



Discussion paper

Exploring a consumer data right for the electricity sector

AUGUST 2024



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Te Kāwanatanga o Aotearoa
New Zealand Government

Ministry of Business, Innovation and Employment (MBIE)

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MBIE seeks written submissions on the issues raised in this paper by **5pm Thursday 10 October 2024**.

Your submission may respond to any or all of these issues. Where possible, please explain the reasons for your answer, include evidence to support your views, for example references to independent research, facts and figures, and include relevant examples.

Please use the submission template provided on the [MBIE website](#) which has important information about making a submission. Using this template will help us to collate submissions and ensure that your views are fully considered. Please also include your name and (if applicable) the name of your organisation in your submission. Please include your contact details in the cover letter or e-mail accompanying your submission.

You can make your submission by sending your submission as a Microsoft Word document to energyuse@mbie.govt.nz with “Electricity CDR submission” in the subject line.

Please direct any questions that you have in relation to the submissions process to energyuse@mbie.govt.nz with “Electricity CDR question” in the subject line.

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Ministerial Foreword

New Zealanders' ability to access, control and utilise their electricity data to enable access to accurate information and innovative products has the opportunity to improve prosperity for all consumers. Your views are important to us, and we want to hear your opinions about how we can unlock consumer data effectively in the electricity sector.

Designation of the electricity sector could give customers the right to require data holders (like retailers or metering companies) to share information. This will unlock the ability for customers to compare electricity plans effectively, consider energy efficient products for their households (such as investing in solar PV systems and batteries), and switch between electricity providers seamlessly. The purpose of designating the electricity sector is to provide customers with this capability.

There are many exciting opportunities that could emerge from designating the electricity sector. A CDR in the electricity sector could enable innovators in our economy to develop new products and services, and increase market competition, which will benefit consumers by leading to reduced electricity prices and improved products and plans.

This proposal builds on international experience from countries like Australia and the United Kingdom. As seen overseas, the designation of electricity can create new opportunities for businesses and individuals. A CDR for electricity will help grow the electricity sector.

At the core of the CDR is trust and consent. We want to ensure that by designating the electricity sector, standards are set so that customers can be sure that their data is safe, and the parties that are accessing it are accredited as trustworthy, competent, and secure.

Our government is committed to ensuring that consumers are informed, empowered, and protected in their interactions with businesses. To ensure that we consider the possibility of designating the electricity sector properly, it is important we hear the valuable perspectives from all interested parties. We look forward to hearing your views on a possible CDR designation for the electricity sector.

As the Minister of Commerce and Consumer Affairs and the Minister for Energy we are pleased to present this discussion about the potential designation of the electricity sector.



Hon Andrew Bayly
Minister of Commerce and Consumer Affairs

A handwritten signature in blue ink, appearing to read 'A. Bayly'.



Hon Simeon Brown
Minister for Energy

A handwritten signature in blue ink, appearing to read 'Simeon Brown'.

Executive summary

Businesses today hold a lot of data about their customers. When businesses such as power companies, provide us with services, data is created. In the electricity context, this data could be your power usage which is recorded as consumption data or personal information such as account histories. This is 'customer data'. This data could be used to improve the ability of customers to make informed choices using their own data, but customers are often prevented from unlocking its full value. Equally, companies' 'product data' e.g., tariffs and pricing plans, can be used with customer data to support customer choice, especially in choosing electricity plans that work for their usage. To unlock this data the Government is introducing legislation to establish a consumer data right (CDR) framework in New Zealand through the Customer and Product Data Bill (the Bill) to enable consumers ready and reliable access to their data.

This discussion paper seeks feedback on the potential designation of the electricity sector under the Bill to unlock customer and product data in the electricity sector.

Under the electricity sector status quo customers can struggle to access or exchange their electricity and companies' product data in a timely, secure and automated way that enables its full potential to be used. The lack of uniformity of data access arrangements and formats make it difficult to compare electricity products and choose the right product or plan.

Our vision is that the status quo can be transformed into near instantaneous transfer, download and access of data via electronically standardised mechanisms. Any consumer of electricity should be able to request or consent to their data being exchanged from a designated data holder and supply this data to third parties or accredited requestors to support consumer decision making and use this data in combination with product data to make informed choices.

The Bill sets out the enabling framework for a CDR and enables establishment of designation regulations specific to sectors including the types of customer data, product data, designated actions and data holders. We seek feedback on our initial thoughts on these potential designations for the electricity sector with a lens to enable improved access to electricity customer and product data.

Customer data is at the core of a consumer data right. We are seeking feedback on the types of customer data that could be designated such as the name of current account holder, current plan, and installation control point (ICP) number. Product data is equally important and relates to the types of plans, and tariffs offered. There are potentially thousands of tariffs offered in the market due to variables such as region, time-of-use, and which network you're on, among other things.

There are significant consumer interests to a potential CDR for electricity. Consumers could have access to new innovative services such as energy management tools, distributed flexibility offerings or be able to compare retailer plans against their current usage.

There are some costs, benefits and risks associated with a potential CDR for electricity. Costs could include upgrades to IT systems, increased compliance with a CDR regime or in standards development. Overall, we believe that a CDR could bolster the confidence of consumers that their data is shared safely, however, note that under a CDR it is expected that sharing customer data will increase and therefore could be heightened risk to privacy and security.

Lastly, this paper covers some other aspects of a potential designation including how accreditation should occur, how consumers can give consent and if fees could be covered under a potential designation.

1 Data access and use is important for consumers

1. Giving consumers the ability to easily access and control their own customer data holds significant value and opportunity. Data is constantly being created about customers when they use goods and services, and this will become increasingly common as more consumers transact through digital channels. For example, in the electricity sector, retailers collect customers' consumption data to provide accurate billing as well as glean insights into consumer behaviours to develop new products and services for consumers.
2. However, consumers lack rights, access, and control of data that has been created about them, and sometimes the capacity to make ready use of that data. In the electricity sector there is potential for consumers to make better decisions on how and when they use electricity if barriers are removed for consumers accessing their data.
3. Giving consumers and trusted third parties (with the consumer's consent) better access to data and ways to use it could support the government's priority to build a stronger economy. With more and better data exchange mechanisms, this could enable new service offerings and products that build a more productive economy through enhanced competition and innovation.
4. To achieve this vision and to enable consumers to make informed decisions for their households they need access to reliable, timely and standardised information that they can receive and share with ease and confidence.

WHY IS ACCESS TO DATA IMPORTANT NOW FOR THE ELECTRICITY SECTOR

5. 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.
6. Along with rising costs, the New Zealand electricity market is undergoing a period of change with increasing uptake in solar photovoltaic (PV) systems, batteries, electric vehicles and time of use pricing/tariffs. Consumers now have more choices and are becoming more engaged with their electricity usage and some of these decisions can be one-off, large, long-lasting financial decisions for households.
7. In this period of change, it is important that all customers have easy, secure and standardised access to their electricity data and options open to them to assist in decision making around new technologies and electricity plans.

ACCESS TO DATA COULD UNLOCK MATERIAL BENEFITS FOR CONSUMERS

8. Giving consumers ready access to this data could unlock a range of improvements that transform decision making around electricity and device use. Below is a summary of how access to data could work for electricity including potential case studies:

Box 1: Use cases and application of consumers access to data

Choosing an electricity plan

For example, Becca (a household consumer) wants to choose the cheapest electricity plan specific to her as she uses a lot of electricity during the day but very little at night. She has access to emails and apps but no laptop so she can't process lots of data. And she doesn't have the time to check all the retailers' websites or call centres to find out what they can offer her. She wants her half hourly consumption data to be accessed by a trusted third party who provides comparison and switching services who will use tools to compare her usage and match her with the cheapest electricity provider, taking into account her specific usage profile.

Budgeting advice

Meredith wants budgeting advice to help her cut costs and tackle debt. She knows that her electricity bills are a significant portion of her household costs, particularly in winter when she needs to keep her home warm for her health, but she is unsure how to budget them over the year. She wonders about whether she's on the best power plan but is worried she might make a mistake and switch to something that's actually more expensive, making her household budget even tighter. Therefore, she consents to her data being shared to a trusted third party and to their budgeting specialist who has been helping her plan her budget for the year taking into account her bill differences between summer and winter. The budgeting service can also check her consumption patterns across the day to look for opportunities to shift her usage and save even more with the right power plan.

Thinking about rooftop solar

John wants to install rooftop solar and a battery, but he is unsure what capacity would make economic sense and whether combining it with a battery bank would be sensible too. It would be a big investment up front, and it's important he makes the best decision. He consents to his data being shared to an accredited requestor who combines this with information about his roof, house site and location to find out if solar is right for his household and if the investment would be worth it.

9. Each of these case studies rely on specific customer and/or product data being accurate, easy to access in a timely manner, easy to share with confidence and simple to understand. We anticipate that there are more use cases and innovations that can be unlocked by freeing up consumer and/or product data.

2 The Government has introduced a Bill to deliver a consumer data right

10. The Government acknowledges the importance of unlocking data for consumers across the economy and is introducing a ‘consumer data right’ (CDR) through the Customer and Product Data (CPD) Bill to give customers greater control over their data in designated sectors. This will:
- make it easier for consumers to shop around and switch providers for services in sectors such as banking and electricity,
 - allow consumers to have greater trust that their data is secure and only shared for their benefit, and with their knowledge and authorisation,
 - enable innovation, and
 - facilitate competition by creating new opportunities for new entrants to break into established markets.
11. The Bill establishes a framework that can be applied to specific sectors of the economy via a ‘designation’. The Government has signalled that it is exploring designating the banking sector first with electricity to follow shortly after, which provides the context for this discussion paper.
12. The CDR would require businesses that hold data (**data holders**) to provide designated customer data they hold (**customer data**) to customers upon request, and with trusted third parties (**accredited requestors**) with the customer’s authorisation. To help customers compare or manage offerings from different providers, there would also be obligations on data holders to share information relating to the goods and services they offer (**product data**). Finally, data holders would be required to perform actions on behalf of the consumer, with their authorisation, if such actions are designated (**designated actions**). A CDR data-sharing framework would be entirely opt-in, meaning that customers must first give their explicit consent for their data to be shared.

Box 2: What about gas?

Gas is not being considered by this potential designation at this time. We consider that for the energy sector, electricity is the best starting point for a possible designation due to its almost universal uptake and 90% penetration of smart electricity meters. While gas is also an important consumer energy source, the gas sector has its own unique governance, market arrangements and processes and would require a separate designation process to electricity, which at this stage the Government is not exploring.

Based on the potential success of an electricity designation there would be future opportunities to develop a designation for gas with a likely focus on the reticulated residential gas market. The residential reticulated gas sector is in the midst of rolling out ‘smart gas meters’ which would be important for a CDR in the gas sector.

Gas sector participants are encouraged to consider ways to facilitate enhanced access to customer or product data they may hold. We also note that several electricity retailers are also gas retailers.

A CONSUMER DATA RIGHT CAN BE FOUND OVERSEAS

13. A consumer data right, or equivalent regime, has become increasingly common overseas. In 2019, the Australian Parliament passed the Treasury Laws Amendment (Consumer Data Right) Bill 2019 to establish their CDR framework. Data-sharing in their banking sector went live on 1 July 2020.
14. Furthermore, the Australian energy CDR went live on 1 November 2022 initially only applying to the country's biggest three energy retailers. Other retailers with more than 10,000 customers were required to comply from 1 November 2023. The Australian Government implemented the CDR in the energy sector to ensure customers could access their energy data and be able to choose the best energy plans and deals suited to their needs.
15. The United Kingdom Government has also implemented open banking and is working toward making better use of energy data by consulting on a statutory open data scheme for road fuel prices. In addition, the Department for Energy Security and Net Zero intends issuing a call for evidence by Summer 2024 to gather information on the best smart data opportunities in the energy sector.¹

THE CDR JOURNEY SO FAR IN NEW ZEALAND

16. Over the past few years, New Zealand has been exploring the possibility of introducing consumer data right legislation, drawing from experience with overseas jurisdictions, such as Australia and the United Kingdom.
17. In August 2020, a discussion document was published seeking feedback on establishing a consumer data right in New Zealand. The discussion document sought feedback on whether a consumer data right is needed in New Zealand and, if so, how it should be designed. Submissions closed in October 2020 and 59 submissions were received.²
18. Following government decisions to establish a consumer data right, in 2023 an exposure draft of the Customer and Product Data Bill and the accompanying discussion document was published. Submissions closed in July 2023 and 54 submissions were received.³
19. Submissions on the exposure draft of the Customer and Product Data Bill were generally supportive. Submitters from the electricity sector generally agreed with the intent of the Bill and believed a CDR implemented in the electricity sector could provide consumers and businesses with positive opportunities and benefits. Changes were made to the Bill following public consultation, and a summary of those changes be found on MBIE's website.⁴
20. The Customer and Product Data Bill was introduced to the House on 16 May 2024. The Bill had its first reading on 23 July 2024 and was referred to the Economic Development, Science and Innovation Committee for scrutiny. We encourage interested parties to make a submission on

¹ [The Smart Data Roadmap \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

² <https://www.mbie.govt.nz/have-your-say/options-for-establishing-a-consumer-data-right-in-new-zealand>

³ <https://www.mbie.govt.nz/have-your-say/seeking-feedback-on-the-customer-and-product-data-bill-consumer-data-right>

⁴ <https://www.mbie.govt.nz/assets/response-to-submissions-exposure-draft-customer-and-product-data-bill.pdf>

the Bill – the submission period closes 5 September 2024. It is expected the Bill will pass in early 2025.

WHAT DOES THIS DISCUSSION PAPER DO?

21. The purpose of this paper is to seek feedback on the possible merits of designating the electricity sector under the CDR regime to be established by the Customer and Product Data Bill, and the potential scope of a designation. This feedback will inform officials' advice to the Minister of Commerce and Consumer Affairs and the Minister for Energy to enable policy decisions.
22. This discussion paper contains initial high-level analysis of a potential electricity sector designation. The document does not contain formal policy proposals nor quantified cost-benefit analysis.
23. This discussion paper seeks feedback on:
 - Problems with the status quo, and how we see the status quo evolving in the absence of a potential CDR designation (the counterfactual).
 - The potential scope of a possible electricity designation– what customer and product data should be shared and why? Who would be the data holders that must do so? What actions, if any, can be requested and initiated?
 - The costs, benefits, use cases and risks of a potential electricity designation.
 - Other related considerations such as accreditation, fees, consent and interactions with the Electricity Industry Participation Code 2010.
24. The development of this discussion paper was informed by submissions on the Customer and Product Data Bill exposure draft and targeted engagement to hear key perspectives across the sector. We thank stakeholders for their valuable feedback and input.

PROCESS AND TIMELINE

25. Consultation on this paper closes at **5pm Thursday 10 October 2024**. Following that, officials will consider the feedback received and provide advice to Ministers.
26. Depending on subsequent Government decisions on whether to progress an electricity sector CDR designation, there would be further consultation on the technical regulations and standards. More detail will be provided on the next steps when known.
27. In parallel with this discussion paper, the government is also consulting on regulations and standards to enable open banking under the Customer and Product Data Bill. If interested, you can find that consultation document on MBIE's website.⁵

⁵ <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>

3 Status quo and problem definition

A RIGHT FOR CONSUMERS TO ACCESS CONSUMPTION AND PRODUCT DATA IN THE ELECTRICITY SECTOR IS NOT NEW

28. The Electricity Authority Te Mana Hiko (the Authority) is an independent Crown entity that was established under the Electricity Industry Act 2010. The Authority is responsible for the governance and regulation of New Zealand’s electricity industry. As part of its work, the Authority is responsible for the Electricity Industry Participation Code 2010 (the Code) which sets out the duties and responsibilities of all electricity market participants.
29. On 1 February 2016, a right for consumers to access their electricity metering (consumption) data from their retailer, upon their request, was inserted into the Code.⁶ This was further amended on 1 March 2020, whereby a consumer’s authorised agent is able to request this information on the customer’s behalf.⁷ A request such as this could be a possible example of customer data under a CDR. Importantly, the Code empowers consumers to access their data in the following ways:
- a. a retailer must provide the most granular consumption data it has which could be monthly, daily, half-hourly or more frequent if held,
 - b. the request for consumption data can go back for up to 24 months,
 - c. the data must be supplied within five working days from a valid request being received, after receipt of a complete application, and
 - d. data is supplied free of charge. A fee may be charged if four or more requests were made in the previous 12 months.
30. The Code also sets out the procedures that retailers must follow in processing this request, including the requirement to use Electricity Information Exchange Protocols (EIEPs),⁸ as relevant and prescribed.
31. In addition, any person can ask a retailer to provide information about the retailer’s “generally available retail tariff plans” (which is a possible example of product data under a CDR).⁹ This data must also be provided within five working days. While there is no regulated format that a retailer must provide this data in, there is a voluntary standard developed by the Authority (IEP14).¹⁰
32. Some retailers already offer access to half-hourly or hourly consumption data through their apps or websites. For example, Octopus allows customers to download half hourly consumption data in the form of a .CSV file directly from their customer platform.¹¹ Meridian also allows the direct

⁶ See Clause 11.32A to 11.32E of the Code.

⁷ See Clause 11.32E to 11.32 EG of the Code.

⁸ EIEPs facilitate the regular or large volume exchange electricity information between traders and distributors, and between retailers and third-party providers.

⁹ See Clause 11.32G of the Code.

¹⁰ <https://www.ea.govt.nz/industry/consumer-data/>

¹¹ <https://octopusenergy.nz/blog/download-your-data>

download of consumption data¹² however, some retailers such as Mercury require up to 10 working days to provide this data.¹³

WE DO NOT THINK THE STATUS QUO IS AS EFFICIENT OR AS BENEFICIAL TO CONSUMERS AS IT COULD BE

33. Consumers have benefited from access to consumption metering data and product data under the Code, and the Authority monitors both the number of data requests made and the timeliness of responses by retailers.¹⁴ However, greater access to customer and product data and resolving remaining access barriers for consumers and third-party service providers would provide greater consumer benefit. This would include:
- a. The provision of data immediately upon request. The current length of time to respond is too long – for individual consumers, we consider there is a need for the provision of up to date data on demand. This is because consumer decisions in the energy sector typically arise infrequently, such that providing timely advice when a consumer is considering a decision is paramount for example, when a consumer is searching for the best retail plan for them.
 - b. Bringing greater uniformity of data access arrangements. We have heard concerns from third parties that retailers can have complex and differing access arrangements, including for authorising third parties, to manage privacy obligations. This could potentially be inefficient as third parties would need to navigate these processes across many different retailers. It is also a potential barrier to entry by new providers of services and app developers.
 - c. Providing uniformity regarding data formats and data provision, which can make it difficult to make accurate comparisons across different products.
34. The volume of data involved currently creates further barriers to consumers benefiting from their data. For instance, a year of half-hourly consumption data would be 17,500 data points (48 half hours for 365 days). The volume means that accessing or transferring data by methods such as email, hardcopy, screen-scraping etc., are not practicable. This data is spread over nearly 30 electricity distribution businesses (EDBs) each with several tariffs for lines charges and across approximately 39 electricity retailers each with their own plans and pricing.
35. These access barriers impose costs on third parties wanting to provide value added services to consumers and likely reduce the scope for third parties to provide timely services to consumers. Facilitating the introduction of new products and services that are only practicable when customer and product data is shared is an important objective of the CDR regime.
36. These impediments could potentially be addressed by applying the CDR to the electricity sector. The CDR framework provided by the CPD Bill provides a more comprehensive regulatory framework than is currently in place to facilitate access to consumers' electricity data, particularly by third parties seeking to provide value added services. This can be achieved

¹² <https://www.meridianenergy.co.nz/help/bills/access-to-your-consumption-data>

¹³ https://ask.mercury.co.nz/app/answers/detail/a_id/199/~/consumption-history-requests

¹⁴ <https://www.emi.ea.govt.nz/>

through the application of the CDR regulatory framework, which addresses the common consumer data privacy concerns, including introduction of an accreditation regime, whilst balancing the need to facilitate practical on-demand access to data.

37. Several previous reviews and forums have identified issues with the current arrangements for access to data in the electricity sector, which we have drawn on in developing this discussion paper – see Box 3 below (overleaf).

Box 3: Recommendations and concerns about access to data

FlexForum – Flexibility Plan 1.0¹⁵

“Ensure consumers and their agents have streamlined (automated) access to historical consumption information, plus other connection-related information.”

“Historical consumption information is a critical input to a consumers’ decisions about flexibility. Households and businesses can access historical consumption data from their retailer. However, this access is not always streamlined, particularly when an agent is requesting the information on behalf of the consumer. The Registry administered by the Electricity Authority holds information relating to all connection points to the electricity system, including physical location, distributor, trader, meter type and generation. The Registry is populated by retailers and distributors.”

Market Development Advisory Group (MDAG) – Recommendation 20¹⁶

“Further, the release of customer data requirements in the Code only require the metering data used for billing to be released. As highlighted in Recommendation 18¹⁷, a large portion of consumption is still reconciled via profiles, despite the presence of advanced meters, thus the data used for billing will be a total monthly consumption figure which provides no useful basis to assess the impact of DSF [Demand Side Flexibility]. There is no technological barrier to automated tariff comparisons for the vast majority of domestic consumers. Subject to the appropriate security and data exchange processes being in place (as they are under Part 11 of the Code), we can see no reason why the provision of customer data and therefore tariff comparisons can’t be almost instantaneous.”

Energy Hardship Expert Panel – 9.4 Inform customers about their most affordable plan¹⁸

“It can be difficult for consumers to understand if they are on the most affordable plan, best tailored to their electricity needs. This is because consumers may not have ready access to their historical consumption data and be able to analyse options to adequately assess which plan best suits their energy needs. Further compounding this is that retailers aren’t currently required to inform customers of all available plans. Recent analysis of power bills by Consumer NZ indicated that 40% of electricity bills had a pricing plan named and only 47% of bills contained historic consumption data. This highlights an information asymmetry, with consumers not readily having this information available to make an informed decision and ensure they are on the best plan for their needs.”

Electricity Price Review 2019 – Recommendation C3¹⁹

Recommendation C3 - Develop a streamlined way to process customer requests for consumption data.

“Retailers are already required to give consumers or their agents usage data within five working days for no fee. Some retailers provide instant access, but not all do so. In any case, five days is too long. Consumers expect real-time responses via smart devices. In addition, fast, easy access to data will become increasingly important as smart tariff pricing (which reflects the cost of producing electricity at different times of the day) becomes more common. It will also be vital in helping consumers decide whether to invest in solar panels, batteries and other technology.

Another problem is that retailers decide individually what criteria and processes to apply in deciding whether an agent is properly authorised. This complicates, or even hinders, agents’ access. The Electricity Authority said different interpretations of, and idiosyncratic approaches to, the Privacy Act 1993 significantly slow the exchange of data. Our view, like that of the Electricity Authority, is retailers should not hide behind the Act as a way to frustrate a consumer’s wishes.”

¹⁵ <https://www.araake.co.nz/assets/Uploads/FlexForum-Flexibility-Plan-1.0-31-August-2022.pdf>

¹⁶ https://www.ea.govt.nz/documents/4335/Appendix_A2_-_Final_recommendations_report.pdf

¹⁷ Recommendation 18 suggests that sunset profiling should occur if smart meters are in place, this would change the Code to require the use of half-hourly metering data rather than default demand profiles if smart meters are in place.

¹⁸ <https://www.mbie.govt.nz/assets/energy-hardship-the-challenges-and-a-way-forward-energy-hardship-expert-panel-report-to-minister.pdf>

¹⁹ <https://www.mbie.govt.nz/assets/electricity-price-review-final-report.pdf>

38. In response to consultation on the exposure draft of the CPD Bill in June-July 2023, a number of electricity stakeholders indicated there were significant potential benefits from unlocking data access in the electricity sector for the benefit of consumers. However, some suggested that electricity should be designated later after learning lessons from banking, which is the first sector intended to be designated. See Box 4 below for more information.

Box 4: Submissions on exposure draft on CPD Bill

Octopus Energy NZ²⁰

Octopus strongly agreed with the potential value of unlocking data in making choices easier and enabling more innovation for energy consumers. They stated “We see the benefit the consumer data right could have on enabling customers to make better choices about the most cost-effective energy plans and the technology options for them. We also think it is a foundation of a smarter energy system that enables New Zealand homes and businesses to decarbonise more quickly and affordably (for example, enabling more demand shifting, or helping customers understand their economics of investing in rooftop solar). Given these benefits we believe there is a strong case for implementing the Consumer Data Right arrangements for the energy sector as soon as it is practical to do so.”

Consumer NZ²¹

Consumer NZ were also supportive of the Bill “we support the introduction of a consumer data right. We therefore support the Bill and consider, if properly implemented, its introduction will ultimately benefit consumers.” and “We think there is a strong case for the electricity sector for the initial implementation of the CDR framework in Aotearoa as it is less complex than open banking, the data is less sensitive and there is enormous potential for consumers to save millions of dollars through switching providers.”

Mercury²²

“We are positive about the opportunities and benefits that an increasingly interconnected digital economy can bring for both consumers and industry. As proposed, the Bill will require businesses that hold designated customer data to provide that data to accredited requestors, subject to privacy and security safeguards. The law is also expected to require designated product data to be made available electronically on request. It is expected this will allow for new, data-enabled products and services to be created.”

ERANZ²³

“ERANZ fully supports the aims of the draft legislation and emphasises the importance of balancing consumer rights, data security, and innovation. As the industry association representing companies that supply electricity to New Zealand households and businesses, ERANZ supports the government's commitment to empowering consumers to share their data with organisations delivering products and services.

ERANZ believes a thoughtful, sector-specific consultation is essential before implementing the regime in the electricity sector. The immediate focus should be on a successful launch and gradual evolution in financial services to address potential gaps in the regime. Continuous feedback and a statutory review will help refine and optimise the consumer data rights regime for the benefit of all.”

²⁰ <https://www.mbie.govt.nz/dmsdocument/27749-octopus-energy-nz-limited-submission-customer-and-product-data-bill-pdf>

²¹ <https://www.mbie.govt.nz/dmsdocument/27730-consumer-nz-submission-customer-and-product-data-bill-pdf>

²² <https://www.mbie.govt.nz/dmsdocument/27744-mercury-submission-customer-and-product-data-bill-pdf>

²³ <https://www.mbie.govt.nz/dmsdocument/27735-eranz-submission-customer-and-product-data-bill-pdf>

Questions

1. What are your experiences of accessing consumer and product data for electricity under the status quo?
2. 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.



COULD NON-REGULATORY OPTIONS DELIVER THE BENEFITS SOUGHT?

39. We do not think non-regulatory options, such as voluntary arrangements, guidelines, and incentives, have the capability to produce the wide beneficial outcomes for consumers that a CDR in the electricity sector could deliver. Non-regulatory options would take much longer to address electricity consumer data issues and affordability challenges cannot wait for the electricity sector to slowly improve access to consumption data. Standardisation in the electricity sector is essential to address the volume of data and it is difficult to see how these would be coordinated under the status quo.
40. Existing incentives for data holders are too weak to open up their data as it could expose them to stronger competition from other retailers or innovators and/or incur costs on them even when it could be in the consumers' best interests. This is particularly relevant for businesses who have older or legacy IT systems. Businesses have competing organisational priorities for capital investment, and it may be difficult to justify a business case for unlocking access to customer and product data in the absence of a regulatory obligation.
41. In addition, businesses such as retailers have existing Privacy Act obligations when it comes to sharing customer data and there are risks associated with sharing such data. While the Privacy

Act creates mechanisms that allow for personal information to be shared safely, retailers may be concerned that customer data sharing arrangements may not be sufficiently robust. This is perhaps particularly the case when a request is made by a consumer's agent, as currently allowed under the Code. Such obligations may mean that businesses are hesitant to move towards automated, instantaneous data transfer as there are significant penalties under the Privacy Act for breaches.

Questions

3.

Do you think that regulatory arrangements are necessary to unlock better access to customer and product data?

THE ELECTRICITY AUTHORITY HAS A SIGNIFICANT DATA ENHANCEMENT WORK PROGRAMME OF RELEVANCE

42. The Authority has an existing work programme that will improve consumer mobility and drive the use of data for better performance. Included in this, is their *Improving consumer choice* work, and their *Improving retail market monitoring* project.²⁴ It is possible under the Code to improve consumers' access to data through enhanced obligations on participants regulated by the Code (such as retailers). We note that some of the other potential benefits of a CDR would not be realised, such as accreditation processes and register, a bespoke compliance/penalty regime, and greater interoperability with other sectors, which the Bill contemplates.

Box 5: Electricity Authority work programme on data of relevance to a CDR

The Authority wants to ensure consumers have access to simple processes and accurate information to support them to choose the right electricity plan for their household or business. This is enabled by a data work programme underway that will improve consumer outcomes, aspects of which interact with the consumer data right work for electricity. Of particular relevance to a CDR for electricity are the Authority's:

- procurement process to secure a provider of a comparison and switching service, to be in place by 1 July 2025,
- develop and implement changes to give consumers an enhanced comparison and switching experience. Including exploration and further consultation on enhancements to its funded comparison and switching service, mandating retailer participation in the comparison service and standardised electricity bill information,
- work to explore further options to improve consumer mobility, including exploring options for better access to consumption data, and
- continued work programme to improve retail market monitoring, including its proposal to improve its collection of retail data by removing multiple overlapping requests and replacing them with a single comprehensive and continuing request for information using its information gathering powers under the Electricity Industry Participation Code 2010 (Code).

²⁴ <https://www.ea.govt.nz/projects/all/improving-consumer-choice/>

43. 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.

COUNTERFACTUAL – WHAT COULD HAPPEN IN ABSENCE OF AN ELECTRICITY CDR DESIGNATION?

44. As discussed above the Authority is progressing a work programme to improve customer mobility and data access through the Code. This work would seek to deliver similar outcomes to a CDR for electricity and can progress without a CDR designation. However, there is uncertainty that the Authority's work programme would be able to deliver the full range of benefits a CDR could deliver such as designated product data from non-electricity sector participants (e.g., providers of solar PV and EV charging services).

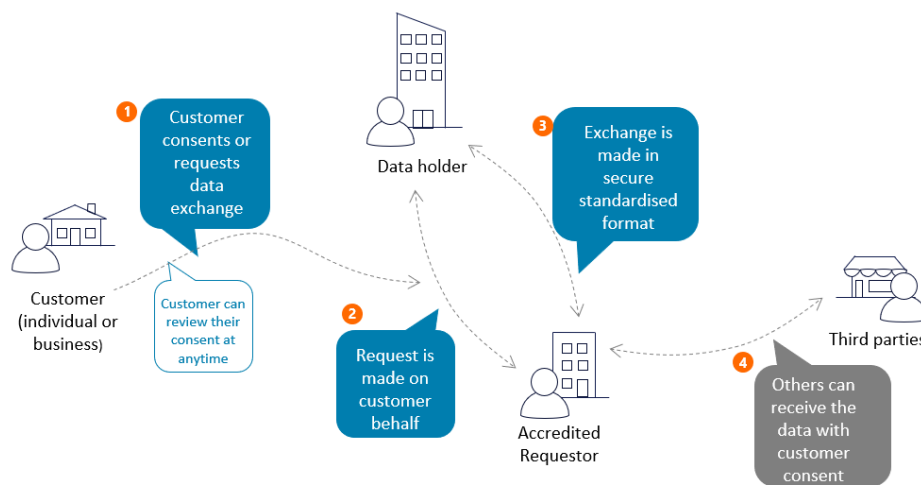
4.

What do you consider to be the likely outcomes for access to customer and product data in the absence of a CDR for electricity?

4 What a consumer data right for electricity could look like

45. Our vision is that the status quo can be transformed into near instantaneous transfer, download and access of data via electronically standardised mechanisms. We believe that any consumer of electricity should be able to request or consent to their data being provided by a designated data holder to third parties or accredited requestors to support consumer decision making in the electricity sector.

What a consumer data right could look like for electricity



HOW WOULD ELECTRICITY BE DESIGNATED UNDER THE BILL

46. The CPD Bill creates an economy-wide framework to enable greater access to, and sharing of, customer and product data. This framework can then be applied to individual sectors through designation regulations that are specifically designed for that sector.
47. Once the CPD Bill is passed, electricity may be formally considered for designation. Electricity has already been recommended as a sector to be explored for designation while the Bill is in the House.
48. Designation regulations are covered under subpart 2 of the Bill in clause 98 and clause 99. Under the Bill, before the designation regulations are made, the Minister must have regard to a range of matters such as the interests of customers, the likely costs and benefits for data holders, and likely benefits and risks in relation to the security, privacy, confidentiality, or other sensitivity of customer data and product data. The Bill also sets out consultation requirements.
49. After this consultation, the Minister may consider the suitability of electricity as a sector to formally designate under the Bill, and this decision is expected by early 2025. If the Minister decides to formally designate electricity, then further consultation would follow on designation

regulations and standards. It is expected that, if designated, the design of regulations would be completed late 2025 for sector roll out in 2026.

WHO WOULD THE DESIGNATION AFFECT?

50. A CDR could impact many participants across the electricity sector in a variety of ways from consumers to retailers to distributed energy providers. The Bill sets out the classes of persons that could be designated or be affected by any potential CDR. These include data holders, accredited requestors, customers and officials.

51. Drawing on key aspects of the CPD Bill, we anticipate that the following individuals, businesses or parties could be captured and impacted by a potential electricity CDR in the following ways:

- Consumers (individuals and entities) – would have the ability to request or consent for a data exchange through an accredited requestor. They would be able to consent to the sharing and access of their personal electricity data held by an entity. Our starting point is to include consumers of any size, however, we discuss this below in box 6.
- Accredited requestors – these would be entities or individuals who have met the criteria and been authorised under the regulations under the Bill to ask for and receive consumer data. An accredited requestor would have to abide by all the rules, regulations and standards as designated under the Customer and Product Data Bill. An accredited requestor could include retailers, financial service providers, online comparison tools, distributed energy providers or financial services. It is likely that only some entities or individuals would be accredited due to the high standard required for accreditation. Accredited requestors under s49 of the Bill must also have a customer complaints process.
- Third parties – third parties are not data holders, customers or accredited requestors. These may be individuals or entities who can offer services to a consumer but do not wish to be accredited under the Bill. These could include solar installers, financial mentors or comparison services. Third parties would not be governed by the accreditation process or regulations under the Bill however would still have obligations under the Privacy Act 2020.²⁵
- Data Holders – individuals or companies who hold designated electricity data (product and customer data) could be considered data holders under the electricity designation. Data holders must comply with all rules and regulations under the Bill, including safely storing, sharing in a standardised way and upholding privacy safeguards. Data holders may include electricity retailers and metering equipment providers. Data holders as per Clause 49 of the Bill must also have a customer complaint process.

52. Other persons who are relevant to a CDR are:

- MBIE – the Chief Executive of MBIE is the regulator under the Bill. This includes issuing standards, monitoring compliance and accrediting requestors.

²⁵ See explanatory note of Bill:

<https://www.legislation.govt.nz/bill/government/2024/0044/latest/whole.html#LMS700098>

- Office of the Privacy Commissioner – has investigation, guidance, enforcement and redress powers under the Privacy Act 2020.²⁶
- Dispute resolution scheme – a dispute resolution scheme may be designated under the Bill as per Clause 50.

Questions

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?

A CDR CAN DESIGNATE DATA, PEOPLE AND ACTIONS – WHAT ARE THESE?

53. Clause 100 of the Bill provides that designation regulations may set out the persons, customer data, product data and actions to be designated. Before considering who holds what data (i.e., who the data holder is), it is MBIE’s role to understand which datasets could be designated.
54. We have developed a framework to consider which datasets could be included:
- Whether the consumer dataset supports a use case that promotes the interests of consumers.
 - The availability or need to access other data to support the use case.
 - The ease of providing the data in accordance with the CDR technical standards, which includes a consideration of the cost of satisfying the technical standards.
55. Our starting point is clearly defined around use cases for providing access to the consumer data. The use case needs to materially promote the interests of the consumer as discussed above, through say facilitating improved information to support decision making or promote competition within a market.
56. The second consideration requires an examination of the availability, or lack thereof, of access to other data or information that might be needed to support the use case. Such data may or may not be considered consumer related data. Should such additional data not be readily available, then this might be a sufficient reason to support not applying a CDR to the consumer dataset and so avoids the costs that might otherwise be incurred to make the data available.
57. The final consideration is an evaluation of the ease of providing the data, which includes a deliberation of the likely costs of satisfying the CDR technical standards. For consumer data that is readily shared, stored and used by data providers prior to attracting a CDR, then we anticipate that the cost of complying with the technical standards will not outweigh the public interest from making the data available. That said, some consumer data is not readily stored or used digitally, and so could lead to the incurrence of material costs to meet the data transfer technical standards. Therefore, this might lead to that data not being subjected to a CDR.

²⁶ See explanatory note of Bill:

<https://www.legislation.govt.nz/bill/government/2024/0044/latest/whole.html#LMS700098>

58. The following sections set out some preliminary thinking on potential designated customer data, product data, data holders and designated actions. We welcome all feedback on any potential designated data sets, including what potential consumer benefits you think could be realised from improving access to them.

MOST CUSTOMER DATA COULD BE DESIGNATED UNDER THE BILL

59. Customer data is at the core of a consumer data right and we consider taking a wide encompassing approach to what customer data could be designated would be appropriate. Applying the framework above, our initial thoughts on the customer data that could be designated are:

- 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.

60. We have heard in our targeted engagement that half hourly consumption data will be key to enabling consumers to make more informed/timely decisions around electricity. We suggest that consumption data going back two years should be able to be requested in line with the current Code.²⁷

61. We note that New Zealand has over 90 per cent coverage of smart meters, although not all are configured to provide half hourly data. This may impact the availability of a CDR to consumers who do not have the required metering arrangements. We are interested to hear any thoughts on the impacts of smart meters for a potential CDR. We also note that some consumers, especially those in rural areas, may not have reliable access to the internet which could also impact the availability of a CDR.

62. There is other customer data that may be designated such as buy back tariffs, solar generation, power quality data and distributed energy resource data that a customer holds, or a provider holds on their behalf. We welcome feedback on the potential customer data that could be included for designation and the benefits of doing so. It is preferable that the potential designation delivers as many benefits for the customer as possible.

63. We note that not all consumers are the same in regards to using or buying electricity. There are significant differences between small residential consumers, small to medium business consumers and large commercial/industrial consumers. Our default preference is that all consumers should have access to their own data and be able to share it. However, we want to know what barriers or issues and potential benefits this could create for larger and business consumers.

²⁷ See Clause 11.32A to 11.32E of the Code.

Box 6: How different classes of customers use electricity

Residential customers use electricity to power their homes, for example, heating their homes, running household appliances, heating water, lighting, charging electric vehicles, and charging other electronic devices. A residential consumer is most likely to purchase a generally available tariff from retailers.

Small businesses use electricity to run their businesses, such as, for lighting, heating, appliances, light machinery, and charging electronic devices/equipment. A small business is likely to purchase power from retailers who offer mass market business plans. Some small businesses will have third parties manage the supply and use of their electricity, for example, a company with many small chains around the country may use this approach.

Large industrial/commercial businesses use electricity for powering heavy machinery, manufacturing products, lighting, heating, and charging large electronic devices/equipment. Industrial/large users will often have specific account-managed electricity agreements with retailers, and may use specialist service providers to advice on and help manage their energy use.

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?

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?

MOST PRODUCT DATA COULD BE DESIGNATED UNDER THE BILL

64. Product data relates to the types of plans, tariffs, or other related services electricity retailers offer. There are potentially thousands of tariff plans offered in the market due to variables such as region, time-of-use (hours when this is available differs between companies), which network you're on, what sort of meter you have, low fixed charges, and other things.

65. We believe that accurate and up-to-date prices and other product information is key to making informed decisions and comparisons for consumers wishing to choose their electricity retailer and plan.

66. We are considering the following product data could be designated under the electricity designation:

- a. Tariff/pricing plans.
- b. Plan types (e.g., time-of-use, flat-rate).
- c. Network.
- d. Required meter type/configuration.
- e. Additional fees, discounts, credits or other benefits.

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?

THERE ARE SOME ISSUES TO EXPLORE WITH PRODUCT DATA

67. We understand that product data can become complicated quickly with the range of different offerings available to consumers that include non-monetary benefits such as bundling and discounts e.g., free hours of power at certain times, a free tv or electricity discount if bundled with broadband, call centre, online experience, apps etc.
68. We are keen to explore consumers and the electricity industry's thoughts on these product offerings and if they fit within a CDR. Our view is that many aspects will be excluded from a CDR as they are not core electricity products e.g., tariff, meter. However, we can explore the possibility of standardising this data if there is good reason to.
69. We can also consider a wider range of product data such as finance rates for domestic solar installs or distributed energy products such as energy management systems. We welcome any feedback on the potential product data that could be designated under the Bill and what potential benefits may arise from include such data.
70. We note from early targeted engagement that some product plans are 'bespoke' for certain large consumers such as manufacturing plants. We have not made any decisions on the available product data under a potential designation. We are seeking feedback on if there are circumstances where retailers should not have to provide product data such as if it is bespoke for a particular type of customer or is not generally available to customers.
71. There are also considerations to be made around "generally available tariffs". The Code defines a "generally available retail tariff plan" as a retail tariff plan that a retailer will make available to any consumer (subject to credit requirements) if the consumer satisfies the requirements specified for the retail tariff plan relating to the:
- a. physical location,
 - b. metering configuration, and
 - c. price category code.
72. However, this does not include a retail tariff plan made available by a retailer only under an agreement reached as a result of the retailer directly contacting a consumer to offer a retail tariff plan that provides the consumer with a financial discount or other benefit when compared with any other of the retailer's tariff plans.
73. We want to ensure that any potential CDR gives consumers the access to generally available tariffs while not stifling competition or innovation.

9. Are there any other issues with product data we should be aware of? And why? Please provide examples.

DATA HOLDERS MAY BE DESIGNATED UNDER THE BILL

74. There are potentially many holders of customer and product data in the electricity sector. These include retailers, metering equipment providers, electricity distribution businesses, and potentially others. The Authority also holds and shares data central to the efficient operation of the electricity system, some of which could potentially be designated under a CDR.
75. While in principle all holders of the designated dataset for a consumer could be subject to the CDR, there may be strong efficiency reasons to designate a smaller set of data providers. That said, the set of data providers could change over time as market arrangements, data availability and technology evolves.
76. It will be necessary to consider a range of factors to determine who data holders are for the purposes of a CDR. A potential framework, broadly consistent with banking, to consider who to designate includes:
- a. Who has access to a dataset for any given customer and is capable of being considered for designation as a data holder?
 - b. Is the purpose for which the data is held aligned to the purpose for which it would be used if designated?
 - c. Can the data transfer obligations arising upon designating a consumer dataset under the CDR be satisfied most cost-efficiently by one or a group of entities with access to the dataset, being designated as the data provider?
 - d. Are there other competition or public interest reasons to require certain parties with access to the data to be designated as a data provider?
77. Applying this framework, our preliminary thinking is that all retailers would be data holders for most of the customer data thus far identified. We have received feedback that under the status quo retailers often contract out data obligations to MEPs to respond to customer data requests. We are very interested in feedback on this issue.

- | | |
|------------|--|
| 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). |
| 11. | Do you agree with our initial framework for how to identify/designate data holders? Why or why not? |

WHAT ACTIONS COULD BE DESIGNATED?

78. Under the Bill, a data holder must perform certain actions on a customer's request – this is a “designated action”.
79. The obvious example for the electricity sector would be ‘switching’ from one retailer to a new retailer, however, this is already covered by the Code and involves the Electricity Registry.²⁸ This is a mandated process under the Code; however, the designated retailer can reject the switching customer for reasons including if the customer has debt, or the retailer does not want new customers at the moment. Switching is important to get right as it has implications for billing/invoicing and reconciliation.
80. 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.

12. What actions could be designated for electricity under a CDR? And why? What are the potential benefits from these? Please provide examples.



²⁸ The Electricity registry facilitates the exchange of information between retailers, metering equipment providers and distributors to manage reconciliation, invoicing and switching processes. The registry provides next day notification of any information changes to registry users affected by the change. For example, it notifies a retailers if one of its installation control points (ICPs) has switched suppliers.
(<https://www.ea.govt.nz/industry/retail/electricity-registry/>)

5 Potential benefits and risks

81. The Bill requires that, before designating a sector, the responsible Minister must have regard to a range of factors as included in clause 98. These factors include the interests of customers, benefits and risks and privacy, among others.

82. Below we set out our preliminary thinking of the matters included in the Bill, and we invite comment on anything that is missing or incorrect or that you would like to provide feedback on.

THERE ARE SIGNIFICANT CONSUMER INTERESTS

83. If we designate electricity through the Bill there could potentially be a range of benefits to consumers, such as:

- Consumers might benefit from new innovative, convenient and secure services, provided by accredited requestors and third parties by enabling greater sharing of data. This could include:
 - energy management services such as the analysis of energy efficiency options, the provision of demand management services etc.
 - new and innovative energy management tools.
 - services that assist households and/or businesses to determine whether to invest in energy storage and solar photovoltaic systems.
 - the provision of tailored retail market offering comparisons such as PowerSwitch or equivalent.
- Consumers could potentially also benefit from greater competition for electricity services. A consumer data right can facilitate consumers' ability to search for and compare electricity retailers' offerings and choose the best option for their personal circumstances.
- Consumers might have greater control over their electricity data including who it is shared to and for what purpose. Electricity data shared under the Bill will require the informed and express consent of the customer, and the customer can easily withdraw consent at any time. Accreditation and security standards help to ensure that disclosure of customer data is secure.



Box 7: Benefits for consumers

Comparing plans

For example, Eric, a retiree, wishes to find an electricity plan that works for him being home all day. He consents for an accredited requestor to receive his consumption and personal data from his retailer and use it in a switching and comparison service. A better time-of-use plan is found saving him around \$409 a year.

New retailers

A new retailer wants to offer its services to a particular region in New Zealand, they request all of the product data from retailers in that region and price their electricity plans in order to compete with incumbents. This leads to greater competition and product offerings for consumers in that region.

84. The scale of these benefits and the timeframe over which they are delivered are currently unclear. We would welcome feedback on this, particularly from flexibility innovators and retailers with an interest in delivering data-enabled services for electricity consumers. We would also like to better understand the specific aspects of the electricity designation, regulations and standards that are needed to maximise these benefits.
85. The electricity designation may also pose risks to security, privacy and confidentiality of customer data, discussed in more detail below. These include that customer's electricity data might be held by a wider range of persons, giving rise to greater risks of data breaches or misuse.

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 these benefits, and over what timeframe would they occur?

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?

BENEFITS AND COSTS – ELECTRICITY SECTOR/POTENTIAL DESIGNATED DATA HOLDERS

86. Implementing a consumer data right for electricity may impose costs for electricity sector participants. These might be the costs associated with developing, maintaining and operating the relevant IT infrastructure and other associated services. 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. The Authority and MBIE will work together to align required standards/infrastructure requirements.
87. The cost of sharing consumer electricity data will depend on the nature of the data collected, and held. Currently, electricity sector participants have two types of data they collect:
- a. data that is already collected and shared among market participants, e.g., metering and standing data is likely to be less costly to provide than data that is not already collected and shared; and
 - b. data that is collected by an organisation but not shared with other market participants, e.g., retail tariffs and other meter data such as frequency and voltage, is likely to be more costly to provide than data that is already shared.
88. As a general point, we assume that upfront costs could be high to setup the necessary systems. Once those have been made, there will still be ongoing compliance and functionality costs, but we assume this will be much lower. We would like the sector's input into estimating the costs and/or upgrades required for implementing a CDR.
89. We also note from engagement that some sector participants are starting from different places. Some new innovative retailers may have state of the art technology, some incumbents may have older legacy systems and social retailers may have limited capital for investments in their IT systems. The nature and scale of resources differ across retailers of different size and type.
90. There is also a consideration of compliance costs for a new regulatory regime. This will include responding to requests for information from the regulator, publicising information on requests, maintaining any registries, other actions relating to customer, product and performance policies. For example, clause 47 of the Bill could require data holders to have performance policies. If done in an uncoordinated manner, potential risks for duplication, double jeopardy and confusion with existing data obligations on market participants under the Code (regulatory compliance costs).
91. Lastly, there are costs involved in standards development. There are a broad suite of standards hosted by the Authority already, most of which are obligatory under the Code. These are set out as the Electricity Information Exchange Protocols (EIEPs) however, to ensure that data exchange

is instantaneous and meets relevant regulation standards more development would need to occur.

15. What are your views on the nature and scale of costs/benefits? Who would these costs/benefits apply to and when?
16. Would you be able to quantify potential additional costs to your organisation associated with designation under the Bill?

BENEFITS AND RISKS IN RELATION TO SECURITY, PRIVACY, CONFIDENTIALITY, OR OTHER SENSITIVITY OF CUSTOMER AND PRODUCT DATA

92. We consider that the designation will have a number of benefits for the security, privacy and confidentiality of customer data in electricity:
 - a. Customer's electricity data will only be provided to accredited requestors with the customer's express and informed consent.
 - b. Security standards ensure that accredited persons are identified, and strong encryption is used.
93. As the electricity CDR is developed, some data sharing activities that are currently undertaken through insecure methods, such as screen scraping, will instead be undertaken through secure APIs.
94. There may also be risks in relation to security, privacy and confidentiality. The potential designation and sharing of customer data creates a greater risk of data breaches and misuse of data. This is primarily due to the expected increase in sharing of customer data compared to the status quo.
95. Under the current regime there are protections that exist under the Privacy Act 2020 and the Code that exist to mitigate these risks, these include:
 - a. Continuing obligations under the Privacy Act 2020 around use, disclosure and security of customer data. For example, personal information must still be collected using lawful means, individuals are entitled to access their personal information and any information must be stored securely. The Privacy Act 2020 would apply to any CDR in any sector as required under the Bill.
 - b. Obligations under the Code. Such as clause 2(1)(d) where a metering equipment provider cannot provide raw meter data if the supply of this data will interfere with privacy, or clause 11.32B (1)(b) where a retailer cannot grant agents access to consumer data if they believe it will breach their obligations under the Privacy Act 2020. The Code has strict obligations to uphold privacy and confidentiality, and these would not be affected by a potential electricity CDR.

17. Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data?

BENEFITS AND RISKS OF INTELLECTUAL PROPERTY RIGHTS THAT MAY EXIST IN RELATION TO CUSTOMER OR PRODUCT DATA

96. We do not consider that the proposed electricity designation poses risks in relation to intellectual property rights. This is because designated customer and product data is intended to be confined to data that customers should have access to, through retailers' websites, plans and account data. There may be intellectual property created through new technology however, this would not be in scope of a potential CDR designation.

18. Are there any risks from the designation to intellectual property rights in relation to customer data or product data?



6 Other aspects of a potential designation

97. Designating the electricity sector has many levels of detail, there are many issues we have not covered or dealt with in this discussion paper that we intend seeking feedback in subsequent consultation. The below section covers a range of other aspects that an electricity designation could bring about and our initial thoughts on how to deal with them.

ACCREDITATION CRITERIA

98. An important element of the Bill is promoting confidence in accredited requestors. An accreditation regime improves the security and privacy of customer data and removes the need for third parties to have multiple bilateral agreements with separate data holders, greatly improving the efficiency of the regime. With electricity (potentially) being the second sector to be designated we can follow and learn from the experience of the banking sector.

99. Clause 105(2)(c) and (d) of the Bill provides for regulations to set criteria persons must meet to be accredited to access customer data. We expect to maintain consistency with the banking designation for accreditation and provide a fulsome accreditation process in our subsequent consultations.

100. We anticipate that any accreditation will include the following aspects:

- a. Persons must be fit and proper.
- b. Entities/persons hold relevant insurance.
- c. Information security requirements.
- d. Demonstrate compliance with the Regulations and Bill.

19. What do you consider to be important if designing an accreditation regime for the sector?

FEES – SHOULD DESIGNATED DATA HOLDERS BE ALLOWED TO CHARGE FEES FOR PROVIDING DATA OR ACTIONS?

101. Fees are another important topic to consider if electricity is designated under the Bill.

102. As discussed earlier in this paper, consumers can currently access their consumption data under the Code for free up to four times a year. In principle, our initial thinking is that a CDR under the Bill would be free to use for consumers to request their data to incentivise consumers to access their data and to share their data. Fees may potentially create barriers to uptake which would not benefit the vast majority of consumers.

103. Other options for fees could include:

- a. Allow fees to be charged, with or without a cap on fees.

- b. Set a limit on the maximum number of requests that an accredited requestor can make to an electricity retailer for free each month and allow charges to be imposed above that limit.

104. There are potential downsides with a free system such as significant number of requests overwhelming data holders, or data holders 'cross-subsidising' to recover costs.

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?

CONSENT

105. Strong consent protections are central to the Bill. They are the key to respecting the authority of all customers – including businesses or other entities – over the data held about them by businesses. Clause 36 of the Bill provides that designated customer data and actions can only be requested if that customer has provided express and informed consent. Equally, Clause 16 that require a data holder to refuse a request if they believe it is made under threat of physical or mental threat.

106. Alongside consent, there may also be issues relating to verification to ensure customers consent is properly given, it is important to ensure that customer identity will be verified by the data holder to protect customer privacy.

107. The banking designation is exploring how to ensure that consent is protected, we will use their learnings to inform how to approach consent for electricity, including if consent should be time-limited or expire.

21.

Are there any particular considerations for electricity that should be taken into account for a consumer consenting process?

STANDARDS DEVELOPMENT PROCESS

108. In line with the banking designation and Australian CDR, standards will need to be developed to enable the use of a CDR. In New Zealand, the banking industry has taken an industry led approach with Payments NZ and the API Centre to develop standards for open banking.

109. There are a few options for standards to be developed. These include:

- a. Government led – the government would develop the standards through normal consultation processes with the public and industry,
- b. Industry-led – the electricity industry would develop the standards in partnership with each other which the government would then adopt,
- c. Co-developed – industry and government would work together to design and develop standards for the CDR.

110. Each option comes with benefits and costs, and we do not have a particular view on who leads the development of standards. We would like to hear view on the development of standards under the Bill.

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?

INTERSECTIONS BETWEEN A CDR AND THE ELECTRICITY PARTICIPATION CODE

111. As discussed throughout this paper participants in the electricity industry are governed by the Electricity Participation Code 2010. There are intersections between the Code and a CDR which may cause complexities for retailers, data holders, customers and others who interact with the electricity industry.

112. We are working closely with the Electricity Authority to understand how the Code and a CDR could work together to ensure that electricity market participants are not overburdened by regulations or competing compliance regimes.

23. How do you believe a CDR and the Code could/could not work together?

Recap of Questions

Your submission may respond to any or all of the questions. Where possible, please explain the reasons for your answer. Include relevant evidence to support your views, for example references to independent research, facts and figures.

Status quo and problem definition

1. What are your experiences of accessing consumer and product data for electricity under the status quo?
2. 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.
3. Do you think that regulatory options are necessary to unlock better access to customer and product data?
4. What do you consider to be the likely outcomes for access to customer and product data in the absence of a CDR for electricity?

What a consumer data right for electricity could look like

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?
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?
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?
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?
9. Are there any other issues with product data we should be aware of? And why? Please provide examples.

10. What factors should be considered when identifying who the best data holder is under a potential CDR regime? and how will 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).

11. Do you agree with our initial framework for how to identify/designate data holders? Why or why not?

12. What actions could be designated for electricity under a CDR? And why? What are the potential benefits from these? Please provide examples.

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 these benefits, and over what timeframe will they occur?

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?

15. What are your views on the nature and scale of costs/benefits? Who would these costs/benefits apply to and when?

16. Would you be able to quantify the potential additional costs to your organisation associated with designation under the Bill?

17. Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data?

18. Are there any risks from the designation to intellectual property rights in relation to customer data or product data?

Other aspects of a potential designation

19. What do you consider to be important if designing an accreditation regime for the sector?

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?

21. Are there any particular considerations for electricity that should be taken into account for a consumer consenting process?

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?

23.

How do you believe a CDR and the Code could/could not work together?

List of Abbreviations

| | |
|-----------------------------|---|
| API | Application Programming Interface |
| The Bill | The Customer and Product Data Bill |
| CDR | Consumer Data Right |
| The Code | Electricity Industry Participation Code 2010 |
| .CSV File | Comma-Separated Values File |
| EA | Electricity Authority (the Authority) |
| EDBs | Electricity Distribution Businesses |
| EIEP | Electricity Information Exchange Protocol |
| ERANZ | Electricity Retailers' Association of New Zealand |
| ICP | Installation Control Point |
| LFC | Low Fixed Charge |
| MBIE | Ministry of Business, Innovation and Employment |
| MEP | Metering Equipment Provider |
| MDAG | Market Development Advisory Group |
| Solar PV | Solar Photovoltaic: Photovoltaic materials and devices convert sunlight into electrical energy |
| Electricity Registry | A national database of every installation connection point in New Zealand and facilitates the exchange of information between retailers, metering equipment providers and distributors to manage reconciliation, invoicing and switching processes. |