



Committee Secretary
House of Representatives Standing Committee on Family and Human Services
Parliament House
CANBERRA ACT 2600

Dear Sir or Madam,

Re: Inquiry into the Adoption of Children from Overseas

This letter is a submission to the inquiry into the adoption of children from overseas, and will address the inquiry's Terms of Reference based upon what my wife and I have experienced (and continue to experience) through the intercountry adoption process.

For the information of the Committee, we have already adopted one child from India and are in the process of adopting a second child. We live in the Northern Territory.

The structure of this submission is:

- **Summary of Recommendations** – we list what we think the Committee should recommend in its report as being actions that would better assist Australians who are adopting or have adopted children from overseas countries;
- **Issue 1** - we consider the first dot point in the Terms of Reference which is “Any inconsistencies between state and territory approval processes for overseas adoptions”;
- **Issue 2** – we consider the second dot point in the Terms of Reference which is “Any inconsistencies between the benefits and entitlements provided to families with their own birth children and those provided to families who have adopted children from overseas”; and
- **Conclusion** – we wrap up our submission.

Summary of Recommendations

We ask that the Committee recommend that:

- The Commonwealth should reduce the visa fee for adoptive parents from \$1245 to a nominal amount, say \$50;
- The Commonwealth should change the eligibility criteria to extend payment of the Maternity Payment to adoptive parents where the child is more than six (6) months old, and that this change should be made retrospective to 1 July 2004 when the Maternity Payment commenced;
- The Commonwealth should implement tax deductibility for expenses incurred during the intercountry adoption process; and
- The Commonwealth take a leadership role in facilitating a dialogue between states and territories with the aim being to have consistent adoption legislation in each state and territory.

The Committee shall inquire into and report on how the Australian Government can better assist Australians who are adopting or have adopted children from overseas countries (intercountry placement adoptions) with particular reference to:

Issue 1 - Any inconsistencies between state and territory approval processes for overseas adoptions.

My wife and I have not personally been impacted by the inconsistencies that exist between the various states and territories in relation to intercountry adoption and are, therefore, unable to personally comment on this matter.

We would ask the Committee, however, to note that:

- Adoption legislation is an issue for both Commonwealth and state/territory jurisdictions, with state/territory legislation being the primary regulator of process. Inconsistencies are, therefore, the result of each state/territory determining its own human services legislation;
- Australia is a party to the Hague Convention on adoption, and that there may be potential for the Commonwealth's powers in relation to external affairs to be exercised more broadly in relation to intercountry adoption matters; and, that
- There is scope for states and territories to harmonise their adoption legislation, and that the Commonwealth is in a strong position to take a leadership role to facilitate this.

***Our Recommendation:** The Commonwealth take a leadership role in facilitating a dialogue between states and territories with the aim being to have consistent adoption legislation in each state and territory.*

Issue 2 - Any inconsistencies between the benefits and entitlements provided to families with their own birth children and those provided to families who have adopted children from overseas.

We start by asking the Committee to note that intercountry adoption of children can be an expensive process, and that adoptive parents are often put under severe financial pressure by the adoption process. We add that the parents of biological children are not faced with the level of expense that adoptive parents are faced with.

The various costs can be broadly categorised in five (5) broad groups:

- **Monies paid to the Commonwealth.** This is currently \$1245 per child, which is the fee charged by the Department of Immigration and Multicultural and Indigenous Affairs for each child's visa to enter Australia;
- **Monies paid to state and territory governments** to facilitate the intercountry adoption process. These are usually levied on a full or significant cost-recovery basis, and cover things such as assessment and preparation of files. These costs can vary between states and territories, and between various overseas countries but in the Northern Territory are typically in the region of \$5000-\$6000;
- **Monies paid to overseas organisations**, such as orphanages and other types of charitable institutions. These organisations are most often in the NGO sector, although government bodies are also players in some overseas countries. Contributions to these organisations subsidises the activities of each organisation;
- **Travel costs**, which include air and land travel, accommodation, meals, and incidentals. This can range into the thousands of dollars for adoptive parents travelling as far as India, Ethiopia or Korea; and
- **Domestic costs**, such as purchasing a pram, a high chair, a baby capsule, nappies, and other costs such as the expense of visiting medical professionals.

Monies paid to the Commonwealth

We believe that the current cost of \$1245 for an adoptive child is excessive, and is seen as purely revenue-raising. We note that the number of intercountry adoptions is relatively low (278 nationally in 2002-03, 370 in 2003-04), and that a reduction in the cost of the visa will not have a significant financial impact on the Commonwealth.

***Our Recommendation:** We ask that the Committee recommend that the Commonwealth should reduce the visa fee for adoptive parents from \$1245 to a nominal amount, say \$50.*

Monies paid to state and territory governments

We note that the costs levied by state and territory governments are based on the principles of user-pays and cost-recovery that each state and territory (and the Commonwealth) has implemented. Whilst the principles of user-pays and cost-recovery are well established in many areas of service delivery, we note that the user-pays principle does not apply to the parents of biological children who opt to use the public hospital system and Medicare.

We believe that the most appropriate way of making it easier for adoptive parents to meet the state/territory government adoption expenses would be to introduce some form of tax deductibility for the costs incurred by adoptive parents.

***Our Recommendation:** We ask that the Committee recommend that the Commonwealth should implement tax deductibility for expenses incurred during the intercountry adoption process.*

Monies paid to overseas organisations

Most overseas organisations involved in the intercountry adoption process operate on a not-for-profit basis and rely on donations and contributions to allow them to maintain service levels. The contributions made by adoptive parents are important for the organisations concerned, and are vital for each individual child cared for by them.

***Our Recommendation:** We ask that the Committee recommend that the Commonwealth should implement tax deductibility for expenses incurred during the intercountry adoption process. [This recommendation also appears earlier]*

Travel costs

The cost of travelling overseas to collect an adoptive child is an important step in developing links with the child's own national culture.

It is also important in the process of "bonding" with the child.

Costs incurred will, of course, vary with each overseas destination but will generally extend to the thousands of dollars. For example, our trip to India to collect our daughter involved airfares that totalled some \$4000 and accommodation expenses that totalled slightly more than \$1000.

***Our Recommendation:** We ask that the Committee recommend that the Commonwealth should implement tax deductibility for expenses incurred during the intercountry adoption process. [This recommendation also appears earlier]*

Domestic costs

The domestic costs incurred by adoptive parents are very similar to those incurred by biological parents. The only major exception is the cost of legal advice for the finalisation of the adoption. This can be up to \$1000.

We ask the Committee, however, to note that eligibility for the Government's Maternity Payment (which was originally \$3000 for children born after 1 July 2004), does not currently extend to adoptive children who were more than six (6) months old when the adoptive parents assumed care of the child. The process of intercountry adoption means that very few adoptive children are actually younger than six (6) months old when collected by their parents, and this means that they miss out on the Payment. This is clearly inequitable, and appears to be inconsistent with the Treasurer's Budget speech of 11 May 2005 in which he stated:

The Maternity Payment recognises the cost of a new child and will assist all mothers...
[note our emphasis on "all mothers"]

We note that the number of intercountry adoptions is relatively low (278 nationally in 2002-03, 370 for 2003-04), and that extending the eligibility for the Maternity Payment visa will not have a significant financial impact on the Commonwealth. We estimate that the cost of extending eligibility will be somewhere less than in the order of \$1.5 million, which would be less than 0.2% of the total cost of providing the Maternity Payment.

***Our Recommendation:** We ask that the Committee recommend that the Commonwealth should change the eligibility criteria to extend payment of the Maternity Payment to adoptive parents where the child is more than six (6) months old, and that this change should be made retrospective to 1 July 2004 when the Maternity Payment commenced.*

Adoption Leave

We would also ask the Committee to note that the provision of adoption leave to adoptive parents varies significantly between the various awards and agreements under which most Australians are employed.

We note that the *Workplace Relations Act 1996* and its Regulations do provide for a minimum level of unpaid adoption leave, but that this is limited to situations where the child is less than five (5) years old, and that it is, of course, unpaid.

We also note that the Human Rights and Equal Opportunity Commission, in its 2002 report *Time to Value: Proposal for a National Paid Maternity Leave Scheme*, recommended that "paid maternity leave be available to the primary carer of an adopted child irrespective of the age of the child".

Conclusion

We thank the Committee for the opportunity to make a submission, and we ask the Committee to give consideration the issues that we have raised and the recommendations that we have made.

We would be pleased to provide any further information that the Committee may request, and may be [redacted] or by [redacted].

Yours sincerely

[signed]

[signed]

[redacted]
19 April 2005

[redacted]
19 April 2005