

Productivity Commission: Australia's productivity performance – Call for submissions

23 March 2022

Dear Commissioners

Thank you for the opportunity to provide a submission to the *Productivity Commission Australia's productivity performance: Call for submissions*.¹ Consumer Policy Research Centre (CPRC) is an independent, non-profit consumer research organisation. Our mission is to improve the lives and welfare of consumers by producing evidence-based research that drives policy and practice change.

Taking a wellbeing approach to productivity and living standards

The Commission should apply a wellbeing approach to its Inquiry and any recommendations to improve productivity in Australia.

To achieve this, the Commission should work with the Australian Bureau of Statistics (ABS), community and research organisations to create a definition of wellbeing for Australia, develop options to measure wellbeing and incorporate this thinking into an overall assessment of productivity.

The Commission has stated it will focus on 'economic reforms rather than on social and other reforms that may be desirable but not impact productivity directly'.² While the Commission acknowledges there is often overlap especially in policies directed at improving social inclusion which result in economic benefits, it has stated it will not focus on determining reforms to address these issues.³ We caution against taking a narrow interpretation of reforms that can enhance productivity by purely focusing on economic reforms.

As the Commission notes in the call for submissions, productivity is one of the most important drivers of Australia's living standards.⁴ If we measure economic productivity without considering if that results in improved wellbeing and outcomes for Australians, it will result in a limited reform agenda. As described by AHURI, measuring and tracking wellbeing has become a credible yardstick to measure societal progress and moves beyond just measuring Gross Domestic Product (GDP).⁵

International examples where wellbeing was considered as part of productivity inquiries

The New Zealand (NZ) Government is applying a wellbeing approach to its budget process⁶ and through the development of indicators to measure wellbeing as part of the Living

¹ Productivity Commission. 2022. *Australia's productivity Performance. Call for submissions*

² *Ibid.*, 3-4

³ *Ibid.*, 3-4

⁴ *Ibid.*, 1

⁵ Ong ViforJ, R., Singh, R., Baker, E., Bentley, R. and Hewton, J. (2022) *Precarious housing and wellbeing: a multi-dimensional investigation*, AHURI Final Report No. 373, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/373>, doi: 10.18408/ahuri8123801.

⁶ Government of New Zealand. 2021. *Wellbeing Budget 2021: Securing our Recovery*, Budgets of the government

Standards Framework (LSF).⁷ The *Public Finance Act (1989)* was amended to require NZ's Treasury to report on the country's wellbeing every four years and the first wellbeing report is due in 2022.⁸ The NZ Government defines wellbeing as the ability of people to lead fulfilling lives with purpose, balance and meaning.⁹

In addition, the NZ Productivity Commission has applied a wellbeing lens to how it undertakes inquiries and measures productivity. The NZ Commission regards productivity and wellbeing to be interlinked and are considering a broader range of measures in understanding the productivity of New Zealand's economy. The LSF captures additional factors that the NZ Commission considers could explain multi-factor productivity growth; these include natural, human and social capital. While the NZ Commission admits data gaps remain to support measuring these factors, and it is working to resolve these issues.¹⁰ The Australian Productivity Commission should consider the current gaps in data and what needs to be collected to establish an Australian Living Standards Framework and apply a wellbeing approach to productivity measures.

The Carnegie UK's Gross Domestic Wellbeing or GDWe is a measure of wellbeing in the United Kingdom that sits alongside the GDP. The key aim is to provide an alternative measure of societal progress that supports government and civil society to rebalance outcomes and provide a mechanism to make trade-offs between different domains of wellbeing.¹¹ Data from the Office of National Statistics and the Measures of National Wellbeing Dashboard is used to construct the GDWe.¹² While the ABS has done some initial work to define and measure wellbeing in 2001, there is not yet a consistent definition of wellbeing and an approach to systematically measuring wellbeing in Australia.¹³

Navigating the digital economy

The Productivity Commission's paper notes the need for openness and access to digital technologies and business innovation and building a capability and culture to take up new technology and data. CPRC recommends that these need to be implemented in a way that reflects the values and expectations of community so that economic benefit flows to all citizens. Markets are only ever a means to an ends to improve consumer outcomes, rather than an ends in themselves.

Qualitative research conducted by CPRC between June and August 2021 found that online life can be a double-edged sword for Australian consumers. While consumers value the convenience and access to more products, the online environment can feel overwhelming, especially with the level of information and marketing they experience. The proliferation of choice, while ostensibly a positive for consumers, has led to an increase in frustration and confusion. Choice becomes meaningless and even detrimental if it is not structured in a way that is clear and easy for consumers to navigate and act in accordance with their preferences.¹⁴

⁷ The Treasury. 2021. *Living Standards Framework* <https://www.treasury.govt.nz/information-and-services/nz-economy/higher-living-standards/our-living-standards-framework>

⁸ The Treasury. 2021. *Wellbeing report* <https://www.treasury.govt.nz/publications/strategies-and-plans/wellbeing-report>

⁹ Treasury NZ (2019) The wellbeing budget, <https://budget.govt.nz/budget/2019/wellbeing/approach/index.htm>.

¹⁰ New Zealand Productivity Commission. 2021. *Productivity by the numbers*.

www.productivity.govt.nz/research

¹¹ Wallace, J. Ormston, H. Thurman, B. Manson, A. 2020. *Gross Domestic Wellbeing (GDWe) An Alternative Measure of Social Progress*. Carnegie UK Trust

¹² *Ibid*

¹³ ABS. 2001. *Measuring Wellbeing: Frameworks for Australian Social Statistics*

<https://www.abs.gov.au/ausstats/abs@.nsf/bb8db737e2af84b8ca2571780015701e/A4B7F97B7A8D671FCA2571B800103D03?opendocument>

¹⁴ CPRC Consumer Wellbeing Qualitative research unpublished

Taking a holistic approach to data and digital innovation is imperative as it is the effective use, sharing and collection of data and the active engagement of consumers and citizens that will lead to the economic benefit and in turn enhance the country's productivity.

The need for principles to guide reforms to data and technology

The various data and digital reform processes currently underway across the Australian Government need to be guided by clearly articulated principles. Without it, the Government is at great risk of developing a policy environment which is not joined up or coherent. In turn, this will result in conflicting approaches, processes, standards and outcomes, which will reduce productivity as well as undermine investment and community trust. Consumers also expect this reform: when it comes to unfair and harmful data practices, our research shows that 94% of Australian consumers expect government to protect them against the collection and sharing of their personal information.¹⁵

The Productivity Commission could look to New Zealand for a clear example of principles that could be applied to Australia's approach to data reforms. In 2018, the New Zealand Privacy Commissioner released principles for safe and effective use of data, which could be considered in the Australian context:

- **Deliver clear public benefit** – use of data must have clear benefits for all citizens.
- **Ensure data is fit for purpose** – use the right data, in the right context and be aware of how data is collected and analysed (including accuracy, precision, consistency and completeness of data).
- **Focus on people** – consider how the use might impact on people such as their privacy and protection against misuse of information.
- **Maintain transparency** – ensure citizens know what data is held about them, how it's kept securely, who has access to it and how it's used (including a well-documented process of data use and analysis).
- **Understand the limitations** - ensure decision-makers are informed of the limitations of analytical processes and the data to predict and describe outcomes (check for biases and other harmful elements).
- **Retain human oversight** – human oversight for decision-making should never be entirely replaced. Decisions based on automated processes affecting people should be disclosed and reviewed to preserve fundamental rights and freedoms.¹⁶

Insights from CPRC's digital research program highlight what Australian consumers expect the laws governing the collection, sharing and use of their data to deliver:

- **Fairness** – entities do not collect, share and use data in a way which is unfair, exploitative or extractive.
- **Safety and security** – entities are obligated to keep consumers safe.
- **Choice and control** – consumers are provided with genuine, meaningful control and choice over their data.
- **Transparency** – entities are required to be transparent about why, what and how data is being collected, shared and used with consumers and citizens.

¹⁵ CPRC, "CPRC 2020 Data and Technology Consumer Survey", (December 2020), [CPRC 2020 Data and Technology Consumer Survey - CPRC](#) – CPRC.

¹⁶ Privacy Commissioner (New Zealand), "Principles for safe and effective use of data analytics", (2018), <https://www.privacy.org.nz/publications/guidance-resources/principles-for-the-safe-and-effective-use-of-data-and-analytics-guidance/>

- **Accountability** – entities and individuals are held to account for data misuse, enforcement is effective, and remedies are easily obtained.
- **Inclusion** – consumers are not excluded nor receive detrimental outcomes as a result of data collection, sharing and use by entities.

These insights should feed into Australian-specific principles for data reform.

A key element of any digital principles should also account for vulnerability factors for consumers and support those who may have limited to no access to digital services. CPRC's research on vulnerability for the Consumer Data Right regime notes the importance of integrating vulnerability principles in the work program and developing clear aims, indicators and measures that are specific to consumer vulnerability.¹⁷ This is also a concept that is currently being applied in the UK Office of Gas and Electricity Markets where cost-benefit analysis now includes a specific weighting for vulnerability¹⁸.

Other reforms required to unlock further productivity from data and technology

Technological innovation is neither universally welfare enhancing, nor welfare detracting. Australians need effective laws and regulations that guard against misuse of data, and at the same time enables innovation in the public interest.

The following reforms should be prioritised to protect consumer data and build trust in further data and technology advances:

- Reform of the Privacy Act to bring Australia's protection framework into the digital age through a coherent, economy-wide consumer protection.
- Introduction of an unfair trading prohibition to protect consumers from data extraction and digital misuse.
- Introduction of a general safety provision to clearly make companies responsible for delivering safe, secure data-driven products and services.
- Establishment of rules or protocols to ensure that deidentified consumer data cannot be re-identified.¹⁹
- Introduction of technology/data impact assessments for government reforms to data and technology, which include a cost-benefit analysis to truly identify the value of new digital innovations and to whom will it benefit the most – consumers, or entities with a commercial interest.
- Increased enforcement resources for regulators within a complex digital environment and clear pathways for consumers to access support when experiencing digital harms.

These reforms should result in:

- businesses using consumer data to boost consumer benefits rather than cause harm
- consumers having genuine and meaningful control over their data with adequate controls and protections to ensure consumers are in genuine control, rather developing regulatory framework primarily in the interests of entities seeking to monetise consumer data for commercial gain

¹⁷ O'Neill, E, "The experiences of older consumers: towards markets that work for people", Consumer Policy Research Centre, (February 2021), [Consumer Data Right Report 1: Stepping towards trust Consumer Experience, Consumer Data Standards, and the Consumer Data Right - CPRC.](#)

¹⁸ Presentation by Meghna Tewari, Head of Retail Market Policy (Ofgem) at the 2021 ACCC/AER Regulatory Conference (Session 2B – Consumer vulnerability and market design).

¹⁹ As an example, the NSW Government specifically notes the use of a Personal Information Factor tool to assess re-identification risk as part of its strategy to publish COVID-19 cases and tests data. See: [Case Study: Personal Information Factor \(PIF\) Tool | Data NSW.](#)

- implementing regulatory sandboxes to enable the safe testing and learning environment prior to deploying data-driven products and services at scale.

With the review of the Privacy Act currently underway, we recommend urgent economy-wide reforms to address the increasing ubiquity of data collection, use and disclosure in the economy which in turn, would also help inform the various digital reforms that will sit beside it (e.g. Consumer Data Right regime). Implementing the Privacy Act reforms will ensure the environment surrounding digital innovation in data-enabled products and services provides sufficient protection for consumers, including data that becomes part of Australia's open data sources. Clearer market stewardship is required from governments to ensure that emerging digital markets both work for and deliver benefits for Australian consumers.

Competition reforms to enhance productivity: impact on consumers

Enhancing competition through deregulation and encouraging market-based approaches to delivering services might lead to improvements in productivity, however there is a risk this will come at the expense of consumers. For example, energy retail price contestability and enhancing consumer choice are reforms that were introduced specifically to improve economic efficiency and lower energy costs for consumers. However, an unintended outcome of these reforms is a significant proportion of consumers who have difficulty engaging in these markets to make informed consumer choices, often resulting in these individuals left on the highest market prices or with poor service.²⁰

The Commission should consider consumer impacts when recommending competition reforms aimed at creating markets for essential services. Reforms identified from this inquiry must not be implemented by weakening or removing consumer protections.

In addition, we encourage the Commission to examine the potential productivity benefits from accelerating reforms to enhance consumer protection including the reforms outlined above: an unfair trading provision, a general safety provision and reform to the Privacy Act.

Recommendations

We encourage the Commission to take a broader view of how to improve productivity, ensuring that benefits are spread evenly across all consumers. The Commission should consider how any productivity reforms will reduce consumer harms especially for people who experience vulnerability.

We recommend that the Commission:

- clearly define wellbeing, consider options to measure wellbeing and apply a wellbeing lens to the inquiry
- introduce principles to guide data and technology reforms to truly deliver consumer and productivity gains

call for the Federal Government to prioritise reforms to protect consumer data and build trust in further data and technology advances, including reform to the Privacy Act, an introduction of an unfair trading provision and the introduction of a general safety provision.

²⁰ Esplin, R. Best, R., Scranton, J. Chai, A. 2022. Who Pays the Loyalty Tax? The Relationship Between Socioeconomic Status and Switching in Australia's Retail Electricity Markets. *Energy Policy*. 164

We would welcome the opportunity to work with the Productivity Commission and share further insights from our consumer research projects as the Commission progresses this inquiry.

Yours sincerely

Erin Turner
Chief Executive Officer
Consumer Policy Research Centre