Submission to the Open Government Partnership National Action Plan

This submission can be read online at https://whistleblower.network/2016/11/09/draft-submission-to-the-national-action-plan-for-open-government/

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The Role of Open Data in Financial & Political Transparency

Disclosure: I have not been paid by any person or organisation to prepare this submission. Participating in relevant consultations was done at my own personal expense.

This submission focuses on the role of open data in achieving financial and political transparency in Australia. While I have contributed to the formation of public dialogue and policy as an individual on several occasions over the past three decades, more recently I created the first implementation of the entire Federal budget into an online searchable database.

I later extended this project significantly to include Commonwealth tenders and grants matched with political donations data (using name to match). I have also created open data projects using Commonwealth parliamentary entitlements data, multiple ABS datasets and ACNC charities data- all projects which were acknowledged by reference in data.gov.au. I also generated data sets needed for these projects such as a list of all Commonwealth MP's and Senators going back 15 years with their parties and dates of membership in order to map the awarding of tenders and grants to particular electorate/representatives. All of this work was done at my own personal expense.

Due to the extra work involved in linking financial data sets that do not all contain ABN or ACN and being unable to put these projects on a financial footing, they have since been removed from the public domain and are no longer maintained. After several years of lobbying successfully for the release of specific datasets and the creation of several highly complex and labour intensive transparency projects, I am now of the opinion that these projects should be funded and managed by the Commonwealth government.

While similar transparency projects are funded and run independently of government in the United States (eg the National Priorities Project, The Sunlight Foundation, Open Secrets), Australia does not enjoy the same level of philanthropy toward similar initiatives. I think there is also a case to be made that it is the government's responsibility to provide accountability and transparency over spending so this should be funded and published by the government with civil society engagement and consultation.
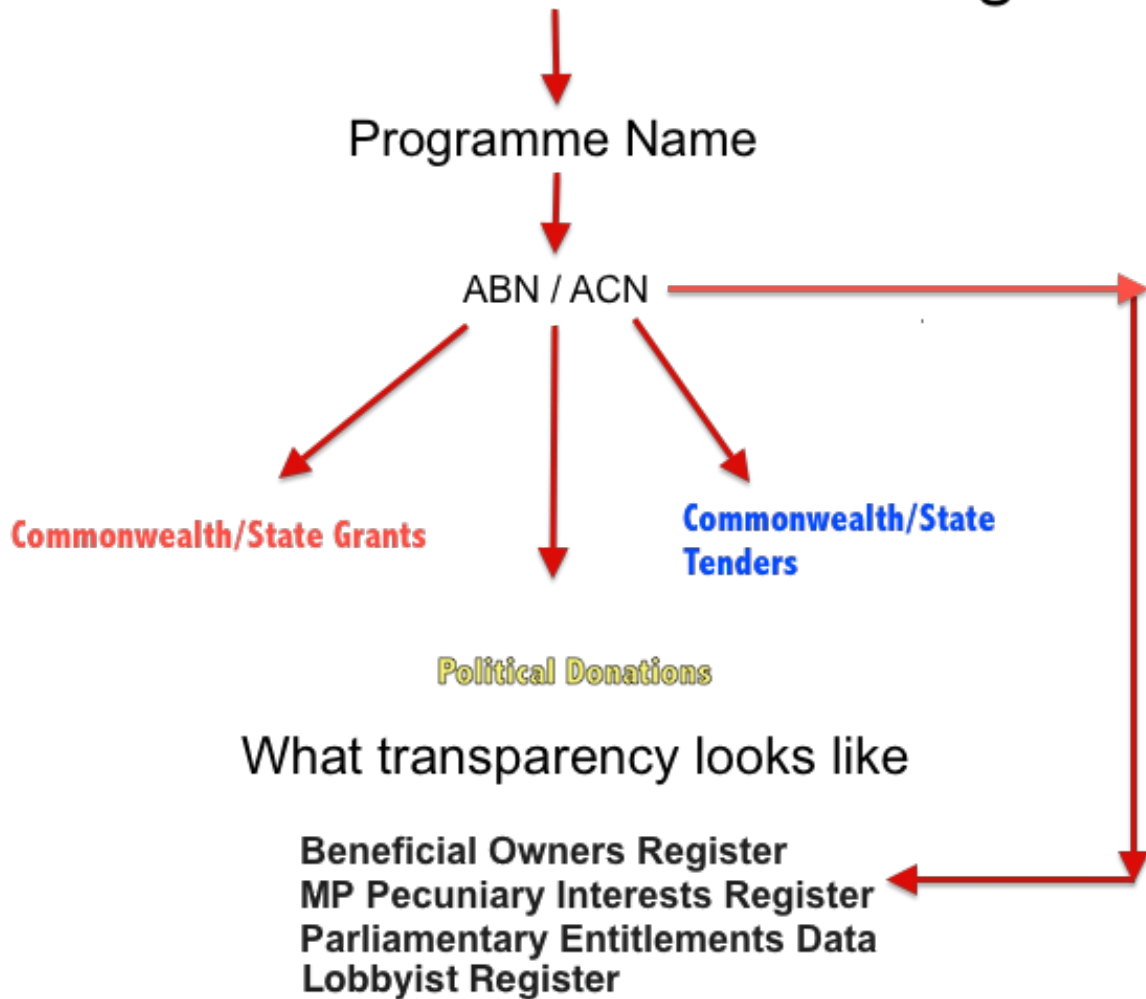
This submission argues for the following datasets to be included on the list of National Interest Datasets (NIDs) being drawn up by government under Commitment 2.1 and as recommended in the Productivity Commission Data Access Report which states (p16):

> *Initial datasets that may be designated national interest and publicly released could include key registries of businesses, services or assets, and data on activity and usage in areas of substantial public expenditure.*

National Interest Collection

- Commonwealth Tenders
- State Tenders
- Commonwealth Grants
- State Grants
- Lobbyist Register
- Donations to political parties (both state and federal)
- Pecuniary interests registers (both state and federal)
- Parliamentary entitlements (both state and federal)

Commonwealth/State Budget

↓

Programme Name

↓

ABN / ACN

Commonwealth/State Grants

Commonwealth/State Tenders

Political Donations

What transparency looks like

Beneficial Owners Register
MP Pecuniary Interests Register
Parliamentary Entitlements Data
Lobbyist Register

As an open data advocate, I am pleased to see government commitment to improve the flow of data between jurisdictions, industries and organisations. I am concerned however that the focus of a majority of this data sharing is to provide commercial opportunity to business or research rather than increase transparency and accountability of business and government to the citizenry.

I am also concerned with the lack of engagement of privacy experts in the open data Commitment 2.2. Given the community of privacy experts has not been engaged to date with the Open Government consultation it is recommended that they be drawn into the implementation of the radical changes proposed in the Productivity Commission's Report on Data Access to enable transparency around privacy issues.

Unfortunately, the Draft National Action Plan treats transparency in business, integrity in the public sector, access to information and open data all as separate themes rather than providing any understanding of how these overlap and interact to create a system of accountability.

Corruption occurs in the overlap between government and business so National Action Plan Commitments need to be considered together to understand whether they form an integrated solution to improve accountability and transparency rather than as a list of seemingly unrelated actions.

I am also concerned with the push within government to transform data linkage for the purpose of concentrating on the behaviour of the most vulnerable in society rather than expose the behaviours of the most powerful. For example, the oft-cited example used by government to sell the value of linking administrative data sets is to identify vulnerable individuals such as teenage mothers or long term welfare recipients. The Productivity Commission Data Access Report (p88 Box 2.4), DPM&C's Public Data Management Implementation Report & Public Sector Data Management Reports all give prominence to value of data linkage projects (often using Census data) to be demonstrated through projects focusing on welfare recipients or 'troubled families'. A desire of the Grattan Institute to track welfare recipients is quoted in two of the three reports mentioned.

> *Grattan Institute notes that: '[m]ore unit data needs to be released that would enable us to do more longitudinal research: specifically social security census and tax longitudinal data' in the DPMC's (2015, p. 16) (Productivity Commission, 2016, p134)*

This focus of data linkage to research the lives of the most disempowered individuals is being pushed in government rhetoric and reports while the systemic abuses of the powerful are left unaddressed. The Productivity Commission Data Access Report (p86) mentions the use of open data to expose corruption only once in it's 652 pages:

Data on public sector contract procurement can help to expose corruption. The Brazilian government releases a range of data, including that related to government expenditures, expenses of elected officials, and companies that are blacklisted from public contracts. This data has been used by journalists and activist groups to expose corruption (Chui, Farrell and Jackson 2014).
Open data has a key role to play in limiting corruption. Corruption occurs in the relationships between business and government. These relationships can be made transparent through the release of open data. For example, ABN's from

political donations data can be matched with ABN's from organisations in receipt of tenders and grants in order to make any overlap between them transparent. However for this to occur, both political donations data collected by the AEC and Commonwealth grants data (about to be published by Finance at grants.gov.au) would need to contain ABN/ACN to match across all three datasets.

Instead of going after this low hanging fruit that would open the window to transparency and accountability, the government is busy selling the idea that accountability to the taxpayer will be achieved solely by increasing the measurement and surveillance of Australia's poor.

In the National Action Plan the government has agreed to conduct a review of whether reporting of tenders meets the Open Contracting Standard (Commitment 4.3). Given that government contracts for all agencies over $10,000 are under the direct policy control and published by the Department of Finance it is unclear why they need to review their own compliance with this international standard and why this counts as an ambitious Commitment? A more ambitious Commitment would be to implement the Open Contracting Standard across both tenders and grants reporting and ensure ABN/ACN as well as government programme is included in both datasets. Disclosure thresholds on all financial data sets ought to be removed, removing the opportunity for political donations, grants or tenders to be excluded from accountability.

If this is done, both grants and tenders can then be matched not only with political donations on the basis of ABN but also with the programme in the federal budget (also released as open data) under which that grant or tender is administered.

Adding ABN/ACN to AEC donations data is also required for implementation of Commitment 4.1: Confidence in the electoral system and political parties. This Commitment seeks to exclude foreign individuals and entities from donating to Australian political parties.

It is unclear how the government will implement a Beneficial Ownership Register that is open to public scrutiny if the ASIC register (of which it must derive much data) is sold to the private sector for management. It is also unclear how the Commitment to look into developing a Beneficial Ownership Register will 'will advance the OGP values of access to information and public accountability' as stated in the Plan when there is no intention to make this Register available to anyone other than 'competent authorities'?

It needs to be noted that without implementation of the Beneficial Ownership Register (Commitment 1.2) it will not be possible to establish where donations to Australian political parties are originating. The need for a Beneficial Ownership Register implies that the current ASIC register does not have the ability to know who is really behind Australian entities. This being the case, it is unclear how it will be possible to reform political donations to exclude input from foreign individuals or entities if the only requirement is that an ABN or Australian citizenship is taken when there is yet to be put in place a Beneficial Ownership Registry against which to match that information.

Ken Coghill (Monash Uni) implies this in the following paragraphs taken from his submission to the Inquiry.

> *ii) Donations by entities other than natural persons (e.g. corporations) must not be made and must not be accepted by a candidate or political party or associated entity unless the donor has identified the beneficial owner(s) of the entity.*

> *(iii) Donations must not be made by a donor and must not be accepted by a candidate or political party or associated entity unless the donor is an Australian citizen or Permanent Resident or an entity registered in Australia (including in a State or Territory).*

If the system I have outlined were implemented this would see Australia lead the international stage in terms of financial reporting and transparency rather than pulling up the rear:

Table 3.1 **Open data availability for specific datasets across comparable countries[a]**
2015

Datasets	Australia	United Kingdom	Canada	United States of America	New Zealand
Spending	5	95	5	80	5
Legislation	15	100	80	85	80

Table showing Australia has published only 5 data sets as open data
Partial view (top two rows) of Table 3.1 Productivity Commission Data Access Report

As stated by the Productivity Commission in the recently published draft Data Access Report

'The lack of such datasets in Australia partly contributes to Australia's relatively low overall open data barometer score of 10th internationally (the most widely-cited measure of open data progress) (figure 3.2):
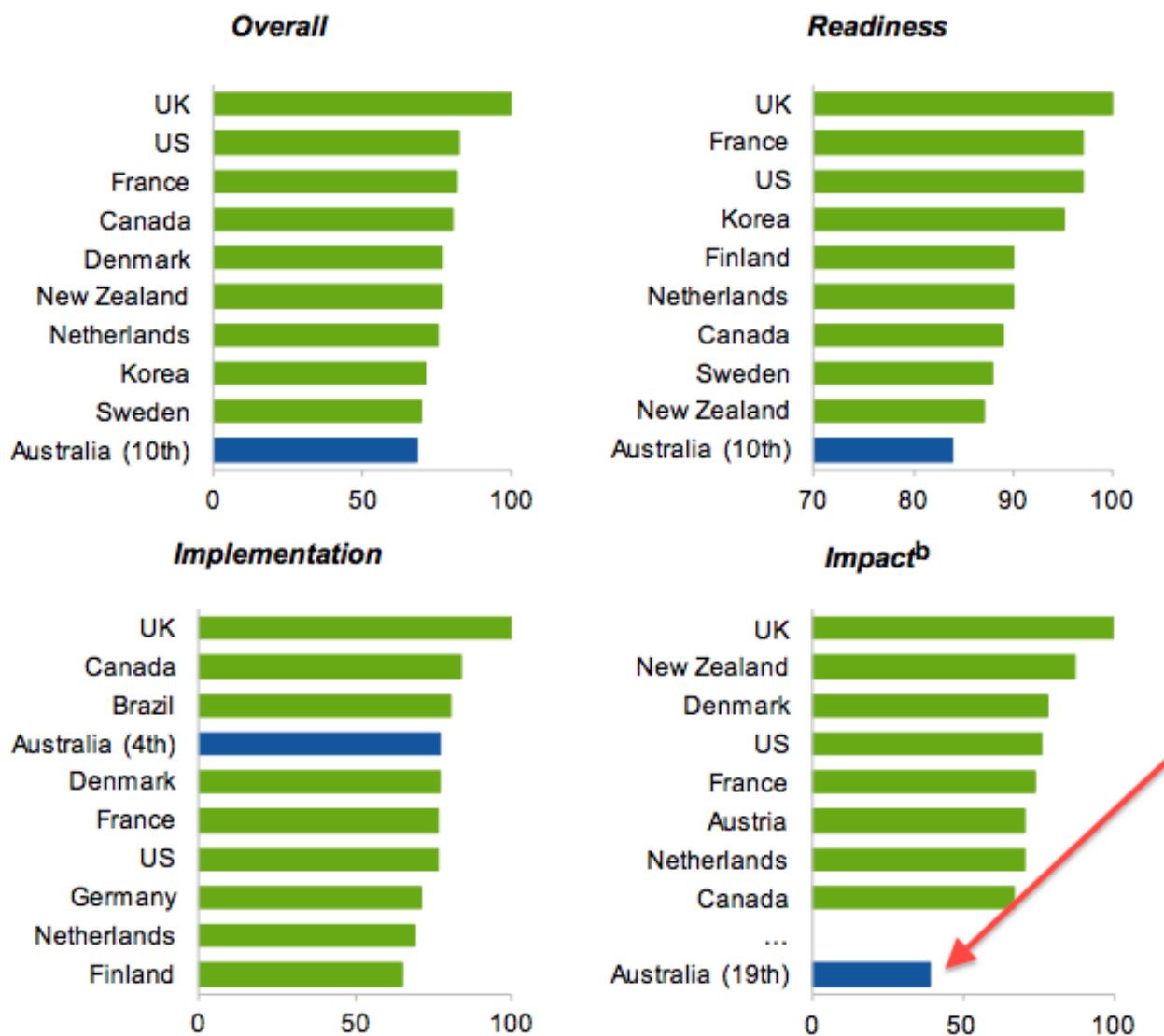
To complete the proposed picture of government spending it would be ideal to have state and local governments also report tenders and grants along with their budgets so that there is a full online system identifying where Australian government money is spent, the programme it is spent on, the organisation that receives the money and any political donations they have provided to state or federal political parties.

Other data sets of national importance to government integrity are the State and Commonwealth pecuniary interests registers, parliamentary entitlements and lobbyist registers. These registers need to be providing open data that can be integrated with other datasets (not pdfs of images of handwritten documents) so there needs to be a standard applied to their collection and publication.
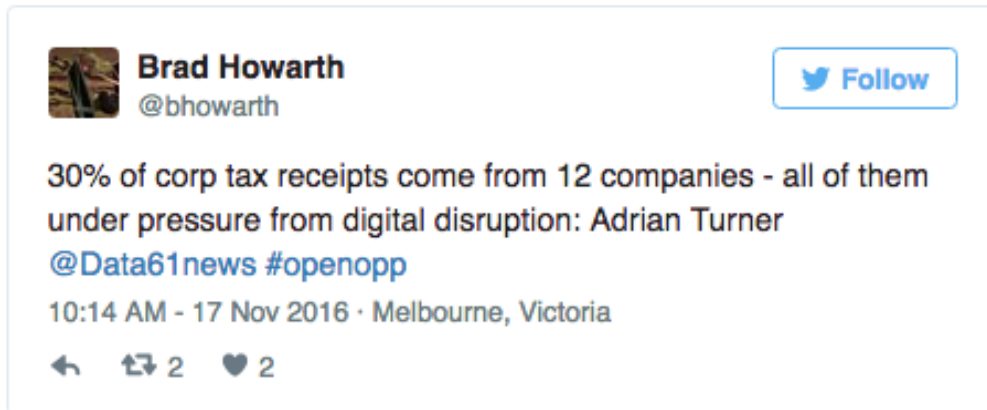
Australians deserve to be able to view where their tax dollars are going and for what purpose. A system aimed to provide financial transparency would also aid the community in understanding the contribution of individual and corporate taxes in funding government programs.

Given that the government is about to embark on a transformation of service delivery, it is appropriate that this transformation prioritises infrastructure that supports public accountability as outlined above rather than increasing surveillance on our poorest citizens. Noting that the government has used the 2016 Census to create a unique identifier to link information generated by individuals going about their daily business ostensibly for the greater good, it would be insulting to the Australian population if the available unique identifiers for Australian entities (ABN/ACN) were not also added to existing open datasets to provide a similar means of linking those datasets to give transparency back to the people regarding which organisations end up with taxpayer funds and who benefits the most from that.