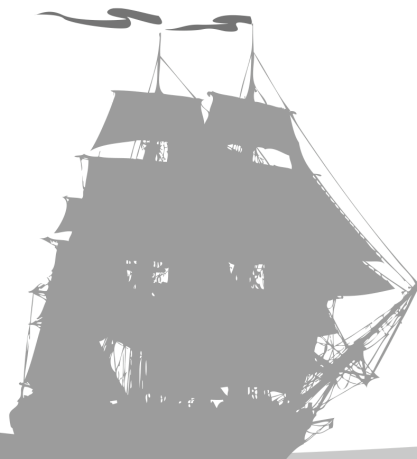




**Submission to the Senate
Economics References Committee
Inquiry into the Preparation,
Administration and Management
of the 2016 Census by the
Australian Bureau of Statistics**

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1 Introduction

The Pirate Party thanks the Senate Economics References Committee for conducting this important inquiry and for providing the opportunity for interested individuals and organisations to make submissions. The Pirate Party supports the Census as a major source for informing public policy and ensuring public resources are adequately distributed according to the needs of Australians. However, the Pirate Party has several concerns relating to the conduct of the 2016 Census, including the nature of the data collected, collection methods, data storage, and failures in public communication by the Government, particularly by the Australian Bureau of Statistics ('ABS'). This submission outlines the nature of these concerns and makes recommendations for policy changes and legislative reform. The Pirate Party recognises that other submitters are in a better position to inform the Committee in depth on these and other matters.

2 Privacy

The collection of names during the 2016 Census is symptomatic of the Government's consistently cavalier approach to privacy. The approach of hoovering up data without regard for privacy and defending such action by claiming benevolence is irresponsible and out of date, and collecting names is unnecessary to fulfil the purpose of the Census, which is stated on the ABS' website:

The information collected in the Census helps estimate Australia's population and this information is used to distribute government funds and plan services for the community — housing, transport, education, industry, hospitals and the environment. Census data is also used by individuals and organisations in the public and private sectors to make informed decisions on policy and planning issues that affect the lives of all Australians.¹

The use (or potential use) of statistical linkage keys ('SLKs') has not occurred with sufficient consultation or discussion with the Australian public. By using SLKs, data can be collected from different agencies and cross-referenced with the data collected by the ABS. Should a

¹Australian Bureau of Statistics, *What Is the Census?* <<http://help.census.abs.gov.au/about/what>>.

data breach occur, or a future government legislates to remove the privacy protections, it would be trivial to reveal personal data, as Anna Johnston demonstrates in a post on *Salinger Privacy*.² By applying the formula used to derive an SLK, Johnston reveals the SLK numbers of several prominent Australians — including Malcolm Turnbull (whose number is URBAL241019541).

The compulsory collection of names and the potential for sensitive data to be linked with identifiers is viewed by the Pirate Party as such a serious risk to the privacy of all Australians that the Party called for a boycott of the Census in March.³ The Government must be transparent about any plans to change the usage and sharing of personal data, and must always carry out public consultations when such changes are proposed. It is only by conducting thorough consultations that trust in the public service, and in particular the ABS, can be regained.

Confidence in the appropriateness of the ABS' collection of detailed personal information is not inspired by the fact that the ABS was subject to 14 data breaches between 2013-16,⁴ that the ABS website collects metadata and IP addresses of its visitors,⁵ that ABS field agents were often using their own devices (smartphones and tablets) to collect data,⁶ or that Census data could be linked to other datasets such as records relating to health, disability services, early childhood, community services, housing assistance and homelessness⁷ (which undoubtedly other submitters will raise in much more detail).

The *Census and Statistics Act 1905* (Cth) should be amended to

²Anna Johnston, 'Why I'm Taking Leave of My Census: a Privacy Expert's Reluctant Boycott' on *Salinger Privacy* (6 August 2016) <<http://www.salingerprivacy.com.au/2016/08/06/why-im-taking-leave-of-my-census/>>.

³Pirate Party Australia, 'Pirate Party Calls for Census Boycott Due to Privacy Concerns' (Press Release, 21 March 2016) <<https://pirateparty.org.au/2016/03/21/pirate-party-calls-for-census-boycott-due-to-privacy-concerns/>>.

⁴Paul Farrell, 'Australian Bureau of Statistics Reports 14 Data Breaches Since 2013', *The Guardian* (online), 29 July 2016 <<https://www.theguardian.com/australia-news/2016/jul/29/australian-bureau-of-statistics-reports-14-data-breaches-since-2013>>.

⁵Australian Bureau of Statistics, *Census Privacy Statement* <<http://help.census.abs.gov.au/privacy>>.

⁶Jared Owens and Rosie Lewis, 'Bring-Your-Own Technology to Help Census Collectors', *The Australian* (online), 29 August 2016 <<http://www.theaustralian.com.au/national-affairs/bringyourown-technology-to-help-census-collectors/news-story/288c5b8f2449778bccf38d1156c18d17>>.

⁷Johnston, above n 2; Nikolai Hampton, 'Why This Year's Census Might Still Be a Privacy Nightmare', *Computerworld* (online), 12 August 2016 <<http://www.computerworld.com.au/article/605013/why-year-census-might-still-privacy-nightmare/>>.

specifically exclude names and similar identifying information from collection, and prescribe the broad categories of data to be collected. The specific dataset could acceptably be the subject of regulations made by the relevant Minister if such safeguards were adopted in the primary legislation. If legislation is introduced, amendments should be the subject of a future Parliamentary inquiry.

3 Transparency and consultation

Transparency is an essential facet of government in a liberal democracy. Despite this, there remains significant speculation as to the events of Census night, which has not been helped by the lack of a clear or concise statement from the ABS — more than a month later. The fact that a Parliamentary inquiry into the 2016 Census (with, it must be added, quite broad terms of reference) is necessary is an indictment of the poor management of external communications by the ABS and the Government generally.

Different explanations have circulated as to what caused the Census website to become inaccessible on 9 August 2016 and prevent many Australians from completing the Census that night, despite the significant fanfare promoting online completion from the ABS. The explanations include a hardware failure, a network overload, a cyber-attack either from outside or within Australia or both, a false positive detected by monitoring systems, or a combination of all three.

For example, *The Daily Telegraph* reported on 10 August that ‘nearly \$500,000 was spent on load testing servers’, yet this was ostensibly not enough to protect the servers from a denial of service (‘DoS’) attack, which the responsible Minister, Michael McCormack, denied was an attack on the irrelevant basis that no data was obtained by the attackers.⁸ The article goes on to question why, if it was a DoS attack and not a data breach, the servers remained offline the following day. It also points out that the ABS had put the blame on a foreign DoS attack that got through a failed geoblocking tool, while the

⁸Rod Chester, ‘Census Fail: ABS Says Hackers Attacked Website Despite Denials, After Nearly \$500,000 Was Spent on Load Testing Servers’, *The Daily Telegraph* (online), 10 August 2016 <<http://www.dailytelegraph.com.au/technology/census-fail-abs-spent-nearly-500000-on-load-testing-the-servers/news-story/d04709eca6e02d1bbc492a0be9dffa58>>.

Minister contradicted this and blamed an overloaded router (although not specifying whether this was a result of legitimate traffic or not), eventually blaming a false positive in the attack detection system.

IT News reported on 16 August that 'experts are questioning claims by the [ABS] that a series of denial-of-service attacks forced it to take the Census site offline last week, arguing a lack of proper planning and bad decisions were more likely the cause.'⁹ In that article, it is suggested that a small attack may have caused significant panic and led to a series of poor decisions resulting in more security flaws and misinterpretation of monitoring information. It goes on to suggest that both the ABS and IBM, the Census service provider, had not taken proper precautions nor allocated sufficient resources to running the Census, and doubts the validity of the claims that a DoS attack was entirely responsible. *IT News* also reported on 12 August that the Government was looking at suing IBM for failing to repel a completely predictable DoS attack.¹⁰

While the technical aspects are likely to be considered in more depth in other submissions, an attempt has been made to draw attention to the lack of clarity of communication. The public was not kept adequately informed on Census night as to whether to continue trying to submit Census forms, or when the servers were expected to be back online. This caused unnecessary confusion and frustration for those attempting to complete their forms on Census night. In the days following the Census, conflicting statements were being issued by different members of the Government, placing the blame on all manner of problems, few of which seem to have been valid.

Regardless of what went wrong on Census night, and what plans went awry, clear communication is vital, and the Australian public deserves better. Consultations should be carried out by the ABS in advance of future censuses in relation to the data being collected and the methods used to collect it. This should involve at least the publishing of a discussion paper, a request for submissions, and a final report. As

⁹Allie Coyne, 'Experts Cast Doubt on ABS' Census DoS Claims', *IT News* (online), 16 August 2016 <<http://www.itnews.com.au/news/experts-cast-doubt-on-abs-census-dos-claims-433926>>.

¹⁰Allie Coyne, 'Govt Could Chase IBM for Damages over Census Failure', *IT News* (online), 12 August 2016 <<http://www.itnews.com.au/news/govt-could-chase-ibm-for-damages-over-census-failure-433519>>.

part of such consultations, the ABS should develop a comprehensive management and communication plan for Census night to ensure there are clear crisis management plans, and that a consistent and accurate message is promoted in public statements.

4 Other concerns

There are three final concerns related to the Census and the above issues. The first is that despite ABS servers being taken offline at about 7:30 pm on Census night, social media accounts were poorly coordinated and continued to advise that the website and online forms were working as normal. The second is that due to the extreme negative reaction to the Census the accuracy and utility of the data collected is likely to have been compromised. Lastly, there appears to be confusion among the public as to when and under what circumstances fines may be imposed for failure to complete the Census. To remedy this last concern, the *Census and Statistics Act 1905* (Cth) should be amended to clearly establish when, under what circumstances, and by whom fines may be imposed in relation to non-completion of the Census.