

# Chapter 3

## Committee view

### Committee View

3.1 The committee notes that the objectives pursued by the Bill are fundamental to the government's core policy objectives of realising Budget savings, and creating smaller and more efficient government.

3.2 The committee has carefully considered the concerns raised by the AHRC in relation to the proposed arrangements for the Australian Privacy Commissioner. The committee recognises the need expressed by the AHRC to ensure that it is able to meet appropriate standards of governance, accountability and practicality in relation to the management of its finances and staff. The committee also acknowledges the perspective of the Privacy Commissioner on the particular requirements of that role, and his preference for maintaining the independence of the office.

3.3 The committee notes the advice provided by the Attorney-General's Department that the type of arrangement proposed for the Australian Privacy Commissioner is not unprecedented, and that the department is satisfied that it will not compromise the ability of the AHRC President to comply with her legislative responsibilities.

3.4 The committee takes the view that the amendment to the Bill proposed by the AHRC is warranted, in as much as it is a relatively small change but one which would give comfort to the AHRC, and may assist all involved, in ensuring that lines of governance and accountability are clear and workable.

### Recommendation 1

**3.5 The committee recommends that item 3 of Schedule 2 of the Bill be amended to provide, under the proposed new section 43A(3) of the *Australian Human Rights Commission Act 1986*, that a member of staff of the AHRC made available to the Australian Privacy Commissioner is subject to the directions of the Commissioner 'in compliance with the Commissioner's statutory functions'.**

3.6 The committee further acknowledges concerns raised that because the Bill has been developed quickly to implement a Budget measure, it has pre-empted the government's response to the Hawke Review, and limited the consultation process that may otherwise precede such reform.

3.7 The committee believes that, notwithstanding the changes made by the Bill, there remains a case for a broader review of FOI as recommended in the Hawke Review and by many submitters. As the government itself has noted, the Bill reforms the review and administrative machinery for FOI but does not seek to change other substantive elements of the regime. A full review would allow for the broad consultation that was not possible within the timeframe of this Bill, and for holistic consideration of the effectiveness of the FOI regime and the related information policy and activities of government.

**Recommendation 2**

**3.8 The committee recommends that the government as soon as possible respond to the Hawke Review, and conduct a consultation process as recommended in the Hawke Review.**

3.9 In the meantime, the committee considers that the Bill implements a sensible structural efficiency measure which does not detract from the broader integrity of the FOI regime. The government has made clear that the substantive rights of citizens under FOI are not being weakened by the changes made by the Bill. In fact, they will be enhanced by a more streamlined review process.

**Recommendation 3**

**3.10 The committee recommends that, subject to Recommendations 1 and 2, the Bill be passed.**

**Senator the Hon Ian Macdonald  
Chair**