

Chapter 1

Introduction

1.1 On 14 February 2019, the Senate referred the following to the Senate Environment and Communications Legislation Committee (the committee):

- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2019 [Appropriation Bill (No. 3) 2018–2019];
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2019 [Appropriation Bill (No. 4) 2018–2019];
- Particulars of proposed additional expenditure in relation to the Parliamentary Departments in respect of the year ending on 30 June 2019 [Appropriation (Parliamentary Departments) Bill (No. 2) 2018–2019]; and
- Final budget outcome 2017–18—Report by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann).¹

1.2 The Portfolio Additional Estimates Statements (PAES) for 2018–19 for the two portfolios allocated to the committee—Environment and Energy and the Communications and the Arts portfolios—were tabled in the Senate on 14 February 2019.²

1.3 A reporting date of Tuesday, 2 April 2019 was set for the committee's report on the 2018–19 Additional Estimates.³

Hearings

1.4 The committee's examination of the Environment and Energy portfolio took place on Monday, 18 February 2019. The Australian National Audit Office appeared at this hearing to provide evidence on the performance audit of the award of the \$443.3 million grant to the Great Barrier Reef Foundation.

1.5 The committee's examination of the Communications and the Arts portfolio was held on Tuesday, 19 February 2019. The committee held a further hearing on 6 March 2019 in order to undertake its examination of the Australian Broadcasting Corporation (ABC).

1.6 The committee took evidence from Senator the Hon Simon Birmingham, Minister for Trade, Tourism and Investment representing the Minister for the Environment and the Minister for Energy; and Senator the Hon Mitch Fifield,

1 *Journals of the Senate*, No. 140, 14 February 2019, p. 4692.

2 *Journals of the Senate*, No. 140, 14 February 2019, p. 4693.

3 *Journals of the Senate*, No. 133, 29 November 2018, p. 4329.

Minister for Communications and the Arts, together with officers from the relevant departments and agencies. The committee thanks the Ministers, departmental secretaries and the officers who appeared before it.

1.7 The following programs and agencies were not required to attend:

Environment and Energy portfolio

- Department of the Environment and Energy;
 - Program 1.2: Environmental Information and Research
 - Program 1.3: Commonwealth Environmental Water
 - Program 2.2: Adapting to Climate Change
 - Program 2.3: Renewable Energy Technology Development
- Climate Change Authority;
- National Wind Farm Commissioner;
- Office of the Supervising Scientist; and
- Sydney Harbour Federation Trust.

Communications and the Arts portfolio

- Australia Business Arts Foundation Ltd (Creative Partnerships Australia);
- Australian Film, Television and Radio School;
- Australian National Maritime Museum;
- Australian Postal Corporation;
- Bundanon Trust;
- Classification Board;
- Classification Review Board;
- National Film and Sound Archive;
- National Gallery of Australia;
- National Library of Australia;
- National Museum of Australia;
- National Portrait Gallery of Australia;
- Old Parliament House; and
- Special Broadcasting Service Corporation.

Questions on notice and Hansard transcript

1.8 In accordance with standing order 26(9)(a), the committee agreed to set Friday, 29 March 2019, as the date for the return of written answers or additional

information for the hearings held on 18 and 19 February 2019, as well as the additional hearing held on 6 March 2019.

1.9 Written answers and information provided to the committee in response to questions on notice arising from the hearings are tabled in the Senate and posted on the committee's webpage. Links to the transcripts of these public hearings and to answers and additional information are available on the internet at: www.aph.gov.au/Parliamentary_Business/Senate_Estimates/ec.

Information provided by the ABC

1.10 On 1 March 2019, the ABC reached a settlement with Ms Michelle Guthrie, former Managing Director of the ABC. At the hearing on 6 March 2019, the committee sought the amount of the settlement. Mr David Anderson, Acting Managing Director, indicated that the deed of settlement allowed for the ABC to disclose the amount paid to Ms Guthrie to the committee, to the Minister for Communications and to the Auditor-General on a confidential basis.

1.11 The committee noted that no evidence can be taken on a confidential basis as part of the estimates process. In addition, parliamentary privilege precludes a party to a settlement being held liable for disclosing the terms of a settlement to a parliamentary committee. The Chair stated:

...because the answers being provided here are provided under parliamentary privilege, the officers and the entity you represent are not exposed to any liability for providing information that we ask for. We can't take information in camera, it being part of an estimates hearing. If you're not making out a public interest immunity claim, I note the response that you've given to us. We will have to deliberate on that in a private meeting, and perhaps report this to the Senate as a whole and determine further action from that. We will proceed to other questions if you are not willing to answer the question in the terms I've asked.⁴

1.12 Following the Chair's statement, Mr Anderson then provided the committee with the settlement figure of \$730,000.⁵

Supplementary Budget Estimates 2018–19

1.13 The committee has examined answers to questions on notice from the Supplementary Budget Estimates 2018–19.

4 Senator Jonathon Duniam, *Proof Committee Hansard*, 6 March 2019, p. 3.

5 Mr David Anderson, Acting Managing Director, Australian Broadcasting Corporation, *Proof Committee Hansard*, 6 March 2019, p. 4.

Timeliness of answers to questions on notice

1.14 The committee set Friday, 7 December 2018, as the date for the return of answers to questions on notice arising from the hearings on 22 October 2018 and 23 October 2018. The committee also set Thursday, 3 January 2019, as the date for the return of answers to questions on notice from the additional hearing with the Department of the Environment and Energy on 16 November 2018.

1.15 The committee received answers to 231 of the 237 questions on notice for the Environment and Energy portfolio by the due date of 8 December 2018. All answers were provided by 18 January 2019. The Communications and the Arts portfolio provided 199 of the 268⁶ answers to questions on notice arising from the hearing on 23 October 2018 by the due date of 7 December 2018. The remaining 69 answers to questions on notice were provided between December 2018 and February 2019.

1.16 Of the 52 questions taken on notice from the committee's additional hearing with the Department of the Environment and Energy on 16 November 2018, 49 answers were provided by the due date of 3 January 2019. The last two answers were provided to the committee on 1 February 2019.

Claims of confidentiality

1.17 The committee has examined answers to questions on notice from Supplementary Budget Estimates 2018–19 in relation to claims that information was not provided on the basis that it was commercial-in-confidence or would harm commercial interests. The committee notes that a small number of answers from both portfolios contained these claims. While a number of answers included an indication of the potential commercial harm of providing the information, some answers claiming confidentiality did not provide any basis for such a claim.

1.18 The committee again draws the attention of departments and agencies to Senate Procedural Order of Continuing Effect No. 11 of 30 October 2003 relating to claims for the withholding of information on the grounds that it is commercial-in-confidence.⁷ Without the required statement indicating the commercial harm that may result from the disclosure of the information, the committee is unable to consider whether it should require the answer or should not press the question.

Corrections to answers

1.19 On 11 February 2019, Mr Anderson, Acting Managing Director of the ABC, provided a correction to evidence from the hearing of 23 October 2018 and to the answer to Question on Notice 161, which was received by the committee on 7 December 2018. The evidence and question on notice related to the cancellation of

6 This figure includes one additional written question on notice that was due on 3 January 2019 but was not provided by the due date.

7 The Senate, *Standing Orders and other orders of the Senate*, August 2015, p. 131.

the program *The Checkout*. During the committee's hearing on 6 March 2019, Mr Anderson was questioned about the provision of the incorrect information on two occasions and the length of time it took the ABC to correct the record.⁸

1.20 The committee reminds all portfolio departments and agencies of the need to provide full and accurate answers to questions taken on notice. In the event that incorrect information has been provided to the committee, witnesses should ensure that any clarifications or corrections are provided to the committee in a timely manner.

Record of proceedings

1.21 This report does not attempt to analyse the evidence presented during the hearings. However, it does provide a brief list of some of the key issues that were canvassed by the committee for each portfolio.

Note on references and additional information

1.22 References to the *Hansard* transcript are to the proof *Hansard*; page numbers may vary between the proof and official *Hansard* transcript.

1.23 Copies of the *Hansard* transcripts, documents tabled at the hearings, and additional information received after the hearings are tabled in the Senate and available on the committee's website.

8 Senator the Hon Kristina Keneally, *Proof Committee Hansard*, 6 March 2019, pp. 10–13.

