such a commission.'⁵

5.6 The TIA advocated for a more comprehensive integrity and anti-corruption framework across the Commonwealth. Its submission expresses 'continued concern that the Australian Government's multi-agency approach to promoting integrity and fighting corruption is fragmented and misconceived.'⁶

5.7 The ART argued that ACLEI's jurisdiction should be expanded, 'to provide a single national anti-corruption and malpractice body with a jurisdiction giving it comprehensive coverage of the whole Commonwealth sector.'⁷

5.8 ACLEI noted that further proposals to extend its jurisdiction, 'would need to balance any likely strategic gains to the integrity system against possible detriment to ACLEI's operational effectiveness.'⁸ These proposals would also require consideration of funding implications, ACLEI's physical presence across the Commonwealth, and significant examination of ACLEI's statutory and policy underpinnings.⁹

1 Attorney-General's Department, *Submission 3*, p. 2.

2 Law Council of Australia, *Submission 12*, p. 1.

3 Law Council of Australia, *Submission 12*, p. 1.

4 Government response, Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, *Inquiry into the Operation of the Law Enforcement Integrity Commissioner Act 2006*, February 2012, p. 8.

5 Law Council of Australia, *Submission 12*, p. 2.

6 Transparency International Australia, *Submission 8*, p. 1.

7 Accountability Round Table, *Submission 11*, p. 2.

8 ACLEI, *Submission 1*, Supplementary submission, p. 4.

9 ACLEI, *Submission 1*, Supplementary submission, p. 4.

Committee view

5.9 In this report the committee has considered the question of expanding ACLEI's jurisdiction with regards to a number of agencies, and in doing so has canvassed many of the arguments for and against extending ACLEI's jurisdiction.

5.10 While the committee appreciates the arguments put by submitters in favour of a wholesale increase in ACLEI jurisdiction, the committee is of the view that it is preferable for ACLEI to retain its present focus on agencies with law enforcement functions rather than being expanded across the entire Commonwealth. ACLEI's current alignment is rightly targeted towards agencies which are likely to experience higher corruption risks through infiltration by serious and organised criminal groups.

5.11 The committee is mindful of the risks of expanding ACLEI's jurisdiction too quickly, and believes that it should predominantly maintain its current Commonwealth law enforcement focus. The stepwise increase of ACLEI's jurisdiction, as necessary, to law-enforcement and related agencies is an approach which the committee believes provides the greatest benefits for both ACLEI and the agencies it oversees.

5.12 Nevertheless, although the committee notes that Australia is generally regarded as one of the least corrupt countries in the world,¹⁰ the committee is not opposed to calls for the further examination of advantages and disadvantages of a broad-based federal anti-corruption agency.

Russell Matheson MP

Chair

10 Law Council of Australia, *Submission 12*, p. 3.

