

Regulatory Impact Statement

Title of Proposal: Improving Microdata Access to Support Statistical Research.

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by Statistics New Zealand.

It provides an analysis of options to improve microdata access to support statistical research.

The nature and extent of the analysis undertaken was in relation to two options identified (1) to retain the status quo of limited access to microdata by non-government researchers or (2) to improve access to microdata for these researchers by amending the Statistics Act 1975, as recommended by two reviews commissioned by Statistics New Zealand on the issue.

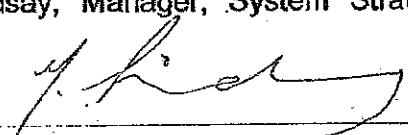
On balance the preferred option is to amend the Statistics Act 1975 to allow non-government researchers the ability to apply directly for microdata access for their own research projects. This will reduce costs for these researchers, and enable better use of existing data whilst continuing to protect confidentiality of data.

Some consultation with departments and the Office of the Privacy Commissioner has occurred on the preferred option. Consultation with other interested parties is planned.

Statistics New Zealand confirms that the preferred option proposed will have the effect of reducing the compliance burden upon business and certifies that the proposal is consistent with the Government Statement on Regulation.

Mark Lindsay, Manager, System Strategy and Performance, Statistics New Zealand.

Signature:



16/04/10

Status quo and problem definition

Status quo

1. The research community of government and non-government researchers requires access to good quality statistical data, particularly microdata, to produce effective analysis and research.
2. Currently, the Statistics Act 1975 (the Act) restricts access to microdata to Statistics New Zealand employees and extends this, via Government Statistician discretion, to researchers of other government departments, where the proposed research is for statistical and research purposes that are aligned with the functions and duties of those departments.
3. The Government Statistician's discretion to allow access does not extend to non-government researchers (including professional research businesses). These researchers can only access microdata when they are working under contract to Statistics New Zealand or to other government departments. Research that does not relate specifically to the functions of a government department cannot proceed.

Retaining Status quo

4. Retaining limited access arrangements for non-government researchers continues and strengthens reliance on processes and products in which Statistics New Zealand has already invested for this market such as CURFs (Confidentialised Unit Record Files), and maintains a continued level of public trust in the department protecting confidential information. However, the status quo means access to microdata in the "datalab" (Statistics New Zealand's secure environment where researchers may be granted controlled onsite access to microdata) for these researchers continues to rely on arrangements and processes which are the subject of complaint.

Problem definition

5. Current regulation of microdata access limits the research that can be undertaken by non-government researchers and reduces the overall value that could be gained from information held by Statistics New Zealand.
6. Current access arrangements and processes are cumbersome, inequitable, incur avoidable costs, and create uncertainty for non-government researchers.
7. This situation has led to continual complaint by the research community and has resulted in two independent reviews being undertaken by Statistics New Zealand in 2002 and 2007 in an attempt to find ways to improve access to microdata for these researchers. All improvements to processes under the current statute have been actioned. The latest review recommended legislative change to improve access to microdata for these researchers and this recommendation is supported by the Minister of Statistics and the Prime Minister as a government priority within the statistics portfolio.

Objectives

8. The government outcomes against which the options are assessed are improvement of regulation, reduction of compliance costs for business and support for statistical research.

Regulatory impact analysis

9. The two reviews into improving and supporting statistical research (noted above) identified a range of practical non regulatory options to improve and support statistical research.
10. The key deliverable identified in the latest review was the removal of current legislative constraints to improve microdata access by non-government researchers. The only practical alternative to the option of legislative change, is the status quo.
11. The impacts of each option are as follows:

Status quo: retention of limited access to microdata for non-governmental researchers

Impacts/Benefits

- o Avoids Statistics New Zealand needing to gear up to meet further increased demand in its datalab services (already on the rise from 992 sessions in 2004/05 to 1612 sessions in 2007/08).
- o Continued use and reliance on products already developed such as CURFs (which has been the main initiative undertaken in recent years by Statistics New Zealand as a way of meeting researcher needs)
- o No new privacy concerns.

Impacts/costs

- o Less research can be undertaken as the status quo is limited to government backed research i.e. current access arrangements are seen to be, and are, a barrier to research
- o Potentially results in researchers creating own costly data collections and duplicating data collections
- o CURFs regarded by researchers as insufficient for more complex research needs
- o Maintains an inequitable process which only allows direct application to the datalab by departmental researchers
- o Researcher complaints about access continue with adverse effects on important relationships
- o More uncertain as cumbersome consultation to tailor research projects to meet legal requirements is required
- o Complicated contractual arrangements required incur associated costs.

Amend the Statistics Act 1975, to allow non government researchers to apply directly for microdata access for their own research projects

Impacts/benefits

- o Enables carefully managed access for non-government researchers
- o Simplifies application requirements leading to quicker decisions on access
- o Frees these researchers from having to build their own data collections thus reducing the costs of research and risks of duplicate data collections
- o Reduces costs for these researchers by removing the need for complicated contractual arrangements
- o Establishes a more equitable process
- o Creates more certainty for research projects
- o Increases the research that can be undertaken
- o Increases the benefit gained from the data collected by Statistics New Zealand and other government departments.

Impacts/risks

- o Potentially could raise public privacy concerns and affect survey participation rates if communications are not handled effectively
- o Increased effort to manage risks to the security of data
- o Increased pressure on Statistics New Zealand resources required to oversee access (should volume be higher than expected)
- o Raises non-government researcher expectations of guaranteed access to microdata, if communications are not handled carefully.
- o Potential reduction in the use of some products already invested in such as CURFs

Consultation

12. Consultation on this proposal has already taken place with:

- o The Official Statistics System (OSS) Officials Committee made up of representatives from the following Ministries and departments: Justice, Agriculture and Fisheries, Tourism, Labour, Economic Development, Education, Social Development, Environment, Inland Revenue, Internal Affairs, the NZ Police and the Treasury.
- o The Advisory Committee on Official Statistics (ACOS), a committee established to provide independent advice on official statistics to the Minister of Statistics.

13. The form of the consultation undertaken was that each committee was asked for their view (to be given either at the next meeting or in writing) on the policy of removing the current legislative barriers to microdata access for non-government researchers.

14. No significant concerns were raised and the key feedback received, on the preferred option of removing the legislative barriers, was support.

15. The Office of the Privacy Commissioner has also been consulted and raised no specific concerns on the preferred option proposed.

Conclusions and recommendations

16. The preferred option is to amend the Statistics Act 1975 to allow non-government researchers to apply directly for microdata access for their own research projects as this enables better use of existing data whilst continuing to protect confidentiality of data.

Implementation

17. The proposed option will be given effect by extending the Government Statistician's discretion to consider microdata access applications from non-government researchers as well as government researchers. This would potentially include not only professional researchers, but also academics and researchers from Crown entities, the Reserve Bank, and local government.
18. The three main implementation risks are public privacy concern, less security for data and departmental resource pressure. These risks will be mitigated by ensuring that:
 - o the legislative changes are consistent with the Privacy Act
 - o communications are managed effectively
 - o that confidentiality of data is maintained using a process in keeping with United Nations good practice guidance on managing statistical confidentiality and microdata access
 - o the microdata access application process is administered efficiently
 - o the recently reviewed cost recovery regime supports the process; this regime will be further considered as part of the implementation process
19. The proposed option will minimise compliance costs to the non-government community by simplifying the application process
20. The proposal will not impact on any other existing regulation.
21. The enforcement strategy that will be implemented to ensure that the preferred option achieves its public policy objectives will be a combination of administrative action for lesser breaches (for example, prevent the researcher and/or the institution from further access to microdata until better processes are put in place to ensure minimisation of breaches) and legal action for serious breaches (it is already an offence to breach confidentiality under the Statistics Act 1975).

Monitoring, evaluation and review

22. Statistics New Zealand is currently developing measures for monitoring and evaluating the performance of the Official Statistics System as part of the Official Statistics System Refresh Strategy and the results of this legislative change will be included.