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Submissions
Ministry of Business, Innovation and Employment
Wellington

Via email: energyuse@mbie.govt.nz

ERANZ SUBMISSION ON ELECTRICITY CDR

The Electricity Retailers' Association of New Zealand ('ERANZ') welcomes the opportunity to provide feedback to the Ministry of Business, Innovation and Employment on the discussion paper 'Exploring a consumer data right for the electricity sector' from August 2024.

ERANZ is the industry association representing companies that sell electricity to Kiwi households and businesses. Collectively, our members supply almost 90 per cent of New Zealand's electricity. We work for a competitive, fair, and sustainable electricity market that benefits consumers.

Introduction

ERANZ supports establishing a 'consumer data right' in New Zealand to enable consumers greater access to their data.

ERANZ supports the overall objective of empowering consumers by giving them greater control over the services they can use with their data. This aligns with ERANZ's commitment to promoting transparency and consumer choice in the electricity market.

Consumer data rights can promote competition and innovation in the electricity retail sector by allowing consumers to compare electricity plans more easily and switch retailers.

In the future, the retail market will become more flexible and connected, meaning households can financially benefit during periods of high demand by time-shifting consumption in return for a financial benefit or selling their solar power or battery-stored electricity for a fee. All these potential services require a high amount of data sharing among industry participants.

Overall points

The Customer and Product Data Bill is still progressing through Parliament. Therefore, these comments on the Ministry's discussion document are caveated on the fact that we do not know the final regime design elements yet.

The design of a consumer data right for electricity must extend beyond just considering price comparison tools. Much of the justification and examples used in this discussion document cite potential customer savings. While likely cost pressures are coming through in the future, currently, MBIE's own data does not support the claims made on page 7 that, "In recent years many of the underlying costs of the electricity system have been rising and these costs are now being passed into people's bills. It is important that no customer is paying more than they need to by not being on the best plan for their needs." According to MBIE's electricity cost and price monitoring data, the average household electricity bill is lower than it was 15 years ago in real terms. Even just looking at the cost per unit of electricity, it is only 3.4% higher than 15 years ago, a 0.2% average annual increase.

Submission points

ERANZ supports the policy objective of enabling better-informed decision making by customers about their choices and investment options. Electricity can be complex, and so customers often rely on suppliers or comparison tools to provide advice, and accurate, individualised data should underpin this advice.

ERANZ agrees with the commentary in the consultation document that current data exchanges between electricity industry participants are complex and would benefit from improvements. Some of this complexity is necessary because retailers do have to verify that requests are legitimate because this involves private customer data. Consideration of these privacy concerns is outlined in paragraph 41. Therefore, a uniform verification process for third-party requesters would be helpful. In addition, there is unavoidable complexity in tariff design due to the number of regions and their different pricing structures. Overall, consolidating data exchanges into a standardised format will be helpful to customers.

In designing what a consumer data right for electricity consumers should look like, ERANZ strongly urges policymakers to build off what already exists, with the current arrangements for consumption data sharing by retailers facilitated through the Electricity Authority. ERANZ recommends greater clarity to the sector on cooperation between the Electricity Authority and MBIE on their parallel work streams addressing data availability, as outlined in paragraphs 42-43. So far, limited details have been communicated to the sector, including in this discussion document, on how compliance with one regime will relate to the other.

Therefore, the risk remains of retailers undertaking a large amount of re-work if the data requirements between both regimes do not align. For example, paragraphs 90-91 discuss differing data standards, yet government agencies have no agreement on how this will be resolved. Furthermore, paragraphs 109-112 identify potential costs and conflicts between the Electricity Code and the consumer data rights regime – ERANZ submits that aligning data sharing requirements is the largest problem to resolve.

The role of third parties, as detailed in paragraph 51, does not explain the policy rationale for excluding them from regulatory requirements around privacy and security protections. A price comparison service should surely be a registered requestor if they are gathering a customer's consent, facilitating the transfer of consumption data, and undertaking calculations based on that data. If data holders can only deal with accredited requestors, there is a gap in consumer

protections if accredited requestors then deal with third parties who are not governed by the legislation.

Consumers in the electricity sector are different compared to banking consumers. Banking allows joint account holders, whereas electricity tends to have just one named account holder per household. As a result, the description of consumers as “individuals” in paragraph 51 is not entirely accurate as it does not fully address the complexities of electricity accounts, where the usage and payment responsibilities may be shared among multiple household members who are not formally recognised as account holders. Paragraphs 105-106 touch on the issue of proper consent but do not address how authorisation will work to cover multiple individuals in a household.

When defining data within the regime's scope, as sought by paragraph 62, ERANZ recommends excluding derived data. For electricity retailers, derived data refers to data generated or calculated from raw consumption data, which may include proprietary algorithms, insights, or analyses performed by the retailer, usually combined with other data sets such as weather information. Retailers treat derived data as intellectual property, and sharing this data with competitors would infringe on the commercial investment made to understand better and, therefore, serve their customers. This total commercial investment can run into the millions of dollars.

ERANZ also recommends excluding businesses from the electricity consumer data rights regime, beyond SMEs using readily available residential electricity plans. Medium to large businesses have the sophistication and ability to organise their own electricity supply arrangements. In addition, not all retailers will be prepared to take on large customers. Large customers are likely to negotiate their own bespoke pricing and contractual arrangements, including the supply of gas and other services not included in this proposed consumer data rights regime, meaning a retailer having to supply that information to the market is anti-competitive. Some of these complexities are discussed in paragraph 70 and should not be included in the consumer data right.

In paragraph 77, the discussion document does not conclude whether MEPs or retailers are the designated data holders for a customer's half-hourly consumption data. Retailers are likely to hold multiple roles, depending on what the customer asks them, and so retailers will also be accredited requestors in some circumstances.

Paragraph 98 highlights the benefits of electricity moving second, yet this does not appear as the preferred timeline for policymakers pursuing both industries simultaneously. Therefore, given the parallel process for consulting on the banking and electricity industries, it is unclear whether electricity will be able to learn from the banking industry's experience.

Conclusion

ERANZ would like to thank MBIE for its continued work on consumer data rights. ERANZ is happy to provide any further information on this submission if needed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. Clark', with a long horizontal flourish extending to the right.

Kenny Clark
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