

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

Program 1.1 CLD

Question No. 108

Senator Boyce asked the following question at the hearing on 14 February 2012:

Would the department please list the court actions that have been brought against the Rudd and Gillard Governments?

Could you please provide me with all the details, ie the grounds for the actions, how much has been claimed etc?

How much has the government spent on those actions to date?

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

The Attorney-General requires agencies to report their legal services expenditure to her Department following the end of each financial year. Agencies report a breakdown of legal services expenditure according to internal and external legal services expenditure. External expenditure includes a breakdown of the professional fees paid to each law firm, the total value of all briefs to counsel, and total disbursements (excluding counsel fees). Since 2008-09, those aggregate figures are collated and published in the Annual Commonwealth Legal Services Expenditure Report. The Attorney-General's Department has attached a copy of the 2010-11 Report, which sets out all figures collated since 2008-09.

The 2010-2011 Report shows that FMA Act agencies and CAC Act agencies spent totals of \$620,472,958.73 in 2008-09, \$640,654,481.29 in 2009-10 and \$ 676,608,240.73 in 2010-11, all inclusive of GST. The Report also identifies the internal and external legal expenditure of the agencies which had the largest legal expenditure.

However, the Commonwealth does not keep a central repository of figures broken down in line with the Senator's question. In order for a response to be provided on behalf of the entire Commonwealth, the question would need to be directed to each department or agency. This would represent an unreasonable diversion of resources, both in terms of Commonwealth resources required to collate the information and likely cost in seeking assistance from external legal providers.

It is likely that each Department and agency would not be able to identify matters "brought against the Rudd and Gillard Governments". Rather, given the lead times litigation often has, Departments and agencies may only be able to identify legal actions commenced against the Commonwealth after 3 December 2007.

Identifying the amount claimed, the amount the Government spent, and the grounds of each claim would require a close examination of the pleadings and history of each claim. In many cases, this would require engaging the Department or agency's external lawyers, at significant cost.