

Senate Finance and Public Administration Committee hearing on the Data Availability and Transparency Bill

Deborah Anton | Opening statement

I would like to thank the members of the Committee for inviting me here today, and allowing me to deliver an opening statement on the Data Availability and Transparency Bill.

We developed this Bill because the world is changing. Technology allows us to do more with data, but the way that our world operates from a legislative point of view is that it's all in silos, that have been built up over time. To do more with data requires that we break out of our existing silos and engage sensibly with risk.

The Bill before the Parliament has been developed in response to the Productivity Commission's 2017 inquiry into Data Availability and Use. The inquiry noted that 'The potential value of data is tremendous; as is the scope for Australia to forgo much of this value under the misconception that denial of access minimises risks. These risks — and the desire for privacy and confidentiality — should not be downplayed or trivialised. They are real and important. But, many of them are able to be managed with the right policies and processes — and better managed than they are now.'

The Bill before you seeks to do just that.

Layers of defence

The Bill will create a government data sharing scheme, overseen and regulated by a new and independent National Data Commissioner to allow sharing for

the right reasons, with the right people, with appropriate controls to manage risks.

I have tabled for the Committee a graphical representation of the key controls that participants need to work through in order to share data under the scheme. I trust this will support our discussions today and your ongoing consideration of the Bill.

The Bill seeks to progress a necessary set of reforms to modernise APS data sharing practices, to set higher and more consistent standards, and to add additional transparency to ensure the public know what is being done with their data.

Ultimately, this means the Bill can enable the public service to function better and to be more responsive to the needs of Australians.

The purpose test embedded in the Bill states that data can only be shared for:

- delivery of government services
- informing government policy and programs, or
- research and development.

This is an important control in terms of the scope of the data sharing enabled by the Bill. It specifically precludes sharing for purposes that relate to national security or may that have a negative impact on individuals, such as when pursuing an enforcement action.

The safeguards described in the Bill provide 'layers of defence' that create a consistent and strengthened approach for the entire APS to use when managing data.

The data sharing principles across five domains identify risks and apply controls to ensure that risks are appropriately managed. They are based on international best practice and are already incorporated into similar State laws.

Accreditation is also a key safeguard for the scheme under this Bill.

Accreditation requirements mean that users of the scheme must prove they have the relevant skills and capability to access government data.

For those seeking to access personal data – they have an additional requirement – they must be covered by the Commonwealth *Privacy Act 1988*, or equivalent state or territory privacy legislation. This gives confidence to the public that they have redress should things go wrong and gives data custodians confidence that entities can be held responsible for the personal information they access under the Bill. Importantly, this means that foreign entities not covered by Australian privacy laws could not seek access to personal information under the Bill.

The National Data Commissioner has an important role to oversee these safeguards and take action to reduce harm if data sharing is non-compliant with the requirements in the Bill.

To ensure that sharing under this Bill is trusted by the public, we built in transparency elements.

The key terms of the data sharing agreement will be made publicly available, laying out what data will be shared, how this benefit the public and how risks will be managed or controlled.

Privacy

The Bill has been developed using a ‘privacy-by-design’ approach, which means privacy has been considered at every stage of the legislative development process.

We commissioned 3 independent Privacy Impact Assessments (PIAs) on the Bill. We published the third and final PIA, which aligns with the Bill as introduced to Parliament, on Friday 16 April 2021.

The third PIA concluded that, in the context of the benefits that can be achieved by increased data sharing, our layers of defence are strong and robust and represent a reasonable, necessary and proportionate response to privacy. The PIA also highlight the important work yet to come for the Commissioner in progressing from legislation to implementation.

Value of the reforms

I want to leave you with my view of why this reform is so important.

During the 3 years of co-design and consultation on this Bill, no one I’ve spoken to, whether they be a public servant, a researcher, a privacy advocate or a member of the public, has disputed the value of data.

Data is the difference between siloed delivery of government services, and the user experience that citizens expect and have experienced through services such as myTax.

Data takes the guesswork out of government policy design by helping our policymakers to craft informed and insights-driven policies and programs that benefit all Australians.

Data drives the research sector by helping academics and researchers identify valuable insights that improve Australians' experiences and quality of life.

Many of the submissions to this Committee are concerned about sharing of personal information and ask if we have got the balance right? We believe we have.

We have designed a principles-based Bill to ensure data sharing is secure, effective and transparent. The safeguards and controls that apply to data sharing under the Bill are rigorous, and are able to be consistently applied across the entire public service, raising the bar on current APS practices.

I'm happy to respond to any questions members of the Committee may have.