Submission by

to the

Governance and Administration Committee

on the

Data and Statistics Bill

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NZTECH SUBMISSION ON THE
Data and Statistics Bill

SUMMARY

1. NZTech wishes to thank the Governance and Administration Committee for the opportunity to submit on the Data and Statistics Bill. We welcome the opportunity to speak to the Committee about our submission.

2. NZTech supports the Bill's intent to expand the methods the Government uses to collect data. At the moment, the Government relies too heavily on collecting data via statistical surveys, which has significantly impacted the supply and quality of the data used to produce the Government's official statistics.

3. However, NZTech believes that the Bill needs to better reflect the implications of technology and technology's pace of change, including in relation to:
   3.1. Data creation and ownership, and
   3.2. Potential impacts of algorithms and artificial intelligence in the role and activities of the Statistician.

BACKGROUND

4. NZTech is a member funded, not-for-profit, non-governmental organisation that represents 20 tech associations with over 1600 members who collectively employ more than 100,000 New Zealanders: over 10 percent of the New Zealand workforce.

5. Our purpose is to help create a more sustainable, equitable and prosperous New Zealand underpinned by technology. We do this by helping our members work together to connect the tech ecosystem, promote the importance of technology for New Zealand and New Zealand technology for the world, and help advance the growth of the tech ecosystem and the New Zealand economy.

6. Our members include New Zealand tech exporters, local and multinational IT firms, startups, universities, government agencies, financial service providers and large corporate users of technology.

COMMENT

7. NZTech supports the Bill's intent, particularly its objectives to enable more effective systems leadership and coordination, strengthen and future-proof the framework for collecting data for official statistics, and to modernise the framework for accessing data for research.

8. However, NZTech believes that the Bill needs to better reflect the implications of technology and technology's pace of change. As such, NZTech has made a number of specific comments and recommendations to improve the Bill, as outlined below.

Data creation and ownership provisions

9. NZTech supports moving away from a prescribed list of classes of official statistics, as provided through the Statistics Act 1975, because it provides for additional flexibility in collecting data. However, NZTech considers the definitions of "data" and "official statistics" (outlined in clause 6), and the provisions relating to the authority to determine what data may be collected (outlined in clause 22) provide for an extremely broad data collection authority, including mandatory data collection as the discretion of the Statistician.

10. NZTech supports BusinessNZ's recommendation to ensure the Statistician directs requests for data to those in the best position to provide it, namely those who own the data. This is especially pertinent if the data is created or collected via algorithmic or other computer generated means. For example, if Company A is using application programming interfaces (APIs) to algorithmically access large data sources from various sources, Company A should not be the subject of a request for the data. Likewise, if Company A stores data on the instructions of the data owner, Company A should not be the subject of a request for the data. Instead, that request should be directed to the company(s) and/or agency(s) that own the data.

Potential impacts of algorithms and artificial intelligence in the role and activities of the Statistician

11. NZTech recommends that the Bill be amended to reflect that the Statistician will likely use machine learning technologies to collect and analyse large amounts of data in the future. It is important that this is specifically reflected in the Bill because of its implications on the nature of data being sourced by the Statistician, along with the potential accuracy, perspectives and official statistics that can be drawn from this data.

12. NZTech recommends the inclusion of a new "data and transparency" clause under Part 7: General and miscellaneous provisions of the Bill to provide transparency and mitigate the potential for machine learning technologies and AI analytical tools to be used in a way that may introduce bias. This proposed clause should have specific sub-clauses that:
    12.1.   Ensure adherence to agreed international and national principles or standards for the responsible use of these technologies (e.g. the Algorithm charter for Aotearoa New Zealand or the OECD Principles on Artificial Intelligence), and
    12.2.   Require the Statistician to inform the public if it analyses data using any form of machine learning or AI analytical tools, including the methodology used to analyse this data.

Power of entry and inspection

13. NZTech is concerned about the potential use of the Bill's powers of entry and inspection provisions (outlined in clause 57), which when combined with the Bill's expansive definition of what constitutes "official statistics" and the "data" that may be collected, provides the Statistician with significant powers of entry and inspection in order to produce official statistics. The power of entry and inspection provisions could have a significant impact on all businesses, but particularly small businesses, especially those in the rapidly emerging digital sector given the difficulty in measuring the digital economy.

14. NZTech recommends that the Bill require Statistics New Zealand to introduce clear policies and processes to ensure there is a high threshold for the use powers or entry and inspection. In creating these policies and processes, NZTech expect that Statistics New Zealand would consult

with stakeholders to ensure there is a common understanding on how this would be implemented. NZTech also expects that the Statistician would consider the relative impact of the data or information requested on the overall accuracy of the metrics and statistics being produced. Alternatively, these safeguards could be considered for inclusion directly in the Bill.

CONCLUSION

15. Thank you for the opportunity to provide feedback on the Data and Statistics Bill. We look forward to presenting our submission to the Committee.

Yours sincerely,

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