

CHAPTER 1

ANNUAL REPORTS OF STATUTORY AUTHORITIES

1.1 The annual reports for the financial year 2013–14 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;
- High Court of Australia; and,
- Australian Government Solicitor.

1.2 No annual report was referred to the committee over this time period from the Immigration and Border Protection portfolio.

1.3 The Australian Financial Security Authority (AFSA) annual report was tabled in both Houses on 17 November 2014; however, AFSA is an executive agency and is therefore not examined in this report.

1.4 The committee has decided to closely examine the annual reports for the Audio-Visual Copyright Society Limited, High Court of Australia and the Australian Government Solicitor.

Audio-Visual Copyright Society Limited

1.5 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 23 February 2015 and in the Senate on 2 March 2015.

1.6 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 [c]ompany is \$10 for each member'.² As at 30 June 2014, the company's total liability was \$36 930 from 3693 full members.³ This year's liability has increased compared with its liability of \$35 600 from 3560 members in 2012–13.⁴

1.7 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

1 *Screenrights Annual Report 2013–14*, p. 30.

2 *Screenrights Annual Report 2013–14*, p. 21.

3 *Screenrights Annual Report 2013–14*, p. 21.

4 *Screenrights Annual Report 2013–14*, p. 21.

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.⁵

1.8 The committee's review of the Screenrights Annual Report 2013–14 has again identified certain issues that have already been identified in previous committee reports⁶ The following items have not been included in the report:

- a letter of transmittal;
- a contents page;
- a compliance index;
- a glossary index; and
- reporting requirements with which the annual report complies.

1.9 The inclusion of the above information would improve the accessibility of information, as well as assist the committee in its examination of the report. The use of graphs have again been utilised in the report, however the inclusion of easily identifiable headings would greatly assist the reader with quickly understanding the information contained in each graph.⁷

1.10 Nonetheless, the committee is pleased to see that the report provides a comprehensive Chief Executive's report,⁸ company profile⁹ and directors' report,¹⁰ as well as information on the enabling legislation under which Screenrights operates.¹¹ 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.¹²

1.11 In 2013–14, Screenrights reported a \$41.9 million in license revenue and other income for the film and television industries.¹³ This amount is down from the previous year's amount of \$46.5 million.¹⁴ Expenditure in relation to total collections

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; Senate Legal and Constitutional Affairs Legislation Committee, *Annual reports (No. 2 of 2012)*, August 2014, p. 2.

7 *Screenrights Annual Report 2013–14*, pp 8–15.

8 *Screenrights Annual Report 2013–14*, pp 6–7.

9 *Screenrights Annual Report 2013–14*, p. 17.

10 *Screenrights Annual Report 2013–14*, pp 20–21.

11 *Screenrights Annual Report 2013–14*, p. 30.

12 *Screenrights Annual Report 2013–14*, pp 30–51.

13 *Screenrights Annual Report 2013–14*, pp 8–9.

14 *Screenrights Annual Report 2013–14*, p.8.

in 2013–14 was 14.9 per cent of collections, slightly higher than the 14.2 per cent achieved in 2012–13.¹⁵ The company distributed \$36.23 million to its members, a decrease compared to the \$40.54 million distributed in 2012–13.¹⁶

1.12 In the report's review and results of operations, Screenrights reported a net operating profit after income tax for 2013–14 as \$0.00; a significant reduction compared to the \$927 712 profit reported in 2012–13.¹⁷

1.13 The Chairman reported that in 2013–14, Screenrights upgraded its EnHance TV Direct online streaming service to education institutions across the country. In addition, a new disbursement service was initiated to assist filmmakers with the administrative burden of accessing their payments.¹⁸ The Chairman also commented on the Australian Law Reform Commission's *Copyright and the Digital Economy* report, and welcomed the recommendation that Screenrights remains a statutory authority. However, the Chairman wrote that Screenrights opposes the introduction of a 'broad fair use regime [as it] would significantly erode the capacity of [Screenrights'] creators to license their work, and create an environment of commercial uncertainty'.¹⁹

1.14 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

1.15 The High Court of Australia's (the High Court/the court) annual report for 2013–14 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.²⁰ Therefore, the Requirements for Annual Reports do not apply to the High Court's annual report.

1.16 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).²¹

15 *Screenrights Annual Report 2013–14*, p. 11.

16 *Screenrights Annual Report 2013–14*, p. 12.

17 *Screenrights Annual Report 2013–14*, p. 21.

18 *Screenrights Annual Report 2013–14*, p. 4.

19 *Screenrights Annual Report 2013–14*, p. 4.

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

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

1.17 The annual report of the High Court of Australia was tabled in both the House of Representatives and the Senate on 24 November 2014, and complies with the High Court's own reporting requirements.

1.18 For the reporting period 2013–14, the High Court received \$16.455 million in revenue from appropriations and its operating expenses for the year totalled \$25.432 million. Overall, the High Court reported a deficit of \$8.977 million that was a result of the changes in asset values.²² Unfunded depreciation totalled \$4.661 million and a write down of assets totalled \$4.335 million; this expenditure was included in the High Court's operating expenses. However, the High Court's underlying operating result, with depreciation and write down assets removed, was a surplus of \$0.021 million.²³ This surplus is less than the previous year's surplus of \$0.108 million.²⁴

1.19 The High Court in 2013–14 had 80 000 people visit and of that total, 35 000 visitors were school pupils that received guided tours,²⁵ comprising of over 700 school groups.²⁶ The High Court's website remains popular, with 158 323 hits to the cases index page alone in the 2013–14 period²⁷ and there are over 23 000 subscribers to the court's subscription service.²⁸

1.20 In October 2013, the High Court made available on its website public access to audio-visual recordings of Full Court hearings heard in Canberra. This initiative is a first for the Australian court system and has proven popular, with over 30 000 hits between October 2013 and June 2014.²⁹

1.21 The overall judicial workload of the High Court increased slightly in 2013–14, compared to the previous year but was far below that of 2011–12. Table 1.1 provides the exact figures for the past three years.

Table 1.1:

22 *High Court of Australia Annual Report 2013–14*, p. 17.

23 *High Court of Australia Annual Report 2013–14*, p. 18.

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

25 *High Court of Australia Annual Report 2013–14*, p. 15.

26 *High Court of Australia Annual Report 2013–14*, p. 19.

27 *High Court of Australia Annual Report 2013–14*, p. 18.

28 *High Court of Australia Annual Report 2013–14*, p. 44.

29 *High Court of Australia Annual Report 2013–14*, p. 18.

	2013–14 ³⁰	2012–13 ³¹	2011–12 ³²
Cases filed	630	618	728
Civil and criminal appeals decided by Full Court:			
- within six months	96 per cent	78 per cent	53 per cent
- within three months	80 per cent	36 per cent	29 per cent
Percentage of special leave applications filed by self-representative litigants	40 per cent	44 per cent	41 per cent
Percentage of civil special leave applications involving immigration matters	28 per cent	24 per cent	30 per cent
Percentage of applications for leave or special leave to appeal decided by the court were determined on the papers	47 per cent	53 per cent	49 per cent

1.22 In 2013–14, the majority of cases were filed in the Sydney registry office (52 per cent of cases), followed by the offices in Melbourne (27 per cent of cases) and Canberra (21 per cent). The Melbourne and Canberra offices processed cases filed in other interstate cities as well as those filed in these respective cities.³³

1.23 Similar to previous Reports on Annual Reports, the committee again recommends that the High Court clarifies the court's outcome - to interpret and uphold the Australian Constitution and perform the functions of the ultimate appellate court in Australia - earlier in its annual report. This statement is currently placed near the end of the report in the 'Notes to and forming part of the Financial Statements'.³⁴ This was also the case in the 2012–13 and 2011–12 annual reports.

1.24 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:

30 *High Court of Australia Annual Report 2013–14*, pp 17 & 31.

31 *High Court of Australia Annual Report 2012–13*, pp 13 & 30

32 *High Court of Australia Annual Report 2011–12*, pp 14 & 28.

33 *High Court of Australia Annual Report 2013–14*, p. 31.

34 *High Court of Australia Annual Report 2013–14*, p. 58.

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.³⁵

1.25 Aside from the concern raised above, the committee again reiterates that 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.

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

Australian Government Solicitor

1.27 The report of the Australian Government Solicitor (AGS) was presented to the Senate out of sitting 10 November 2014, tabled in the Senate on 17 November 2014 and in the House of Representatives on 24 November 2014. The report was not presented to the minister by the deadline of 15 October. The committee notes the late presentation of the report; however it was available for the committee for Supplementary Budget Estimates 2014–15 due to the rescheduling of the Attorney-General's portfolio's hearing.

1.28 The AGS is a statutory authority and a government business enterprise (GBE). The AGS's legislative framework is provided in Part VIII B of the *Judiciary Act 1903* and it is subject to the reporting and accountability requirements of the *Commonwealth Authorities and Companies Act 1997*³⁶ (CAC Act). Its mandate is to support the 'Attorney-General in the role of First Law Officer of the Commonwealth [and] operate efficiently as a government business enterprise and add shareholder value'.³⁷ The AGS assists the Attorney-General, provides advice to executive government and Commonwealth agencies, and works with the Solicitor-General and the Attorney-General's Department's Office of Constitutional Law on constitutional cases in the High Court of Australia.³⁸

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

36 As of 1 July 2015 the CAC Act was replaced by the *Public Governance, Performance and Accountability Act 2013*.

37 *Australian Government Solicitor Annual Report 2013–14*, p. 7.

38 *Australian Government Solicitor Annual Report 2013–14*, p. 6.

1.29 On 28 May 2015, the *Judiciary Amendment Act 2015* was passed by both Houses. This amendment to the *Judiciary Act 1903* will consolidate AGS into the Attorney-General's Department and repeals AGS's role as a statutory corporation.³⁹

1.30 The Chief Executive Officer's review outlined the work of the AGS in 2013–14 that included assisting with Operation Sovereign Borders, the proposed paid parental leave scheme, an audit of the National Broadband Network process, the privatisation of Medibank, royal commissions and the Farm Finance Concessional Loans Scheme.⁴⁰

1.31 The CEO announced a legal trading profit of \$4.2 million in 2013–14, exceeding the corporate plan's forecasted profit by \$3.2 million and \$80 000 more than last year's profit result. The AGS managed to save on overhead expenses, excluding staff costs, and was under budget by \$2.7 million, achieving a return on equity of 10.5 per cent, higher than last year's figure of 8.9 per cent.⁴¹

1.32 Additionally, the review stated that the demand for the AGS's services had increased in 2013–14. Demand for services increased by 16 per cent on the previous year, with more than 8 500 matters being opened.⁴²

1.33 Other significant work, not detailed in the CEO's review, included advice the AGS provided in the lead up to the 2013 federal election and subsequent changes to the machinery-of-government,⁴³ and the advice provided to the Australian Electoral Commission regarding the election void after the loss of ballot papers in the Western Australian Senate election.⁴⁴ The AGS also provided advice on international law issues, such as tobacco plain packaging litigation brought by Philip Morris Asia Limited, and a number of commissions, inquests and tribunals, such as the Royal Commission into Institutional Responses to Child Sexual Abuse.⁴⁵

1.34 The annual report provided an overview of AGS operations as a GBE. In the 15 years since becoming a GBE, the AGS has made profits of \$164 million and made payments of \$245 million to the Commonwealth.⁴⁶ In addition to the key financial outcomes already outlined, the AGS achieved the following results in 2013–14:

- trading revenue of \$111.3 million;
- profit including interest was \$5.7 million (114% above corporate plan target);

39 Moira Coombs, 'Judiciary Amendment Bill 2015', Bills Digest No. 105, 2014–15, 13 May 2015, p. 3.

40 *Australian Government Solicitor Annual Report 2013–14*, p. 3.

41 *Australian Government Solicitor Annual Report 2013–14*, p. 3.

42 *Australian Government Solicitor Annual Report 2013–14*, p. 3.

43 *Australian Government Solicitor Annual Report 2013–14*, p. 8.

44 *Australian Government Solicitor Annual Report 2013–14*, p. 9.

45 *Australian Government Solicitor Annual Report 2013–14*, pp 10–12.

46 *Australian Government Solicitor Annual Report 2013–14*, p. 18.

- total shareholder return 10.1 per cent; and
- paid and declared dividends of \$6.6 million.⁴⁷

1.35 The performance measures for 2013–14 are detailed in a 'scorecard' index with three codes: good or better performance or trends, satisfactory performance or trends, and unsatisfactory performance or trends. The AGS scored itself 'good or better performance or trends' in all five performance measures (financial performance, business efficiency, leverage/solvency, customers and stakeholders, and staff).⁴⁸

1.36 Although it is apparent that the AGS has had excellent results over the period of 2013–14, the committee believes the report lacks clarity on its financial performance figures due to the exclusion of benchmark figures referenced in the AGS's corporate plan. The committee suggests including a comparison to the previous year's performance results would assist the reader to comprehend the AGS's progress.

1.37 Overall, the report is well presented and provides excellent details on the AGS activities over the year. The committee considers the annual report of the AGS to be 'apparently satisfactory'.

47 *Australian Government Solicitor Annual Report 2013–14*, p 19.

48 *Australian Government Solicitor Annual Report 2013–14*, p 19.