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Legal and Constitutional
Legislation Committee

Annual reports (No. 2 of 2006)

September 2006

Commonwealth of Australia 2006

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PREFACE

Terms of reference

On 1 May 1996, a resolution of the Senate allocated the following portfolios to the Legal and Constitutional Legislation Committee:

- Attorney-General's portfolio; and
- Immigration and Multicultural and Indigenous Affairs portfolio.

This report was prepared pursuant to Standing Order 25(21) relating to the consideration of annual reports by legislation committees. The Standing Order states:

Annual reports of departments and agencies shall stand referred to the legislation committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:

- (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory;
- (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration;
- (c) Investigate and report to the Senate on any lateness in the presentation of annual reports;
- (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate;
- (e) If the Committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates;
- (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year;
- (g) Draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

Role of annual reports

Annual reports place a great deal of information about government departments and agencies on the public record. Accordingly, the tabling of annual reports is an important element of accountability to Parliament, as the information provided in annual reports assists in the effective examination of the performance of departments and agencies and the administration of government programs.

Timing of presentation of reports on annual reports

Standing Order 25(21)(f) requires that legislation committees report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.

Under the guidelines issued by the Department of Prime Minister and Cabinet, the annual reports of departments and executive and prescribed agencies must be tabled by 31 October. If a department is unable to meet this deadline, the secretary is to advise the responsible Minister of the reasons for the delay, the expected tabling date and what action is proposed so that the deadline will be met for the following year's annual report. The responsible Minister is to table this explanation in the Parliament on the next available sitting day.¹ It is government policy that all annual reports should be tabled by 31 October.²

Guidelines for the annual reports of statutory bodies are set out in the *Commonwealth Authorities and Companies Orders 1998* (tabled 10 November 1998).

Guidelines for the annual reports of non-statutory bodies are set out in the Government Response to recommendations of the then Senate Standing Committee on Finance and Government Operations in its report entitled, *Reporting Requirements for the Annual Reports of Non-Statutory Bodies*. The response was incorporated into the Senate Hansard of 8 December 1987.³

'Apparently satisfactory'

Under the terms of Standing Order 25(21)(a), the committee is required to report to the Senate whether reports are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as compliance with relevant reporting guidelines.

¹ Department of the Prime Minister and Cabinet, *Requirements for Departmental Annual Reports*, Canberra, June 2003.

² Department of the Prime Minister and Cabinet, *Requirements for Departmental Annual Reports*, Canberra, June 2003, p. 2.

³ *Official Senate Hansard*, 8 December 1987, pp 2643-45.

Timeliness

Under standing order 25(21)(c), the committee must also report to the Senate on any lateness in the presentation of annual reports. A table listing the Annual Reports referred to the committee and their tabling dates can be found at Appendix 1.

It appears that the annual reports of a number of agencies were not tabled in, or presented to, the Senate by the required statutory deadline.

Conclusion

The committee examined all of the annual reports submitted by 30 April 2006 and found them to be of a satisfactory standard, adequately describing the functions, activities and financial positions of the various agencies. The committee therefore finds all submitted annual reports to be 'apparently satisfactory'.

CHAPTER 1

ANNUAL REPORTS OF STATUTORY AUTHORITIES

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

- Aboriginal Land Commissioner;
- Aboriginal Legal Rights Movement Inc;
- Administrative Appeals Tribunal;
- Administrative Review Council;
- Anindilyakwa Land Council;
- Australian Crime Commission;
- Australian Customs Service;
- Australian Government Solicitor;
- Australian Institute of Criminology and the Criminology Research Council;
- Australian Law Reform Commission;
- Australian Security Intelligence Organisation;
- Australian Transaction Reports Analysis Centre (AUSTRAC);
- Carpentaria Land Council Aboriginal Corporation;
- Central Land Council;
- Central Queensland Land Council Aboriginal Corporation;
- Commonwealth Ombudsman;
- CrimTrac Agency;
- Federal Court of Australia;
- Federal Magistrates Court of Australia;
- High Court of Australia;
- Human Rights and Equal Opportunity Commission;
- National Native Title Tribunal;
- North Queensland Land Council Native Title Representative Body Aboriginal Corporation;
- Northern Land Council;
- Office of Film and Literature Classification – Classification Board and Classification Review Board;
- Tiwi Land Council; and

- Torres Strait Regional Authority.

1.2 In this report, the committee has chosen to examine in greater detail the annual reports of the following agencies: the Australian Customs Service (ACS); the Australian Security Intelligence Organisation (ASIO); the Australian Law Reform Commission (ALRC); the National Native Title Tribunal (NNTT); the North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC); and the Northern Land Council (NLC).

Australian Customs Service (ACS)

1.3 The ACS advised that its operational expenditure in 2004-2005 was \$925.1 million and its capital expenditure was \$63.4 million.

1.4 The ACS also reported duties collection of over \$5 billion in 2004-2005 (over \$5 billion in 2003-2004). Further, the ACS administered \$1,366 million of government concessions, including \$548 million under the Tariff Concession Scheme (\$479 million in 2003-2004) and \$121 million in duty drawbacks to industry (\$106 million in 2003-2004).¹

1.5 During the reporting period, the ACS seized 194kg of cocaine (compared to 131kg in 2003-2004), 2,375kg of MDMA (ecstasy) (873 kg in 2003-2004), 151kg of amphetamine-type stimulants (6kg in 2003-2004), 177kg of heroin (62kg in 2003-2004), and 5kg of cannabis (709kg in 2003-2004).²

1.6 A number of new technology projects were funded in 2004-2005 with the aim of enhancing maritime and aviation security. These included:

- \$20.5 million over four years for the purchase of new technology for biological and chemical agent screening;
- \$13.2 million over four years for the purchase and installation of new mail screening technology in Sydney and Melbourne;
- \$22.4 million over four years to extend the waterfront closed circuit television network system from the current 32 proclaimed ports to all 62 proclaimed ports; and
- \$8.4 million over two years for the field trial of new neutron scanning technology for air cargo containers.³

1.7 The ACS also reported that its Cargo Management Reengineering (CMR) project, including the development of an Integrated Cargo System (ICS), achieved major milestones during the reporting period. The highlight was the implementation of

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

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

3 *Annual Report 2004-2005*, p. 36.

the CMR exports component which was initially made available on 1 August 2004 for entry of client information and then on 22 September for export messages relating to cargo being exported after 2am on 6 October.⁴

1.8 Development of the imports component of the CMR application suite was completed in the latter part of 2004. The ACS advised that functionality was made available to industry and software developers from 1 November 2004, which enabled the testing of both Customs and industry systems and business processes. The deployment of the ICS imports cargo system in late 2005 and 'bedding in of related business processes' was seen as a challenge for the 2005-2006 period.⁵

1.9 The ACS reported that it has received a number of complaints concerning its approach to the recovery of duty following the decision by the High Court in *Malika Holdings Pty Ltd v Stretton*. Complainants have argued that recovery action should be limited to 12 months, however, the ACS advised that its approach, supported by independent advice and legal counsel, is to recover duty for periods of up to four years. The annual report noted that the Full Federal Court supported this approach in 2004 in the decision of *Parks Holdings trading as Gladstone v CEO of Customs*.⁶

1.10 The committee considers the annual report of the ACS to be 'apparently satisfactory'.

Australian Security Intelligence Organisation (ASIO)

1.11 ASIO reported that, in light of the 11 September 2001 terrorist attacks, its funding had increased from \$62.935 million in 2000-2001 to \$142.852 million in 2004-2005. This additional funding has allowed ASIO to grow from 584 staff at 30 June 2001 to 955 at 30 June 2005, with funding committed that will see staff numbers grow to around 1150 in 2005-2006.⁷

1.12 Some of the key highlights reported by ASIO in 2004-2005 were:

- expansion of ASIO's international liaison network with the posting of additional officers overseas and establishing liaison with additional security, intelligence and law enforcement agencies, taking the total to 266 agencies in 112 countries;
- increased cooperation with regional partners, including the laying of groundwork for a joint counter-terrorism training program to build counter-terrorism capabilities in South-East Asia and the Pacific; and

4 *Annual Report 2004-2005*, p. 76.

5 *Annual Report 2004-2005*, p. 80.

6 *Annual Report 2004-2005*, pp 83-84.

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

- extension of training and development opportunities with a specific emphasis on leadership, investigative and analytical skills, language and cross-cultural training, as well as administrative and information technology training.⁸

1.13 ASIO advised of several relevant legislative amendments passed over the reporting period. The ASIO Act was twice amended during 2004-2005: first, by the passing of the *Anti-terrorism Act (No. 3) 2004*; and, second, by the *Australian Security Intelligence Organisation Amendment Act 2004*. Other legislative changes relevant to ASIO were the *National Security Information (Criminal Proceedings) Act 2004*, the *National Security Information (Criminal Proceedings) Amendment (Application) Act 2005* and the *Telecommunications (Interception) Amendment (Stored Communications) Act 2004*. According to the annual report, these amendments combined to, amongst other things, further refine Australia's counter-terrorism legal framework, put measures in place to protect classified information in legal proceedings, and streamline the provisions for intercepting stored communications.⁹

1.14 The committee notes the departure on 27 May 2005 of Mr Dennis Richardson as Director-General of ASIO to take up the position of Australia's ambassador to Washington. The committee would like to take the opportunity to acknowledge Mr Richardson's significant contribution to ASIO over eight and a half years, particularly in more recent times where immense challenges have arisen in the security environment.

1.15 The committee finds the annual report of ASIO to be 'apparently satisfactory'.

Australian Law Reform Commission (ALRC)

1.16 The committee congratulates the ALRC on reaching its 30th anniversary in 2005. A one-day symposium, *The Promise of Law Reform*, and a gala dinner were held in Sydney on 9 June 2005 in celebration of this milestone. The committee also notes that the ALRC produced a short documentary-style DVD, entitled *30 Years of Reform: The Movie*, and a book entitled *The Promise of Law Reform*, to mark the 30th anniversary.¹⁰

1.17 The ALRC advised that its final report in relation to the inquiry into Gene Patenting and Human Health, entitled *Genes and Ingenuity: Gene Patenting and Human Health*, was tabled in Parliament and publicly released on 31 August 2004.¹¹

1.18 The ALRC also began two new inquiries in the reporting period: a review of the *Evidence Act 1995*; and a review of Part 1B of the *Crimes Act 1914* dealing with

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

9 *Annual Report 2004-2005*, pp 4 & 36-37.

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

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

the sentencing of federal offenders.¹² The Evidence inquiry was a collaborative project between the ALRC, the New South Wales Law Reform Commission and the Victorian Law Commission. In addition, ongoing relationships were established with the Tasmania Law Reform Institute, the Queensland Law Reform Commission, the Northern Territory Law Reform Committee and the Law Reform Commission of Western Australia which enabled research, submission and consultation notes to be shared between all these organisations. The Federal Offenders inquiry also involved the development of a collaborative relationship between the ALRC and the Australian Institute of Criminology.¹³

1.19 The ALRC advised that it continued to take a lead role in the establishment of the new Commonwealth Association of Law Reform Agencies (CALRAs). A meeting of the CALRAs Executive was held in South Africa in March 2005. The ALRC President, Professor David Weisbrot, who is the CALRAs Vice-President, attended the meeting, which was timed to coincide with the inaugural conference of the Association of Law Reform Agencies for Eastern and Southern Africa. The first face-to-face meeting of CALRA's members, to take place in conjunction with the Commonwealth Law Conference, was scheduled to be held in London on 11 September 2005.¹⁴

1.20 The committee also notes the valuable contribution of Professor Anne Finlay – whose three-year term expired on 11 November 2004 – to the work of the ALRC. Professor Finlay co-led the ALRC's inquiry into Gene Patenting and Human Health and was Commissioner in charge of the ALRC's Evidence inquiry.¹⁵

1.21 The committee considers the annual report of the ALRC to be 'apparently satisfactory'.

National Native Title Tribunal (NNTT)

1.22 The NNTT reported some significant changes to native title law during the reporting period. For example, major changes were made by the legislation which abolished the Aboriginal and Torres Strait Islander Commission (ATSIC). The NNTT advised that the 'main difference for the native title system flowing from the new arrangements is likely to be the absence of an indigenous body to take on the advocacy role previously performed by ATSIC in relation to native title policy and practice'.¹⁶

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

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

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

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

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

1.23 The NNTT advised that, at 30 June 2005, there were 584 claimant applications at some stage between lodgement and resolution. This total was slightly lower than the 615 active claimant applications as at 30 June 2004. In the reporting period, 65 claimant applications were discontinued, dismissed, withdrawn, struck-out, combined with other applications, or were the subject of approved native title determinations, and 32 new claimant applications were lodged.¹⁷

1.24 During the reporting period, the NNTT completed a review of the outputs by which it reports its performance in order to capture more accurately the complexity of changes in workload and the nature of the work influenced by these external factors. The NNTT started the 2005-2006 financial year with a new outcome statement and a revised outputs structure that more clearly reflects its purpose and its changed operating environment:

The new outcome statement, 'Resolution of native title issues over land and waters', better identifies the role and responsibilities of the [NNTT] than the previous outcome statement 'Recognition and protection of native title'.¹⁸

1.25 In his overview, the President of the NNTT predicted some key trends in native title law and practice and the factors that will affect how native title issues are resolved in the future:

- the law in relation to native title will become clearer;
- the volume of native title work will increase;
- agreement-making will become the usual method of resolving native title issues;
- the form and content of agreements will vary from place to place;
- there will be an increased focus on 'second generation' native title issues; and
- the Federal Court will continue to affect, if not drive, native title processes.¹⁹

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

North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC)

1.27 The NQLC advised that it achieved some significant Native Title outcomes for Native Title holders in the Cairns region and has made consistent progress on all Native Title claims represented by the NQLC during the reporting period. This was recognised by Justice Spender at a Federal Court Regional Directions Hearing on 10 May 2005:

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

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

19 *Annual Report 2004-2005*, pp 15-26.

The [NQLC] deserves to be congratulated for its efforts because, of all the Land Councils, it has consistently shown a pro-active approach and the activity across the region from the Land Council has been very satisfying from the perspective of the Federal Court.²⁰

1.28 This success came 'despite the emergence of a number of issues which have or possess the potential to impact negatively on operational performance', including concerns about future administrative arrangements for Native Title Representative Bodies and possible changes to the *Native Title Act 1993*.²¹

1.29 The Chairperson of the NQLC advised also that a growth period in its activities has, amongst other things, placed 'enormous pressure on the organisation to recruit professional staff, allocate appropriate office accommodation for staff requirements and ensure the Governing Committee are given adequate support to carry out our functions'.²²

1.30 The NQLC also reported a 'well coordinated and effective' local working relationship between its officers and those of the NNTT, although some difficulties were experienced in relation to 'the inconsistent application of the registration test by NNTT delegates based in Sydney' which has caused 'delays and unnecessary additional expense'. The NQLC has initiated discussions with the NNTT about concerns it has in relation to the registration test, in particular NNTT delegates' 'attitudes towards the substantiation of native title rights and interests claimed in native title applications and authorisation processes'.²³

1.31 The committee notes the NQLC's advice that it has generally met its performance goals as identified in its approved operational plan across all Output groups and has operated within its budget parameters.

1.32 Some key highlights during the reporting period included:

- the achievement of the Djabugay Barron Gorge Native Title Determination in December 2004 which was the first determination in Queensland over a national park, and the third determination of Native Title in the NQLC's representative region;
- the signing and registration of the Tagalaka/Croydon Shire Indigenous Land Use Agreement;
- the negotiation of exclusive rights with the Queensland Government for the Mamu people (in conjunction with private business interests and Indigenous

20 Federal Court Directions Hearing, NQLC Region, Auscript, p. 7 in NQLC, *Annual Report 2005-2005*, p. 8.

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

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

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

- Business Australia) to design, construct and operate the Mamu Rainforest Canopy Walkway within the Wooroonooran National Park near Innisfail; and
- the conduct of a successful annual Native Title land summit in Atherton in early October 2004.²⁴

1.33 The committee finds the annual report of the NQLC to be 'apparently satisfactory'.

Northern Land Council (NLC)

1.34 The NLC noted that in the reporting period it conducted over 400 remote area consultations in relation to a wide range of policies and proposals.

1.35 Of particular note was the reaching of an historic settlement agreement with the Northern Territory Government over the lease-back and joint management of Northern Territory parks and reserves which will bring benefits to traditional Aboriginal owners. The NLC reported that, given the scale of the negotiations, meeting the statutory deadline set out in the *Parks and Reserves (Framework for the Future) Act 2003* was a significant achievement.²⁵

1.36 The NLC also reported that it successfully completed negotiations between native title holders and the proponents of two new mines: a manganese mine and a new gold mine for the Northern Territory. Both these projects 'are expected to result in significant economic benefits to the traditional owners, both in terms of income and employment'.²⁶

1.37 Despite reporting increased productivity, including an increased number of land use agreements and consistent performance in the acquisition of land for the benefit of Aboriginal people, the NLC revealed that an operational review during the reporting period demonstrated clearly that funding for the NLC has reached a critical point. The annual report suggests that funding for the NLC has not been consistently adjusted to take account of the consumer price index; this means that the shortfall in real funding over the reporting period is over \$100 million.²⁷ Further, the funding shortfall is exacerbated by the lack of growth funding for the NLC.²⁸

1.38 The NLC has estimated that it requires an approximate 30% across-the-board annual funding increase in order 'to maintain growth at the same rate in key outputs

24 *Annual Report 2004-2005*, pp 21-22.

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

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

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

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

such as land use agreements and to appropriately meet the challenge of securing social, cultural and economic benefits flow to traditional owners into the future'.²⁹

1.39 The NLC also welcomed a new Chairman, Mr John Daly, after the retirement of Mr Galarrwuy Yunupingu in October 2004, after more than 20 years as Chairman.³⁰

1.40 The committee considers the annual report of the NLC to be 'apparently satisfactory'.

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

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

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.¹

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.² 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.³

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.⁴ 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

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'.⁵

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.⁶

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.⁷

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.⁸ 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 2003-2004.⁹

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'.¹⁰ 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.¹¹

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.

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'.¹²

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.¹³

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'.¹⁴

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.¹⁵ 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.¹⁶

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

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.¹⁷

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.¹⁸

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

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

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

CHAPTER 3

ANNUAL REPORTS ON THE OPERATION OF ACTS AND PROGRAMS

3.1 Standing Order 25(21) does not provide for consideration of annual reports on the implementation or operation of Acts or programs. The committee is not therefore required to include them in its report on the examination of annual reports. The committee has chosen, on this occasion, only to list them.

- Aboriginal and Torres Strait Islander Social Justice Commissioner: Native Title Report 2005;
- Aboriginal and Torres Strait Islander Social Justice Commissioner: Social Justice Report 2005;
- Commonwealth Ombudsman: Report pursuant to Part 1AB, Division 2A of the *Crimes Act 1914*. (Controlled Operations by the AFP and ACC);
- Customs Act: Customs (Prohibited Exports) Regulations;
- Freedom of Information Act 1982: Annual Report; and
- Office of the Privacy Commissioner: Operation of the Privacy Act – Annual Report.

Senator Marise Payne

Committee Chair

APPENDIX 1

List of Annual Reports Referred

List of annual reports referred by the Senate to the Committee during the period 1 November 2005 to 30 April 2006.

Department/Authority	Submitted to Minister	Received by Minister	Received by Senate	Tabled in Senate
Aboriginal Land Commissioner	23/9/05	23/9/05	—	06/12/05
Aboriginal Legal Rights Movement Inc	04/11/05	04/11/05	—	06/12/05
Administrative Appeals Tribunal	—	—	16/11/05	28/11/05
Administrative Review Council	11/10/05	11/10/05	—	08/11/05
Anindilyakwa Land Council	12/10/05	12/10/05		06/11/05
Audio-Visual Copyright Society Ltd (Screenrights)	01/11/05	01/11/05	—	08/11/05
AUSTRAC	—	—	23/11/05	28/11/05
Australian Crime Commission	01/12/05	02/12/05		07/02/06
Australian Customs Service	27/10/05	27/10/05	—	06/11/05
Australian Government Solicitor	28/10/05	28/10/05	—	08/11/05
Australian Institute of Criminology and the Criminology Research Council	23/09/05	23/09/05	—	08/11/05
Australian Law Reform Commission	03/11/05	03/11/05	—	09/11/05
Australian Security Intelligence Organisation	19/09/05	19/09/05	—	08/11/05
Carpentaria Land Council Aboriginal Corporation	04/11/05	04/11/05	—	06/12/05
Central Land Council	12/10/05	12/10/05	—	06/12/05

Department/Authority	Submitted to Minister	Received by Minister	Received by Senate	Tabled in Senate
Central Queensland Land Council Aboriginal Corporation	—	—	28/10/05	07/11/05
Classification Board and Classification Review Board	—	—	23/12/05	07/02/06
Commonwealth Ombudsman	12/10/05	28/10/05	—	07/11/05
Copyright Agency Ltd	06/12/05	06/12/05	—	07/02/06
CrimTrac Agency	30/09/05	30/09/05	—	08/11/05
Federal Court of Australia	07/11/05	07/11/05	—	30/11/05
Federal Magistrates Court of Australia	24/11/05	24/11/05	—	30/11/05
High Court of Australia	17/01/06	17/01/06	—	08/02/06
Human Rights and Equal Opportunity Commission	23/11/05	23/11/05	—	30/11/05
Migration Agents Registration Authority	08/11/05	09/11/05	—	29/11/05
National Native Title Tribunal	—	—	23/12/05	07/02/06
North Queensland Land Council Native Title Representative Body Aboriginal Corporation	04/11/05	04/11/05	—	06/12/05
Northern Land Council	12/10/05	12/10/05	—	06/12/05
Tiwi Land Council	12/10/05	12/10/05	—	06/12/05
Torres Strait Regional Authority	12/10/05	12/10/05	—	06/12/05

Reports on Legislation and Reports Presented Pursuant to Certain Acts	Submitted to Minister	Received by Minister	Received by Senate	Tabled in Senate
Aboriginal and Torres Strait Islander Social Justice Commissioner: Native Title Report 2005 – Section 209 of the <i>Native Title Act 1993</i>	07/02/06	07/02/06	—	28/02/06
Aboriginal and Torres Strait Islander Social Justice Commissioner: Social Justice Report 2005 – Section 46C(1)(a) of the <i>Human Rights and Equal Opportunity Commission Act 1986</i>	07/02/06	07/02/06	—	28/02/06
Commonwealth Ombudsman: Report for 2004-2005 pursuant to Part 1AB, Division 2A of the <i>Crimes Act 1914</i> . (Controlled Operations by the AFP and the ACC)	—	—	—	08/12/05
Customs Act: Customs (Prohibited Exports) Regulations – Permissions Granted under Regulation 7 – July to December 2005 – Subregulation 7(15) of the Customs (Prohibited Exports) Regulations 1958	01/02/06	01/02/06	—	28/02/06
Freedom of Information Act 1982: Annual Report	28/10/05	31/10/05	—	07/12/05
Office of the Privacy Commissioner: Operation of the Privacy Act – Annual Report	07/11/05	07/11/05	—	29/11/05

