



**Australian
Privacy
Foundation**

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<http://www.privacy.org.au/About/Contacts.html>

9 March 2012

Mr Brian Pink
Australian Statistician

cc. Ms Denise Carlton, Assistant Statistician (A/g)

Dear Mr Pink

Re: Compulsory Surveys

Thank you for the reply of 23 February to our letters of 3 and 13 February. It gives rise to a number of concerns, however, and we would therefore appreciate your responses to the following.

1. The Scope of the Powers of Direction

- (a) It appears to the APF that s.5 of the Statistics Regulations empowers the ABS to demand a response by any Australian resident to any question that the ABS chooses to ask, under penalty of a criminal offence.
- (b) Further, it appears to the APF that all defences against such charges have been removed.
- (c) Further, it appears that ABS considers itself able to use these powers in relation to any survey that it conducts, for any client, and whether the activity is performed under a statutory power, or in accordance with an MoU or a contract.
- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.
- (e) If you believe any questions are precluded by s.5, would you please provide examples.

2. Obligations under the FOI Laws

- (a) The APF contends that ABS has an obligation to provide far greater transparency than it currently does, and in particular to provide the public with convenient access to:
 - (i) the s.5 authority
 - (ii) all currently authoritative proposals that have been tabled in the Parliament
- (b) The APF specifically contends that reliance on the aph.gov.au web-site does not represent compliance with that obligation, because that site is not under the control of ABS, and is neither reliable nor convenient for the public.
- (c) Using the ABS site, the APF has not been able to identify and acquire copies of the current tabled documents that relate to each of the compulsory surveys. We are accordingly requesting you to provide us with copies or direct URLs from which they can be downloaded.

3. Obligations to perform PIAs

- (a) The APF contends that all compulsory surveys are highly intrusive, into the privacy of personal behaviour, and into the privacy of personal data (and, in at least the case of the Health Survey, into the privacy of the physical person as well).
- (b) The APF accordingly contends that It is untenable for the ABS to design such surveys without first conducting a PIA.

4. The Serious Inadequacy of Public Consultation

- (a) The APF contends that the obligation to conduct public consultation cannot be satisfied by focus groups, because they are a research tool, not a consultative tool.
- (b) The APF further contends that the obligation to conduct public consultation cannot be satisfied through discussions with members of the public alone, unless members of the public are sufficiently well-informed about all aspects of the subject-matter.
- (c) The APF further contends that ABS surveys generally, but especially compulsory surveys, raise issues far too broad and deep to be appreciated by members of the public without the direct involvement of representative and advocacy organisations with specific expertise in civil liberties generally and privacy in particular.
- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

5. Serious Concerns About Collection Practices

- (a) The APF has evidence showing the practices of ABS's collectors are seriously privacy-invasive.
- (b) It would appear that some of the problems are arising from errors made by collectors (indicating inadequate training), and others because of the instructions provided by ABS.
- (c) The APF accordingly contends that a Privacy Impact Review is essential and urgent, into all aspects of the ABS's compulsory surveys, and particularly the collection practices.
- (d) The APF further contends that the Privacy Impact Review needs to involve public consultation as discussed immediately above.

We believe that the issues raised in this letter are all important matters of public policy, and that they are deserving of your attention and formal response.

Would you please ensure that your organisation's responses are delivered in structured form, cross-referenced against the above numbering scheme. We believe that this is important, in order to facilitate future rounds of correspondence between the APF and ABS, and, if the problems have to be subsequently escalated to oversight agencies and the Parliament, to facilitate those discussions as well.

It would also be much appreciated if you could arrange for your response to be provided in text-copiable electronic form.

Thank you for your consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Roger Clarke', with a long horizontal flourish extending to the right.

Roger Clarke
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