



Complementary Medicines Australia

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Complementary Medicines Australia (CMA) welcomes the opportunity to respond to the Data Availability and Use draft report released by the Productivity Commission on the 3rd November 2016.

CMA is the peak industry body for the complementary medicines (CM) industry, representing members throughout the value chain: manufacturers, raw material suppliers, distributors, retailers, practitioners and consultants. The Australian complementary medicines industry generates \$3.5 billion of revenue annually, which is expected to grow to \$4.6 billion in 2017-2018. CMA promotes appropriate industry regulation and advancement to ensure consumers have access to complementary medicines of the highest quality.

Regulated in Australia as medicines under the *Therapeutic Goods Act 1989*, complementary medicines include vitamins, mineral and nutritional supplements, homeopathic, aromatherapy products and herbal medicines (unless specifically exempt). The term 'complementary medicines' also comprises traditional medicines, including traditional Chinese medicines, Ayurvedic, Australian Indigenous and Western herbal medicines.

Research is the lifeblood of our industry. Through the discovery of new ingredients, delivery methods, and treatments for ailments, the CM industry develops products that empower individuals to manage their health and that have the potential to assist in the reduction of the ever-increasing healthcare costs associated with chronic disease. Furthermore, strong competition within the industry leads to consumers continually expecting more efficacious, safe and novel products. The quality of the research conducted by the industry is a direct function of the availability and quality of data.

Collection and access

DRAFT RECOMMENDATION 3.1

CMA supports recommendation 3.1 recommending the expansion of *data.gov.au* as a portal for all departmental databases. The first advantage of creating a network of interlinked datasets is resilience in the system. In the event of a department database crashing, the damage is contained to a single node and system wide access is still maintained. Secondly, a decentralised storage of data limits the amount of harm in the event of an unauthorised breach. If *data.gov.au* was a library as opposed to a portal it would be a high-value hacking target. We agree with recommendation 9.6 that ARA's must have sectoral expertise, by ensuring that each ARA is responsible for their own data storage, curation and release, data will be consistent with industry standards and expectations. At CMA we believe a portal to departmental databases will drastically increase the productivity of research of our

stakeholders through lower red tape and search costs. A greater variety of available datasets increases the scope of multidisciplinary research.

DRAFT RECOMMENDATION 3.2

CMA agrees that recycling publicly funded datasets will significantly increase the social and economic benefits of public research. Introducing transparency into the system by requiring justification for unreleased data would improve electoral perceptions of public research, reduce tribalism between research institutions and change Australia's research culture. Removing partisan politics from research funding is essential for stability and certainty in Australia's research sector.

DRAFT RECOMMENDATION 4.1

The CM industry welcomes any improvement in financial markets as our members should expect lower capital costs and increased access to capital. Akerlof's (1970) paper 'The Market for Lemons' on information asymmetries explains this result. Increasing the availability and quality of borrowing information reduces the number of costly lending mistakes; banks under competition pass these saving onto borrowers in the form of lower interest rates.

DRAFT RECOMMENDATION 4.2

CMA agrees that the contractual expectations surrounding public expenditure on research needs to improve. The relative size and importance of public funding in the research sector creates significant bargaining power to require that the researching entity shares their dataset. Ideally this process is not coercive in nature and the incentive structure for the researchers remains in place.

Identifiable data and curation

DRAFT RECOMMENDATION 5.1

CMA welcomes the recommendation to create a clear framework around the certification and standardisation of the de-identification process. The certification that data custodians are following best practice protocols may limit their legal liability in the event of an accidental breach of privacy. A clear codified set of protocols creates the legal defence that all 'reasonable steps' were taken to reduce risk of harm. This recommendation is of particular importance to the CM industry as there are a

number of private entities that would not qualify for trusted user status conducting valuable research outside the scope of pre-approved uses. Access to a de-identified dataset does not create additional risk but does provide additional societal benefits, especially in the health research sector.

DRAFT RECOMMENDATION 5.2

While CMA and its members are primarily concerned with medical research currently exempted from the Privacy Act, other disciplines of research are critical for the industry's long term success. We believe the governance oversight framework governing trusted users is more than adequate to mitigate the risks of harm in the release of identifiable data. Guiding documentation about the public interest threshold is necessary for the identification of National Interest Databases and the subsequent applications from trusted users.

DRAFT RECOMMENDATION 5.3

Various statistical and econometric techniques become available with increasingly linked data. This richer level of analysis will lead to more frequent, novel discoveries. For this reason CMA agrees with recommendation 5.3 to retain any links created between datasets unless it poses too great of a risk to the privacy of individuals.

DRAFT RECOMMENDATION 5.4

CMA agrees that lowering the costs of acquiring data will improve research outcomes. By reducing the administrative cost burden of applying for data and appealing rejections, researchers will face lower risks of the project failing. Annual reporting requirements will discourage risk adverse data custodians inventing arbitrary excuses for refusal.

DRAFT RECOMMENDATION 5.5

As mentioned above, CMA views linked data to be of great importance to effective, novel research. We do not believe the risk to privacy borne from state-based linkage units accessing and linking Commonwealth data justifies the need for integrating authorities. As mentioned in the draft report, the complexity and standardisation of linking datasets delays the availability of the dataset in question. This prolongs the length of the research project, increasing costs.

DRAFT RECOMMENDATION 6.1

CMA agrees that recommendation 6.1, if correctly implemented, will increase the level of research conducted with the current amount of data. It would be much more cost effective from a government policy perspective to capture the value in currently available data. Through the standardisation of datasets and increased machine readability, researchers save valuable resources by avoiding a comprehensive data curation process. As mentioned above, standardisation of datasets also promotes inter-agency and multidisciplinary research. This shift in research culture towards greater cooperation will increase the transparency, legitimacy and novelty of CM research findings.

DRAFT RECOMMENDATION 6.2

CMA agrees with the draft report that a bottom up approach to the formulation of data standards will create a framework that best reflects the risk and incentive profiles of specific industries. By explicitly demanding that the voluntary data standards be adequate enough to increase levels of research, private sector firms are incentivised not to be too risk adverse and create an effective framework.

DRAFT RECOMMENDATION 2.1

By creating a central agency tasked with assessing National Interest Datasets, available data reflects contemporary requirements and research interests. Recommendation 2.1 also disincentivises data holders from being risk-adverse and obstructing the public release of their data by introducing remedial action. Transparency should also hold managers to account who still maintain a risk-adverse approach.

Value adding and pricing

DRAFT RECOMMENDATION 7.1

Recommendation 7.1 adds government funding certainty to the program as well as ensuring the cost effectiveness of data standardisation by government departments. Requiring that the benefits for the public outweigh the costs in curation, results in the most valuable data at the lowest possible cost. CMA believes this recommendation creates the scope for government departments to develop a long-term competitive advantage in data curation, which may become a potential source of government revenue. Over time as government curation capability expands, we expect industry to demand further value being added to various datasets.

DRAFT RECOMMENDATION 7.2

CMA supports an independent review into pricing of public sector datasets for sale to the research community. Health research creates significant positive spillovers on economic performance, quality of life and the public health system. We believe, to maximise public benefit, datasets with small spillover effects and high commercial value should be provided at a premium to **cross-subsidise research with little or no market application which to sold below the cost-recovery price level.**

DRAFT RECOMMENDATION 7.3

CMA does not support that public data should, as a rule, be provided as cheaply as possible. The Department of Finance, in their review, should also investigate a market pricing model for those price inelastic datasets with high commercial value. We believe that the cost-recovery framework should be extended beyond an individual dataset basis to the entire data policy.

The risk of misuse by commercial interests is overblown in the draft report and can be mitigated through the current Australian competition legislation. Additional powers can also be granted to the Office of the Australian Information Commissioner through the Australian Government's Public Data Policy. In addition, the risk of misusing the dataset could be reduced through the nomination process of private National Interest Databases.

DRAFT RECOMMENDATION 7.4

CMA agrees that recommendation 7.4 ensures that budgetary pressures do not disincentivise full cooperation with the data policy. The additionality and release provisions ensure that these funds are not used to subsidise other departmental activities, compromising the integrity of the program. We believe it to be of great importance that certainty can be provided to industry that enough quality data will be available to warrant an investment into research capacity.

Implementation

DRAFT RECOMMENDATION 9.1

Recommendation 9.1 is a necessary revision of the definition of personal information defined in the *Privacy Act 1988*. By extending the concept of consumer data to include online information and actions, the limitations of the new Comprehensive Right are clarified. CMA also recommends a periodic review of the definition of consumer data to ensure that it includes new technologies and sources.

DRAFT RECOMMENDATION 9.2

CMA believes that In order to maintain a healthy balance between the right to privacy and the public interest, greater powers must be granted to individuals to control what data are collected on them. We also believe that a mechanism should exist as a safety net that allows for consumers to prevent the continued use of data already held on them if it causes direct harm. The harm must be greater than the cost of the data holder in terms of editing and reduced completeness of the dataset.

DRAFT RECOMMENDATION 9.3

CMA agrees on the importance of recommendation 9.3 for accountability and transparency. Furthermore, we agree that the stakeholders identified for overseeing the framework such as the ACCC, OAIC and industry ombudsman are best suited for their roles, with adequate capacity and expertise.

DRAFT RECOMMENDATION 9.5

It is important to have two different agencies balancing the public interest (office of the national data custodian) and the right to privacy (office of the information commissioner). Although the OIC deals with freedom of information requests, the primary objective should remain focused on mitigating the risk of harm due to available information.

DRAFT RECOMMENDATION 9.6

See recommendation 3.1

DRAFT RECOMMENDATION 9.7 & 9.8

Trusted users, covered by privacy legislation and with robust governance structures, pose little risk of harming individuals by accessing identified information. CMA agrees that identifying preapproved uses for identifiable data set creates much needed flexibility to the system. Researchers at small innovative firms in the complementary medicines sector could extract considerable value from identified data. These smaller players would not be accredited as a trusted user and would have to wait for the de-identified dataset which could lack timeliness or important details.

DRAFT RECOMMENDATION 9.9 & 9.10

Recommendation 9.9 & 9.10 ensure that the datasets currently held within the economy become standardised, accessible and useable without creating unwarranted risk to individuals. The economic benefits achieved by expanding the national data system have been widely explored in the literature regarding endogenous economic growth theory. Expanding the national stock of knowledge according to Romer (1990) increases the productivity of research sectors, driving higher levels of innovation. Gains in productivity and thus economic performance are a function of greater innovation. In the medium to long term, an increase in the amount of available data should improve Australia's complementary medicines industry's ability to be internationally competitive, and support manufacturing, employment and productivity.

DRAFT RECOMMENDATION 9.11

A legislative instrument is required for superseding existing relevant laws constraining the release of data. Clearly, specifying the responsibilities and expectations of stakeholders in the new framework will ultimately reduce uncertainty and increase the risk tolerance of managers.