Australian Government

Department of Social Services

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Deputy Secretary

Mr Peter Harris and Ms Melinda Cilento
Chairman and Commissioner
Data Availability and Use Inquiry
Productivity Commission
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Dear Chairman and Commissioner

Productivity Commission Draft Report on Data Availability and Use

The Department of Social Services (DSS) welcomes the opportunity to provide comments on the Productivity Commission's *Draft Report on Data Availability and Use* (the Draft Report). This submission provides information to assist the Commission in finalising its report on ways to improve the availability and use of public and private sector data.

DSS aspires to be the Australian Government's pre-eminent social policy agency with responsibility for national policies and programmes that aim to improve the lifetime wellbeing of people and families in Australia.

In this context, DSS recognises that data held by the Australian Government is a strategic national resource that holds considerable value, and is committed to collaborating with research, private, and not-for-profit sectors to extend the value of public sector data for the benefit of the Australian public in line with the *Australian Government's Public Data Policy Statement*.

DSS broadly endorses the recommendations of the Commission's Draft Report, and strongly supports a number of key recommendations, including:

- Introducing new legislation (Data Sharing and Release Act),
- Creating a new central National Data Custodian (NDC) with support from jurisdictional Accredited Release Authorities (ARAs), and
- Providing broad access to National Interest Datasets (NIDs).

DSS recognises that the data system model presented as part of the Commission's Draft recommendations will make effective use of existing investments in data asset infrastructure, and support the Government in its commitment to optimising the use

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and re-use of public sector data as outlined in the *Australian Government's Public Data Policy Statement*.

DSS also recognises that there are a number of broad thematic areas in the Draft Report which may benefit from further attention. These issues are outlined in detail below.

We trust you find this information useful, and would be pleased to provide further input during the course of the Commission's Inquiry.

If your Office requires further information, please contact Mr David Dennis, Branch Manager, Policy Evidence Branch on 02 6146 3201 or at david.dennis@dss.gov.au.

Yours sincerely

Serena Wilson

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Productivity Commission – Draft Report on Data Availability and Use

The following comments refer to issues raised in the *Productivity Commission's Draft Report on Data Availability and Use* from the Department of Social Services' perspective.

Part 1 – Key Issues

This section outlines a number of broad thematic areas in the Draft Report which may benefit from further attention.

1.1   Introduction of Legislation

DSS supports the introduction of enabling legislation specific to data sharing and release (Data Sharing and Release Act). The Department recognises that providing overriding principle based legislation that is adaptable to technological change and makes explicit capabilities and responsibilities of agencies will minimise perceived barriers to data linkage and sharing while maintaining appropriate privacy protections.

DSS suggests that the introduction of new legislation should be systemic and forward looking, rather than simply addressing current problems. It should also be technologically neutral to avoid laws being rendered obsolete by rapid developments in technology.

1.2   Proposed New Entities

DSS supports the proposed role of the National Data Custodian (NDC), and notes that the concept of the NDC reflects DSS's proposal for an independent entity empowered under enabling legislation to manage data sharing and use on a national scale as outlined in the Department's initial submission to the Commission.

DSS also broadly supports the recommendation that selected Australian, state and territory government agencies should be designated as Accredited Release Authorities (ARAs) by the NDC. If implemented, this draft recommendation will effectively support data sharing on a national scale.

The Draft Report also suggests that ARAs will play a role in deciding whether a dataset is made available for public release. DSS recognises that individual data custodian agencies currently have this decision making power under legislation and would need to be closely consulted when determining ARA powers.

DSS notes that the Draft Report is unclear on whether the intention is for ARAs to ensure that data release processes align with standards prior to approving data initiatives, or if ARAs will have enhanced powers for approving data release that supersede existing legislative arrangements for data custodian agencies. Draft recommendation 9.6 would benefit from inclusion of a greater level of detail in the Final Report.

1.3   Purpose of Data Use

DSS notes that data use for research and statistics, policy development, service delivery, compliance, and debt recovery are all facilitated differently by current legislative arrangements. There will be different implications in terms of legislative changes and social licence activities for each category of data use that will need to be considered in the Final Report.

1.4   Consumer Rights

DSS broadly endorses the recommendations for introducing consumer rights for data access. However, we note that new functions for data custodians associated with the draft recommendation may necessitate system changes. With new requirements, potential data system upgrades may require additional funding to allow data custodians to provide information to individual consumers on request.

DSS also recognises that there may be benefits to introducing specific limitations to proposed consumer rights to 'delete' data from datasets recognised as National Interest Datasets, as retaining this data (in de-identified form) may be in the public interest.

1.5   Implementation of Process

Implementing the recommendations of the Final Report will be a multi-step process. Initial steps will themselves require substantial work, and the Final Report should expressly advise on which parties are best placed to undertake specific elements of the Report's recommendations. This will be particularly relevant for agencies that will require additional resource allocation to support the process.

1.6   Social Licence

There are sensitivities involved in using public sector data in new ways, and any new use of public data should be supported by work to establish a 'social licence' with the public.

Social licence activities should commence as soon as possible, as they are intrinsically tied to the adoption of each of the Draft Report's recommendations.

The Department recognises the importance of a trusted, transparent and balanced approach to sharing public data, where privacy and trust are maintained. In this context, DSS recognises the work being undertaken by the New Zealand Government as part of establishing a social licence for uses of public sector data.

DSS recognises that Australia may benefit from a similar public facing working group to New Zealand's Data Futures Partnership, which has been established as a cross-sector group of influential citizens, consumers, businesses, non-governmental organisations, and government to drive greater trusted data sharing and use.

It is important that communication to the public be accessible, digestible, timely and focussed on the types of public value that can be generated from public data in a way that resonates with the Australian public. Communication should be a two way conversation and start with a significant lead time prior to changes in data accessibility and use.

As part of this process, social licence activities should include benchmarking of public attitudes for a range of public data management activities. Providing tailored information and engagement activities for different segments of the public based on attitudes to data management will support a trusted, transparent and balanced approach to sharing public data.

1.7   Governance

The implementation of effective governance structures is key to overcoming agency inaction on data sharing, and gives agencies an opportunity to formally address issues that have become barriers to effectively sharing data.

Internal governance structures are fundamental to government agencies participating in more complex data sharing activities, both as part of data integration arrangements between government agencies, and providing data access for the use and re-use of public sector data. Internal governance structures include establishing internal agency data governance committees to oversee and provide strategic guidance on data policies, systems, activities and projects, including data related investments.

The data system model presented as part of the Commission's recommendations provides a broader, federated governance structure that makes effective use of existing investments in data asset infrastructure and existing governance arrangements within the national public data system.

Establishing ARAs across Australian, state and territory governments will allow for a federated use of existing infrastructure dispersed across the national data system. The NDC will also allow for centralised leadership on data management issues, and the promotion of optimal data management practices for these dispersed data asset infrastructure and governance systems.

The Final Report would benefit from including further detail on the multiple levels of governance required to effectively support data sharing and linkage activities. This could include providing clear guidance to the distinct groups who undertake the production, regulation, and accreditation of public sector data at different levels of the national data system (i.e. data custodians, ARAs and the NDC). The different governance levels include:

- Internal operational procedures to manage data preparation and collation (e.g. confidentialisation policy)
- Governance processes regulating how data can be used, applying appropriate levels of control for internal and external data use, and
- Governance structures to enable more effective data access systems, where consistent practices across agencies would streamline data access processes.

Division of responsibilities

Success of the Commission's proposed data system model depends on an efficient division of responsibilities between data custodian agencies, ARAs and the NDC in a way that provides mutual support for the governance activities undertaken at each level of the national data system.

DSS recognises there will be specific governance requirements at each level of the system, but roles and responsibilities may overlap in some instances. Data custodian agencies will have operational responsibility for a majority of the first two governance levels outlined above, with opportunities for the NDC and ARAs for setting and providing oversight for data management standards.

The third level of governance outlined above will require participants at all levels of the national data system to undertake relevant governance activities as part of implementing the Commission's proposed data system model.

The Final Report would benefit from highlighting that governance activities undertaken at all levels of the national data system should be recognised as complementary structures implemented on different scales for different purposes, rather than competing data management models.

For example, DSS operates the National Centre for Longitudinal Data (NCLD) (www.dss.gov.au/NCLD) to support the management of critical national data assets. This function does not overlap with, but complements and contributes to the Commission's proposed strategy for managing National Interest Datasets (NIDs).

While the work of the NCLD will be complemented and strengthened by the overarching data system model presented, it will be fundamental that the DSS portfolio specific, data custodian level work of the NCLD continue to be supported as broader governance structures are implemented on a national scale.

DSS recognises that this situation will be common across Australian, state and territory government agencies, as many agencies have already made substantial contributions in terms of data asset infrastructure and data management initiatives.

There must be thorough management of data assets and ongoing implementation of best practice approaches at the data custodian level to enable data quality and assurance that will in turn ensure a fully functioning national data system that can effectively contribute to the creation of NIDs.

DSS recognises that the federated nature of the Commission's proposed data system model has the potential to facilitate existing investments in data management.

DSS also recommends that a number of longitudinal assets identified through the recent *Review of Australia's Longitudinal Data System* be nominated as NIDs. These are outlined in detail in Part 2 of this submission.

1.8   Other Comments on Draft Recommendations

Draft Recommendation 5.1: DSS notes that the OAIC has already developed and published a number of practical guidance documents on best practice de-identification processes, including the OAIC's *Information policy agency resource on the de-identification of data and information*[1]*,* and the *Draft consultation guide to big data and the Australian Privacy Principles*[2]*.*

Draft Recommendation 5.3: DSS notes the Commission's draft recommendation that the Australian Government abolish its requirement to destroy linked datasets and statistical linkage keys at the completion of researchers' data integration projects.

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[1] The Office of the Australian Information Commissioner (OAIC), Information policy agency resource 1: De-identification of data and information, https://www.oaic.gov.au/information-policy/information-policy-resources/information-policy-agency-resource-1-de-identification-of-data-and-information
[2] The Office of the Australian Information Commissioner (OAIC), Draft Guide to Big Data and the Australian Privacy Principles, https://oaic.gov.au/engage-with-us/consultations/guide-to-big-data-and-the-australian-privacy-principles/

DSS recognises that this recommendation should include further information on circumstances where information that would have otherwise been destroyed could be used, noting that this information will still be subject to provisions under the *Privacy Act 1988*, and potentially other legislation containing secrecy provisions such as the *Social Security (Administration) Act 1999*.

Draft Recommendation 5.4: DSS recognises that this draft recommendation should expressly advise on which parties are best placed to undertake specific elements of the draft recommendation. This should include agencies responsible for initial stages of implementation, as well as responsibilities of the NDC and ARAs should the Commission's proposed data system model be successfully implemented.

Draft Recommendation 2.1/6.3: (DSS notes that this draft recommendation should be draft recommendation 6.3) DSS recognises that this draft recommendation should expressly advise on which party is best placed to undertake specific elements of the public release process. This should include agencies responsible for initial stages of implementation, as well as responsibilities of the NDC should the Commission's proposed data system model be successfully implemented.

Draft Recommendation 9.3: This draft recommendation should include agencies responsible for initial stages of implementation, as well as potential responsibilities for the NDC should the Commission's proposed data system model be successfully implemented.

1.9   Other Comments

Page 5, paragraph 2: In response to the Commission's comments on 'data that allows performance monitoring and comparison of government activities', we note that the DSS Data Exchange provides a new approach to program performance reporting. The Data Exchange is an online system that takes a 'collect once' approach to collecting data, and provides flexible ways for service providers to submit performance information to the Department.

DSS recognises that the Data Exchange has the potential to be trialled more widely by state and territory governments.

Page 16, Box 2: DSS suggests the Commonwealth Ombudsman may be included as a possible mechanism for considering and investigating complaints.

General comment: The work of the Department aims to support vulnerable people, including children (who are unable to make decisions about the use of their data).

DSS recognises that protection measures will need to be put in place for vulnerable individuals, with the emerging use of internet-connected mechanisms for service delivery dependent upon third party private sector bodies (recommendation 9.1 refers).

This includes data collection activities such as text messages to clients, online counselling, use of smart phone applications for recording client data, and storage of client data in the cloud.

Part 2 – National Interest Datasets

DSS recommends that a number of longitudinal assets identified through the recent *Review of Australia's Longitudinal Data System* (the Review) be nominated as NIDs. The table below outlines 15 core longitudinal data assets of national importance as identified in the Review).

Surveys	Lead Agency	Other agencies directly involved
1. Australian Census Longitudinal 5% Dataset (2006 and 2011)	ABS	n/a
2. Household, Income and Labour Dynamics in Australia (HILDA) Survey	DSS	n/a
3. Longitudinal Study of Australian Children (LSAC)	DSS	n/a
4. Longitudinal Surveys of Australian Youth (LSAY)	Education and Training	Department of Employment
5. Australian Longitudinal Study on Women's Health (ALSWH)	Health	n/a
6. Australian Longitudinal Study on Male Health (ALSMH)	Health	n/a
7. Longitudinal Study of Indigenous Children (LSIC)	DSS	n/a
8. Building a New Life in Australia (BNLA)	DSS	n/a
Administrative Data	**Lead Agency**	**Other agencies directly involved**
9. Multi-Agency Data Integration Project (MADIP)	ABS	DSS/Health/DHS/ATO
10. Expanded Analytical Business Longitudinal Database (EABLD)	ABS	ATO/DIIS
11. Longitudinal Dataset for the Investment Approach (JASON)	DSS	DHS
12. Medicare Benefits Scheme/Pharmaceutical Benefits Scheme 10% Data Set	Health	n/a
13. National Assessment Program – Literacy and Numeracy (NAPLAN)	Education and Training	n/a
14. Australian Vocational Education and Training Management Information Statistical Standard (AVETMISS)	Education and Training	n/a
15. Higher Education Information Management System (HEIMS)	Education and Training	n/a