AGENCY/DEPARTMENT: IP Australia

TOPIC: Intellectual Property Laws Amendment Bill

REFERENCE: Question on Notice (Hansard, 23 October 2014, page 76)

QUESTION No.: S1-91

1. Senator Carr: In relation to the Intellectual Property Laws Amendment Bill currently before
the House of Representatives, and the removal of Crown Use provisions that were part of the IP
Laws Amendment Bill introduced by the previous Government: in evidence provided to the
Committee in the Senate Estimates hearing on Thursday 23 October 2014 the Departmental
official stated that these provisions were removed due to stakeholder concerns. Can you please
provide a brief summary of these concerns.

2. Senator Carr: Is IP Australia aware of any modelling commissioned by the Government on the
potential costs of implementing some of the IP-related proposals being discussed in the context
of the Trans-Pacific Partnership Agreement? If so, what was the nature of IP Australia’s
involvement in that exercise?

ANSWER

1. Stakeholders and Members of Parliament raised concerns at the time the Intellectual Property
Laws Amendment Bill 2013 was introduced, that the amendments seeking to modify existing
Crown Use provisions in the Patents Act 1990 were rushed, and lacked detailed consideration
and consultation. Stakeholders also raised specific concerns about whether some elements of the
proposed amendments could hinder Crown Use and that the proposed method of remuneration
for Crown Use was inadequate and did not fully account for the costs to the patentee. In light of
these concerns the Crown Use amendments were removed from the Intellectual Property Laws
Amendment Bill 2014 that was introduced to Parliament in March 2014.

2. IP Australia has not commissioned from external sources any economic modelling on the
Intellectual Property (IP) Chapter or parts of it in relation to the Trans-Pacific Partnership
(TPP).

IP Australia has itself carried out some economic analysis on key parts of the IP Chapter in the TPP
which has contributed to Cabinet consideration of negotiating positions. In undertaking the analysis
IP Australia consulted with the Department of Foreign Affairs and Trade, the Department of Health
and The Treasury