

# Budget Estimates 2009–10

## Introduction

1.1 On 12 May 2009, the Senate referred to the Finance and Public Administration Legislation Committee (the committee) for examination and report the following documents:

- Particulars of proposed expenditure in respect of the year ending on 30 June 2010;
- Particulars of certain proposed expenditure in respect of the year ending on 30 June 2010; and
- Particulars of proposed expenditure in relation to parliamentary departments in respect of the year ending on 30 June 2010.<sup>1</sup>

### Portfolio coverage

1.2 The committee has responsibility for examining the expenditure and outcomes of the:

- Parliamentary departments;<sup>2</sup>
- Prime Minister and Cabinet portfolio;
- Finance and Deregulation portfolio; and
- Human Services portfolio.

1.3 Appendix 1 lists the departments, agencies, authorities and companies under the portfolios mentioned above.

### Restructure of portfolios

1.4 With the implementation of Operation Sunlight, departments and agencies have redefined outcome statements and moved to program-based reporting. Appendix 2 shows the transition tables for the core departments under the committee's oversight. Transition tables for other agencies can be found in the relevant Portfolio Budget Statement, available at <http://www.budget.gov.au/>.

1.5 There have been no changes in the allocation of agencies to the Prime Minister and Cabinet portfolio. Within the Department of the Prime Minister and Cabinet there has been the addition of the Office of the Commonwealth Coordinator-General in order to manage implementation of the Nation Building and Jobs Plan. The department has also been funded to establish the new Office of the Information Commissioner, contingent on the relevant legislation being passed.

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1 *Journals of the Senate*, 12 May 2008, p. 1920.

2 As a matter of comity between the Houses, it is traditional that neither House inquires into the operations of the other House. For this reason, neither the annual report of, nor the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

1.6 Within the Finance and Deregulation portfolio, Medibank Private and Health Services Australia (previously in the Human Services portfolio) merged on 1 April 2009. Medibank Private will continue to appear before the committee under the Finance and Deregulation portfolio.

1.7 The Department of Finance and Deregulation established a new program entitled 'program 1.3: Nation Building Funds'. Through this program, the department will advise on the Government's three nation-building funds, including on 'the investment mandates, transfers of amounts to the funds, debits for payments to Portfolio Special Accounts and other governance matters'.<sup>3</sup>

1.8 The Department of Human Services has had one change, with the Job Capacity Assessment program moving to the Department of Education, Employment and Workplace Relations.

### **Hearings**

1.9 The committee held public hearings on Monday 25, through to Friday, 29 May 2009. Copies of the committee's transcripts of evidence are tabled in five volumes of *Hansard*. Copies of *Hansard* are available on the internet at the following address: [www.aph.gov.au/hansard](http://www.aph.gov.au/hansard).<sup>4</sup>

1.10 In accordance with Standing Order 26, the committee is required to set a date for the lodgement of written answers and additional information. The committee resolved that written answers and additional information be submitted by Friday, 10 July 2009.

1.11 Further written explanations furnished by departments and agencies will be tabled, as received, in the Senate. That information is also available on the committee's internet page: [www.aph.gov.au/Senate/committee/fapa\\_cte/estimates/index.htm](http://www.aph.gov.au/Senate/committee/fapa_cte/estimates/index.htm). As a matter of Parliamentary Privilege, all information is 'tabled' on receipt.

1.12 The committee notes its appreciation that the vast majority of agencies submitted their responses to Questions on Notice from Additional Estimates 2008–09 (February 2009), by the specified deadline of 9 April 2009.

1.13 Over the course of the five days' hearings—totalling over 45 hours—the committee took evidence from: the President of the Senate, Senator the Hon John Hogg; Special Minister of State and Cabinet Secretary, Senator the Hon John Faulkner, representing the Prime Minister; Minister for Superannuation and Corporate Law, Senator the Hon Nick Sherry, representing the Finance Minister; Minister for Human Services, Senator the Hon Joe Ludwig; and Minister for Climate Change and Water, Senator the Hon Penny Wong, together with officers of the departments and agencies concerned.

1.14 The following agencies were released from the hearings without examination: the National Archives of Australia; National Australia Day Council Limited; Office of

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3 Department of Finance and Deregulation, Portfolio Budget Statement 2009–10, p. 29.

4 Appendix 3 provides an index to the *Hansard* transcripts.

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the Commonwealth Ombudsman; Australian Industry Development Corporation; Australian Reward Investment Alliance; Australian River Co. Ltd; and Telstra Sale Company Ltd.

### **General issues**

1.15 The sections of the report that follow list various issues considered by the committee and discuss some of these in detail:

- public interest immunity claims;
- changes to the Portfolio Budget Statements; and
- the use of websites under the advertising guidelines.

#### ***Public interest immunity claims***

1.16 On 13 May 2009, the Senate passed an order relating to public interest immunity claims moved by Senator Cormann.<sup>5</sup> The full text of this order was provided to departments and agencies prior to the hearing, and was also incorporated into the daily opening statements.

1.17 The order was directly referenced during the hearing on two separate occasions. The first occasion occurred during questioning of the Department of the Prime Minister and Cabinet when a copy of advice supplied to the Government by the department on the subject of taxation of Ready-to-Drink beverages was requested. The Special Minister of State, the Hon John Faulkner declined to provide this information, stating:

...you are well aware, Senator, that the actual content of the advice will not and, I would respectfully suggest to you, should not be provided to the committee. This is, as you know, a very longstanding convention of these committees. But what we are happy to provide for you and are doing so in a fulsome manner is the details around the processes leading to the provision of the advice.<sup>6</sup>

1.18 When pressed to specify whether the refusal to provide the information was based on a relevant public immunity claim, the Minister pointed to the convention of not providing advice that went to cabinet deliberations, stating:

I think my approach has been consistent, regardless of what side of the estimates table I have sat on, and it is consistent today. The process questions around this advice to government which informed a cabinet decision, I think, should be answered, if they are able to be answered, by ministers or officials; if we are not able to answer matters directly, we should take them on notice and provide an answer to the committee, which is precisely what we are doing. The content of advice to government, which of course is a very relevant matter in relation to the cabinet consideration, is

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5 *Journals of the Senate*, 13.5.09, p. 1941

6 Senator the Hon John Faulkner, Special Minister of State, *Estimates Hansard*, p. 80.

something again on which I have taken this consistent view [to not disclose the content of advice].<sup>7</sup>

1.19 The issue was again pursued later in the hearing. At that time, the *Government guidelines for official witnesses before parliamentary committees and related matters* were discussed.<sup>8</sup> The Minister noted that paragraph 2.32(d) of the guidelines addresses the disclosure of material disclosing relating to opinion, advice or recommendation of the deliberative processes involved in the functions of the Government where disclosure would be contrary to the public interest. The Minister stated 'obviously ministers have, for very many years, asserted that their obligations under the resolution [are] discharged by that particular part of the document'.<sup>9</sup> He went on to state:

I come back to where I started from and say to you that I commend what I think is a longstanding and consistent approach that I have taken on these issues. I think there has been a consistent view from both government and opposition, regardless of which party forms government and which party is in government or opposition, to accept that it is contrary to the public interest for advice to government prepared for the purposes of such deliberative purposes and input into cabinet and the like for those sorts of matters to be disclosed. Government ministers at the table have said that consistently for the past 20 years.

What I am saying is that what has not been applied consistently is information around the process of the provision of advice. I certainly want to provide as much information to you as I can. But let the record at least stand—if we are going to talk about public interest immunity—of the full scope of that public interest immunity, which someone in reading the transcript might think it might be left at issues such as national security, defence, international relations or the like.<sup>10</sup>

1.20 The committee also examined the final section of paragraph 2.32 from the guidelines which state that the provisions of the Freedom of Information Act have no actual application to a parliamentary inquiry, but are a general guide to grounds for non-disclosure.

1.21 The order was also raised during questioning of the Department of Finance and Deregulation (Finance) on the subject of advice given to government on the ownership status of Medibank Private. The Secretary of Finance, Dr Ian Watt, informed the committee that 'we do not usually provide our advice to government'.<sup>11</sup>

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7 Senator the Hon John Faulkner, Special Minister of State, *Estimates Hansard*, p. 81.

8 Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters—November 1989, Department of the Prime Minister and Cabinet, pp 8–9. Document is available from <http://www.dPMC.gov.au/guidelines/index.cfm> - accessed 17 May 2009.

9 Senator the Hon John Faulkner, Special Minister of State, *Estimates Hansard*, p. 90.

10 Senator the Hon John Faulkner, Special Minister of State, *Estimates Hansard*, p. 91.

11 Dr Ian Watt, Finance, *Estimates Hansard*, 27.5.09, p. 17.

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The department was reminded of the order, and agreed to take the question on notice. The committee will closely monitor the responses that are provided.

### ***Changes to Portfolio Budget Statements***

1.22 The 2009–10 Portfolio Budget Statements (PBS) include new information as part of the Government's implementation of the Operation Sunlight recommendations. The committee commends the inclusion of program level information, including performance indicators and expenditure data.

1.23 Outcome statements for agencies have also been reviewed. In response to a question about progress in implementing the Operation Sunlight recommendations, Ms Kathryn Campbell, General Manager of the Financial Management Group stated:

One of the other significant changes in this budget was the introduction of new outcome statements for a number of agencies. Minister Tanner, in Operation Sunlight, had referred to the fact that some outcome statements were vague and not descriptive and did not really capture, in a definitive manner, what agencies were expected to deliver. There has been a review of a great deal—in fact the majority—of the outcome statements over the last 12 months, and these have been published in the portfolio budget statements this year. Those that have not been reviewed are generally for organisations undergoing major changes. There are only a handful of those and they will be reviewed over the next few months in time for the next budget.<sup>12</sup>

### ***Use of websites under the advertising guidelines***

1.24 The committee examined issues relating to the website [www.economicstimulusplan.gov.au](http://www.economicstimulusplan.gov.au). The website was developed by the Department of Education, Employment and Workplace Relations, with input from various agencies for a total cost, including maintenance, of \$164,000. This process was managed by the Department of the Prime Minister and Cabinet (PM&C).<sup>13</sup> The committee was informed that the purpose of the website was to act as a 'one-stop shop for information on the government's economic stimulus plan'.<sup>14</sup> Mr Mike Mrdak, Deputy Secretary of PM&C, elaborated further, stating:

It has proven to be a very popular tool for communities in terms of accessing information and also for businesses looking for employment. Through the website we have contact points for state and territory tenders and also local government contact points for the various local government projects. My understanding is that it is achieving about 20,000 individual hits per week.<sup>15</sup>

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12 Ms Kathryn Campbell, Finance, *Estimates Hansard*, 27.5.09, p. 88.

13 *Estimates Hansard*, 26.5.09, p. 32.

14 Senator the Hon John Faulkner, Special Minister of State, *Estimates Hansard*, 26.5.09, p. 33.

15 Mr Mike Mrdak, PM&C, *Estimates Hansard*, 26.5.09, p. 34.

1.25 There were some concerns raised that the use of video clips featuring government ministers was outside of government convention and may be partisan in nature. In response, Mr Mrdak stated:

We have been very careful to ensure that the material that goes on the website meets the long-established [Australian Government Information Management Office (AGIMO)] guidelines in relation to departmental websites. That clearly ensures that the material that goes on the website meets all of the APS values and the AGIMO requirements for publicly funded websites.

...

We have been very careful to ensure that the video clips are apolitical in the sense that they are at ministers commenting on their portfolio responsibilities and announcements within their portfolios. Increasingly, this medium is being used across a number of websites where ministers are presenting information—essentially what would otherwise in the past have been media releases, speeches or comments by ministers in relation to their programs. Ministers now have the technical capacity to place video footage of themselves announcing or commenting on their policies and programs.<sup>16</sup>

1.26 PM&C's attention was drawn to the use of the term 'Rudd Labor Government' in one of the videos, suggesting that the word 'Labor' should not have appeared. Mr Mrdak agreed to examine the matter on notice, stating that PM&C had been 'very conscious of ensuring that party political references are not mentioned'.<sup>17</sup>

1.27 The website was again raised during discussion with the Australian National Audit Office (ANAO). Mr Steve Chapman, the Deputy Auditor-General, informed the committee that no review had been conducted as it had not been referred to ANAO. The committee heard that under the existing guidelines the Department of Finance and Deregulation referred campaigns over the value of \$250,000. As the costs of many websites fall below the \$250,000 threshold, they would not be referred for review by the ANAO, thus potentially escaping scrutiny. The Minister reminded the committee that websites still fell under the scrutiny of AGIMO, stating:

Senator, you make the point that the current guidelines do not deal with agency websites. I think we have heard that that is true. You would be aware of the evidence that was provided earlier today...about the responsibilities that AGIMO has in relation to those websites.

...

There is a key point that I have to stress to you, as I think officials did earlier, in relation to the website which you are drawing attention to now and which you drew attention to earlier in the day—the [www.economicstimulusplan.gov.au](http://www.economicstimulusplan.gov.au) website—and that is that it would be

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16 Mr Mike Mrdak, PM&C, *Estimates Hansard*, 26.5.09, p. 32.

17 Mr Mike Mrdak, PM&C, *Estimates Hansard*, 26.5.09, p. 56.

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inappropriate to describe it as a 'campaign website' in any way, shape or form.<sup>18</sup>

1.28 The matter was also raised with AGIMO during the committee's scrutiny of the Finance portfolio. The committee questioned AGIMO on the guidelines for registering government domain names. In particular, the committee asked whether the domain name 'www.buildingtheeducationrevolution.gov.au', which was related to the economic stimulus plan website, violated the guidelines for registration. The clauses referenced before the committee were as follows:

16. Domain names must bear a direct semantic connection to the stated purpose. Furthermore, such names should represent a readily recognised concept associated with the stated purpose.

17. Notwithstanding the preceding paragraph, the domain name must not:

...

v. express a political statement or bear any semantic connection to a registered Australian political party;<sup>19</sup>

1.29 AGIMO informed the committee that the website had been checked against all elements of the policy, and took some related matters on notice.<sup>20</sup>

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18 Senator the Hon John Faulkner, Special Minister of State, *Estimates Hansard*, 26.5.09, pp 97–98

19 Eligibility and Allocation Policy, AGIMO, available at: [http://www.domainname.gov.au/Eligibility\\_and\\_Allocation\\_Policy](http://www.domainname.gov.au/Eligibility_and_Allocation_Policy). Accessed on 17 June 2009.

20 *Estimates Hansard*, 27.5.09, p. 108.