

# CHAPTER 1

## ANNUAL REPORTS OF STATUTORY AUTHORITIES

1.1 The annual reports for the financial year 2011–12 of the following statutory authorities in the Attorney-General's portfolio were referred to the committee for examination and report:

- Administrative Review Council;
- Audio-Visual Copyright Society Limited (Screenrights);
- High Court of Australia; and
- National Native Title Tribunal.

1.2 The committee did not receive any annual reports from statutory authorities in the Immigration portfolio during the period covered by this report.

1.3 As in previous reports of the committee, it has decided to select a number of annual reports for closer examination. On this occasion, the reports of the following agencies are examined:

- Audio-Visual Copyright Society Limited (Screenrights); and
- High Court of Australia.

### Audio-Visual Copyright Society Limited

1.4 Audio-Visual Copyright Society Limited, which trades as Screenrights, is an Australian domiciled company. The company is a non-profit entity and its principal activities include: the exercise of its right as a collecting society under Part VA, Part VC and Part VB (in relation to audio-visual items) of the *Copyright Act 1968* (Copyright Act); and to collect money from educational institutions for distribution to relevant copyright owners.<sup>1</sup> Screenrights' annual report was tabled in both the Senate and the House of Representatives on 5 February 2013.

1.5 The company is limited by guarantee and, pursuant to section 34(2) of the *Commonwealth Authorities and Companies Act 1997* (CAC Act), is a wholly-owned Commonwealth company. The guarantee 'in the event of the winding up of the company is \$10 for each member'.<sup>2</sup> As at 30 June 2012, the company's total liability was \$34 640 from 3464 full members.<sup>3</sup> This is an increase compared with its liability of \$33 210 from 3321 members in 2011.<sup>4</sup>

1.6 The annual report of Screenrights needs to comply with ministerial orders made under section 48 of the CAC Act, which are set out in the *Commonwealth*

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1 *Screenrights Annual Report 2011-12*, p. 30.

2 *Screenrights Annual Report 2011-12*, p. 21.

3 *Screenrights Annual Report 2011-12*, p. 21.

4 *Screenrights Annual Report 2011-12*, p. 21.

*Companies (Annual Reporting) Orders 2011*. The content of annual reports of Commonwealth companies is based on the reporting requirements under the *Corporations Act 2001*, in accordance with section 36 of the CAC Act. The reporting provisions for Screenrights are contained in sections 135R, 135ZZD, 135ZZV and 183D of the Copyright Act.

1.7 Certain issues identified by this committee in 2012<sup>5</sup> persist in the Screenrights Annual Report 2011–12. These include the need for a letter of transmittal, a contents page, a compliance index and a glossary index. The inclusion of such information would increase the accessibility of information, as well as assist the committee in its examination of the report. Similarly overlooked in the 2011–12 annual report are a clear organisational structure, information on the enabling legislation under which Screenrights operates, and the reporting requirements with which the annual report complies. The inclusion of accompanying headings relating to information presented in colourful graphs would also enhance the readability of the annual report. Nonetheless, the committee is pleased to see that the size of the 2011–12 annual report conforms to the usual annual report size dimension of B5; this is a welcome departure from the previous "brochure-like" format of the 2010–11 annual report.

1.8 The above issues notwithstanding, the report contains useful background information about the role and functions of Screenrights, its objectives, board members and company membership. The layout and format of its financial statements and 'Notes to the Consolidated Financial Statements' continue to be clearly set out and easy to follow.

1.9 During 2011–12, Screenrights reported a record \$40.7 million in license revenue and other income for the film and television industries.<sup>6</sup> Expenditure in relation to total collections was 15.3% during 2011–12 and Screenrights stated that its objective for the upcoming financial year was to maintain this ratio below 16.0%.<sup>7</sup> The company distributed more than \$32.2 million to rights holders in film and television.<sup>8</sup>

1.10 Highlights for Screenrights during 2011–12 included the launch of a new online registration system (MyScreenrights) allowing members to register programs and track their payment history, a trial of the EnhanceTV Direct streaming service for educators, and contributions to current reviews and debates in relation to copyright laws.<sup>9</sup> MyScreenrights provides members with greater access to information about their business and reduces Screenrights' administrative costs.<sup>10</sup> The EnhanceTV Direct

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5 Senate Legal and Constitutional Affairs Legislation Committee, *Annual reports* (No. 2 of 2012), September 2012, p. 2.

6 *Screenrights Annual Report 2011-12*, pp 1, 4, 6, 7 and 8.

7 *Screenrights Annual Report 2011-12*, pp 1, 10 and 21.

8 *Screenrights Annual Report 2011-12*, pp 1, 4 and 6.

9 *Screenrights Annual Report 2011-12*, pp 1, 4 and 7.

10 *Screenrights Annual Report 2011-12*, p. 4.

pilot streaming service provides access to a wide range of content for both educators and students and benefits members by increasing the longevity of their content and the returns for them.<sup>11</sup> Screenrights' participation in the Copyright Tribunal's determination on a rate for the retransmission of the nine multi-channels by pay television operators reflects the company's active role in engaging with important copyright cases and ensuring its services meet the needs of rights holders and users.<sup>12</sup>

1.11 The financial information presented in the annual report relates to Screenrights and not the consolidated entity that includes the wholly-owned subsidiary EnhanceTV Direct Pty Ltd.<sup>13</sup> The consolidated entity reported a net operating loss after income tax of \$360 632, an increase from \$229 690 in the preceding year.<sup>14</sup> The loss equals the amount expended by the company on legal costs associated with the legal fees which were funded from the reserve fund and retained earnings.<sup>15</sup> During the 2011–12 period, the directors reported no significant changes in the state of affairs of the company or consolidated entity.<sup>16</sup>

1.12 The committee considers the annual report of Screenrights to be 'apparently satisfactory', but expresses some concern about the accessibility of certain information and the omission of some required information.

## High Court of Australia

1.13 The High Court of Australia's (the High Court) annual report for 2011–12 is presented in accordance with section 47 of the *High Court of Australia Act 1979*. The High Court is not a prescribed agency under the *Financial Management and Accountability Act 1997*, due to its status under its enabling legislation.<sup>17</sup> Therefore, the Requirements for Annual Reports do not apply to the High Court's annual report.

1.14 Nonetheless, section 3(4) of the Requirements for Annual Reports provides:

In the case of an agency (including an executive agency established under section 65 of the *Public Service Act 1999*) that is neither prescribed under the FMA Act nor comes within the CAC Act, these Requirements may be used to the extent that they are consistent with any reporting requirements contained in the agency's own legislation (if any).<sup>18</sup>

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11 *Screenrights Annual Report 2011-12*, p. 4.

12 *Screenrights Annual Report 2011-12*, pp 4 and 6.

13 *Screenrights Annual Report 2011-12*, p. 7.

14 *Screenrights Annual Report 2011-12*, p. 21.

15 *Screenrights Annual Report 2011-12*, p. 7.

16 *Screenrights Annual Report 2011-12*, p. 21.

17 Department of Finance and Deregulation, Chart of 109 Agencies under the *Financial Management and Accountability Act 1997* (FMA Act), 4 October 2013.

18 Department of Prime Minister and Cabinet (DPMC), *Requirements for Annual Reports*, 28 June 2012, Part 1, subsection 3(4)

1.15 The annual report of the High Court of Australia was tabled in the House of Representatives on 26 November 2012 and in the Senate on 27 November 2012, and complies with the High Court's own reporting requirements.

1.16 For the reporting period 2011–12, the High Court reported a larger deficit (\$7.099 million) than the previous financial year (\$4.822 million).<sup>19</sup> In 2011–12, the court received \$17.058 million in income, including revenue from appropriations. The High Court reported \$24.158 million in operating expenses and it received an additional \$1.5 million to its base funding to meet its operational costs and to maintain services. It also received an equity injection totalling \$4.14 million for the purchase of non-financial assets.<sup>20</sup> A major reason for the increased deficit can be attributed to two factors: the inclusion in the court's operating expenses of depreciation of non-financial assets (to the value of \$4.413 million), for which the court does not receive appropriation funding; and a 'revaluation decrement' of its library holdings (totalling \$3.357 million).<sup>21</sup> However, the court reported an underlying surplus of \$0.143 million following exclusions of non-cash and unfunded items, and the above depreciation and revaluation figures.<sup>22</sup>

1.17 In relation to maintenance and restoration works on the building and its precinct, restoration work on the cascade waterfall was completed in 2011–12 and work is underway to rectify the court building forecourt's interface with the National Portrait Gallery.<sup>23</sup> Approval for work on the western part of the court building forecourt to meet safety and structural concerns was obtained from the House of Representatives and the Senate.<sup>24</sup>

1.18 During 2011–12, 45 000 people visited the High Court and the court hosted guided tours for and gave presentations to 30 000 students.<sup>25</sup> The significant enhancement of the court's website also increased the public's accessibility to a wide range of information concerning the court's activities; this improved facility has been well-received by a variety of stakeholders.<sup>26</sup>

1.19 The court reported a slight increase in the number of cases filed for the 2011–12 reporting period (728 cases) from 2010–11 (715 cases).<sup>27</sup> The proportion of special leave applications filed by self-represented litigants also increased to 41% in 2011–12 from 34% in 2010–11. The majority of cases (51%) were filed in the Sydney registry office, followed by the offices in Melbourne (31%) and Canberra (18%). The

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19 *High Court of Australia Annual Report 2011-12*, p. 51.

20 *High Court of Australia Annual Report 2011-12*, pp 10 and 15.

21 *High Court of Australia Annual Report 2011-12*, pp 10 and 51.

22 *High Court of Australia Annual Report 2011-12*, pp 10 and 15.

23 *High Court of Australia Annual Report 2011-12*, p. 10.

24 *High Court of Australia Annual Report 2011-12*, pp 10 and 15.

25 *High Court of Australia Annual Report 2011-12*, p. 10.

26 *High Court of Australia Annual Report 2011-12*, p. 15.

27 *High Court of Australia Annual Report 2011-12*, p. 28.

Melbourne and Canberra offices processed cases filed in other interstate cities as well as those filed in these respective cities.<sup>28</sup>

1.20 The committee again notes that an issue commented on previously has resurfaced in the High Court's 2011–12 report. In the court's last annual report, the committee made the observation that the court's outcome—to interpret and uphold the Australian Constitution and perform the functions of the ultimate appellate court in Australia—was not actually made clear from the outset but was identified near the end of the report in the 'Notes to and forming part of the Financial Statements for the High Court of Australia'.<sup>29</sup> This was also the case in the 2011–12 annual report.

1.21 Although the Requirements for Annual Reports do not apply to the High Court, the committee wishes to reiterate the importance of performance reporting in annual reports. This provides the relevant agency with an accountability framework as well as a monitoring mechanism of activities and practices. As stated in the Requirements for Annual Reports:

The "clear read" between PB Statements and annual reports is an essential part of the accountability system that compares budgeted targets and figures to those actually achieved, and places a strong emphasis on compatibility between the two documents regarding budget and performance information.<sup>30</sup>

1.22 Aside from the concern raised above, the court's annual report provides a clear and concise overview of the court's activities over the reporting period. The layout, in terms of the annual report's headings, chapters, statistical information relating to the court's workload, funding arrangements, visitor programs and building maintenance, are clearly set out and easy to follow. Statistical information in the annual report is also presented in both graphical and tabulated formats where appropriate to enhance the accessibility of the information.

1.23 The committee considers the annual report of the High Court to be 'apparently satisfactory'.

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28 *High Court of Australia Annual Report 2011-12*, p. 28.

29 *High Court of Australia Annual Report 2011-12*, p. 59.

30 DPMC, *Requirements for Annual Reports*, 28 June 2013, p. 3.

