

Senate Standing Committees on Economics
Parliament House Canberra ACT 2600

Via email to: economics.sen@aph.gov.au

26th September 2016

Re: *Inquiry into the 2016 Australian Bureau of Statistics Census*

Dear Sir/Madam,

Electronic Frontiers Australia (EFA) appreciates the opportunity to provide this submission in relation to this consultation. EFA's submission is contained in the following pages. EFA is happy to provide further information, if required.

About EFA

Established in January 1994, EFA is a national, membership-based non-profit organisation representing Internet users concerned with digital freedoms and rights.

EFA is independent of government and commerce, and is funded by membership subscriptions and donations from individuals and organisations with an altruistic interest in promoting civil liberties in the digital context. EFA members and supporters come from all parts of Australia and from diverse backgrounds.

Our major objectives are to protect and promote the civil liberties of users of digital communications systems (such as the Internet) and of those affected by their use and to educate the community at large about the social, political and civil liberties issues involved in the use of digital communications systems.

Yours sincerely,



Jon Lawrence - Executive Officer, on behalf of EFA's Policy Team

Inquiry into the 2016 Australian Bureau of Statistics Census

1. Introduction

Electronic Frontiers Australia (EFA) understands and appreciates the importance and need for the collection of population data and the benefit accurate population data brings to our society. EFA however also believes that this need should be balanced against privacy rights and interests in a manner that preserves the integrity of the Census.

In a brief summary of these submissions, EFA has identified the following core areas of concern relating to the implementation of the 2016 Australian Bureau of Statistics Census (“the Census”):

- The Census failed to acknowledge the Australian public’s legitimate and genuine privacy concerns.
- The Census was implemented in a manner that failed to adequately provide safeguards against Distributed Denial-of-Service attacks.
- Australia has yet to implement a data breach notification scheme.
- The combination of the above has created public distrust of the Census which plausibly will have negative effects on future censuses.

2. The preparation, administration and management on the part of the Australian Bureau of Statistics (ABS) and the Government in the lead up to the 2016 Census

EFA is aware of many individuals that had great difficulty in obtaining paper forms, due to apparently insufficient resourcing of the ABS’s contact centre. EFA is also aware of many individuals that did not receive their initial letter relating to the Census until after the Census date of 8th August. In some cases, these letters were not received until two weeks after that date.

While the efficiencies involved in promoting the highest levels of online submission are clear and compelling, it is also clear that any attempt to force a default online submission process is seriously problematic for many sectors of the community.

Furthermore, although EFA acknowledges that penalties serve to ensure that the population takes the Census seriously, the significant volume of “complete now or receive a fine of \$180.00 per day up to \$1,800.00” demands, is an inappropriate means to ensuring that the population accurately complete the Census.

EFA is disappointed that the ABS did not effectively address the very legitimate privacy concerns raised by EFA and other organisations. EFA is aware of many individuals that were seriously concerned by the decision to retain name and address information, and it appears likely that many of these individuals have taken steps in response to these concerns that may ultimately undermine the legitimacy of the data collected.

It is EFA’s submission therefore that the preparation, administration and management of the Census was poorly conducted and resulted in public distrust of a necessary and important function of the Australian Bureau of Statistics.



3. The scope, collection, retention, security and use of data obtained in the 2016 Census

On 7 March 2016, EFA made submissions to the Attorney-General's Department in support of the introduction of a Serious Data Breach Notification Scheme. It remains EFA's firm position that sensitive and personal data ought not be collected and/or retained without a comprehensive data breach notification regime.

The fact that the ABS itself has suffered a significant number of data breaches recently underlines the importance of such legislation.

As noted above, the decision to retain name and address information was a serious concern for many of EFA's members and supporters. EFA does not believe that the ABS has provided either sufficient justification for this decision, nor sufficient explanation of how such information will be protected and ultimately disposed of.

4. Arrangements, including contractual arrangements, in respect of the information technology aspects of the Census

Based on the experience on Census night, it would appear clear that the arrangements put in place for information technology requirements were grossly inadequate.

Given that the ABS was accepting Census responses for some weeks before and after the actual Census date, it appears remarkably unwise for them to have encouraged the majority of respondents to submit their responses concurrently.

An approach that saw the submission of responses spread more evenly across the period would appear to be much more prudent.

5. The shutting down of the Census website on the evening of 9 August 2016, the factors leading to that shutdown and the reasons given, and the support provided by government agencies, including the Australian Signals Directorate

It is EFA's submission that a properly and comprehensively implemented census with due consideration for the genuine privacy concerns of Australian citizens would have significantly mitigated against the factors leading to the shutting down of the Census website on the evening of 9 August 2016.

6. The response rate to the Census and factors that may have affected the response rate.

It is EFA's submission that a properly and comprehensively implemented census with due consideration for the genuine privacy concerns of Australian citizens would have significantly mitigated against the factors leading to the shutting down of the Census website on the evening of 9 August 2016. Furthermore, EFA acknowledges the rapid response rate to this incident, however EFA submits that a comprehensive report on the data that may have been released is warranted and



affirming the integrity of data collected during the Census is fundamental to its ongoing benefit. This is a valid concern and identity exposure of this magnitude has already occurred in Turkey.

7. Privacy concerns in respect of the 2016 Census, including the use of data linking, information security and statistical linkage keys

EFA received a large number of enquiries from individuals that were seriously concerned about the decision to retain name and address information, about the use of data linking and the manner in which such linking was to occur.

EFA believes that the information provided by the ABS about these issues was seriously inadequate. EFA further believes that many Australians will have factored these concerns into their decision to respond to the Census at all, or to the information provided if they did.

As such, these issues pose a real danger that many Australians have chosen to provide inaccurate responses or to boycott the Census altogether, thereby potentially rendering the data collected as untrustworthy and/or not sufficiently comprehensive.

8. Australia's Census of Population and Housing generally, including purpose, scope, regularity and cost and benefits

EFA has no specific comments on these points.

9. The adequacy of funding and resources to the ABS

As mentioned above, it appears that the information technology resources in place to cater for online submissions were seriously inadequate. As also mentioned above, it appears that the logistics involved with distributing letters and paper forms were also inadequate.

10. Ministerial oversight and responsibility

EFA notes that there have been a number of Ministers with oversight of the ABS in recent years. This may have had an impact on some of the decisions made which led to the issues with the 2016 Census.

11. Conclusion

The Australian Bureau of Statistics' Privacy Impact Assessment provided that a "reduction in participation levels in ABS collections due to loss of public trust... [has a risk likelihood assessed as] very low". It is EFA's conclusion that this risk was never 'very low' and has likely come occurred at significant scale in the 2016 Census, due to the lack of adequate information provided by the ABS.

The apparently significant erosion of public trust resulting from the manner in which the 2016 Census has been implemented represents a serious threat to both the integrity of the data collected in the 2016 Census and to all future Censuses.