

# Chapter 1

## Introduction

1.1 This is the second report on annual reports for 2016 of the Senate Environment and Communications Legislation Committee (the committee). It provides an overview of the annual reports of agencies within the allocated portfolios tabled in the Senate between 1 November 2015 and 30 April 2016.

1.2 Annual reports inform the Parliament, stakeholders and other interested parties of the operations and performance of public sector departments, agencies and companies. They are a primary accountability mechanism. Additionally, annual reports are important reference documents and form part of the historical record of the Commonwealth.<sup>1</sup>

### Terms of reference

1.3 Under Standing Order 25(20), the annual reports of certain departments and agencies are referred to the committee for examination and assessment. The 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 report 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 the attention of the Senate to any significant matters relating to the operations and performance of the bodies furnishing the annual reports.

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1 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 3.

- (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**

1.4 In accordance with the resolution of the Senate on 31 August 2016, the committee has oversight of the following portfolios:

- Environment and Energy; and
- Communications and the Arts.<sup>2</sup>

### **Reports examined**

1.5 This report examines the following reports, tabled in the Senate or presented out of session to the President of the Senate and referred to the committee between 1 November 2015 and 30 April 2016:

- Australian Renewable Energy Agency—Annual Report 2014–15;
- Audio-Visual Copyright Society (trading as Screenrights)—Annual Report 2014–15;
- Copyright Agency Limited—Annual Report 2014–15;
- Supervising Scientist—Annual Report 2014–15; and
- Sydney Harbour Federation Trust—Annual Report 2014–15.

### **Reports not examined**

1.6 The committee is not obliged to report on Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. The following documents were referred to the committee between 1 November 2015 and 30 April 2016 but are not examined in this report:

- Australian Broadcasting Corporation—Equity and Diversity Report for the period 1 September 2014 to 31 August 2015;
- Australian Competition and Consumer Commission—Telstra's Structural Separation Undertaking Report for 2014–15;
- Australian Competition and Consumer Commission—Competition in the Australian Telecommunications Sector Report for 2014–15;
- Australian Competition and Consumer Commission—Price Changes for Telecommunications Services in Australia Report for 2014–15;
- Australian Communications and Media Authority—Communications Report for 2014–15;

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- Regional Telecommunications Independent Review Committee—Regional Telecommunications Review 2015 Government Response;
  - *Telecommunications Act 1997*—Funding of Consumer Representations Grants Program to Telecommunications Report for 2014–15; and
  - Wet Tropics Management Authority—State of the Wet Tropics Report 2014–15 and Annual Report 2014–15.<sup>3</sup>

## Annual reporting requirements

### *Current arrangements*

1.7 In 2014–15, Commonwealth departments, agencies and companies reported for the first time under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The PGPA Act consolidates the governance, performance and accountability requirements that were contained in the *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

1.8 The *Requirements for Annual Reports for Departments, Executive Agencies and other Non-Corporate Commonwealth Entities* (Requirements for Annual Reports), which apply to non-corporate Commonwealth entities, were issued by the Department of the Prime Minister and Cabinet on 25 June 2015 and approved by the Joint Committee of Public Accounts and Audit (JCPAA).

1.9 The Requirements for Annual Reports do not apply to corporate Commonwealth entities and Commonwealth companies (formerly CAC Act authorities and companies). The current Requirements for Annual Reports note that sections 7AB and 7AC of the Public Governance Performance and Accountability (Consequential and Transitional Provisions) Rule 2015 continue the application of the *Commonwealth Authorities (Annual Reporting) Orders 2011* and the *Commonwealth Companies (Annual Reporting) Orders 2011* to annual reports for those entities and therefore will apply for the 2014–15 reporting period.<sup>4</sup>

1.10 Noting the above changes and transitional arrangements, a summary of the instruments under which the 2014–15 annual reports were prepared is as follows:

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3 The Wet Tropics Management Authority is required under subsection 10(1) of the *Wet Tropics of Queensland World Heritage Conservation Act 1994* (Cth) and section 63 of the *Wet Tropics Heritage Protection and Management Act 1993* (Qld) to provide an annual report on its management of the Wet Tropics World Heritage Area to the Queensland Government and the Commonwealth. As such, the committee is not obliged to report on the operation of an Act.

4 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 1.

- for non-corporate Commonwealth entities: section 46 of the PGPA Act; sections 63(2) and 70(2) of the *Public Service Act 1999*; for statutory bodies relevant enabling legislation; and the Requirements for Annual Reports;
- for corporate Commonwealth entities: section 46 of the PGPA Act; for statutory bodies relevant enabling legislation; and the Commonwealth Authorities (Annual Reporting) Orders 2011;
- for Commonwealth companies: section 97 of the PGPA Act, which also refers to the requirements under the *Corporations Act 2001*; and the Commonwealth Companies (Annual Reporting) Orders 2011; and
- for non-statutory bodies: the guidelines are contained in the government response to the Senate Standing Committee on Finance and Public Administration report on non-statutory bodies.<sup>5</sup>

1.11 The JCPAA, in its first report on the development of the Commonwealth performance framework, foreshadowed that in future years the annual report requirements 'will be replaced through the consolidation of all mandatory requirements into a rule made for the purposes of section 46 of the PGPA Act'.<sup>6</sup>

1.12 The committee notes that the JCPAA approved the draft annual reporting rules for non-corporate and corporate entities, without amendment, on 3 May 2016 for the 2015–16 reporting year.

### **Timeliness**

1.13 Section 46 of the PGPA Act requires the provision of an annual report of a Commonwealth entity to the responsible minister by the 15th day of the fourth month after the end of the reporting period for the entity. The Requirements for Annual Reports, which relate to departments, executive agencies and other non-corporate Commonwealth entities, reflect the PGPA Act. The requirements state that 'the responsible minister must, in turn, present the report to each House of the Parliament on or before 31 October in the year in which the report is given'.<sup>7</sup>

1.14 In addition, the Requirements for Annual Reports state that 'it is government policy that all annual reports should be tabled by 31 October'.<sup>8</sup> However, the

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5 *Senate Hansard*, 8 December 1987, pp 2632–45.

6 Joint Committee of Public Accounts and Audit, *Report 453 Development of the Commonwealth Performance Framework*, December 2015, p. 12.

7 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporation Commonwealth Entities*, 25 June 2015, p. 2.

8 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporation Commonwealth Entities*, 25 June 2015, p. 2.

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committee notes that there is a lack of clarity regarding the timeframe for the presentation of annual reports of corporate Commonwealth entities to the Parliament.

1.15 Appendix 1 lists the annual reports tabled (or presented) in the Senate and the House of Representatives between 1 November 2015 and 30 April 2016 and referred to the committee, with relevant tabling dates.

1.16 Appendix 2 lists the reports relating to the operation of acts and programs tabled (or presented) in the Senate and House of Representatives between 1 November 2015 and 30 April 2016 and referred to the committee, with relevant tabling dates.

### *Audio-Visual Copyright Society Limited*

1.17 The Audio-Visual Copyright Society Limited, trading as Screenrights, tabled its Annual Report 2014–15 in the Senate on 22 February 2016. The report was submitted to the Minister on 15 January 2016 and received by the Minister on 18 January 2016. The report was presented to both houses of Parliament by the Minister within 15 sitting days after the receipt of the report, as required by section 135ZZV of the *Copyright Act 1968*.

1.18 However, it appears that Screenrights posted its Annual Report 2014–15 on its website on 1 October 2015. The Guidelines for the Presentation of Documents to Parliament, issued by the Department of the Prime Minister and Cabinet state, in relation to the public release of documents prior to tabling, that:

When considering whether a document can be released prior to tabling in Parliament (that is, made publicly available for example at a media launch) the House of Representatives Practice 6th Edition (page 612) notes that public release of a document before presentation to Parliament "has always been considered a matter of impropriety". Every effort needs to be made to ensure the document is tabled in Parliament prior to, or to coincide with, public release of the report.<sup>9</sup>

1.19 The committee reminds Screenrights of its obligation to provide its report to the Parliament prior to, or to coincide with, the public release of its report.

### **Senate debate**

1.20 Under Standing Order 25(20)(d), the committee is obliged to note any remarks made in the Senate about annual reports. None of the annual reports examined in this report were the subject of Senate debate.

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<sup>9</sup> Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Documents to the Parliament*, August 2016, p. 7, paragraph 4.31.

**Apparently satisfactory**

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

1.22 The committee has examined all annual reports referred during the reporting period and considers that they are apparently satisfactory.