
Chair of the UK Statistics Authority, Sir Michael Scholar KCB

Rt. Hon. Dr Vincent Cable MP
Secretary of State for Business, Innovation and Skills
Department for Business, Innovation and Skills
1 Victoria Street
LONDON
SW1H 0ET

19 December 2011

Dear Dr Cable

BREACH OF PRE-RELEASE ACCESS: CONSUMER PRICES INDEX RELEASE FOR NOVEMBER

I am writing about the unauthorised disclosure, contravening the operation of the Code of Practice for Official Statistics, of market-sensitive economic data in your Department early last week. I understand that the disclosure was made in error by a senior official to forty-five or so senior departmental officials.

Your Department has already written, with its apologies, to the National Statistician about this. I understand that the official responsible for the disclosure has now been denied privileged access to all ONS pre-released statistical material. The National Statistician will be discussing with your officials the consequences of the error, and how to try to prevent its repetition in future.

This leak has, so far as we have been able to determine, led to no financial or political gain by any individual or political party. But, since leaks of this kind are all too likely, given the present pre-release access arrangements, and since there can never be certainty that they will not be used for financial or political gain, once again we are presented with the pressing need for the Government to bring to an end the present, very damaging, system of pre-release access to official statistics. This was very clearly and powerfully your own view when, on 23 January 2007, you spoke from the Opposition benches in Parliament on this subject (*Hansard* references attached). You argued that the longer the period of pre-release the greater the opportunity for mischief; you said that the pre-release process had helped to forge negative public perceptions of official statistics; you spoke of the increased risks of leaks of market-sensitive material; and you proposed that the new Statistics Authority be put in charge of determining pre-release access arrangements.

The Statistics Authority fully agrees with all you said on this topic in 2007.

When I wrote to the Chancellor of the Exchequer earlier this year, following a similar leak by Treasury officials, I noted that I had been told by one of your senior colleagues that, in rejecting the Statistics Authority's proposals on pre-release access, Ministers had been much influenced by the views of their Special Advisers. Their views are wholly unsurprising: should we really expect them to wish to limit the opportunities for "spinning and interpreting" (your

own words in 2007) the data? May I urge you to seek to persuade your colleagues, in the light of what has happened and will surely happen again, to take a principled decision to ban or severely limit pre-release access? Or, if you are unable to persuade them of your views, will you unilaterally ban or severely limit pre-release access in your own Department (nothing, I believe, prevents you from doing so)?

I look forward to hearing from you.

I am copying this letter to the Prime Minister and Deputy Prime Minister, the Chairs of the House of Commons Public Administration Select Committee and Business, Innovation and Skills Committee, to the Permanent Secretary of your Department, and to the National Statistician; and, following the Authority's policy and practice, I am placing this letter on the Authority's website.

Yours sincerely

A handwritten signature in black ink that reads "Michael Scholar". The signature is written in a cursive, slightly slanted style.

Sir Michael Scholar KCB

Extract from House of Commons Official Report, Public Bill Committee: Statistics and Registration Service Bill, 23 January 2007 (5th sitting), columns 172 to 174¹

Dr. Cable: I wish to speak in support of the amendment. Other amendments in the group relate to the issue—including those that stand in my name and that of my hon. Friend the Member for Falmouth and Camborne—particularly amendment No. 82, which would specify a time period for pre-release, in line with what we believe to be good international practice. Amendments Nos. 43 and 86 give effect to the proposal that we should clearly specify a non-political process for the determination of pre-release.

I wish to focus on the time period and on why it is seriously bad practice for the UK to have long periods of pre-release. There are several reasons for that, the first of which is that the longer the period of pre-release, the greater the opportunity for political mischief, through spinning and interpreting the data. I mean “political” in the broadest sense—I am not talking just about Ministers, but about advisers and press officers. That could also include civil servants, who might not act in a political capacity but who might feel that a set of statistics puts their Department in a particularly bad or good light, and will want to emphasise certain elements, given the opportunity to do so. We have seen many examples of that happening with social statistics.

Secondly, even if the practice that I have described was exaggerated—it is possible that we exaggerate what goes on—there is none the less the issue of public perception. We discussed at considerable length on Second Reading the figures showing poor public perception of Government statistics. The pre-release process has helped to forge those negative political perceptions.

A third reason is that the longer the figures are out there, the greater the likelihood that they will be leaked inadvertently, with damaging consequences. There have been some examples of that; for instance, in 2003 somebody leaked the retail sales statistics. They are a key market-moving indicator, but they got out in a way that they should not have.

The Government’s argument is that there is a case for pre-release, which we concede in the amendment. We do not take the extreme fundamentalist view that there should not be pre-release, although some countries do take that hard line. I understand that the Nordic countries have no pre-release at all. Norway, Finland and Denmark have no pre-release, and neither does Austria. However, we concede the principle that there is a justification for pre-release under certain circumstances, which are quite clear. There are some important economic statistics that move markets, whether it be the bond market or foreign exchange markets. The shift in numbers might be such that action by Government is required to deal with it. If the Government have not been given at least some opportunity to take action, market movement will be considerably influenced by the release. There is therefore a need for a certain time period, in order to prepare action. Many developed countries accept that principle, which is also accepted in the amendment.

However, it is worth reviewing what most other developed countries actually do, which is quite different and much less permissive than what occurs in our country. I shall just go through some of the key examples. Australia, for example, has a three-hour period, which is a little more generous than this amendment allows for, but of the same order of magnitude; I think that the Select Committee suggested a figure of three hours. Crucially, that three-hour pre-release provision applies to only a handful of key economic statistics—it does not apply at all to social data. France has a period of only one hour, which is again restricted to key economic data, unemployment, trade and inflation figures. Ireland gives a period of one hour

¹ <http://www.publications.parliament.uk/pa/cm200607/cmpublic/statistics/070123/am/70123s02.htm>

for the most important economic statistics and two hours for national accounts, with no pre-release for anything else.

One would have thought that the United States was at the frontier of good practice because its statistics affect the world, not just the US. As I understand American practice, the President has pre-release access of only 30 minutes for key economic statistics. We have not got around to this topic at all in the Bill, but the Americans have not only release and pre-release rules, but post-release rules. Civil servants are not allowed to comment on the data for at least an hour after they have been released. The American practice is very severe, disciplined and restrictive in terms of both the amount of pre-releases allowed and the statistics that are pre-released. If we are to adopt good international practice, we should be aspiring to something much closer to the American model.

Finally, by way of contrast, I cite Canada because its position is much closer to what the Government aspire to. The Canadians allow 15 hours for Ministers and 18 hours for civil servants. Essentially, they pre-release data at the end of the afternoon, the day before they are due to be published. Ministers and civil servants get a night to reflect on the data and react to it, but crucially again, that is allowed for only a handful of key economic statistics, and does not apply to social data.

We can have an abstract argument about the pros and cons of pre-releasing data, but the question the Government have to answer is why British practice, even as modified under the Bill, is so far out of line with that in the rest of the developed world, and in a way that perpetuates either bad practice or the public perception of it. This is a key clause in the Bill and I hope that the Minister is listening to the criticisms that are coming from those on the Opposition Benches and the profession, and I hope that he will respond sympathetically to the amendments.

Extract from House of Commons Official Report, Report Stage: Statistics and Registration Service Bill, 13 March 2007, columns 214 to 216²

Dr. Cable: I shall simply say a few words in support of the amendments in this group that are in my name and the name of my hon. Friend the Member for Falmouth and Camborne (Julia Goldsworthy). Essentially, they support and complement the comments of the hon. Member for Fareham (Mr. Hoban). The subject of pre-release is, certainly at this stage of our proceedings, the cause of one of the biggest differences between the Government and the Opposition, and there is a degree of frustration about our inability to make progress in clarifying the safeguards surrounding pre-release.

So far, the Government have defended their position on the rather fundamentalist grounds that pre-release is justified in principle, and therefore a whole raft of current practices are justified. Today, we will not dispute the principle of pre-release; there is good reason for it in certain instances where highly sensitive economic data are concerned, and for limited periods. When the statistical community has commented on the practice, it has usually conceded that point. For example, the Statistics Commission acknowledged in its submission that

“There is a recognition...that for key data series there will be a need for Ministers to have...some advance warning”,

but it went on to say:

“In most countries, the prior access is about half an hour—that’s a huge difference and it does mean all sorts of mischief gets done”.

The issue, therefore, is not the fundamental principle of pre-release, but the time and the circumstances surrounding it.

The hon. Member for Fareham quoted Liam Halligan’s eloquent piece on the subject, but to take another topical example, comment was recently passed on the British crime survey. The Government are in the habit of releasing crime data statistics and accompanying them with the comment that they are “the best source” of data. Professor Adrian Smith of Queen Mary college, University of London, one of the Government’s chief advisers on statistical matters, produced a scathing criticism of that interpretation of crime data. He notes that it

“flies in the face of common sense.”

That same professor produced an excellent report for the Government on mathematics education, so he is clearly not at odds with the Government on fundamentals. He makes the point that there has been a simple misuse of economic statistics through the pre-release process.

The question is how best to define the boundaries of pre-release. In our exchanges in Committee, there was a to-ing and fro-ing of arguments about other countries’ practices. I cited what I thought was probably the best example of good practice: the United States. I quoted the Royal Statistical Society as saying that the President of the United States had half an hour’s warning of key economic data, and I said that that demonstrated how tough and restrictive its arrangements were. The Minister subsequently wrote to me—I am grateful for his letter—to correct the Royal Statistical Society and me, and rightly so. He pointed out that

² <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070313/debtext/70313-0012.htm#07031357000159>

the President of the United States has overnight access to data. Clearly, even the best experts can get things wrong.

The Minister's letter proves his point in a way, but in a wider sense it does not, because the letter makes it clear that in the American experience, pre-release is not only restricted to overnight access, rather than 40 hours, but it is restricted to a very limited range of statistical indicators, and very few people in the United States have any access to the data. He made his point, but he reinforced the perception of the promiscuous way in which the British pre-release system is used and abused, across the Government.

The other example of a fairly permissive system is Canada; most other countries have either no or very little pre-release, but the Canadians allow overnight access to data, which is reasonably generous. However, they also restrict considerably the uses to which pre-release can be put. They limit considerably the number of people who have access to the data, and they limit its use by non-statisticians. Therefore, the question is not the principle of pre-release—we concede that there is a case for it, for the purposes of this argument—but how to apply proper boundaries to it.

I suspect that when the debate gets to the House of Lords, a strong case will be made by people who have much more direct experience of the matter than we do. I should like to quote Lord Moser, who has been cited on several occasions, and who takes a hard line on the subject. He argues that

“pre-release should basically be abolished.”

He goes on to say that he thinks pre-release should be

“perhaps something over one hour, so that the minister can be prepared to answer questions... I would leave it to the new board to decide whether there should be any exceptions. My own view would be to start from no exceptions.”

I suspect that when the Bill reaches the other place there will be amendments along the lines that he suggests.

We propose something less radical, so I hope that the Government would find it easier to live with. First, we propose amendment No. 36, which, by interposing a couple of words in clause 11, would effectively make pre-release subject to the professional judgments of the statistics board, rather than subject to the current opaque arrangements, the details of which we have not yet seen.

Secondly, we would provide for pre-release of up to two hours. By international standards, that is generous—it is twice as generous as the period recommended by Lord Moser. It provides a limitation or cap on pre-release data, so the Government should not find it too difficult to accept. It is in a spirit of compromise that we suggest acceptance of the principle of pre-release while imposing boundaries on the process itself and the time.

TEMPLATE FOR REPORTING BREACH OF THE CODE OF PRACTICE FOR OFFICIAL STATISTICS

A breach of the Code of Practice for Official Statistics occurs where one or more provisions of the Code were not followed in situations where an exemption or exception had not been approved by the UK Statistics Authority's Head of Assessment, as required in paragraph (xii) of the Code's preamble. Rules on pre-release access to statistics are covered in the relevant Pre-Release Access to Official Statistics Orders; the Code applies as if it includes these orders.

1. Background Information

Name of Statistical Output (including web link if relevant)

Consumer Price Indices, November 2011 (published 13 December 2011)

<http://www.ons.gov.uk/ons/rel/cpi/consumer-price-indices/november-2011/index.html>

Name of Producer Organisation

Office for National Statistics

Name and contact details of person submitting this report, and date of report

Siobhan Carey

Chief Statistician and Head of Profession

Department for Business, Innovation and Skills (BIS)

020 7215 3276

siobhan.carey@bis.gsi.gov.uk

13 December 2011

2. Circumstances of Breach

Relevant Principle/Protocol and Practice

Protocol 2, Practice 7 – limit access before public release to those people essential for production and publication, and for quality assurance and operational purposes

Date of occurrence

12 December 2011

Nature of breach (including links with previous breaches, if any)

At a routine meeting for SCS staff in BIS the day before publication of CPI a comment was made which gave a clear indication of the direction of the CPI figures.

The context of the meeting was a one hour briefing for SCS on a range of issues by the Permanent Secretary, DG Market Frameworks, Director of Media Relations and Director of Communications. The meeting was to provide an update for senior officials on current areas of activity across the Department and a look forward to events over the coming days/weeks. These meetings are held on a regular basis. All SCS are invited to these meetings which are held on site. The comment on the CPI was made at the end of the meeting from the floor by a BIS member of staff present who had pre-release access, in the context of a general discussion about growth over the short and longer term. The comment did not include the number but did indicate the direction of the number to be published.

Reasons for breach

The person concerned forgot the detail of the obligations under the Pre-release Access Order, that it included giving any indication of direction or overall statement about the figures.

3. Reactions and Impact

We are not aware of any impact. This meeting was internal and SCS only. The comment was at the very end of the meeting.

4. Corrective Actions Taken (include short-term actions, and long-term changes made to procedures)

The Chief Statistician was at the meeting and immediately spoke to the staff member concerned to point out the breach. The Chief Statistician then reported the breach to the BIS Permanent Secretary immediately after the meeting having checked that the comment was within the PRA period. The Chief Statistician then contacted the National Statistician's Office and submitted a Breach Report.

A review of pre-release access was already underway within the Department with a view to ensuring all PRA was both appropriate and necessary. This review across all PRA will be concluded in the New Year. Further reminders will be issued to all those who receive PRA to ensure they understand the detail of their obligations under the Order. The Chief Statistician has agreed with the staff member concerned that ONS remove all their pre-release access.

This person currently receives:

- UK Trade
- Index of Production
- Producer Price Indices
- CPI
- Retail Sales
- GDP (Preliminary estimate, Second estimate, and Economic Accounts)
- Balance of Payments

- International Comparisons of Productivity
- Business Investment
- Labour Productivity
- Profitability of UK Companies
- Low Pay Statistics
- ASHE
- Output in the Construction Industry
- New Orders in the Construction Industry

We have implemented this restriction within BIS until completion of the review that is underway. A fresh business case should be submitted on behalf of the staff member stating clearly the business need for each output on a pre-release basis.

5. Any other relevant supporting material (including link to published statements about this breach)

All BIS SCS are invited to these briefing meetings so attendees include Directors-General, Directors and Deputy Directors depending on availability. It is estimated that approximately 45 people were present.