

Submission Form

The Ministry of Business, Innovation and Employment invites feedback on its Discussion Paper *'Exploring a consumer data right for the electricity sector'*

Release of Information

Please note that submissions are subject to the OIA and the Privacy Act 2020. In line with this, MBIE intends to upload copies of submissions received to MBIE's website at www.mbie.govt.nz. MBIE will consider you to have consented to uploading by making a submission unless you clearly specify otherwise in your submission. MBIE will take your views into account when responding to requests under the OIA and publishing submissions. Any decision to withhold information requested under the OIA can be reviewed by the Ombudsman.

Privacy statement

The information provided in submissions will be used to inform Government policy development processes and will inform advice to Ministers. Your submission will also become official information, which means it may be requested under the Official Information Act 1982 (OIA). The OIA specifies that information is to be made available upon request unless there are sufficient grounds for withholding it.

Use and release of information

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If you consider that we should not publish any part of your submission, please indicate which part should not be published, explain why you consider we should not publish that part, and provide a version of your submission that we can publish (if we agree not to publish your full submission). If you indicate that part of your submission should not be published, we will discuss with you before deciding whether to not publish that part of your submission.

We encourage you not to provide personally identifiable or sensitive information about yourself or others except if you feel it is required for the purposes of this consultation.

Personal information

All information you provide will be visible to the MBIE officials who are analysing the submissions and/or working on related policy matters, in line with the Privacy Act 2020. The Privacy Act 2020 includes principles that guide how personal information can be collected, used, stored and disclosed by agencies in New Zealand. Please refrain from including personal information about other people in your submission.

Contacting you about your submission

MBIE officials may use the information you provide to contact you regarding your submission. By making a submission, MBIE will consider you to have consented to being contacted, unless you clearly specify otherwise in your submission.

Viewing or correcting your information

We may share this information with other government agencies, in line with the Privacy Act 2020 or as otherwise required or permitted by law. This information will be securely held by MBIE. Generally, MBIE keeps public submission information for ten years. After that, it will be destroyed in line with MBIE's records retention and disposal policy. You have the right to ask for a copy of any personal information you provided in this submission, and to ask for it to be corrected if you think it is wrong. If you'd like to ask for a copy of your information, or to have it corrected, please contact MBIE by emailing energyuse@mbie.govt.nz.

Submission information

*(Please note we require responses to all questions marked with an *)*

Release of information

Please let us know if you would like any part of your submission to be kept confidential.

I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because [\[Insert text\]](#)

Personal details and privacy	
1.	I have read and understand the Privacy Statement above. Please tick Yes if you wish to continue* [To check the boxes below Double click on box, then select 'checked'] <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.	What is your name? * Vivienne Wilson
3.	Do you consent to your name being published with your submission? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.	What is your email address? Please note this will not be published with your submission.* vivienne.wilson@oriongroup.co.nz
5.	What is your contact number? Please note this will not be published with your submission.* 027 202 2718

6.	Are you submitting as an individual or on behalf of an organisation? *
	<input type="checkbox"/> Individual (skip to 8) <input checked="" type="checkbox"/> Organisation
7.	If on behalf of an organisation, we require confirmation you are authorised to make a submission on behalf of this organisation.
	<input checked="" type="checkbox"/> Yes, I am authorised to make a submission on behalf of my organisation
8.	If you are submitting on behalf of an organisation, what is your organisation's name? Please note this will be published with your submission.
	Orion New Zealand Limited
9.	If you are submitting on behalf of an organisation, which of these best describes your organisation? Please tick one.
	<input type="checkbox"/> Energy retailer <input checked="" type="checkbox"/> Energy distributor <input type="checkbox"/> Energy generator <input type="checkbox"/> Metering services organisation <input type="checkbox"/> Provider of energy services <input type="checkbox"/> Energy regulator <input type="checkbox"/> Consumer organisation <input type="checkbox"/> Registered charity <input type="checkbox"/> Non-governmental organisation <input type="checkbox"/> Local government <input type="checkbox"/> Central government <input type="checkbox"/> Iwi, hapū or Māori organisation <input type="checkbox"/> Academic/Research <input type="checkbox"/> Other. Please describe:

Responses to questions

The Energy Use Policy team welcomes your feedback on as many sections as you wish to respond to; please note you do not need to answer every question.

Status quo and problem definition	
1.	<p>What are your experiences of accessing consumer and product data for electricity under the status quo?</p> <p>As an electricity distribution business (EDB), we value access to consumption and electricity quality data especially for the low voltage network. Access to this data is very important for planning and management of the distribution network. See further Information at the end of this submission.</p> <p>Our access to consumption data is generally controlled by strict contractual provisions in the default distributor agreements between us and retailers (traders). We take these obligations very seriously.</p> <p>In 2023, we also signed an agreement with a metering provider that allows us access to critical network operational data at a cost, on a 5-minute historic basis, for around 90% of the smart meters on our network. This data is critical for the operation of our business and will give us insights into the performance of our 400V low voltage network.</p>
2.	<p>Do you agree with our summation of the status quo and problem definition? Is anything missing or incorrect in your view? And please provide any evidence you may have to support your views.</p> <p>Yes, this looks accurate.</p>
3.	<p>Do you think that regulatory options are necessary to unlock better access to customer and product data?</p> <p>We agree that regulatory options are necessary to unlock better access to customer and product data. As the Discussion Paper points out, non-regulatory options will take much longer to address electricity consumer data issues. Affordability challenges cannot wait for the electricity sector to slowly improve access to consumption data.</p>
4.	<p>What do you consider to be the likely outcomes for access to customer and product data in the absence of a CDR for electricity?</p> <p>As the ENA have noted, <i>“Ultimately, not implementing a CDR would perpetuate the status quo of limited competition in data-driven energy services, as larger players with better access to data would retain competitive advantages over smaller or new market entrants.”</i> Please also see our answer to question 23.</p>

5.	Who else may be impacted by a designation of the electricity sector? Should particular groups or classes of entities be explicitly included or excluded from a potential designation?
	<p>We understand that the current proposal is for the designation of data holders being electricity retailers and metering equipment providers. We agree with this proposal and think this is the right approach.</p> <p>As noted in the Australian Government’s Statutory Review of the Consumer Data Right <i>“... a narrower approach to designation introduces greater focus and better targeting of CDR use cases. It means that there is greater clarity on the coverage of datasets for designated entities from the outset, and no requirement from data holders to potentially overhaul systems for low-value CDR datasets or bespoke products.”</i>¹</p> <p>Electricity retailers have direct relationships with consumers. From the perspective of an EDB, we note that for the most part our customers are retailers and (apart from a small number of direct customers) we do not have direct contractual relationships with electricity consumers. Adopting a more limited approach in the first instance is prudent and will avoid any unintended consequences of making wide designations.</p>
6.	What customer data do you think is the most important? And what else (now or in the future) would be important? And why? What are the benefits from consumers having ready access to this data?
	<p>As set out at paragraph 59, we agree that this type of data is the most appropriate starting point:</p> <ol style="list-style-type: none"> a. customer-related data such as the name of current account holder, current plan they are on, meter type/configuration, installation control point (ICP), and address, and b. metered data i.e., consumption data in half hourly increments. <p>Next, power quality data and distributed energy resource data that a customer holds, or a provider holds on their behalf could be included. If this type of data is included in the CDR, then we consider that EDBs should also have access to this type of data through the Electricity Industry Participation Code. As the ENA points out, this is particularly important for EDBs planning to accommodate a high uptake of smart EV chargers and solar photovoltaic (PV) systems on their networks.</p>
7.	If access to customer data is designated for all consumers (residential, small business, large business and large consumers) what are the potential benefits, risks or costs associated with each type of customer? And why?
	No comment.
8.	What product data do you think is the most important? And what else (now or in the future) could be important? And why? What are the benefits from this data?

¹ See Australian Government **Statutory Review of the Consumer Data Right**, 2022, p21.

	We agree with this list of product data. In the future, as DER matures, other product data about flexibility offerings will become important.
9.	Are there any other issues with product data we should be aware of? And why? Please provide examples.
	No comment.
10.	What factors should be considered when identifying who the best data holder is under a potential CDR regime? And how might contracting agreements affect the application of a CDR in regard to data holders? (e.g., contracts between metering equipment providers and retailers to share data).
	<p>In our view, contracting agreements must sit outside of the CDR regime. Specific agreements between sector participants such as between distributors and retailers and distributors and MEPs should be viewed separately to the imposition of obligations in the CDR. These agreements should not be affected by the CDR regime.</p> <p>As mentioned above, Orion has entered into a contract with an MEP that allows Orion access to critical network operational data. This contract should continue unaffected and should not have the effect of inadvertently imposing CDR dataholder obligations on Orion as a matter of course. We refer to the submission of the ENA in this regard where it notes that the <i>“ENA strongly encourages MBIE to exercise care in the design of regulations under the CDR to ensure that it does not interfere with existing EDB data access rights and the potential for EDBs to enter into agreements with MEPs for additional data access.”</i></p>
11.	Do you agree with our initial framework for how to identify/designate data holders? Why or why not?
	<p>The potential framework broadly consistent with banking may not be entirely consistent with the structure of the electricity sector. There may be different actors and roles within the banking sector which are not immediately transferable to the electricity sector. However, we agree that all retailers should be data holders for most of the customer data identified in the Discussion Paper.</p> <p>When designating data holders, we also suggest that there needs to be a balance so as not to duplicate existing processes, introduce further barriers and complexity to the system, or add further burden to participants. These were some of the learnings that came out of the Australian Government’s Statutory Review of the Consumer Data Right, and are equally applicable here.²</p>

² See above n1, page 74.

12.	What actions could be designated for electricity under a CDR? And why? What are the potential benefits from these? Please provide examples.
	<p>At paragraph 80, the Discussion Paper notes that</p> <p><i>“At this stage we are not proposing any actions be designated. We are seeking feedback on possible designated actions that could be beneficial for consumers in the electricity sector. For instance, possible actions could include operation of hot water or heating load at peak electricity times by a flexibility provider.”</i></p> <p>It is not clear to us how the designation of actions relating to the operation of hot water or heating load at peak electricity times by a flexibility provider would work in the context of a CDR regime. Any designation of these sorts of actions would need to be very carefully thought through. The Electricity Authority has recently undertaken a consultation in relation to the shared load control provisions in the default distributor agreement under the Electricity Industry Participation Code 2010. A copy of our submission can be found on the Electricity Authority’s website at https://www.ea.govt.nz/projects/all/code-review-programme/consultation/code-review-programme-6/</p> <p>Our use of ripple relays to control end consumers’ hot water heating is primarily to manage peak loading to ensure the efficient operation of our network and prevent the need for immediate and costly reinforcement of transmission and distribution networks. Currently, we rely on ripple control technology for load management in two key ways:</p> <ol style="list-style-type: none"> a. peak load control for hot water heating; and b. fixed-time control including for water and night store heating <p>More information about the management of load and the use of ripple relays can be found at https://www.oriongroup.co.nz/be-prepared/managing-load</p>
Potential benefits and risks	
13.	What are your thoughts on the potential impacts of a designation on the interests of consumers? Are there any specific benefits that are likely to be enabled with designation? What is the likely scale of the benefits, and over what timeframe would they occur?
	<p>We refer to the comments submitted by the ENA in this regard.</p> <p>The success of the CDR will be closely tied to consumer awareness about it and building trust in the scheme. The government will need to promote the CDR scheme and build trust by ensuring that the appropriate protections are in place. This may take some time.</p>
14.	Do you have any comments on the specific interests of different types of consumers, such as, residential, business, industrial, rural, Māori, or other groups of consumers?
	No comment.
15.	What are your views on the nature and scale of costs/benefits? Who would these costs/benefits apply to and when?

	<p>If EDBs are included in the scheme as a dataholder then there will be costs associated with developing, maintaining and operating the relevant IT infrastructure and other associated services. It is not necessarily the case that <i>“As electricity sector participants already have obligations under the Code to provide consumer and product data there are likely reduced costs with the implementation of a consumer data right.”</i>³</p> <p>However, whatever costs are incurred by EDBs, for EDBs that are subject to price quality regulation, these costs will need to be able to be recouped through regulatory allowances.</p>
16.	<p>Would you be able to quantify potential additional costs to your organisation associated with designation under the Bill?</p>
	<p>Not at this stage.</p>
17.	<p>Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity or customer data and product data?</p>
	<p>At Orion we take security, privacy, and confidentiality of customer data very seriously. A key part of this is protecting our systems from cyber security threats. As noted in our Asset Management Plan our strategy regarding cyber security is focused on the protection of people, processes, data, and systems from cyber security risks. Any involvement in a CDR regime will present another potential cyber security risk and will need to be appropriately managed.</p>
18.	<p>Are there any risks from the designation to intellectual property rights in relation to customer data or product data?</p>
	<p>In our submission on the Exposure Draft of the Bill we noted that the term ‘data’ was not defined, with the draft Bill only providing that data includes information (including personal information under the Privacy Act 2020). This position was largely retained in the Introduction copy of the Bill to Parliament. The Introduction copy of the Bill also retains the concept of derived data, which is data wholly or partly derived from designated customer data or other derived data.</p> <p>We are still concerned that the definitions of data and derived data are too wide. These definitions may compromise data holders’ intellectual property (e.g. where data is derived through the application of internal analysis or enhanced using other intellectual property of the data holder) and could extend to data derived by an organisation for their own competitive advantage. We consider the definition of data should be limited to exclude derived data. We have made a submission to this effect on the Bill.</p>
<p>Other aspects of a potential designation</p>	
19.	<p>What do you consider to be important if designing an accreditation regime for the sector?</p>

³ See para 86 of the Discussion Document.

	We refer to the ENA submission on this point.
20.	What are your views on fees for requests for customer electricity data under the Bill? If fees are charged, what limits or restrictions should be placed on fees? Do you have any comments on the costs and benefits of the various options?
	No comment.
21.	Are there any particular considerations for electricity that should be taken into account for a consumer consenting process?
	No comment.
22.	Do you think that standards should be led by industry, by government or co-led? What is the role of industry in developing standards? And why?
	We favour standards being co-led by government and industry. However, noting our response to question 23, we recommend that the development of the standards is undertaken in conjunction with the Electricity Authority as well as electricity sector participants. This potentially will reduce costs for participants with multiple consultation processes and a coordinated position can be reached.
23.	How do you believe a CDR and the Code could/could not work together?
	<p>The Electricity Authority is currently consulting on an amendment to the Electricity Industry Participation Code to 2010 to improve consumers' access to their electricity data. We expect this reform to proceed.</p> <p>However, we do have concerns about the relationship between the Electricity Industry Participation Code 2010 and a CDR for electricity should the CDR proposal proceed. How will these two regulatory regimes work together? What will take precedence? Is it intended that once the CDR for electricity comes into force the relevant provisions of the Code will be revoked?</p> <p>We note that the Discussion Paper provides that</p> <p><i>"We note that there are synergies between MBIE's CDR and the Authority's data work programme indicated in the box above. The Authority and MBIE are working together closely as their respective work programmes progress to minimise or avoid duplication, gaps and overlaps."</i></p> <p>It would be very helpful for MBIE to provide some more information in this regard. Duplicative and expensive processes should be avoided. There must be alignment between the two regimes otherwise this will be more time consuming and costly for the</p>

sector as a whole. As the Ministry for Regulation has noted in their recent Strategic Intentions Document⁴

“When regulation is well designed, it can correct market failures, minimise harm, enable people to confidently undertake economic transactions, and support innovation. However, when regulation is not carefully considered or applied, or when changes in the external environment render it obsolete or obstructive, it can become unnecessarily expensive for people to comply with and create barriers to innovation and prosperity.”

In our submission to the Select Committee considering the Customer and Product Data Bill, we referred to clause 98 and noted that this clause sets out the matters to which the Minister must have regard before making designation regulations. In the introduction copy of the Bill, there is currently no requirement for the Minister to take into account existing frameworks, regimes, legislation, standards or guidelines that are already in place in the relevant industry. Our submission is that there should be such a requirement, and we hope that the Select Committee agrees with this point.

General Comments:

By way of background, Orion New Zealand Limited (Orion) owns and operates the electricity distribution infrastructure in Central Canterbury, including Ōtautahi Christchurch. Our network is both rural and urban and extends over 8,000 square kilometres from the Waimakariri River in the north to the Rakaia River in the south; from the Canterbury coast to Arthur’s Pass. We deliver electricity to more than 224,000 homes and businesses and are New Zealand’s third largest Electricity Distribution Business. Orion and its various predecessors have been providing this essential service to the region for close to 120 years.

Receiving, storing and protecting customer data is a very important part of our business. In particular, we receive some data from our end customers directly, while a large proportion of data is collected by electricity retailers and metering providers and shared with us pursuant to the electricity industry regulatory regime. Customer data received from electricity retailers enables us to calculate our network charges (which are then invoiced to retailers, who then invoice customers).⁵ We may also access consumption data from retailers (and/or metering providers), and we may use this information for permitted purposes. Permitted purposes include network planning and management of the network such as contacting customers in the event of outages and some network maintenance, for example tree trimming.

We support the submission of the ENA on *“Exploring a consumer data right for the electricity sector”*.

Thank you

We appreciate you sharing your thoughts with us. Please find all instructions for how to return this form to us on the first page.

⁴ See <https://www.regulation.govt.nz/our-news/strategic-intentions-published>

⁵ By way of example, information can include monthly Consumption Data at an ICP level, half-hourly Consumption Data at an ICP level (typically this is just for larger commercial electricity connections), and customer details including names, addresses and contact details.

