

26 July, 2016

Ms Rosalyn Bell

Assistant Commissioner

Productivity Commission

At [data.access@pc.gov.au](mailto:data.access@pc.gov.au)

Dear Commissioner,

### **PRODUCTIVITY COMMISSION INQUIRY INTO DATA AVAILABILITY AND USE**

1. **Standing:** Archerfish Consulting Pty Ltd is a privately owned advisory business. It aspires to be an alternative presence in evidence-based public policy creation and evaluation. Our advisory business is, in part, grounded in the localisation and application of the methodologies of the Washington State Institute for Public Policy (WSIPP). The WSIPP cost-benefit analysis model seeks to incorporate epidemiological data and rigorous evidence-based outcomes into economic models which gather the costs and monetise the benefits of social provision (health, education, social welfare and juvenile and adult criminal justice) interventions and policies. In our experience, it has been increasingly difficult to get timely access to public data gathered by State and Commonwealth agencies with which to populate economic models with the costs and benefits of social policy initiatives across all social provision sectors. This difficulty has not been abated by state based laws designed to make information more readily available. In fact the opposite is occurring.

Archerfish's commercial and advocacy objectives are captured in the Commission's issues paper [p5, para 4]

"... governments should substantially improve their own service provision by using data to strengthen the evidence base for their policies... But developments in data management also appear to offer governments, businesses and innovators the opportunity to reshape markets and alter previously accepted paradigms of disadvantage and societal need."

2. **Data Availability:** In our experience, public data, optimistically characterised as a taxpayer funded public good is being redefined by stealth as an *excludable good*, increasingly available to a select few. Whether deliberately or otherwise, State and Territory agencies are able to extinguish data requests made by all but the most determined non-state actors. Practically, only other public sector organisations and university-based researchers supported by publically funded research grants are able to withstand the obfuscation and demands for fees adopted by State and Commonwealth Governments. This has a chilling effect on the range and quality of independent research and policy analysis available in Australia, which is not otherwise sponsored by invested institutions. Presently, there is a substantial risk that independent evidence-based dissenting views in public policy are being extinguished. Case study #1 describes our experience in trying to acquire prison muster data from Australian State and Territory governments, and compares unfavourably the responsiveness of Australian State and Territory agencies with the New Zealand Government's response.

3. Privacy: We see no reason to alter the robust data privacy requirements that surround social provision data held by public agencies. However, some public data holds no private consumer privacy threats. Data which, for instance, is solely composed of statistical year of life counts and sums of resource costs, where the chance of identifying individual or even small groups of consumers, is zero should be made available without reference to (human research) ethics committees which introduce unnecessary costs and delays into the requisition process. Longitudinal data sets which are time series of population costs and counts, by definition, have no personal privacy implications nor are such series likely to have human research ethics implications
4. Fees and cost recovery Case study #2 describes our experience in trying to secure a trivial extension of a data license in order to carry out a pro bono engagement for a severely cash limited charity. At the time, it did not seem extravagant to describe the Commonwealth agency's effort to levy a second charge of \$2200 for a data extract which it had already supplied, as outrageous.

It is not clear how fees and charges applied to data requisitions are calculated, but it is difficult to put aside the suspicion that fee gouging is commonplace. Some agencies clearly view cost recovery as a revenue opportunity, such as the commonwealth entity that charged \$4500 for a data extract that revealed 1584 data elements. These charges eliminate many independent analysts from the market for evidence. The commission might consider recommending that data access charges levied by State and Commonwealth agencies should be subject to review on application to the Australian Competition and Consumer Council, with additional penalties for serial offenders.

#### Summary

In our role as private sector social policy and economic analysts, we note with concern the emerging features on public data access landscape

- State and Commonwealth agencies in the social provision sector are excluding credentialed researchers/policy outcome evaluators by stealth. Effective exclusion tactics include denial of access and simultaneous referral to freedom of information pathways. FOI is an effective tactic for both obstruction and fee gathering for what should be free and freely available data. A second tactic is levying large fees for data extracts where the fee schedule for a data extraction is not transparent.
- The redirection of requests for operational data gathered by State Agencies to in-house research/ethics committees serves to extinguish time sensitive inquiries.
- Unlike other jurisdictions in which we have worked (NZ, Washington State) Australia lacks a culture in which the first instinct of officials is to make all but commercial-in-confidence and personal privacy data readily available at the first request. It may be interesting to speculate whether this is a matter of leadership in the political culture or part of the nature of officials.

Yours faithfully

Russell J Taylor PhD

Chief Executive

Case Study #1. In April, 2015 the NSW Bureau of Crime Statistics and Reporting (BOCSAR) published a bureau brief<sup>1</sup> forecasting the growth in the short and long term NSW prison population. The authors forecast short-term prison muster (remand and sentenced prisoners) numbers based on Auto Regressive Integrated Moving Average (ARIMA) modelling of time series of male and female remand and sentenced prisoners recorded by NSW Corrections between July 2001 and March 2015. The study identified the role of seasonal factors contributing to the volatility of monthly muster numbers. The ARIMA model diagnostics identified significant lags at AR(1) and AR(12) and MA(8). The authors did not identify the factors contributing to the lags nor did their analysis elaborate on the seemingly upwards concave curve of prisoner numbers implying an accelerating rate of imprisonment in NSW.

In order to build its portfolio of evidence-based options for criminal justice policy, Archerfish sought to ask and answer two questions:

Viewed across Australia, are the State muster numbers characteristically similar; is imprisonment an increasingly prevalent sentencing option and is it possible to construct an Australia-wide projection of prison muster numbers to the 20 year horizon, following the Washington State example?

Is there evidence anywhere of reducing rates of offending and imprisonment as might be implied by a downwardly concave time series curve?

In December, 2015 I wrote to the responsible executive (Commissioner or Chief Executive of each State or Territory Jurisdiction) requesting access to time series data matching the NSW Corrections time series. At this point, there has been no acknowledgement of receipt from Tasmania or the Northern Territory. Simultaneously with their direct or implicit rejection of the Archerfish data requisition request, the Victorian, Queensland, South Australian and Western Australian recipients of the request assured me of their commitment to open and accountable government and advised me of their guidelines for Freedom of Information applications. In each case Freedom of Information (FOI) applications attract fees and charges, if only for collation and copying.

The Victorian Commissioner declined the request, seemingly on the basis that this key piece of operational information was unavailable. The Queensland, South Australian and Western Australian recipients chose to interpret the data request as a research proposal and referred the request to their in-house research committees for review and approval. The original data requisition had emphasised that the request was for de-identified operational data and did not constitute a research proposal in the usual sense.

At the end of July, 2016, none of the Australian State and Territory data requisitions have been fulfilled.

The New Zealand Department of Corrections provided a full response within 30 days, without charge. The data return included an apology for the length of time taken to fulfil the Archerfish request, but noted that the request arrived immediately prior to the Christmas shutdown.

---

<sup>1</sup> Donnelly N, Halstead I, Corben S, Weatherburn, D The 2015 NSW prison population forecast. *"Bureau Brief"*, April 2015, 105.

Case Study #2 NSW Treasury adopted as a proof of concept project, the localisation and implementation of the WSIPP evidence-led cost benefit model of criminal justice policy. Archerfish Consulting provided the technical lead for the project. The major challenge faced by the project team was securing the NSW and Australian equivalent data sets to provide health indices, marginal costs and epidemiological data required to estimate comprehensively a correctly configured cost benefit analysis model.

On behalf of NSW Treasury, I applied to the Australian Institute of Health and Welfare (AIHW) for access to a data extract from State and National admitted patient datasets. To be precise, the data requisition was for de-identified sums of single year of age in-patient costs by State. By the time individual States had approved the release of the information, more than 12 months had elapsed and the total cost of the extraction was \$2582. Access to the AIHW data was not unencumbered; access was contingent on Treasury's agreement that the data was solely for use on the nominated project.

In 2015, when Archerfish's contract with NSW Treasury had expired, Archerfish accepted a pro bono economic evaluation engagement with a Sydney not-for-profit organisation providing shelter, alcohol and other drug treatment programs for homeless people with multiple co-morbidities. In a formal request to AIHW I asked for an extension of the user license for the admitted patient datasets, again to populate the WSIPP cost benefit model.

Rejecting my appeal for reconsideration, the Director of AIHW reaffirmed that AIHW intended to charge \$2200 to reissue the data set and alter the data user license. The Director of AIHW claimed that it was an administrative requirement for AIHW to seek the clearance of each affected State for even trivial extensions of de-identified data and the internal costs charged were justified.

The economic evaluation of the charity's work did not proceed.