



Productivity Commission Inquiry into Data Availability and Use – August 2016

The Australian Transaction Reports and Analysis Centre (AUSTRAC) is pleased to make this submission to the Productivity Commission's Inquiry into Data Availability and Use. AUSTRAC is Australia's financial intelligence unit, with regulatory responsibility for Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime.

In addition to its responsibility to protect the financial system from criminal abuse through actionable financial intelligence and collaboration with domestic and international partners, AUSTRAC has the objective of 'contributing to the growth of Australia's economy'.¹

To support this objective, AUSTRAC is in the process of implementing an intelligence led, risk-based regulatory model. This approach will assist AUSTRAC to better protect the Australian community from financial crime and terrorism financing, while also reducing the regulatory impacts on industry.

AUSTRAC recognises that making public and private datasets more available can potentially generate considerable benefits across Australia's AML/CTF regime, including AUSTRAC's targeted approach to AML/CTF regulation. Increased access to datasets could benefit:

- AUSTRAC's intelligence gathering and analysis
- government authorities' understanding of money laundering and terrorism financing risks and trends
- industry's compliance with AML/CTF obligations, particularly those relating to the identification and verification of customers.

AUSTRAC is also a participant in a range of whole-of-government interdepartmental committees to understand and enhance inter-agency information-sharing protocols, business processes and systems requirements. This includes exploring options for a privacy regime that utilises new and emerging technologies to:

- protect individual rights, and
- enhance intelligence information sharing between law enforcement and national security agencies to better combat and disrupt threats such as serious financial and organised crime and terrorism financing.

¹ AUSTRAC Portfolio Budget Statements 2016–17, Program 1.1, p185, www.ag.gov.au/Publications/Budgets/Budget2016-17/Documents/Portfolio-budget-statements/PBS-AUSTRAC-2016-17.pdf

These benefits lead to greater protection of the financial interests of the community through better detection and disruption of fraud and related crime which ultimately benefits Australia's economy and prosperity.

AUSTRAC's use of transaction data and financial intelligence

AUSTRAC oversees the compliance of more than 14,000 Australian businesses with their obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). AUSTRAC's regulated population ranges from major banks and casinos to single-operator businesses in the money remittance and gambling sectors. The businesses AUSTRAC regulates provide more than 70 designated services across five key sectors:

- financial services
- gambling
- bullion dealers
- money remittance services
- cash dealers.

A key obligation for these businesses is the submission of financial transaction and suspicious matter reports to AUSTRAC – in 2014–15 AUSTRAC received more than 96 million individual reports from industry. AUSTRAC analyses this data and shares the resulting financial intelligence with more than 40 Australian Government, state and territory partner agencies and more than 80 international counterparts.

Each year AUSTRAC disseminates thousands of pieces of actionable intelligence to its partners, including suspicious matter reports and detailed analysis reports, for use in their investigations and operations.

This financial intelligence contributes to hundreds of investigations and related seizures of criminal proceeds and revenue by law enforcement, national security, revenue authorities, border protection and other agencies in Australia and overseas.

AUSTRAC and its partner agencies in Australia and overseas are facing a number of increasing challenges which were not contemplated when the current AML/CTF legislation was developed and passed by the Australian Parliament in 2006. The [Report on the Statutory Review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and Associated Rules and Regulations](#) tabled in Parliament in April 2016 by the Minister for Justice and the Minister Assisting the Prime Minister on Counter-Terrorism contains 84 recommendations to streamline, simplify, modernise and enhance Australia's AML/CTF regulatory framework.

The report recognises that technological innovation is leading to rapid changes in the payments sector through the use and application of digitisation. This has resulted in the availability and growth of new payment methods and systems; for example, the emergence of digital or crypto-currencies which enable customers to move value with limited transparency. Consumers of financial services now have access to a diverse range of methods to undertake financial transactions.

These new payment technologies and processes challenge the existing AML/CTF regulatory framework for the reporting of financial transactions. Innovations in payment methods also provide serious criminal and terrorist networks with new opportunities to move funds and value under a cloak of pseudo-anonymity.

Against this background, AUSTRAC recognises that it may no longer be able to solely rely on transaction reports lodged by reporting entities to obtain comprehensive data on financial transactions and funds flows. Accordingly, AUSTRAC is currently exploring options and innovative solutions on how it can access and obtain the necessary data to continue to produce actionable and meaningful financial intelligence, while adhering to privacy and data-protection requirements.

AUSTRAC data as a public benefit

AUSTRAC's financial data includes a great deal of sensitive personal and financial information, and the agency has comprehensive security and privacy measures in place to ensure that the information under its control is secure and protected from unauthorised access, use and disclosure.

The report on the statutory review of Australia's AML/CTF regime recommends a comprehensive overhaul of the secrecy and access provisions of the AML/CTF Act, with a view towards establishing a more flexible and effective framework for sharing AUSTRAC information.

Implementing this recommendation would greatly enhance AUSTRAC's ability to disseminate intelligence information to its regulated population, to assist them to strengthen and enhance their awareness of money laundering and terrorism financing risks and their processes to detect and disrupt these crimes.

An additional limitation of the existing AML/CTF information sharing arrangements is that they inhibit AUSTRAC from disclosing aggregated AUSTRAC data to private and public bodies engaged in policy development and research, both in Australia and overseas. Overhauling secrecy and access provisions may help address this barrier to information sharing.

The report into the review of the AML/CTF regime also makes a specific recommendation recognising the potential public benefits of making aggregated AUSTRAC data more available. Recommendation 16.1(b) of the review is that the functions of the AUSTRAC CEO should be expanded to include 'disseminating AUSTRAC information, where appropriate, to support government policy-making, industry education, public education and academic research.'

AUSTRAC accessing additional datasets

In 2015 Australia's AML/CTF regime was subject to an evaluation by the Financial Action Task Force, the inter-governmental body which sets international money laundering and terrorism financing standards and assesses each country's effectiveness against these standards. Australia's evaluation report recommended that AUSTRAC be given access to a greater number of sources of information from other Commonwealth, state and territory agencies to further enrich and enhance the agency's intelligence data.

Important for AUSTRAC's regulatory and intelligence activities is not only the availability of public datasets, but also the form in which the data is available. To maximise the usefulness of open public data (for example, registers of compliance and enforcement action and regulatory risk profiles maintained by other regulators), AUSTRAC requires it to be 'technically open' – that is, downloadable in a machine-friendly format so it can be used for automated monitoring and data matching activities against AUSTRAC's internally-held data. From a regulatory standpoint, having more public data available for data matching activities could:

- improve AUSTRAC's awareness of a business's broader compliance history across multiple state/territory and Commonwealth regulatory regimes. AUSTRAC can use this information to inform its own risk profiling activities across its regulated population
- enhance the accuracy of enrolment data provided regulated entities by enabling the agency to verify the validity of information provided by businesses enrolled and registered with AUSTRAC
- help AUSTRAC to identify inactive businesses that should no longer be enrolled with the agency, active businesses that should be enrolled and new, unenrolled businesses that may be operating in a clandestine manner.

Contact details

AUSTRAC would be pleased to provide the inquiry with more information about the matters detailed in this submission, or meet with Members of the Commission to discuss the submission further. AUSTRAC's Policy and Guidance unit can be contacted by email at DOMESTIC_POLICY_MAILBOX@austrac.gov.au