

Dear Mr Clarke,

The ABS is committed to balancing the need for accurate statistics to inform the development of policy against the imposition this places on our respondents. In addition, the ABS maintains an open and transparent dialogue with the Australian Public. This includes:

- engaging with the public when developing new collections;
- tabling proposals for new collections in parliament;
- treating providers of information with respect; and
- protecting the confidentiality of information given to us.

In your recent letter dated 22nd April 2012, you have grossly misrepresented the position of the ABS. I have restated or clarified the position of the ABS where your interpolation seems to have disregarded the information I have previously provided.

As indicated in my previous correspondence, if you would like specific tabling documents to be provided to you, please contact Michael Meagher on 02 6252 7967.

Yours sincerely,

Denise Carlton
Assistant Statistician (A/g)
Office of the Statistician and External Engagement
Australian Bureau of Statistics

April 2012

Restatements and Clarifications of the ABS Position

Excerpt from page 1, Attachment to APF letter dated 22nd April 2012:

1. The Scope of the Powers of Direction

(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.

ABS's Reply: Correct.

This is not true. The Statistician will only conduct collections of national importance. These nationally important collections may be funded in a range of arrangements, including MOUs. However, the Statistician would not enter into an MOU or contract to collect data which was not nationally important.

Excerpt from page 1, Attachment to APF letter dated 22nd April 2012:

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

ABS's Reply:

The obligations are satisfied by the ABS's Information Publication Scheme (IPS) plan, at <http://www.abs.gov.au/websitedbs/d3310114.nsf/home/information+publication+scheme>.

"[s.5] is already available from a few public sources, including the ComLaw website"

APF's Interpretation:

ABS fails to provide convenient access to the s.5 authority, and to ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to.

ABS fails to provide convenient access to all currently authoritative proposals that have been tabled in the Parliament.

This is not true.

The ABS is always clear about the authority under which our collections are conducted. Every ABS collection identifies to participants that the collection is conducted under the *Census and Statistics Act 1905*. The ABS web site contains many Frequently Asked Questions on this specific issue:

<http://www.abs.gov.au/websitedbs/D3310114.nsf/Home/Survey+Participant+Information?opendocument#from-banner=GT>

As identified in my previous letter, section 5 of the *Statistics Regulations 1983* does not provide any authority, rather it lists prescribed topics. Regardless, I have previously provided a link directly to the Australian Government repository for legislation, which is available at <http://www.comlaw.gov.au/Details/F2010C00792> .

Excerpt from page 2, Attachment to APF letter dated 22nd April 2012:

(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.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

"I have now asked my team to establish a process for loading future documents to the ABS website".

APF's Interpretation:

ABS acknowledges that it is appropriate to provide the public with access to "the tabling documents for all ABS statistical collections".

However, ABS refuses to provide access to:

- *the s.5 authority, and ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to*
- *the relevant tabling documents in respect of the current Surveys*

The ABS has not refused.

In my previous letter, the ABS offered to send you any specific tabling documents on your request. In addition, I identified the specific Australian Government web site where the public can review the ABS legislation.

As noted above, the ABS always discloses the Authority under which our collections are conducted.

Excerpt from page 2, Attachment to APF letter dated 22nd April 2012:

(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.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

APF's Interpretation:

Despite an explicit request, ABS has still failed to provide copies or URLs.

There have not been any explicit requests. As noted above in my previous letter the ABS offered to send you any specific tabling documents on your request. If you would like the tabling documents for a specific collection, we would be happy to forward this to you.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

4. The Serious Inadequacy of Public Consultation

(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.

ABS's Reply: None.

APF's Interpretation:

ABS, beyond refusing to conduct PIAs for every compulsory Survey, is refusing to engage with civil society, whether within the context of a PIA or otherwise.

This is not true.

The ABS follows our commitments outlined in the ABS Survey Charter (Cat No. 1008.0 - ABS Surveys Charter, 2010) for all of our collections. We work to minimise reporting burden on the community by:

- only conducting surveys to collect high priority information where needed
- seeking information in a way that reduces the time to respond to our surveys
- accepting approximate responses and careful estimates where precise information is not available
- thoroughly testing our questions before running a survey
- using sampling methods to keep the size of surveys as small as possible.

As noted in previously, "We have found that members of the public who respond to the consultative process are both intelligent and well-informed. Furthermore, they represent the very people who will be selected in ABS surveys to provide information."

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

ABS's Reply:

ABS failed to respond to (a), explicitly disagrees with (b), and implicitly disagrees with (c).

With regards to point (a), the ABS meets, and often surpasses, any obligation to consult on privacy issues. The ABS uses a range of processes to consult on privacy, this may include either testing, focus groups or other consultative methods.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

5. Serious Concerns About Collection Practices

(a) The APF has evidence that the practices of ABS's collectors are seriously privacy-invasive.

ABS's Reply:

None. ("We are committed to investigating issues raised as a matter of priority. I encourage you to make any specific complaints directly to the Survey Participant Liaison Officer ...").

Please forward your evidence to the ABS and we will investigate.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(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.

ABS's Reply: None.

Please forward the specific details of the errors that you believe to have been made and we will investigate.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(c) The APF accordingly contends that a Privacy Impact Review is essential and urgent , into all aspects to the ABS's compulsory surveys, and particularly the collection practices.

ABS's Reply: None.

APF's Interpretation:

Because ABS refuses to accept that it must conduct a PIA on each compulsory Survey prior to implementation (see 3(b) above), and has failed to respond to this point, it is reasonable to infer that ABS also refuses to conduct a Privacy Impact Review on the current Surveys.

Given the considerable processes that the ABS currently has in place to consider the privacy of participants in our collections and protect the information given to us, the ABS does not believe that this would be a good use of public money.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(d) The APF further contends that the Privacy Impact Review needs to involve public consultation as discussed immediately above.

ABS's Reply: None.

APF's Interpretation:

Because ABS refuses to recognise the need to engage with civil society in the context of PIAs (see 4(c) above), and has failed to respond to this point, it is reasonable to infer that ABS also refuses to engage with civil society in relation to Review of the current Surveys.

This is not true. As previously noted, the ABS is committed to balancing the need for accurate statistics against the imposition this places on our respondents. The ABS already engages extensively and directly with the community.