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Roger Clarke  
Chair  
Board of the Australian Privacy Foundation

Dear Mr Clarke,

Thank you for your letter to the Australian Statistician dated 9 March 2012. He has asked me to respond to your questions on his behalf. For your convenience, I have used the numbering scheme from your letter in brackets at the end of each section of my response.

### **1: The *Census and Statistics Act 1905* and the Powers of Direction**

As Australia's official statistical agency, the ABS only runs statistical collections that are of national importance. It is ABS policy to run these important statistical collections under the *Census and Statistics Act 1905* to ensure that the information collected is protected by the strictest secrecy provisions.

With regards to the scope of the powers of direction, as mentioned in my last letter, Section 10 and 11 of the *Census and Statistics Act 1905* give the Australian Statistician the power to issue a notice directing a person to fill in a form or answer a question within 14 days, if they have not done so voluntarily. (Ref: Q1, a and c)

If an individual fails to follow the direction within this stipulated time frame, they may be charged under section 14 of the *Census and Statistics Act 1905* for failing to answer a question after receiving a direction to do so. Failing to follow a direction is a Commonwealth offence under the *Census and Statistics Act 1905*, but does not fall under the Criminal Code. It is also an offence of strict liability meaning that a person can be charged simply on the basis of their conduct, without the need to establish any intention. (Ref: Q1, a, b and d)

Section 5 of the *Statistics Regulations 1983* outlines the range of topics on which the Statistician can collect information. This is suitably wide to ensure that measures of progress and of public programs are available to improve all areas of government policy as well as to increase accountability. However, it should be noted that questions about religion are not compulsory. In addition, the regulations do not cover the collection of information about ethical or political beliefs, for example. (Ref: Q1, e)

### **2: The *Freedom of Information Act 1982***

With regards to our obligations under the *Freedom of Information Act 1982*, the ABS meets all relevant legislation concerning access and transparency, and complies with all relevant provisions of the *Freedom of Information Act 1982*. The ABS has an Information Publication Scheme (IPS) plan in place and this can be found on our website:

(<http://www.abs.gov.au/websitedbs/d3310114.nsf/home/information+publication+scheme>). This Scheme is reviewed regularly to ensure that all details are up-to-date and complete.

The ABS has, for many years, published information about all statistical collections undertaken. Each collection has dedicated web pages which explain their purpose and use to respondents.

In my previous letter to you, I provided instructions about how to access tabling documents on the Australian Parliament House website. Unfortunately, due to the format of the webpage, I am unable to provide you with direct links to documents. If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you. **(Ref: Q2 a(ii), b and c)**

In relation to accessibility of section 5 of the *Statistics Regulations 1983*, this information is already available from a few public sources, including the ComLaw website (<http://www.comlaw.gov.au/Details/F2010C00792>). It should be noted that, by itself, section 5 does not provide any authority to collect statistics. However, it does limit the scope of section 9 of the *Census and Statistics Act 1905* that empowers the statistician to collect statistics. **(Ref: Q2 a(i), Q1 a)**

Thank you for your suggestion to include tabling documents for all ABS statistical collections on our website. I have now asked my team to establish a process for loading future documents to the ABS website. **(Ref: Q2, b and c)**

### **3: Privacy Impact Assessments**

The ABS complies with the *Privacy Act 1988* in all dealings with public. The ABS ensures that only the minimum amount of information required to inform public policy is collected in each statistical collection. The sensitive nature of the data collected is protected by the *Census and Statistics Act 1905*, which imposes serious penalties on any ABS Officer for breaching the Act. **(Ref: Q3, a and Q5, a)**

With regards to the obligation for the ABS to perform Privacy Impact Assessments (PIAs), the ABS engages with the Privacy Commissioner regularly to ensure our actions are within the spirit and letter of the relevant laws. The ABS has an extensive process for developing and consulting on new statistical collections. Where appropriate, PIAs are undertaken after consultation with the Privacy Commissioner. **(Ref: Q3, b)**

### **4: Public Consultation**

You have also enquired about the nature of our public consultation process. As previously discussed, the ABS has the legal authority to collect information from individuals for the purposes of the *Census and Statistics Act 1905*. In applying this authority, the ABS ensures it is transparent in the collection of personal information for statistical purposes and is very mindful of the privacy of individuals. While not obligated to conduct consultations, the ABS engages in a range of research and testing for our new surveys. This process ensures that the burden on respondents, subsequently selected in the surveys, is minimised.

The ABS also actively engages directly with the public on a range of issues and has greatly valued the contributions of participants. 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. On this basis, I disagree with your assertions on this matter. **(Ref: Q4, a to d)**

## 5: Collection Practices

ABS field staff are equally valued members of our team and are highly professional and well-trained. The ABS provides avenues for respondents to raise concerns about our field staff and we take all concerns seriously. 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 using the addresses below. **(Ref: Q5, a to d)**

Survey Participant Liaison Officer  
Australian Bureau of Statistics  
PO Box 10  
Belconnen ACT 2616  
Email: [business.charter@abs.gov.au](mailto:business.charter@abs.gov.au)

I trust that the above information will be of assistance. If you would like to discuss anything further, please contact Michael Meagher on (02) 6252 7967.

Regards,



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

31 March 2012