



**Community & Public Sector Union**

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Additional Support Committee  
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14 January 2016

Dear Committee Secretary

### **Inquiry into the foreign investment review framework**

As the primary union representing Australian Public Service (APS) employees, the Community and Public Sector Union (CPSU) is committed to providing a strong voice for our members in key public policy and political debates.

The CPSU welcomes the opportunity to make a submission to this inquiry into the examination of the foreign investment review framework. Our submission focuses on ensuring that Australia's national interest is adequately considered in relation to Australian assets of strategic or national significance being subject to lease or purchase by foreign owned interests.

#### *Information is different*

Concerns about the foreign ownership have traditionally focused on agricultural land, property or business acquisitions. The growing importance of data and data driven decisions, however, makes information on the public such as the personal data of millions of Australians and businesses important assets of national significance.

Data volumes are growing exponentially and so too is the potential value of this data. Publishing, linking and sharing data can create opportunities that neither Government nor business can currently envisage.<sup>1</sup>

The treatment of data does not neatly fit within Australia's existing regulatory foreign investment framework. The definition of relevant Australian assets in the *Foreign Acquisitions and Takeovers Act 1975* only includes land and securities (or shares), not Australian data.<sup>2</sup> Unlike land or shares, information can be used and controlled by many people at the same time. Given the marginal cost of reproducing data is zero, the only way information can be profitable is for there to be a monopoly or for a dominant entity to earn

<sup>1</sup> Department of Prime Minister and Cabinet, The value of public data, <http://www.dpmc.gov.au/pmc/about-pmc/core-priorities/public-data-branch-within-dpmc/value-public-data>

<sup>2</sup> ComLaw, *Foreign Acquisitions and Takeovers Act 1975*, 1 December 2015, <https://www.comlaw.gov.au/Details/C2015C00577>

near monopoly rents.<sup>3</sup> Most Australians would agree that delivering monopoly control of data on the Australian public to an overseas entity is not in the national interest.

The foreign investment framework should not ignore the acquisition of intangible assets such as personal information and the risk that the privatisation of data on the Australian public brings. The threat to our national interest from the privacy and security risk of that information being offshored must also be considered.

The CPSU notes that factors typically considered in assessing the national interest include: national security, competition and other government policies such as taxation; the impact on the economy and the community; and the investor's character. This assessment should apply to the sale of access to data on the Australian public to foreign investors.

Two examples highlight how the national interest needs to be considered when it comes to the foreign acquisition of data on the Australian public. They are the proposed privatisations of the:

- Medicare payments database; and
- ASIC Registry.

#### *Medicare payments database*

In 2014, the Government announced it was exploring outsourcing Medicare IT systems, which would involve turning over Medicare claims and payments to the private sector.<sup>4</sup> In February 2015, it was reported in the media that of the 8 companies that had expressed interest in taking on this work, 5 of them were foreign multinationals (Serco, Fuji-Xerox, Accenture, SAP and Oracle).<sup>5</sup>

The Medicare database is the biggest database of medical and financial information in Australia. Outsourcing the claims and payments system would involve turning this data over to a private company, which would pose a considerable privacy and security risk. The Government has not ruled out allowing one of the foreign actors to take the data, nor have they guaranteed that the data itself will remain on-shore. It is also highly likely that this highly valuable data will be treated as an asset and commercialised.

#### *ASIC Registry*

In the 2015-16 Budget, the Federal Government announced that it would sell the registry function of the Australian Securities and Investments Commission.<sup>6</sup> The ASIC Registry contains information on every registered company in Australia. Again, turning this data over to the private sector, and potentially to an overseas investor, poses significant risk.

As the Department of Finance has repeatedly identified, for example on its website, the ASIC Registry 'forms a critical part of Australia's economic infrastructure and is essential to the efficient operation of Australia's economy'.<sup>7</sup> It does this by capturing, maintaining and providing access to vital information about corporate entities and related professions. The ASIC registry assists in maintaining an informed marketplace, supports public scrutiny of

<sup>3</sup> Urs Birchler and Monika Büttler, *Information Economics*, Routledge, 2007, P.91

<sup>4</sup> ABC News, Medicare: Federal Government seeks to privatise payment system; public service union raises fears of job cuts, 8 August 2014, <http://www.abc.net.au/news/2014-08-08/government-seeks-to-privatise-medicare-payments/5659114>

<sup>5</sup> Noel Towell, Foreign multinationals circle Medicare, Canberra Times, 13 February 2015, <http://www.canberratimes.com.au/national/public-service/foreign-multinationals-circle-medicare-20150212-13czm0.html>

<sup>6</sup> Commonwealth, Budget Paper No.2: Budget Measures – Part 2: Expense Measures – Finance, 12 May 2015, [http://www.budget.gov.au/2015-16/content/bp2/html/bp2\\_expense-12.htm](http://www.budget.gov.au/2015-16/content/bp2/html/bp2_expense-12.htm)

<sup>7</sup> Department of Finance, Australian Securities and Investments Commission (ASIC) Registry – FAQs, 22 December 2015, <http://www.finance.gov.au/procurement/scoping-studies/asic-faqs/>

corporate operations and enhances public confidence in financial services firms and professions.

*Foreign acquisition of Australian data*

The CPSU does not support either Medicare outsourcing or the ASIC Registry privatisation.

Both Medicare outsourcing and ASIC privatisation are likely to involve foreign entities acquiring large amounts of data currently held and managed by the Australian Government. This is a trend that warrants consideration in the context of this review of foreign investment; given that data is increasingly valuable asset, the increased risk of privacy breaches for Australian citizens and also that the risks to Australia's national security if this data were to be compromised are significant.

The CPSU supports legislative and regulatory changes to that foreign investment framework to ensure Australia's national interest is being adequately considered when it comes to the control of Australian data.

If the Committee requires further information from the CPSU in relation to the matters raised in this submission please contact Kristin van Barneveld

Yours faithfully

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