

## **CHAPTER 2**

### **ANNUAL REPORTS OF NON STATUTORY AUTHORITIES**

2.1 The following reports of non statutory bodies for the financial year 2004-2005 were referred to the committee for examination and report:

- Audio-Visual Copyright Society Limited (Screenrights);
- Copyright Agency Limited; and
- Migration Agents Registration Authority.

#### **Audio-Visual Copyright Society Limited (Screenrights)**

2.2 Screenrights reported that total collections (including interest) from the three income-generating licensing services, the Australian Educational Service, the New Zealand Educational Service and the International Collections Service, amounted to \$21.42 million for the 2004-2005 financial year. This was an increase of 9.11% on the \$19.6 million reported in the 2003-2004 financial year.<sup>1</sup>

2.3 Screenrights also declared the distribution to its members of \$17.41 million of the revenue pool, which was an increase of 7.47% on the \$16.2 million declared for distribution in the 2003-2004 financial year.<sup>2</sup> There were also 'excellent results in distributing the pools from previous years within the six year statutory distribution period'. For example, more than 98.7% of the 1999 educational royalties were paid to members before the 30 June 2005 expiration date, leaving only 1.3% of this money to roll over into the next year's distribution pool.<sup>3</sup>

2.4 However, while revenue increased during the reporting period, there were losses in 2005 of \$543,807 and in 2004 of \$742,344. Expenses increased, with the expenses to collections ratio for the reporting period reaching 21.9%. Screenrights advised that this increase could largely be attributed to the substantial legal costs associated with making an application to the Copyright Tribunal for the determination of a royalty rate to be paid by pay television operators for the retransmission of free-to-air broadcasting.<sup>4</sup> The committee notes that the royalty, once determined, will provide a new revenue source for members of Screenrights.

2.5 The expenditure of \$1.2 million on the retransmission case in the reporting period has been incurred on behalf of members in Screenrights' role as the declared

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1 *Annual Report 2004-2005*, p. 17.

2 *Annual Report 2004-2005*, p. 11.

3 *Annual Report 2004-2005*, p. 15.

4 *Annual Report 2004-2005*, p. 15.

society for Part VC of the Copyright Act. The expenses were budgeted for and have been fully funded. Screenrights advised that it 'continues to generate significant positive cash flows' and the Directors believe that it remains in a position to pay all debts as they fall due and payable'.<sup>5</sup>

2.6 During the reporting period, important progress was made in relation to the development of a licence for government copying. Screenrights advised that it attained in-principal agreement with the Federal Government for the surveying of copying in government departments and for the remuneration of such copying. In addition, an agreement is in place with the state governments for an interim survey of copying over the next 12 months.<sup>6</sup>

2.7 Screenrights also reported a new agreement with the Australian Vice-Chancellors' Committee (AVCC) entered during the reporting period. The agreement provides that the 38 AVCC universities can continue to copy from radio and television and communicate these copies, which will ensure members' income from this sector for the next five years.<sup>7</sup>

2.8 The committee finds the annual report of the Audio-Visual Copyright society Limited (Screenrights) to be 'apparently satisfactory'.

### **Copyright Agency Limited (CAL)**

2.9 CAL's total revenue for the reporting period was \$86.2 million, an increase of 19.3% over the 2003-2004 financial year result of \$72.3 million. Licensing revenue, which provides the bulk of CAL's income, increased more than 15% to \$76.7 million.<sup>8</sup> CAL's running costs were kept to less than 15% of total revenue which has resulted in 85.8% of total revenue being available for distribution to CAL members in 2004-2005. This was an improvement from 84.7% in 2003-2004.<sup>9</sup>

2.10 CAL also advised that declared distributions improved more than 23% from 2003-2004, 'hitting a record high of \$56.1m' and 'contrasting sharply with [CAL's] first distribution in 1989 of \$1.1m'.<sup>10</sup> More than 91% of the available distribution was allocated to CAL members and at 30 June 2005 more than \$49.3 million in actual payments were made to members.<sup>11</sup>

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5 *Annual Report 2004-2005*, p. 15.

6 *Annual Report 2004-2005*, p. 16.

7 *Annual Report 2004-2005*, p. 16.

8 *Annual Report 2004-2005*, p. 6.

9 *Annual Report 2004-2005*, p. 10.

10 *Annual Report 2004-2005*, p. 6.

11 *Annual Report 2004-2005*, p. 6.

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2.11 CAL reported a growing scale and complexity in the data it collects from its clients about copying and digital communication. It also advised that it is implementing systems and processes to deal with diversity in terms of rates per page or use, material copied and type of copying. During the reporting period, it made the first payments at different rates for copying in schools which were set down by the Copyright Tribunal in 2002. This means that CAL members 'now benefit from the higher rates for the copying of different types of works, including stand-alone artistic work, poetry, short stories and plays'.<sup>12</sup>

2.12 Some highlights for the 2004-2005 financial year included the first payment distributions (almost \$5 million) to CAL members under an Electronic Use System to capture the electronic use of copyright works across various sectors, and a successful partnership with TAFE Open Learning Institute to trial digital delivery of course materials to students.<sup>13</sup>

2.13 CAL also reported success in negotiating licensing agreements with users of copyright materials in a number of sectors. It advised that commercial licensing opportunities for its members will be an important focus in the future; that is, 'developing customised licences that will accurately reflect the usage of copyright materials within various corporate clients'.<sup>14</sup>

2.14 The committee considers the annual report of the Copyright Agency Limited to be 'apparently satisfactory'.

### **Migration Agents Registration Authority (MARA)**

2.15 MARA reported that the number of migration agents has stabilised after several years of increases. This was despite a drop of 4% over the course of the reporting period.<sup>15</sup> MARA refused 30 applications for registration in this period and took strong sanctions against registered migration agents who engaged in unprofessional conduct. During the reporting period, seven migration agents were cautioned, 12 had their registration suspended, 12 had their registration cancelled, and six were barred from returning to the profession. MARA noted that the majority of its decisions are being upheld on appeal to the Administrative Appeals Tribunal, which reflects the quality of decisions made.<sup>16</sup>

2.16 A key highlight of the 2004-2005 year was the upgrade of MARA's web-based processes and information for migration agents, providers and the general public. This new functionality allows an agent to log in and update online their contact

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12 *Annual Report 2004-2005*, p. 7.

13 *Annual Report 2004-2005*, p. 7.

14 *Annual Report 2004-2005*, p. 7.

15 *Annual Report 2004-2005*, p. 10.

16 *Annual Report 2004-2005*, pp 9-11.

and business details appearing on the Register, view records of completed Continuing Professional Development (CPD) activities and access an electronic version of their personalised application form. Some of the other achievements recorded by MARA over the reporting period included:

- movement towards a suitable tertiary course for entry to the profession to be implemented from July 2006;
- a review of consumer access to MARA's Sydney office and telephone assistance services;
- a review of the complaint resolution processes; and
- improving the CPD framework by implementing mandatory CPD activities.<sup>17</sup>

2.17 MARA also noted that, with effect from 1 July 2005, the Migration Agents Regulations 1998 will be amended to, amongst other things, prescribe professional indemnity insurance for all migration agents, and remove the requirement that Australian permanent residents be 'usually resident' in Australia to allow holders of Australian permanent visas, who primarily reside overseas, to register as migration agents.<sup>18</sup>

2.18 The committee finds the annual report of the Migration Agents Registration Authority to be 'apparently satisfactory'.

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17 *Annual Report 2004-2005*, p. 11.

18 *Annual Report 2004-2005*, p. 12.