

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

21 April 2005

Dear Secretary,

**Re : Inquiry into adoption of children from overseas**

Thank you for the opportunity to make a submission to the Committee. We hope that the outcome of this inquiry will be that it is easier to form families through intercountry adoption.

We note the terms of reference as follows:

*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:*

- 1. Any inconsistencies between state and territory approval processes for overseas adoptions; and*
- 2. Any inconsistencies between the benefits and entitlements provided to have adopted children from overseas*

We are the parents of two children adopted from Korea who are the light of our lives. Our boys are aged 4 years and 20 months and we commenced the adoption process in NSW in October 1999 finally picking up our first child in July 2001.

The intercountry adoption process across Australia is fragmented, under resourced, unnecessarily complex and overly bureaucratic. The processes followed by individual departments are inefficient and there is a lot of duplication resulting in unnecessary delays. While many of the individual staff members are supportive of adoption they generally operate within government departments that do not value or place importance on intercountry adoption as a service to parents, children and the community in general.

To become an adoptive parent is a very difficult path in Australia. The process is hugely expensive, takes years to complete, the bureaucratic requirements are difficult to understand and negotiate (involving several different government departments at state and federal level) and there is almost no support provided to families except by voluntary parent groups.

*How can the Australian Government better assist Australians who are adopting or have adopted children from overseas countries?*

We believe there would be benefits in the Commonwealth taking a more active role in intercountry adoption, particularly in the investigation and establishment of new programs.

The Commonwealth could also provide leadership in calling on states and territories to examine and simplify current administrative arrangements. There is also a need to place greater emphasis on consultation with adoptive parent groups when determining adoption policies and policies that impact on families more generally.

One of the most effective ways that governments could support adoptive parents and families is to reduce costs. Intercountry adoption costs are in the order of \$25 000 to \$35 000. For many couples these costs are prohibitive. In our situation we saved every cent we could and also relied upon the support of our families to help us financially.

We call on the Commonwealth government to abolish fees levied by their departments on adoption applications for visa processing.

We also recommend that the Commonwealth restore tax deductibility for adoption expenses. The provisions allowing a rebate for adoption expenses commenced in 1975-76 and were terminated in 1985-86. The rebate had considered a range of expenses including medical expenses, life insurance premiums, education and adoption expenses. These expenses continue in the present day. Many western countries such as the United States of America and Canada provide similar rebates.

The Commonwealth could also provide support for families post adoption.

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

The number of inconsistencies between current state and territories in regard to the assessment and approval of intercountry adoption is almost too numerous to mention. They include the age of adoptive parents, their marital status, length of marriage, number of children in the family, age of child to be adopted, number of children to be adopted, and the applicants' health and weight.

The level of government commitment to intercountry adoption appears to be very low. Most departments are under resourced and many states have waiting lists of several years for programs. Current assessment takes around 2-3 years. Surely we can do better! Adoptive parents from the USA are amazed when we describe the length of time that our processes take. It should be remembered that because the process is tied up with red tape these children spend longer periods of time in orphanages and care instead of with their families who are desperate to be with them and love them.

Government department's say that there are too few children and too many people wanting to adopt them. As parents we see this as an excuse to maintain the status quo. We agree that there is a need for appropriate assessment of adoptive parents but we don't think we have the balance right at the moment. Governments need to streamline processes and improve efficiency. We would also like to see greater action from governments to support and establish a new intercountry adoption programs.

We mentioned the huge costs involved previously. It is disappointing that a significant proportion of these costs are charged by state and territory governments. There are huge variations in fees charged by government departments which range from around \$2,000 in Queensland and the ACT through to those charged by NSW at \$ 9,700. It is so unfair in NSW to have a system where intercountry adoption is only available through a government provider without competition who then increases their fees by almost 300% and pursues cost recovery for what is, and should be, an essential service to the community provided without cost.

The different systems operating across Australia mean that some parents have moved from one jurisdiction to another in order to adopt because of issues such as age restrictions, or in the case of Queensland, because the program has closed its doors.

On the other hand, we felt unable to move interstate to pursue employment options because it would jeopardise arrangements for our second adoption – we simply couldn't bear to start all over again on another waiting list. Some states such as Queensland are almost automatically ruled out because the program is virtually non existent.

Arrangements for finalising adoption also vary between countries and between states. In NSW, adoption orders for children adopted from Korea, Taiwan and the Philippines are made in the NSW Supreme Court. Therefore the new NSW Adoption Act 2000 applies, preventing parents from changing or adding a name to that given in their country of birth. This is not the case in other jurisdictions and is a significant and distressing issue for many adoptive families.

In our own case we were overjoyed to give our oldest child a christian name that meant something to us and keep his Korean name as well. We use both names in our family lives and believe they are significant because they are part of his journey from Korea to Australia. The overly prescriptive and simplistic view of NSW DOCS is that retaining the name from country of birth with no latitude to add a name (or even more ludicrously to prevent us keeping the surname of his birth mother as well as his other names!) is important for cultural identity. We think this attitude ignores the wishes of families and creates another level of confusion- we want our children to celebrate the fact that they are Korean and Australian and that they have names from their birth family, their birth country and their family. We believe maintaining cultural identity is vital and we do this by going to Korean school, learning Korean, experiencing food and music and culture from the country of

our children's birth. We think that naming a child is a family matter and that governments should not intrude in this area.

Adoptive parents must also provide an undertaking for one parent to remain at home with the child to enhance bonding and attachment. The requirements for this vary between 6-12 months. This requirement provides further financial hardship for families who have already faced costs in the order of \$25,000 to \$30,000 per adoption.

*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.*

There are a number of inconsistencies relating to the Maternity Payment and baby bonus. Restrictions relating to the age of the child (currently set at 26 weeks) should be abolished. Very few intercountry adoptions occur before this age. There is also a need to clarify current rulings by the ATO relating to "custody" of a child. For those children adopted from Korea, Philippines and Taiwan, adoption orders are made by the NSW Supreme Court some 18 months to 2 years after the child enters Australia. In comparison, other intercountry programs such as the China program complete the adoption orders in China when parents travel to pick up the child. The ATO has determined that the adoption order should be made prior to the granting of maternity payments and baby bonus thereby creating long delays and confusion for adoptive parents. Finding your way through various help lines who don't understand the issue and can't or won't help is so exhausting and depressing that most parents simply give up.

The Commonwealth should legislate to ensure that arrangements for paid and unpaid adoption leave are equivalent to maternity leave and ensure that future enhancements to maternity leave automatically flow on to adoption leave. It should also remove restrictions to these entitlements relating to the age of the child adopted. When we applied to adopt our oldest child an adoptive parent (in this case the mother employed under a state award for public servants) was only entitled to 3 weeks paid leave and 12 months unpaid leave. If we had had a biological child we would have been entitled to 9 weeks paid maternity leave and 12 months unpaid leave.

As a result of lobbying by several parents and relevant unions the award was later changed to provide parity for adoption leave and maternity leave. To do this on a case by case basis will take decades. Surely legislative amendment could provide for equal benefits for adoptive and biological parents in this regard.

In addition, the Commonwealth government should ensure that :

- Medicare staff are familiar with the requirement for adopted children to be given equal treatment to birth children
- Private health funds are familiar with the requirement for adopted children to be given equal treatment to birth children

- Administrative arrangements are changed to ensure that confusion over the status of a child's immunisation given overseas does not adversely impact on access to childcare benefit.

### *Summary and recommendations*

The current arrangements for intercountry adoption programs have resulted in a system that is complex, inconsistent, burdened by delays (with applications often taking years to complete) and hugely expensive. Recent changes by some governments to move to cost recovery arrangements have resulted in even greater burdens on families seeking to adopt.

We would welcome changes in the following areas:

- greater cooperation between Australian governments to improve intercountry adoption
- a review of current administrative arrangements for intercountry adoption to remove duplication and inefficiency and improve fairness
- the Commonwealth to take the lead and negotiate with other countries to provide greater choice in availability and range of intercountry adoption programs
- greater choice of intercountry adoption providers with more involvement from NGO sector
- strategies to reduce current delays should be implemented as a matter of priority
- governments should decrease or abolish fees associated with intercountry adoption
- legislative amendments should be introduced to ensure access to adoption leave is equal to maternity leave
- legislation that prevents parents naming their child should be removed
- barriers preventing access to government benefits such as the baby bonus and maternity benefit should be removed
- tax deductibility of adoption expenses should be restored
- governments and the NGO sector should work together to ensure greater support for families post adoption
- existing community and parent support groups should be consulted in determining adoption policy and policy that impacts on families

We thank you for the opportunity to provide comment to the Committee. We would be happy to discuss these issues in more detail or provide additional supporting information. We would also be prepared to make ourselves available to the Committee if required. We can be contacted at

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Tim O'Reilly and Kate Purcell

**NSW**