



5 September 2024

Committee Secretariat

Economic Development, Science and Innovation Committee

Parliament Buildings

Wellington

Dear Committee members

Customer and Product Data Bill

1. Orion New Zealand Limited (Orion) welcomes the opportunity to make a submission on the Customer and Product Data Bill.

About Orion

2. 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.
3. Orion is a Lifeline Utility for the purposes of the Civil Defence Emergency Management Act 2002. Orion has a statutory duty under this legislation to ensure it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency.
4. Orion has a fully owned subsidiary, industry service provider Connetics, and together with Orion the two organisations make up the Orion Group.
5. Central Canterbury is a place of rapid growth and transformation, embracing change and innovation, with Ōtautahi Christchurch at the heart of this diverse and vibrant region. Electricity distribution has



always been an essential service that underpins regional, community and economic wellbeing. Our service is vital to the wellbeing and livelihood of the people and businesses who live and operate here. Now, it also has a critical part to play in New Zealand's transition to a low carbon economy.

6. Receiving, storing and protecting customer data is a very important part of our business. In particular, we receive some data from our 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).¹ 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.
7. Looking forward, access to energy data is going to become even more important in a decarbonised New Zealand. Customers will want access to ICP-level consumption data and power quality data to enable them to make efficient and affordable choices. We will also continue to need access to this data under the current regulatory regime from electricity retailers and metering providers for business-as-usual purposes as well as planning of flexibility services, replacement, renewal, and system growth. Flexibility traders will want access to network congestion data, ICP level consumption and power quality data to
 - understand a customer's individual need (after being requested by the customer) and tailor distributed energy resources services to fulfil those needs, and
 - understand network capacity and therefore what distributed energy resources offerings will or won't work.
8. Consequently, it is important that the controls and obligations around the use and access of data under the customer and product data framework will allow for these different purposes and

¹ 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.

relationships to continue.

Submission on the Bill

9. Orion is generally supportive of the Bill, however we set out our comments below.

Clause 5 of the Bill – definition of data

10. The Bill defines data and derived data as follows:

“data includes information” and “derived data has the meaning set out in section 33(3)”.

11. Clause 33(3) defines derived data as

“derived data means data that is wholly or partly derived from—

(a) designated customer data; or

(b) other derived data.”

12. Clause 100(1) of the Bill provides for the designation regulations to set out, amongst other things

“(b) the customer data or classes of customer data (or both) being designated as designated customer data for the purposes of 1 or more provisions of this Act:

(c) the product data or classes of product data (or both) being designated as designated product data for the purposes of 1 or more provisions of this Act: ...”

13. We have concerns about the definitions of data and derived data. These definitions are very wide and it is unclear how they will be limited through the use of regulations. We are particularly concerned about the inclusion of derived data. If the definitions are too wide they may compromise a data holder’s intellectual property (for example where data is derived through the application of internal analysis or enhanced using intellectual property of the data holder).

14. We note that the Minister must have regard to a number of matters as set out in clause 98 before making designation regulations. This includes intellectual property rights that may exist in relation to customer data or product data. However, we are still concerned about the breadth of the

definitions in clause 5.

15. Orion is always looking for ways to innovate and we seek out ways to support Central Canterbury's rapid growth,² deliver on our commitment to confronting the climate emergency and respond to our customers' increasing desire for control over their energy choices. That said the proposed inclusion of derived data and the wide definition of data may impact our ability to do so.
16. Our submission is that, at a minimum, the definition of derived data should be deleted.

Clauses 36 to 38 of the Bill – informed consent and checking of authorisations

17. Clause 36 provides for the giving of authorisations and clause 38 provides for the checking of customer authorisations. However, it is not clear to us how customer consent will work under this new regime. The Bill requires consent to be *express* and *informed* but detailed consent requirements are yet to be set as these will be included in regulations.
18. Data holders are required to check that a service is within the scope of an authorisation given by a customer. Again, the details of how a confirmation will be carried out are yet to be set, and the Bill does not state that these details will be included within regulations.
19. Our submission is that it would be more helpful to include details of what constitutes informed consent, and the checking of customer authorisations, in the Bill.

Clause 98 of the Bill - Minister must have regard to certain matters

20. Clause 98 of the Bill sets out the matters to which the Minister must have regard before making designation regulations. There is 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. For example, under the Electricity Industry Participation Code 2010, there are existing protocols regarding the provision of metering information between industry participants under the Code.
21. Currently, the Electricity Authority is also consulting on amendments to the Code to improve

² See our Innovation Strategy at <https://www.oriongroup.co.nz/assets/Your-energy-future/Orion-innovation-strategy-update-2024.pdf>

consumer access to their electricity information.³ The Authority have noted that *“these amendments allow consumers more timely access to their own consumption data. They also signal to retailers that consumers’ access to their own consumption data is a priority for the Authority, and that the industry at large should prepare for a further reduction in these timeframes by implementing technologies and processes that can facilitate automated transfer of consumption data in the future.”*

22. In our view, it will be imperative for the Minister to be across the existing frameworks before making designation regulations. If not, there is the potential to increase the compliance burden/cost of participating in the new CDR regime as well as complying with existing regulatory requirements.
23. On this basis, our submission is that clause 98 should be amended to require the Minister to have regard to existing regulatory frameworks before recommending that designation regulations be made.

Conclusion

24. Thank you for the opportunity to provide this submission. We do not wish to be heard in support of this submission.
25. We do not consider that any part of this submission is confidential. If you have any questions about this submission please contact Vivienne Wilson, Policy Lead, Orion New Zealand Ltd at vivienne.wilson@oriongroup.co.nz

Yours sincerely

Vivienne Wilson
Policy Lead

³ See https://www.ea.govt.nz/documents/5481/Code_amendment_omnibus_4_-_consultation_paper.pdf