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MEDIA RELEASE

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The Imminent Threat of Automated Government

Centrelink has recently delegated decision-making about people's entitlements to a computer.

And, surprise, surprise, neither the data nor the software are good enough to support the process.

As a result, thousands of people have received demands for copies of old documents, and have been wrongly subjected to ham-fisted actions by commercial debt-collectors.

Buoyed by this 'success', **the Department of Health is now asking the Parliament**, through whoever is Minister for Health at the time, **to authorise it to perform automated decision-making**.

The public service is moving in the direction of robot-government, abandoning human-managed business processes in favour of supposedly Artificial Intelligent systems. As the Centrelink debacle has demonstrated, automated decision-making cannot be trusted without direct human oversight.

It is vital that the public stand up right now, and defeat these attempts by the bureaucracy to subject people to decisions based on bad data and badly-designed computer software.

The public service and business alike must be under legal obligations to:

- act responsibly
- design business processes to reflect the fact that all results of data matching, and all automated processes, inherently involve errors of fact and judgement, and sometimes of law as well
- check the output from computer-based systems before acting on it
- ensure that there is sound evidence supporting all actions taken
- take no action harmful to the individual until after notice has been given and an appropriate opportunity has been provided for the individual to contest the matter
- provide copies of the relevant evidence, on request
- where the individual contests the matter, investigate the concerns and respond to the individual
- take no action harmful to the individual while the matter remains contested
- inform the individual about their dispute rights and where to seek advice

Government agencies must not be permitted the freedom to be irresponsible.

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The Australian Government Bill

National Health Amendment (Pharmaceutical Benefits) Bill 2016

http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5772

cl.101B

Computer programs for administrative action by Minister

(1) The Minister may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Minister may or must take administrative action under this Part or a legislative instrument made for the purposes of this Part.

...

Definitions

(6) In this section:

administrative action:

each of the following constitutes taking administrative action for the purposes of this section:

- (a) making a decision;
- (b) exercising any power or complying with any obligation;
- (c) doing anything else related to making a decision or exercising a power or complying with an obligation.

Note that, contrary to the misleading tone of the 'Explanatory Memorandum', the provision is not restricted to minor administrative matters, but has broad scope.

Further, the standard technique used by the bureaucracy is to establish a beachhead, and then argue that precedents exist, and that no-one should have any problems with additional applications of the same old idea. It is vital that the public recognise the Bill's provision as a 'thin end of the wedge' manoeuvre.

The European Provisions

EU GDPR

Automated individual decision-making, including profiling

<http://www.privacy-regulation.eu/en/>

Art 22.1. The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.

This is subject to qualifications in Art 22.2, but those qualifications are themselves subject to further qualifications in Arts 21.4 and 9.

However, the effect is that decision-making involving health data in particular is subject to considerable restrictions, and **all such automation is subject to the overriding requirement for "appropriate safeguards for the fundamental rights and the interests of the data subject"**.