

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: Australian Law Reform Commission

Question No. SBE16/087

Senator Carr asked the following question at the hearing on 18 October 2016:

1. Regarding the Productivity Commission's inquiry into Australia's intellectual property arrangements:
 - a. What contribution did the Department and the ALRC make to this inquiry? Please provide a detailed account of any input.
 - b. What media and entertainment law input did the Department seek regarding this inquiry? Please provide a detailed account of any input sought and provided.
2. Regarding the Productivity Commission's proposal for a significant transformation of Australia's copyright framework in its draft report, released on 29 April 2016:
 - a. Has the Department or the ALRC conducted any analysis of the potential legal consequences of the implementation of this proposal? Please provide a detailed account of any analysis.
3. Regarding the Government's response on 24 November 2015 to the Competition Policy Review (the Harper Review), that it would remove restrictions on the parallel importation of books:
 - a. Did the Department or the ALRC make any contribution to this response? Please provide a detailed account of any input.
 - b. Has the Department or the ALRC conducted any analysis of the potential legal consequences of the implementation of this proposal? Please provide a detailed account of any analysis.
4. Regarding the Australian Law Reform Commission's report Copyright and Digital Economy:
 - a. What inter-departmental consultation took place in the course of this inquiry? Please provide a detailed account of any input.
 - b. When did the Government receive the ALRC report?
 - c. When did the Government commission Ernst & Young to conduct a cost benefit analysis of the ALRC's recommendations?
 - d. Why was this cost-benefit analysis commissioned?
 - e. Has the Ernst & Young analysis been provided to Government?
 - f. What inter-departmental consultation took place in the course of this cost-benefit analysis? Please provide a detailed account of any input.
 - g. What are the results of this analysis?
 - h. When will the Ernst & Young analysis be made public?
 - i. Was the Solicitor-General consulted at any time on any aspect of the ALRC review?

The answer to the honourable senator's question is as follows:

- a. The ALRC did not make a submission to this Inquiry.

The Department did not make a submission to this Inquiry. However, the Department hosted a discussion with officers of the Productivity Commission on 23 September 2015 to discuss copyright issues.

- b. The Department sought no media and entertainment law input regarding this inquiry, although it informally gave general information about the inquiry to interested copyright stakeholders.
- 2.
- a. The ALRC has not conducted any analysis of the potential legal consequences of the implementation of this proposal beyond the work that the ALRC undertook during its 2012 Copyright in the Digital Age Inquiry.
- As a result of changes to the Administrative Arrangement Orders on 21 September 2015, responsibility for copyright now sits with the Department of Communications and the Arts.
- 3.
- a. The ALRC did not make any contribution to this response.
- The Department's input to the Australian Government's response to the Competition Policy Review is Cabinet-in-Confidence.
- b. The ALRC has not conducted any analysis of the potential legal consequences of the implementation of this proposal.
- As a result of changes to the Administrative Arrangements Orders on 21 September 2015, responsibility for copyright now sits with the Department of Communications and the Arts.
- 4.
- a. The ALRC consulted with the following departments and agencies:
- Australian Government Attorney-General's Department, Business Law Branch, Canberra 14 June 2012 & 6 September 2013
 - Department of Broadband, Communications and the Digital Economy, Canberra 5 November 2012 & 6 September 2013
 - Department of Science, Information Technology, Innovation and the Arts (Qld), Sydney 13 September 2013
 - Australian Broadcasting Corporation, Sydney, 19 February 2013
 - Australian Competition and Consumer Commission, Melbourne 1 November 2012 & July 2013
 - Australian Digital Alliance; Australian Libraries Copyright Committee; Australian Library and Information Association, Canberra 15 June 2012
 - Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra 8 August 2013
 - Australian Parliamentary Library, Sydney 20 September 2013
 - Australian War Memorial 6 September 2013
 - National Archives of Australia, Canberra, 5 November 2012
- b. The ALRC provided its report to the Government on 29 November 2013.
- c. The Department commissioned the Ernst & Young (EY) cost benefit analysis under a contract that was executed by both parties on 17 July 2015.
- d. The EY cost benefit analysis was commissioned to provide a more detailed economic analysis of the ALRC's recommendations.
- e. Yes
- f. The Department did not undertake any formal interdepartmental consultation in the course of the EY cost benefit analysis. The Department made some interested agencies generally

aware of the EY cost benefit analysis project. EY consulted three government stakeholders: the Department of Education, the Ministry for the Arts (part of the Department until 21 September 2015 and subsequently part of the Department of Communications and the Arts) and the Australian Competition and Consumer Commission.

- g. The EY cost benefit analysis has not been made public.
- h. A decision to publish the EY cost benefit analysis is a matter for the Government.
- i. The ALRC did not did not consult the Solicitor-General on any aspect of its own report. The Department did not consult the Solicitor-General about the ALRC review.