Australian Bureau of Statistics Submission – Data Availability and Transparency Act Statutory Review

The ABS welcomes the Statutory Review of the *Data Availability and Transparency Act 2022* (DAT Act) and the opportunity to make a submission.

As Australia's national statistical agency, the ABS provides a range of data services in a safe and secure way. This includes the collection of survey and administrative data, public release of official statistics, and safe and secure access to integrated data (predominantly from administrative datasets) for statistical and research purposes.

The ABS submission focuses on the legislative role of the DAT Act in facilitating the sharing of Australian Government data. The submission does not comment on data infrastructure initiatives such as Dataplace and the Australian Government Data Catalogue initiated by the Office of the National Data Commissioner. While these initiatives support the discovery and request of Australian Government data, they do not rely on the DAT Act legislation.

The submission draws on ABS experience of the DATA Scheme since its implementation in 2022, particularly in the context of attempting to deliver the National Disability Data Asset (NDDA) and Australian National Data Integration Infrastructure (ANDII) initiative. The eight registered NDDA data sharing agreements are the only data sharing agreements that have been registered under the DATA Scheme thus far. The ABS is a Data Custodian, an Accredited User and an Accredited Data Service Provider (ADSP) under the DATA Scheme and has played all three roles in these eight registered NDDA data sharing agreements. The ABS would be pleased to provide the review team with a more detailed account of its experience.

The submission also outlines how the ABS has supported a significant expansion in data sharing since 2017 under an existing legislative framework, the *Census and Statistics Act 1905.* This expansion has been enabled by data sharing protocols and infrastructure that support the safe and secure sharing of data. It has also benefited from sustained engagement at senior levels, which has helped agencies reform their internal decision-making frameworks to support more data sharing.

The DAT Act has demonstrated limited value in enabling Australian government data sharing

Since the Productivity Commission released its Inquiry into Data Availability and Use in 2017 there has been substantial growth in data sharing across the Australian Government. This growth has occurred using existing legislation rather than the DAT Act. Examples include but are not limited to the Data Integration Partnership for Australia (DIPA) (2017-2020), the Person Level Integrated Data Asset (PLIDA) and Business Longitudinal Analysis Data Environment (BLADE). The data sharing under DIPA propelled cross-agency data access and analysis. DIPA enabled the integration of data across more than a dozen Commonwealth agencies, allowing for deeper, cross-portfolio analysis. This helped analysts generate insights into social, economic, and health issues that could not be generated using siloed data.

There has been a big lift in the availability of integrated datasets across multiple domains to inform complex and interconnected policy challenges. Integrated data assets like PLIDA and BLADE bring together social, economic and location-based Commonwealth, State and Territory, and private sector administrative data in a safe and secure way. This has been undertaken using the *Census and Statistics Act 1905* and the internationally recognised Five Safes framework.

Crucially for its ease of use, the Five Safes framework is a principles-based approach to managing data sharing risks, in contrast to the approach required by the DAT Act, which is prescriptive and legalistic. The value of the existing frameworks was demonstrated during COVID-19 pandemic with the rapid development of Treasury's Labour Market Tracker and the Health Department's Australian Immunisation Register (AIR)-MADIP linkage project.[1]

Since 2017, PLIDA has grown from nine datasets, all sourced from Commonwealth government agencies to 35 datasets from Commonwealth as well as State and Territory government agencies. This is expected to increase to 62 by the end of 2025, expanding to also include administrative data from non-government organisations. Likewise, BLADE has grown from 10 Commonwealth agency datasets in 2017, to 57 datasets today, from Commonwealth as well as State and Territory agencies. The ABS integrated data assets now also include a Location Modular Product, which is compatible with both PLIDA and BLADE. This product includes several private sector administrative datasets. Almost 800 projects and over 5,000 researchers have accessed PLIDA and/or BLADE data since 2017. The number of active analytical projects accessing PLIDA and/or BLADE has grown from approximately 20 in 2017 to 445 (at 30 April 2025). The number of active researchers and analysts trained to access these integrated data assets in the ABS secure facility, the DataLab, has grown from 29 in 2020 to 2,200 in 2025, across governments, academia and policy institutes.

The Statutory Review of the DAT Act provides an opportunity to address limitations in the legislation to enable safe and efficient data sharing across the Australian government's data system. Thus far, the DAT Act has demonstrated limited value and has enabled little Australian government data sharing. It has introduced material layers of legal complexity, prescription and operational barriers to data sharing, which have been particularly evident in the NDDA use case.

Alternative pathways for data sharing — particularly the existing legislative provisions under the *Census and Statistics Act 1905* — have proven to be more efficient and effective.

This review provides an opportunity to assess:

- whether there is a need for the DAT Act, particularly considering improvements in Commonwealth data sharing under other legislation;
- whether the regulatory approach of the DAT Act will meet this need (if there is a need); and
- the changes needed to ensure the DAT Act can deliver an effective regulatory system for data (if such a system is required).

[1] Multi-Agency Data Integration Project (MADIP) was the original name of the data asset renamed PLIDA in 2023.

The DAT Act requires reform to reduce complexity, ambiguity and streamline end-to-end processes

Despite significant investment and goodwill across partners, the ABS experience is that the DAT Act has been an impediment to the delivery of the NDDA. The DAT Act should be reformed to minimise burden and legal complexity. In its current form, the DAT Act is predominantly useful for supporting a narrow range of data sharing, particularly the sharing of a Commonwealth dataset with an Accredited User, where this sharing requires an override of secrecy provisions.

The DAT Act has a unique legislative override capability that distinguishes it from other legal frameworks including the *Census and Statistics Act 1905.* While this override provides broad authorisation to share data, it is not enduring, applying only while data is held within the DATA Scheme. To exit data from the Scheme, the original secrecy provisions of the source legislation apply, which is a limitation of the DAT Act.

A shift from a 'one-size-fits-all' to a principles-based approach would render the DAT Act more flexible and efficient. The original concept of 'principles-based' data sharing legislation underpinned by the Five Safes framework was not implemented. Instead, the DAT Act prescriptively codifies rules that must be met to share data. The shift to a more prescriptive model was the cumulative impact of meeting competing stakeholder demands and requirements for a high degree of certainty regarding how controls are implemented to support safe data sharing. Aiming to amend the legislation back towards a principles-based approach – which the ABS views as key to a more flexible and efficient scheme – may encounter similar demands.

Changes needed would include streamlining the process for non-sensitive, low-risk data sharing and including mechanisms that support controls that can be scaled to be proportionate to the risks/sensitivities involved. There are significant opportunities to streamline processes, reduce complexity, and make the DAT Act less prescriptive. This includes reviewing requirements relating to data sharing agreements and enabling detailed data to exit the DATA Scheme and transition into other established legislative frameworks.

The DAT Act uses narrowly defined terms and participant roles, which has required expensive legal advice to navigate. This is particularly evident when attempting to create integrated data assets such as the NDDA. The DAT Act has gone beyond legislation around data sharing, and into how data should be managed, which has made it expensive and time-consuming to operationalise.

Enforcement and compliance

The ABS does not support expanding the scope of the DAT Act to include enforcement or compliance-related purposes. Introducing such functions would significantly alter the intent of the DATA Scheme and introduce high levels of risk and complexity. Broadening the scope of the DAT Act to a wider set of purposes will make it more difficult to agree a set of controls which strike the right balance between data protection, streamlining data use and maximising the value of data.

Exiting data from the DATA Scheme

The DAT Act needs a release mechanism to allow an entity to release data from the DATA Scheme provided controls are in place to protect privacy. Currently data (including research findings obtained from analysis of data in the DATA Scheme) can only ‘exit’ the DATA Scheme in limited circumstances and following burdensome processes. For example, the DATA Scheme currently limits the release of unit level

data for data integration purposes, reducing interoperability with non-DATA Scheme data and limiting the value that could be delivered from integrated data.

Published guidance on allowed access to project outputs does not address key issues which prevent streamlined and effective data sharing. As a result, there is still no agreed path allowing researchers to publish analysis derived from NDDA-based research.

Consideration should be given to authorise the exit of detailed DATA Scheme data into other established legislative regimes, e.g. *Census and Statistics Act 1905*, to create a more enabling and joined-up data sharing system and increase the public value that can be derived from increased use of data.

The DAT Act should align with established legislation to create a joined-up national data sharing system

The DAT Act should operate as seamlessly as possible with the broader Australian data ecosystem, including with other established legislation to create a clear, joined-up national data sharing system. The DATA Scheme should recognise and, where possible, make best use of established legislative frameworks to support national data sharing, access and reuse, including on-sharing provisions, authorising a 'collect once, use many' principle. Being able to benchmark against other legislative pathways can help compare efficiency and effectiveness.

The ABS views the development of a nationally consistent approach to data sharing, applying across all jurisdictions, as the most valuable potential reform which could be undertaken to improve safe secure data sharing in Australia. This reform could be pursued via the introduction of 'mirror' legislation across jurisdictions and be informed by data sharing legislation developments at the State level.

Accreditation can build trust and assurance but can also create barriers to data sharing and should be risk based

Any scheme that involves accreditation inherently limits participation. This may be appropriate when it comes to sharing sensitive data, or to providing particular data services, but it is not appropriate for many data sharing or access requests. For example, the ABS responded to over 5,500 data enquiries in 2024 (460 on average per month) – which ran the gamut from straightforward to complex – without requiring data users to be accredited.

If the accreditation approach is maintained, the ABS supports the simplification of the Accreditation Framework to build trust and enable smaller organisations with limited resources to participate in the DATA Scheme. In its current form, all Accredited Users are required to meet the same standard of accreditation regardless of whether they are accessing identified unit record data, de-identified unit record data, or aggregate data. Accreditation should be proportionate to the sensitivity and risks associated with the data being accessed or shared.

Non-government organisations outside the scope of the DAT Act can contribute to data sharing outcomes and increase the value of data, policy insights and operations. The expansion of eligible entities that can become Accredited Users should include providers of government services (such as Primary Health Networks), research and development organisations, Aboriginal Controlled Community Organisations, and policy think tanks (such as e61 and the Grattan Institute). Their exclusion has had an impact on the DAT Act's ability to deliver on the benefits of data sharing originally envisaged in the Productivity Commission Inquiry. Of note, the exclusion of Aboriginal and Torres Strait Islander led organisations from the Scheme is at odds with Closing the Gap Priority Reform Four commitments.

The ABS experience is that many data custodians do not understand what additional assurance accreditation provides and what the different levels of assurance are for Accredited User and ADSP accreditation. This has resulted in additional requests for evidence being sought by data custodians that duplicates aspects of the accreditation process.

Conclusion

The Statutory Review of the DAT Act provides an opportunity to address actual and perceived limitations in the DATA scheme to enable increased safe and efficient data sharing across the Australian government's data system.

To assist in the consideration of desirable changes to the DAT Act, it would be beneficial for the Review to document how the data sharing landscape has changed since 2017, and to articulate the gaps or issues that a revised DATA Scheme would be seeking to address. The ABS would be happy to work with the Review team to help document these changes.

In the ABS' experience, a regulatory approach to the DATA Scheme has hampered data sharing and has not met the original intent of the DAT Act to streamline data sharing and release. A one-size-fits-all regulatory approach cannot meet the demands of a modern data ecosystem as data demands, uses and purposes have differing levels of complexity, risk and sensitivity. The DAT Act has introduced data sharing barriers that require reform including eligibility rules which restrict participation and data custodianship and make it difficult for data to exit the DATA Scheme. These challenges highlight the need for reform as well as consideration of whether a regulatory-based model is most appropriate for the future.

It is possible that the DAT Act may hold the potential to contribute meaningfully to Australia's data sharing landscape. However, achieving its original vision will require substantial reform. The legislative framework underpinning the DATA Scheme needs to evolve to meet the needs of a modern, collaborative data ecosystem.