



Australian Government

Department of the Prime Minister and Cabinet

**The Australian
Government's
response to
the Productivity
Commission Data
Availability and
Use Inquiry**



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The Australian Government's response to the Productivity Commission Data Availability and Use Inquiry (PDF)

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It is time now to go further—to transform the data system in Australia and the way data is made available and used.

Minister's foreword

Australia's data is a major national resource, offering enormous opportunity for citizens, business and government to make better informed decisions and develop innovative products and services.

Unlocking data enables more targeted and effective policy development and program delivery, and increases personal choice and competition. Data-driven innovation has been estimated to add up to \$64 billion per annum to the Australian economy.

The Australian Government recognises our nation's capacity to remain competitive in the modern, global economy relies on our ability to harness the power of our nation's data. That is why the Turnbull Government put in place the Public Data Policy Statement in 2015, committing government agencies to a range of actions designed to optimise the use and reuse of public sector data.

It is now time to go further—to transform the data system in Australia and the way data is made available and used.

Recognising there are a number of barriers preventing optimal use of data in Australia, the Government requested the Productivity Commission undertake an inquiry into the benefits and costs of making public and private sector data more available.

In response to the Productivity Commission's comprehensive inquiry into Data Availability and Use, the Australian Government will invest \$65 million over the forward estimates to reform the Australian data system and introduce a range of measures to implement the Productivity Commission's recommendations.

There are three key features underpinning these reforms:

- 1. A new Consumer Data Right** will give citizens greater transparency and control over their own data.
- 2. A National Data Commissioner** will implement and oversee a simpler, more efficient data sharing and release framework. The National Data Commissioner will be the trusted overseer of the public data system.
- 3. New legislative and governance arrangements** will enable better use of data across the economy while ensuring appropriate safeguards are in place to protect sensitive information.

These reforms will help empower Australian citizens, governments, industries and researchers to use and share data, while maintaining the strict privacy, security and transparency safeguards essential to maintain trust in the system.

These advances to Australia's data system will mean we can harness the power of data to drive innovation and opportunity for the Australian economy.

The Hon. Michael Keenan MP

Minister Assisting the Prime Minister for Digital Transformation

“Data volumes are exploding. In the past two years alone, more data has been created than in the entire history of the human race.”

Forbes (B. Marr), 2015

“Some 91 per cent of Australians would be willing to share their de-identified medical data if it went towards research purposes.”

Research Australia, 2016

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Overview

The Government response

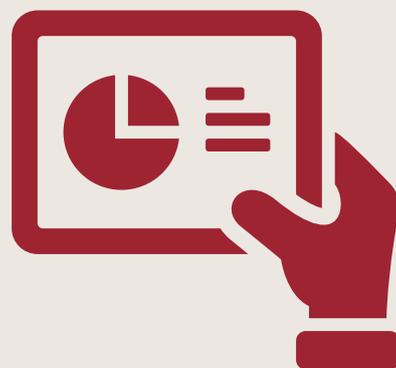
The Government received a substantial package of proposed reforms and recommendations from the Productivity Commission in its final report into *Data Availability and Use*.

The Productivity Commission recommended opportunities for active data use by consumers, and data access arrangements be dialled up or down according to the level of risk associated with different types of data and different types of data uses. The Productivity Commission recommended data access arrangements be underpinned by a modernised regulatory framework.

The Government is committed to:

1. A **Consumer Data Right** as a new competition and consumer measure to allow consumers to harness and have greater control over their data.
2. A **National Data Commissioner** to support a new data sharing and release framework and oversee the integrity of data sharing and release activities of Commonwealth agencies.
3. A **legislative package** will streamline data sharing and release, subject to strict data privacy and confidentiality provisions.

The reformed national data system will greatly improve Australia's ability to capture the social and economic benefits from existing data.



Reforming the national data system

Consumer Data Right

Led by The Treasurer

Rights for consumers

Consumer data access and transfer rights to improve competition and consumer choice



Close collaboration with industry

A new Data Standards Body will facilitate collaboration on data access and transfer standards with designated industry sectors, the technology community, consumer groups and privacy advocates



New data sharing and release arrangements

Led by the Minister Assisting the Prime Minister for Digital Transformation

Improve Australia's current data system

Address existing barriers, such as lack of standardised and transparent approaches to data sharing and release, and unnecessarily complex data access processes



Improved access to public data

Further increase the value that is derived from Australia's public data



New legislation

A new Data Sharing and Release Act will establish the new Data Sharing and Release institutional and governance arrangements



National Data Commissioner (NDC)

A National Data Commissioner to oversee and monitor the integrity of Australia's data system. The NDC will engage widely with the public; provide guidance to promote technical best practice and ethical uses of data; and drive cultural change towards greater use and reuse of data.

The Consumer Data Right

Making it easier for consumers to use their data

Productivity Commission Recommendations: 5.1, 5.2, 5.3, 5.4, 5.5 and 8.7

The Productivity Commission recommended the Australian Government introduce a Consumer Data Right to improve consumer control over the data which businesses hold about consumers' use of products and services.

Giving consumers better access to this data, and the ability to direct data be transferred to data recipients, would make it easier for them to find a better deal and share their information only with parties they trust. For example, consumers could share their data with trusted service providers or with comparison services to investigate other service offerings.

This in turn would drive greater competition between businesses to attract new customers and encourage new business models to unlock the value of consumer data.

The Australian Government's response

The Australian Government will introduce a Consumer Data Right to allow consumers to access particular data, including transaction, usage, and product data, in a useful digital format. Consumers will also be able to direct a business to transfer that data to a data recipient.

Implementation of the Consumer Data Right will begin in the banking, energy and telecommunications sectors, and will be rolled out to other sectors over time. Before rolling out reforms in a particular sector, the Government will work with that sector and consumers to determine the kind of data consumers require to achieve the intended choice and competition benefits.

The Consumer Data Right will be designed to ensure strong privacy protections and security safeguards. Government and industry will develop appropriate data standards for the protection, access and transfer of data.

To ensure appropriate oversight and regulation of the Consumer Data Right, the Office of the Australian Information Commissioner and the Australian Competition and Consumer Commission will have separate but complementary enforcement roles.

“[The Consumer Data Right offers] the capacity to underpin a new wave of competition policy, similar in its catalytic effect to the Hilmer reforms of the 1990s.”

Productivity Commission 2017, Data Availability and Use Final Report, p. 191.

The Office of the Australian Information Commissioner will have primary responsibility for individual consumer complaints, and the Australian Competition and Consumer Commission will focus on ensuring the system as a whole operates as intended, including supporting competition and good consumer outcomes. There will be robust information sharing arrangements between the two. Consumers will be able to direct complaints to a single contact point, run by the OAIC, who will handle complaints using a 'no wrong door' approach.

The Consumer Data Right will be introduced primarily through changes to the *Competition and Consumer Act 2010*.

The Treasurer will lead implementation of the Consumer Data Right.

Governing the national data system

Balancing trust and opportunity

Productivity Commission Recommendations: 6.6, 6.7, 6.11, 6.13, 7.4, 9.4 and 10.2

The Productivity Commission recommended establishing a new statutory role with a supporting office, to take responsibility for a reformed national data system. The role would be supported by a small technical advisory board.

“Comprehensive reform to data availability and use will require a change to the culture around the sharing and release of data. While establishing an institutional structure for data sharing and release is necessary, it will also be important to ensure consistent leadership and technical direction for implementation of reforms to Australia’s data infrastructure, and in building trust between jurisdictions and across sectors.”

Productivity Commission 2017, Data Availability and Use Final Report, p. 246

The Australian Government’s response

The Australian Government will establish a position to be called the National Data Commissioner and will introduce a new data sharing and release framework. This will streamline the way public data is shared and released, which will in turn:

- » Promote greater use of data
- » Drive economic benefits and innovation from greater use of data, and
- » Build trust with the Australian community about the government’s use of data.

Realising benefits from data for all Australians needs a powerful champion with a mandate to unlock the productivity benefits of valuable datasets, identify opportunities for improved data use, and build national frameworks and guidelines.

Many benefits of better data use within governments arise from improvements in economic productivity—by providing a stronger evidence base, more efficient systems, and competitive product and service offerings in the market economy. However, a balance must be struck between utilising data for the benefit of the Australian economy and society, and ensuring community trust in the way government uses data.

The National Data Commissioner will provide a consistent and well-defined approach to data management, including proactively managing risks, dealing with complaints and monitoring the integrity of the data sharing and release framework. This will increase community trust and confidence in the way government manages and uses its data.

The Australian Bureau of Statistics will provide technical guidance and support to the National Data Commissioner.

A new National Data Advisory Council will advise the National Data Commissioner on ethical data use, technical best practice, and industry and international developments.

A cultural change is required from agencies to ensure greater data sharing within government and support for whole-of-government initiatives and reforms. The new data sharing and release framework will support a drive for cultural change within government towards greater data sharing while mitigating the risks associated with sharing of personal data. Better legislative and governance arrangements will ensure government gets the maximum benefits from the data it already holds and collects while maintaining public trust in how data is being used. This will enable government to meet community expectations to be efficient and to use the data it already has more productively.

Accredited Data Authorities

Centres of expertise for the efficient and safe use and sharing of data

Productivity Commission Recommendations: 6.8, 6.9, 6.10, 6.12 and 7.3

The Productivity Commission recommended establishing Accredited Release Authorities as hubs of expertise to enable other datasets of public interest to be linked, shared or released.

These bodies would play an important role in supporting the linkage of datasets and deciding whether a dataset is made available for public release or limited sharing with trusted users.

The Australian Government's response

The Australian Government agrees a network of Accredited Data Authorities will be integral to a reformed Australian data system. These Authorities will be catalysts for efficient and safe sharing and release of data.

In 2009, Australia's National Statistical Service instituted an administrative process to accredit agencies to serve as 'Integrating Authorities' for data being brought together to create more valuable, statistical and research datasets. The Government will enact similar governance arrangements for Accredited Data Authorities in a data sharing and release legislative package.

“Accredited Release Authorities would play an integral role in facilitating trust and cooperation in the use and release of data.”

Productivity Commission 2017, Data Availability and Use Final Report, p. 250.

Accredited Data Authorities will engage with data custodians and users on matters relating to data availability and use. Data sharing agreements between data custodians, Accredited Data Authorities and data users will be a key part of the governance framework. These agreements will articulate risk management processes to effectively assess and manage the risks associated with sharing and release of data for which they are responsible. That said, accountability for the risks of sharing and releasing data will remain with data custodians.

Accredited Data Authorities and data custodians will work together to implement a trusted user framework along the lines of the Five Safes model developed in the United Kingdom, which is widely accepted as international best practice.



Designated Datasets—a special class of high-value datasets

Delivering significant community-wide benefit

Productivity Commission Recommendations: 7.1 and 7.2

The Productivity Commission recommended establishing a new form of national data asset, a ‘National Interest Dataset’. These would be datasets generating significant community-wide benefits.

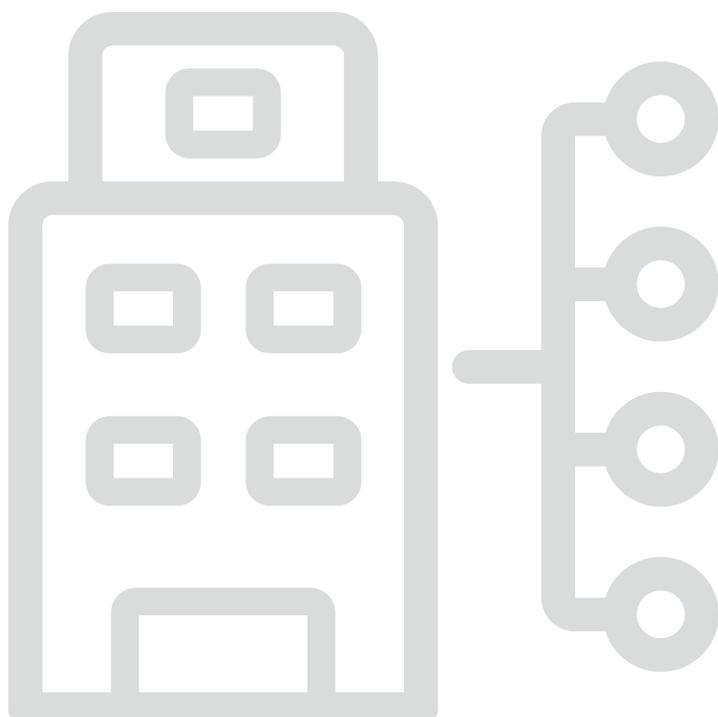
The Australian Government’s response

The Australian Government will establish a framework to identify those datasets whose availability and use will generate significant community-wide benefits. This will complement existing work under Australia’s *Open Government Partnership National Action Plan 2016–2018* to release a high-value dataset framework.

The Government will consider the best way to facilitate sharing and use of these datasets through the legislative consultation process.

“Wider access to high value datasets across and between sectors—public, private, non-for-profit and academia—and jurisdictions has the capacity to deliver considerable benefits. Those high value datasets that may be used to generate substantial benefits across a broad swathe of the Australian population are considered to be of national interest.”

Productivity Commission 2017, Data Availability and Use Final Report, p. 291.



Improving Australia's current data system

Building on our current initiatives to improve data availability and use

Productivity Commission Recommendations: 6.1, 6.2, 6.3, 6.4, 6.5, 6.14, 6.15, 6.17, 8.4, 9.1, 9.2, 9.3, 10.1, 10.3 and 10.4

The Productivity Commission recommended substantial reforms to Australia's data system through the introduction of a *Data Sharing and Release Act* and new data governance arrangements. Beyond these legislative and institutional reforms, the Productivity Commission recommended specific actions to improve Australia's current data system. These recommendations cover improvements to existing: data availability; transparency and discoverability; data integration and linkage; and data sharing and release standards.

The Australian Government's response

The Australian Government has taken actions over recent years towards greater open data, while maintaining and strengthening safeguards needed for a trusted data system.

The Government will continue to take a system-wide approach to improving the availability and use of data, optimising the use and reuse of public sector data to deliver greater opportunities for innovation and efficiency. This will include:

- » taking a risk-based approach to releasing available publicly-funded datasets
- » publishing registers of available publicly-funded datasets;
- » developing best practice guidance and standards on data availability and use
- » working to identify and release high-value datasets
- » streamlining data sharing arrangements, and
- » monitoring the performance of Australia's data system.

“Improved data access and use can enable new products and services that transform everyday life, drive efficiency and safety, create productivity gains and allow better decision making.”

Productivity Commission 2017, Data Availability and Use Final Report, p. 2.

The Government agrees to actively engage with the community on matters related to data availability and use. Engagement is key to the *Open Government National Action Plan 2016–2018* and the *Data Integration Partnership for Australia*, and will be a core function of reformed institutional and governance arrangements.

The Open Government National Action Plan 2016–2018 commits to providing better access to government-held information and data, while improving privacy risk management capability across the public sector.



New laws to improve access to and use of data

A Data Sharing and Release Legislative Package

Productivity Commission Recommendations: 6.16, 8.1, 8.2, 8.3, 8.5 and 8.6

The Productivity Commission identified a number of barriers inhibiting the better use of data, and argued that simplifying and improving the consistency of our current laws, would benefit all Australians through greater choice and improved services. The Productivity Commission recommended a legislative pathway to modernise Australia's regulatory framework governing data availability and use.

“Legislative reform provides the opportunity to enshrine a new approach to data—a permission to use data assets in a way not envisioned when the current rules and practices were established.”

Productivity Commission 2017, Data Availability and Use Final Report, p. 308.

The Australian Government's response

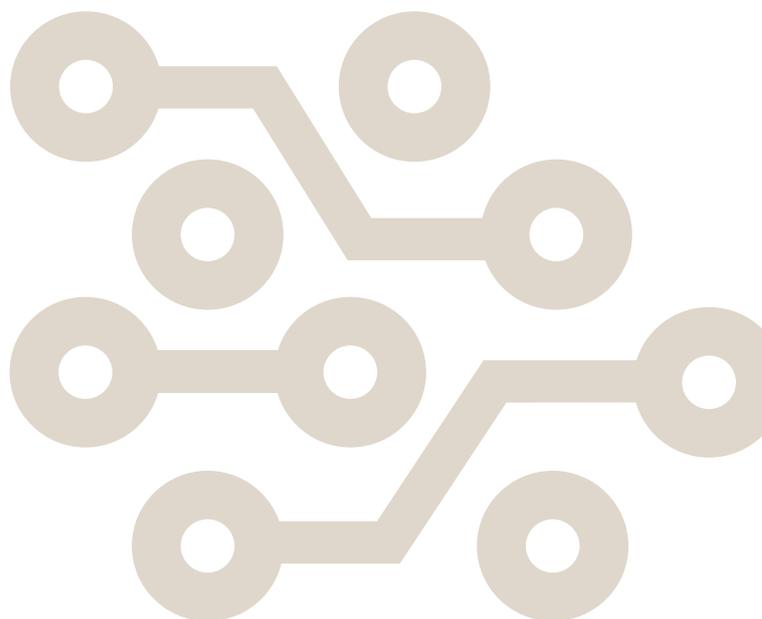
A new Data Sharing and Release Act

The Government will introduce laws underpinning a new system for data sharing and release in Australia. This legislation will establish institutional and governance arrangements including Accredited Data Authorities and a trusted user framework to facilitate better sharing of data. The legislative package will set clear rules and expectations for data sharing and release, including making clear when data can be shared, and embedding strong safeguards for sensitive data and effective risk management practices.

Balancing access and secrecy through a trusted user framework

The Productivity Commission found, in some cases, secrecy provisions in existing laws could unreasonably hinder data sharing and release for matters of public interest.

Australia's secrecy provisions relating to access to and use of identifiable data have been set after thorough consideration of our national interests, and will not be changed without careful consideration. The data sharing and release legislative package will provide a robust authorisation process, balancing the operation of secrecy provisions with data sharing and release for public interest purposes. Importantly, the new legislation will not affect existing protections applying to particularly sensitive data, such as national security and law enforcement data. A number of key data safeguards will apply.



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