

The Senate

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Environment and Communications  
Legislation Committee

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Annual reports (No. 2 of 2018)

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# Committee membership

## **Committee members**

Senator Jonathon Duniam, Chair  
Senator Janet Rice, Deputy Chair  
Senator Anthony Chisholm  
Senator Steve Martin  
Senator Anne Urquhart  
Senator John Williams

LP, Tasmania  
AG, Victoria  
ALP, Queensland  
NATS, Tasmania  
ALP, Tasmania  
NATS, New South Wales

## ***Former member***

Senator Linda Reynolds CSC (to 27 June 2018)

LP, Western Australia

## **Secretariat**

Ms Christine McDonald, Committee Secretary  
Mr Michael Perks, Research Officer



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# **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.



## 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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<sup>2</sup> *Senate Hansard*, 8 December 1987, pp. 2632–45.

<sup>3</sup> 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'.

# Chapter 2

## Review of reports

2.1 The committee provides the following comments on the annual reports of the Audio-Visual Copyright Society Limited, Copyright Agency Limited and the Director of National Parks.

### **Audio-Visual Copyright Society Limited (Screenrights)**

2.2 Screenrights has prepared its annual report in accordance with sections 135ZZV and 183D of the *Copyright Act 1968* (Copyright Act). The annual report for 2016–17 was tabled in the Senate on 6 February 2018.

2.3 Screenrights is an Australian-domiciled company and not-for-profit entity. Its principal activities include: exercising its right as a collecting society under Parts VA, VB and VC (in relation to audio-visual items) of the Copyright Act; and collecting money from educational institutions for distribution to relevant copyright owners.

2.4 In the Chief Executive's Report, Mr Simon Lake outlined Screenrights' achievements in 2016–17, including:

- the collection of \$46.8 million in licence revenue and other income for the film and television industries;
- an increase in the number of titles registered by members by 3.5 per cent to 1.49 million;
- distribution of a record \$1.46 million from overseas societies to members; and
- working with the government and stakeholders to amend the Copyright Act to simplify the statutory licence for education.<sup>8</sup>

### *Performance reporting*

2.5 Consistent with previous annual reports, Screenrights has provided a detailed overview of its key revenue and expenditure figures for 2016–17. This information is presented in a variety of formats including graphs, tables and diagrams and includes a breakdown of total distributable amounts paid to members, as well as allocations between Australian and overseas rights holders. The continued inclusion of trend data for some categories, such as total licencing revenue, net income and expenditure over the last three reporting periods, was useful for comparative purposes.

2.6 The committee notes that litigation initiated on 3 March 2016 in the Federal Court of Australia by the Australian Writers' Guild and the Australian Writers' Guild

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8 Screenrights, *Annual Report 2016–17*, pp. 6–7.

Authorship Collecting Society remained ongoing during the reporting period.<sup>9</sup> The committee will continue to monitor the progress of the litigation.

### *Financial reporting*

2.7 The annual report notes that Screenrights paid a total of \$43.1 million to its members in 2016–17, the same amount paid in the previous financial year.<sup>10</sup>

2.8 The committee considers that Screenrights has met its reporting obligations and its annual report is 'apparently satisfactory'.

### **Copyright Agency Limited (Copyright Agency)**

2.9 In accordance with its obligations under the Copyright Act and the *Resale Royalty Right for Visual Artists Act 2009*,<sup>11</sup> the Copyright Agency submitted its annual report to the Minister on 3 January 2018. The annual report was subsequently tabled in the House of Representatives and the Senate on 26 March 2018.

2.10 The Copyright Agency is a not-for-profit rights management organisation or 'declared collecting society' and operates as a public company limited by guarantee. The agency is appointed by the Australian Government to manage statutory licences in the Copyright Act as well as the artists' resale royalty scheme. The licences regulate the use of text, images and print music, by educational institutions and people with disabilities, and for reproduction by Commonwealth, state and territory governments.<sup>12</sup> The Copyright Agency assists in reproducing, storing and sharing copyright material whilst delivering fair compensation to the rights owners of content and managing the resale royalty schemes of artists.<sup>13</sup>

### *Performance reporting*

2.11 The Copyright Agency's annual report provides an overview of its principal activities and operations for the reporting period. This includes a helpful outline of the statutory licence schemes in the education and government sectors, as well as commercial and 'voluntary' licences offered by the agency, including relevant developments under each scheme during 2016–17.<sup>14</sup> The annual report also provides a

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9 Screenrights, *Annual Report 2016–17*, p. 20.

10 Screenrights, *Annual Report 2016–17*, p. 6.

11 *Copyright Act 1968*, s. 135ZZD (former) and 183D; *Resale Royalty Right for Visual Artists Act 2009*, s. 37.

12 The statutory licence provisions for people with disabilities were replaced by new exceptions following the passage of the Copyright Amendment (Disability Access and Other Measures) Bill in June 2017.

13 Copyright Agency Limited, *Annual Report 2016–17*, pp. 5–6.

14 Copyright Agency Limited, *Annual Report 2016–17*, pp. 9–17.

detailed breakdown of payments to content creators by sector, content type and by state and territory.<sup>15</sup>

2.12 In 2016–17, the Copyright Agency paid \$664,491 to 447 artists under the artists' resale royalty scheme.<sup>16</sup> The annual report notes that, as of 30 June 2017, \$5.27 million in royalties had been generated under the scheme and 63 per cent of those receiving royalties were Aboriginal and Torres Strait Islander artists.<sup>17</sup>

2.13 The committee notes that during the reporting period, the Copyright Agency and Viscopy Limited (Viscopy) announced that they had agreed in principle to begin the formal process to merge their memberships. Following approval by the Viscopy and Copyright Agency members, a scheme of arrangement to facilitate the merger was approved by the Supreme Court of New South Wales and the Australian Securities and Investments Commission.<sup>18</sup> On 30 November 2017 the Copyright Agency and Viscopy formally merged.

### *Financial reporting*

2.14 The agency reported an increase in the amount of copyright royalties paid to members from \$115.49 million for the previous reporting period to \$117.83 million in 2016–17.<sup>19</sup> The committee notes that the Copyright Agency recorded a surplus of \$15,950 for 2016–17, compared to \$6,209,029 for the previous reporting period.<sup>20</sup>

2.15 The committee considers the Copyright Agency's Annual Report 2016–17 to be 'apparently satisfactory'.

### **Director of National Parks**

2.16 As noted by the committee in its *Annual reports (No. 1 of 2018)*, the Director of National Parks was granted an extension of time for the late tabling of its annual report for 2016–17.<sup>21</sup> The annual report was subsequently presented out of session to the President of the Senate on 20 December 2017 and tabled in the Senate on 5 February 2018.

2.17 The Director of National Parks is a corporate Commonwealth entity established as a corporation sole under the *Environment Protection and Biodiversity*

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15 Copyright Agency Limited, *Annual Report 2016–17*, pp. 22–27.

16 Copyright Agency Limited, *Annual Report 2016–17*, pp. 3 and 20.

17 Copyright Agency Limited, *Annual Report 2016–17*, p. 20.

18 Copyright Agency Limited, *Annual Report 2016–17*, p. 18.

19 Copyright Agency Limited, *Annual Report 2016–17*, Directors' Report, p. 1.

20 Copyright Agency Limited, *Annual Report 2016–17*, Directors' Report, p. 1.

21 *Journals of the Senate*, No. 67, 19 October 2017, p. 2135.

*Conservation Act 1999* (EPBC Act). The corporation is constituted by the person appointed to the office named the Director of National Parks.<sup>22</sup>

2.18 Under the EPBC Act, the Director of National Parks' functions include:

- managing Commonwealth reserves and conservation zones;
- protecting biodiversity and heritage in Commonwealth reserves and conservation zones;
- carrying out research relevant to Commonwealth reserves;
- cooperating with other countries to establish and manage national parks and nature reserves in those countries; and
- making recommendations to the Australian Government Minister for the Environment.<sup>23</sup>

2.19 The Commonwealth reserves that are wholly or partly on Indigenous people's land are managed in conjunction with a Board of Management. There are also Advisory Committees who provide advice to the Director on the management of other reserves. These boards and committees play crucial roles in determining the policies and priorities for the management of each protected area.<sup>24</sup>

2.20 The Director's message highlighted some of the achievements of the agency over the 2016–17 reporting period, including:

- the commencement of the drafting process for new management plans for marine reserves;
- participation in the International Union for Conservation of Nature (IUCN) World Conservation Congress in Hawaii;
- welcoming over 1.38 million visitors to parks managed by the agency; and
- reaching an audience of over 30.4 million via Parks Australia's social media channels.<sup>25</sup>

### *Performance reporting*

2.21 The Director of National Parks' annual report is well structured and clearly sets out the performance information against the goals and objectives contained in the 2016–17 Portfolio Budget Statements and corporate plan. Discussion of the results against each of the performance measures is concise and supported by relevant data and analysis, including whether the targets are 'on track' or 'in progress'. The annual

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22 Director of National Parks, *Annual Report 2016–17*, p. 6.

23 *Environment Protection and Biodiversity Conservation Act 1999*, subsection 514B(1).

24 Director of National Parks, *Annual Report 2016–17*, p. 96.

25 Director of National Parks, *Annual Report 2016–17*, pp. 2–3.



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report also featured nine case studies that complemented discussion of the agency's performance against these results.

2.22 The committee is pleased to note, following comments in its *Annual reports (No. 1 of 2016)*, that the Director of National Parks has included a table in its annual report which summarises its results against each performance measure.<sup>26</sup> The committee recommends, however, that future annual reports provide a more detailed compliance index that includes the relevant PGPA Rule 2014 reference alongside the listed requirements. This will ensure that all relevant performance information can be readily located and evaluated.

#### *Financial reporting*

2.23 In the 2016–17 reporting period, the Director of National Parks recorded a surplus result of \$10.12 million. The annual report stated that:

The triennial asset revaluation resulted in a \$20 million movement in the asset revaluation surplus, with the land (31.7 per cent), buildings (36.8 per cent) and infrastructure (24.4 per cent) assets being the majority of movement across the Parks and reserves.<sup>27</sup>

2.24 The committee considers the Director of National Parks' annual report for 2016–17 to be 'apparently satisfactory'.

**Senator Jonathon Duniam**  
**Chair**

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26 Director of National Parks, *Annual Report 2016–17*, p. 8.

27 Director of National Parks, *Annual Report 2016–17*, p. 9.



# Appendix 1

## Dates relating to the presentation of annual reports between 1 November 2017 and 30 April 2018

Communications and the Arts Portfolio				
Reporting Body	Submitted to Minister	Received by Minister	Tabled in the House of Representatives	Tabled in the Senate
Audio-Visual Copyright Society Limited (Screenrights)—Annual Report 2016–17	29/11/2017	29/11/2017	6/02/2018	6/02/2018
Copyright Agency Limited—Annual Report 2016–17	3/01/2018	3/01/2018	26/03/2018	26/03/2018
Environment and Energy Portfolio				
Reporting Body	Submitted to Minister	Received by Minister	Tabled in the House of Representatives	Tabled in the Senate
Director of National Parks—Annual Report 2016–17	30/11/2017	8/12/2017	5/02/2018	5/02/2018* (presented out of session 20/12/2017)

\* An asterisk denotes a report presented to the President of the Senate out-of-session.



## Appendix 2

### Dates relating to the presentation of reports on the operation of acts and programs between 1 November 2017 and 30 April 2018

Communications and the Arts Portfolio				
Reporting Body	Submitted to Minister	Received by Minister	Tabled in the House of Representatives	Tabled in the Senate
Australian Broadcasting Corporation—Equity and Diversity Annual Report 2016–17	4/12/2017	4/12/2017	5/02/2018	5/02/2018* (presented out of session 12/12/2017)
Australian Communications and Media Authority—Communications report for 2016–17	20/11/2017	20/11/2017	5/02/2018	5/02/2018* (presented out of session 8/12/2017)
Australian Competition and Consumer Commission (ACCC)—Competition and price changes in telecommunications services in Australia 2016–17	25/01/2018	25/01/2018	26/03/2018	20/03/2018
<i>Telecommunications Act 1997</i> —Funding of telecommunications consumer representation grants—Annual Report for 2016–17.	20/11/2017	20/11/2017	7/12/2017	5/02/2018

\* An asterisk denotes a report presented to the President of the Senate out-of-session.

<b>Environment and Energy Portfolio</b>				
<b>Reporting Body</b>	<b>Submitted to Minister</b>	<b>Received by Minister</b>	<b>Tabled in the House of Representatives</b>	<b>Tabled in the Senate</b>
Climate Change Authority—Review of the Emissions Reduction Fund, dated December 2017	16/03/2018	27/03/2018	28/03/2018	28/03/2018

\* An asterisk denotes a report presented to the President of the Senate out-of-session.