

# Chapter 1

## Introduction

1.1 This is the second report on annual reports for 2018 of the Senate Environment and Communications Legislation Committee (the committee). It provides an overview of selected annual reports of agencies within the allocated portfolios tabled in the Senate between 1 November 2017 and 30 April 2018.

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.

### 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.
- (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>1</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 2017 and 30 April 2018:

- Audio-Visual Copyright Society Limited (trading as Screenrights)—Annual Report 2016–17;
- Copyright Agency Limited—Annual Report 2016–17; and
- Director of National Parks—Annual Report 2016–17.

## 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 2017 and 30 April 2018 but are not examined in this report:

- Australian Broadcasting Corporation—Equity and Diversity—Annual Report for 2016–17;
- Australian Communications and Media Authority—Communications report for 2016–17;
- Australian Competition and Consumer Commission—Competition and price changes in telecommunications services in Australia—Report for 2016–17;
- Climate Change Authority—Review of the Emissions Reduction Fund, dated December 2017;
- Department of Finance—Consolidated financial statements in respect of the year ended 30 June 2017;
- Department of the Treasury—Tax Expenditures Statement—2017;
- Mid-year economic and fiscal outlook 2017–18—Statement by the Treasurer (Mr Morrison) and the Minister for Finance (Senator Cormann); and
- *Telecommunications Act 1997*—Funding of telecommunications consumer representation grants—Report for 2016–17.

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1 *Journals of the Senate*, No. 2, 31 August 2016, pp. 75–76.

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## Annual reporting requirements

1.7 The performance reporting framework for all Commonwealth entities and companies is established by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The performance framework is based on section 38 of the PGPA Act, which requires all Commonwealth entities to measure and assess their performance. The performance framework established under the PGPA Act includes the requirement for Commonwealth entities to prepare a corporate plan and annual performance statements. The Public Governance, Performance and Accountability Rule 2014 (PGPA Rule 2014) contain the minimum requirements to be included.

1.8 Section 39 of the PGPA Act requires all Commonwealth entities to prepare an annual performance statement and include those statements in their annual reports. Entities use the annual performance statements to report on the results achieved against the targets, goals and measures established at the beginning of a reporting year in corporate plans and Portfolio Budget Statements.

1.9 Below is a summary of the legislative authority and requirements for the different types of bodies under which annual reports are prepared:

- Non-corporate Commonwealth entities: PGPA Act, section 46 and the PGPA Rule 2014, Division 3A(A); for portfolio departments and executive agencies, and for statutory bodies, relevant enabling legislation.
- Corporate Commonwealth entities: PGPA Act, section 46 and the PGPA Rule 2014, Division 3A(B); and for statutory bodies, relevant enabling legislation.
- Commonwealth companies: PGPA Act, section 97, which also refers to requirements under the *Corporations Act 2001* and the PGPA Rule, Part 3-3; and for statutory bodies, relevant enabling legislation.
- Non-statutory bodies: the annual reporting requirements are contained in the government response to the Senate Standing Committee on Finance and Public Administration's Report on Non-Statutory bodies.<sup>2</sup>

## Timeliness

1.10 As part of its review of annual reports, the committee is required to investigate and report on any lateness in the presentation of annual reports.<sup>3</sup> In assessing the timeliness of the presentation of annual reports, the committee assesses the presentation against the requirements of different categories of bodies, the PGPA Rule 2014 and other legislative requirements.

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

3 Standing Order 25(20)(c).

### ***Commonwealth entities***

1.11 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. This section of the Act does not, however, provide for a timeframe for the minister to present the report to the Parliament.

### ***Commonwealth companies***

1.12 Section 97 of the PGPA Act sets out the requirements for the provision of annual reports of Commonwealth companies to the responsible minister. Under subsection 97(2) of the PGPA Act a company is to provide a report:

- (a) if the company is required by the *Corporations Act 2001* to hold an annual general meeting—the earlier of the following:
  - (i) 21 days before the next annual general meeting after the end of the reporting period for the company;
  - (ii) 4 months after the end of the reporting period for the company;and
- (b) in any other case—4 months after the end of the reporting period for the company; or the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

1.13 Subsection 97(5) of the PGPA Act states that:

- (5) If the Commonwealth company is a wholly-owned Commonwealth company, or is not required to hold an annual general meeting, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after receiving them. In all other cases, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after the annual general meeting of the company.

### ***PGPA Rule 2014***

1.14 The PGPA Rule 2014 states that annual reports for corporate Commonwealth entities, non-corporate Commonwealth entities and Commonwealth companies must comply with the *Guidelines for the Presentation of Documents to the Parliament*, which is prepared by the Department of the Prime Minister and Cabinet.<sup>4</sup>

1.15 The guidelines advise that for all entities:

As per past practice, it is expected that the responsible Minister will present the report to each House of Parliament on or before 31 October. If Senate Supplementary Budget Estimates hearings are scheduled to occur prior to 31 October, it is best practice for annual reports to be tabled prior to those

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4 See PGPA Rule 2014, sections 17AB, 17BC and 28C.

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hearings. This ensures that annual reports are available for scrutiny by the relevant Senate standing committee.<sup>5</sup>

1.16 Entities reporting in accordance with their own legislation are often required to prepare for the relevant minister their annual report 'as soon as is practicable' after the end of the particular period to which the report relates. The committee draws attention to subsections 34C(2) and 34C(3) of the *Acts Interpretation Act 1901*, which stipulate that where no date for providing a report to a minister is specified, the report should be presented no more than six months after the reporting period, and the minister must provide the report to the Parliament within 15 days after the minister receives it.

1.17 Where a deadline for presenting an annual report cannot be met, a Commonwealth entity or company can seek an extension of time to report under the provisions of subsections 34C(4)–(7) of the *Acts Interpretation Act 1901*, by advising the responsible minister of the reasons why the entity cannot comply with the deadline. The responsible minister is required to table this application and a statement specifying the extension granted and the reasons for the extension in both houses of the Parliament.<sup>6</sup>

1.18 Appendix 1 lists the annual reports tabled (or presented) in the Senate and the House of Representatives between 1 November 2017 and 30 April 2018 and referred to the committee, with relevant tabling dates.

1.19 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 2017 and 30 April 2018 and referred to the committee, with relevant tabling dates.

## Senate debate

1.20 In accordance with Standing Order 25(20)(d), the committee is required to take into account any relevant remarks about annual reports made in debate in the Senate. The committee notes that on 15 February 2018, Senator Andrew Bartlett commented on the annual report of the Director of National Parks.<sup>7</sup>

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5 Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Documents to the Parliament (including Government Documents, Government Responses to Committee Reports, Ministerial Statements, Annual Reports and other Instruments)*, August 2016, pp. 4–5.

6 *Acts Interpretation Act 1901*, ss. 34C(6).

7 Senator Andrew Bartlett, *Senate Hansard*, 15 February 2018, pp. 1310–1311.

**Non-reporting bodies**

1.21 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. The committee makes no recommendations for any bodies not presenting an annual report to do so.

**Apparently satisfactory**

1.22 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.

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