

CHAPTER 1

ANNUAL REPORTS OF STATUTORY AUTHORITIES

1.1 The annual reports for the financial year 2012-13 of the following statutory authorities in the Attorney-General's portfolio were referred to the committee for examination and report:

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

1.2 The following report from a statutory authority in the Immigration portfolio was also referred to the committee for examination and report:

- Migration Review Tribunal and Refugee Review Tribunal.

1.3 The committee has decided to closely examine all three of these annual reports.

Audio-Visual Copyright Society Limited

1.4 The 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: exercising 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 collecting money from educational institutions for distribution to relevant copyright owners.¹ Screenrights' annual report was tabled in the House of Representatives on 21 November 2013 and in the Senate on 3 December 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'.² As at 30 June 2012, the company's total liability was \$35 600 from 3560 full members.³ This is an increase compared with its liability of \$34 640 from 3464 members in 2012-13.⁴

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 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

1 *Screenrights Annual Report 2012-13*, p. 30.

2 *Screenrights Annual Report 2012-13*, p. 21.

3 *Screenrights Annual Report 2012-13*, p. 21.

4 *Screenrights Annual Report 2012-13*, p. 21.

provisions for Screenrights are contained in sections 135R, 135ZZD, 135ZZV and 183D of the Copyright Act.⁵

1.7 Certain issues identified by this committee in previous reports⁶ persist in the Screenrights Annual Report 2012-13. 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 previous annual reports is 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 report contains information on the organisational structure of Screenrights, as well as information on the enabling legislation under which Screenrights operates.⁷

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.⁸

1.9 During 2012-13, Screenrights reported a record \$46.5 million in license revenue and other income for the film and television industries.⁹ In its last annual report Screenrights stated that it intended to keep expenditure in relation to total collections below 16 per cent.¹⁰ This was achieved in 2012-13 with expenses at 14.8 per cent of collections.¹¹ The company distributed more than \$34.9 million to rights holders in film and television.¹²

1.10 Highlights for Screenrights during 2012-13 included the launch of the EnhanceTV Direct streaming service for educators, a partnership with RMIT to introduce Enhance TV to universities, and a contribution to the Australian Law Reform Commission Review into the Copyright Act.¹³ The EnhanceTV Direct streaming service provides access to a wide range of content for both educators and

5 *Copyright Act 1968*, ss. 135(R); 135(ZZD); 135(ZZV) and 183(D).

6 Senate Legal and Constitutional Affairs Legislation Committee, *Annual reports (No. 2 of 2012)*, September 2012, p. 2; Senate Legal and Constitutional Affairs Legislation Committee, *Annual reports (No. 2 of 2013)*, December 2013, p. 2.

7 *Screenrights Annual Report 2012-13*, p. 17; p. 30.

8 *Screenrights Annual Report 2012-13*, pp 30–51.

9 *Screenrights Annual Report 2012-13*, pp 1; 8; 9; and 12.

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

11 *Screenrights Annual Report 2012-13*, p. 1.

12 *Screenrights Annual Report 2012-13*, p. 1.

13 *Screenrights Annual Report 2012-13*, p. 1.

students and benefits members by increasing the longevity of their content and the returns for them.¹⁴

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.¹⁵ The consolidated entity reported a net operating loss after income tax of \$927 712, an increase from \$360 632 in the preceding year.¹⁶ During the 2012-13 period, the directors reported no significant changes in the state of affairs of the company or consolidated entity.¹⁷

1.12 The committee considers the annual report of Screenrights to be 'apparently satisfactory', but again 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 2012-13 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.¹⁸ 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).¹⁹

1.15 The annual report of the High Court of Australia was tabled in both the House of Representatives and the Senate on 13 November 2013, and complies with the High Court's own reporting requirements.

1.16 For the reporting period 2012-13, the High Court reported a smaller deficit of \$4.378 million than the previous financial year's deficit of \$7.099 million.²⁰ In 2012-13, the court received \$16.451 million in income, including revenue from appropriations. The High Court reported \$20.829 million in operating expenses and an

14 *Screenrights Annual Report 2012-13*, p. 4.

15 *Screenrights Annual Report 2012-13*, p. 7.

16 *Screenrights Annual Report 2012-13*, p. 21.

17 *Screenrights Annual Report 2012-13*, p. 21.

18 Department of Finance and Deregulation, Chart of 108 Agencies under the *Financial Management and Accountability Act 1997* (FMA Act), 1 November 2013.

19 Department of Prime Minister and Cabinet (DPMC), *Requirements for Annual Reports*, 29 May 2014, Part 1, subsection 3(4)

20 *High Court of Australia Annual Report 2012-13*, p. 11.

equity injection of \$3.870 million.²¹ A major reason for the deficit can be attributed to the inclusion in the court's operating expenses of depreciation of non-financial assets (to the value of \$4.486 million), for which the court does not receive appropriation funding.²² The High Court's annual appropriation was also reduced due to changes in the management and funding of Commonwealth Law Courts buildings from 1 July 2012.²³ However, the court reported an underlying surplus of \$0.108 million following exclusions of non-cash and unfunded items, and the above depreciation and revaluation figures.²⁴

1.17 During 2012-13, 35 000 people visited the High Court and the court hosted guided tours for and gave presentations to 35 000 students.²⁵ The High Court's website serves as the primary source of public information related to the core business of the High Court including its history, structure and administration.²⁶ The website also provides access to legal documents, transcripts and speeches.²⁷

1.18 The court reported a slight decrease in the number of cases filed for the 2012-13 reporting period with 618 cases filed compared to 728 cases in 2011-12.²⁸ Inversely, the proportion of special leave applications filed by self-represented litigants increased to 44 per cent in 2012-13 from 41 per cent in 2011-12.²⁹ The majority of cases were filed in the Sydney registry office with 50 per cent of cases filed, followed by the offices in Melbourne consisting of 26 per cent of cases and Canberra comprising 24 per cent. The Melbourne and Canberra offices processed cases filed in other interstate cities as well as those filed in these respective cities.³⁰

1.19 The committee again notes that an issue commented on previously³¹ has resurfaced in the High Court's 2012-13 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

21 *High Court of Australia Annual Report 2012-13*, p. 40.

22 *High Court of Australia Annual Report 2012-13*, p. 17.

23 *High Court of Australia Annual Report 2012-13*, p. 40.

24 *High Court of Australia Annual Report 2012-13*, p. 17.

25 *High Court of Australia Annual Report 2012-13*, p. 46.

26 *High Court of Australia Annual Report 2012-13*, p. 97.

27 *High Court of Australia Annual Report 2012-13*, pp 97–98.

28 *High Court of Australia Annual Report 2012-13*, p. 30.

29 *High Court of Australia Annual Report 2012-13*, p. 17.

30 *High Court of Australia Annual Report 2012-13*, p. 30.

31 Legal and Constitutional Affairs Legislation Committee, *Report on Annual Reports No. 2 2013*, December 2013, p. 4.

of the report in the 'Notes to and forming part of the Financial Statements'.³² This was also the case in the 2010-11 annual report.

1.20 As mentioned in the committee's last report, although the Requirements for Annual Reports do not apply to the High Court, the committee wishes to emphasise 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.³³

1.21 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.

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

Migration Review Tribunal (MRT) and Refugee Review Tribunal (RRT)

1.23 The report of the MRT-RRT was tabled in the Senate on 12 November 2013 and in the House of Representatives on 13 November 2013. The committee notes the late presentation of the report but also remarks that the report was provided in time for supplementary estimates.

1.24 The MRT-RRT is a statutory authority that reports under the *Financial Management and Accountability Act 1997* and provides independent merits review of visa related decisions made by the minister or by public officers acting as delegates of the minister as set out in the *Migration Act 1958*.³⁴

1.25 There was an increase in lodgements and in the number of cases decided by the combined tribunals in 2012-13. Case decisions increased from 10 815 in 2011-12 to 19 347 in 2012-13. An additional four per cent of cases lodged were decided by the tribunals in 2012-13 than in 2011-12.³⁵ The committee was pleased to note that the

32 *High Court of Australia Annual Report 2012-13*, p. 61.

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

34 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, p. 6.

35 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, p. vii.

total percentage of tribunal decisions taken to judicial review equalled seven per cent.³⁶

1.26 The principal member's report on the tribunals' operations for 2012-13 provides a useful overview of a demanding year. In addition to the increase in usual workload, it was also reported that there was a significant rise in workload due to changes made to processing arrangements for unauthorised maritime arrivals. In March 2012, the minister permitted unauthorised maritime arrivals to apply for protection visas, providing the applicants the right to tribunal review if a delegate of the minister consequently refused to grant a protection visa. During the reporting period, 1 518 applications for review were received from unauthorised maritime arrivals.³⁷

1.27 In order to manage the increased workload while also maintaining the quality of the reviews, the tribunals created specialist teams and reorganised staff structure, committing senior members to specific caseloads to ensure that specific strategies were developed for particular caseloads.³⁸

1.28 The performance section is clearly laid out with results presented against targets set for key performance indicators and deliverables.³⁹ The report states that the tribunals did not meet the target of publishing 40 per cent of decisions, however it also highlights that there was an increase in published decisions from 4 546 in 2011-12 to 4 783 in 2012-13.⁴⁰

1.29 The tribunals' financial performance for 2012-13 is also discussed in this section of the report. A net surplus of \$24.53 million was recorded for the financial year.⁴¹

1.30 The report also includes a detailed breakdown of caseload statistics which provides useful background.⁴²

1.31 The report is well presented and easy to navigate with an effective design. It follows the Requirements for Annual Reports and depicts a fair account of the reporting period. The committee considers the report to be 'apparently satisfactory'.

1.32 The committee congratulates the Refugee Review Tribunal for its twentieth year of operation.

36 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, p. vii.

37 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, p. 3.

38 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, p. 3.

39 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, p. 15.

40 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, p. 15.

41 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, pp 15–16.

42 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2012-13*, pp 108–114.