The DAT Bill.

The proposed data sharing scheme would enable broad disclosures of public sector data, including personal information, by providing an overarching "alternative authority" to share. This side steps APP 6, and overrides most of the secrecy provisions and non-disclosure prohibitions that have been established over decades of law-making.

The proposed bill disregards community expectations around privacy. Research conducted for the Office of the Australian Information Commissioner found that 9 out of 10 Australians want more control over their personal information, not less. And 70% of Australians expressed discomfort with the idea of their personal information, held by government agencies, being shared with the private sector.

If the law says that data-sharing can only be used for the 'good' purposes, then it will only be used for good, right? This wishful thinking reminds me of the tech-bro protagonists of The Social Dilemma, who line up to wash their hands of their own moral responsibility for the various ills wrought by Big Tech with 'we weren't expecting any of the bad stuff, who could have predicted that?' (The answer, of course, was a diverse array of privacy advocates, ethicists, historians and philosophers who did predict it, but were ignored in the 'move fast and break things' rush for growth and profits.)

Since the Productivity Commission's initial recommendations were made in 2016, we have seen the tide turn against data-sharing, and in favour of more privacy protections rather than less. There has been an undeniable shift in public consciousness and care about privacy. The Cambridge Analytica revelations and on-going Facebook scandals, the ACCC's Digital Platforms Inquiry, CensusFail, RoboDebt, re-identification attacks and data breaches too numerous to mention have all added up to public demands for better privacy protections from government.

In recognition of this, the Australian Government has recently committed to a review of the Privacy Act, and to bringing forward amendments in 2021 to strengthen the Privacy Act and bring it into line with community expectations and global best practice.

Yet this DAT Bill, to undercut the existing level of protection in the Privacy Act, is being proposed by the same government, at the very same time. You have to wonder if perhaps the left hand doesn't know what the right hand is doing.

When we as individuals share our personal information with government, it's generally because we have to. Government agencies typically collect our personal information because they can compel us by law (e.g. we must file our tax returns), or because we want or need to access some kind of government service (e.g. get a passport, or claim social security benefits, childcare rebates, or NDIS assistance). This means that there aren't many opportunities for us as citizens to opt-out of public sector data collection and use. Also, the nature of personal information we need to provide to government, in order to receive services, can be quite intrusive into our private lives.

We shouldn't even think about this as 'public sector data'. It is personal information about us, held by government agencies, in order to run government programs and services for our benefit. They are merely custodians of our data.

The default position should be – and has been, until now – that any disclosure of our personal information should only occur in very limited circumstances. Right now, APP 6 offers a balancing act between protecting the privacy of individuals, and allowing for other activities in the public interest. The DAT Bill will overturn that delicate balance.

So how to resolve the data-sharing dilemma?

The prospect of enabling widespread disclosure of our personal information by government, without much more than the Five Safes Framework as a protection, rings huge alarm bells. Overriding existing legal protections is a naïve, blunt and reckless approach to improving the mechanics of data-sharing.

In our view, a better approach would be to reform and strengthen the Privacy Act to meet community expectations and technological advances, while also better enabling ethically approved research in the public interest. (The research exemptions at sections 95 and 95A in particular need dragging into the 21st century.) This should be done before trying to implement the DAT Bill, or else personal information should be removed from the DAT Bill's scope altogether.