

Electricity Authority
via email
retaildata@ea.govt.nz

22 October 2024

Improving retail market monitoring: Amended information notice and updated analysis

Thank you for the opportunity to submit on “Improving retail market monitoring: amended information notice and updated analysis” (“Consultation”). Please find our submission attached to this letter as Appendix A.

We appreciate the efforts made by the Authority to improve the workability of the notice following the original consultation and commend the new five to six-month implementation timeframe and the removal of historic data back to 2018 from the request. Our comments in relation to the specifics of the notice are contained at Appendix A and we have set out our more general concerns in relation to the Authority’s current data work programme below. Please note that we have shared similar views with the Authority in our recent submission in response to the Omnibus Four consultation.

Need holistic view of industry and consumer data access requirements

The need for consumers, electricity sector participants and third parties to have access to industry and consumer data is heightened as it becomes clear that data is the key to unlocking competition, affordability and security of supply in New Zealand. The Authority and the Government both have work programmes in place to address these access requirements. For example, retailers have recently responded to the Authority’s Omnibus Four consultation on “Improving consumer access to data” and MBIE’s “Exploring a consumer data right for the electricity sector”. Retailers are also waiting for decisions from the Authority on the mandating of the Consumer Care Obligations and the Consumer plan comparison and switching consultations. We understand from the Authority’s work programme that there are also consultations that will address access to industry data in the pipeline.¹ Each of these consultations overlaps in some way with one or more other consultations and each change necessitates significant technical and operational system changes to the way retailers store, retrieve, use and export data. Despite these obvious overlaps, the Authority has given no indication of its desired end goal in relation to data and little consideration to how the requirements of each of these consultations could be streamlined, coordinated, or timed to optimise efficiencies.

As a matter of regulatory best practice, the Authority should clarify its end goal for data access and re-assess whether the current data work programme is the most efficient and cost-effective way to achieve this goal. The Authority should then confirm that this end goal will result in a net benefit for consumers, recognising the systems costs associated with enabling data access within short timeframes can be significant. We note that the Australian Energy

¹ The Energy Competition Taskforce’s remit to increase competition and provide more options for electricity consumers will look at driving the faster uptake of demand flexibility and this will mean improving the flow of data between retailers, flexibility service providers, distributors and metering equipment providers.

Market Commission is currently exploring real time access to data for consumers in the National Electricity Market.² Their deliberations may reveal relevant considerations for the Authority in determining the end goal.

Address changes in priority order

Whilst it is helpful having more certainty over the implementation timeframe for this Consultation there is still considerable uncertainty over the detail or extent of changes that will be required to comply with various consultations referred to above. It is not possible to fully plan and prepare for these changes until the Authority has issued final decisions and implementation timeframes. We are concerned that:

- a. The technology changes required by each of these consultations in isolation might solve an immediate problem, but that solution may not be fit for purpose in the longer term. This is known as “technical debt” as it effectively becomes a technical burden that retailers will need to address at potentially greater expense in the future.
- b. Retailers will struggle to be compliant with new regulations if the Authority provides inadequate timeframes for retailers to implement new processes and build the required technology.

We therefore recommend that once the Authority has established its end goal, the Authority should consult with retailers’ technical experts to gain a better understanding of the priority order of the various steps required to achieve the end goal and realistic timeframes to achieve each step. We acknowledge that compliance comes at a cost however it is ultimately in the best interest of consumers to enable retailers to achieve desired outcomes in the most cost-effective manner.

The approach we have described above would also enable retailers and the Authority to be better prepared for the introduction of a Consumer Data Right as we will understand the part it plays in achieving the end goal for data access in the electricity sector.

If you have any questions or would like to discuss any of the matters raised in our submission, please don’t hesitate to contact me on [REDACTED] or at [REDACTED].

Yours sincerely



Jo Christie
Regulatory Strategist

² [Real-time data for consumers | AEMC](#)



Appendix A: Mercury Submission

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| Submitter | Mercury |
| Questions | Comments |
| <p>Q1. Are there any further adjustments you think should be made to amended clause 2.16 notice in Appendix A that would improve workability and cost for most retailers?</p> | <p>Our key recommendation to the Authority to make the section 2.16 notice more workable would be to make it modular in design. By this we mean that each request or table should ask for data falling within one theme or bucket. For example, a modular design would have clear and separate requests for each of account information, ICP information and billing information. Under the current section 2.16 notice design, tables 1a and 1b contain a mixture of ICP, account and billing metrics. The Authority could easily remove the master data they are after (eg identifiers and flags) from the billing metrics to make this improvement as tables 1a, 1b and 2a are very billing centric.</p> <p>Based on Mercury's research into MBIEs proposed Consumer Data Right ('CDR'), and how it has been implemented in the Australian Energy Sector, we believe that a modular approach will provide a higher likelihood of re-use.³</p> <p>Further, whilst we appreciate the Authority has accommodated retailers by allowing flexibility by data transfer using a range of formats, we are concerned that this will make it very difficult for the Authority to standardise data once it has reached them. If data is uniform in a modular and explicit format it will be considerably easier for the Authority to sort and standardise, which is key to ensuring the data can be used for the purpose for which it is being collected.</p> |
| <p>Q2. Are there any changes you think should be made to the notice to better prepare for a possible Consumer Data Right in the electricity sector?</p> | <p>See above.</p> |

³ [The Australian Consumer Data Right energy APIs](#) are modular in nature and may be a useful guide for New Zealand in considering how to prepare for a Consumer Data Right in our electricity sector.



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| <p>Q3. Is there further information you can provide that may improve the evidence base for our assessment of (a) costs (b) benefits?</p> | <p>As above, without a clear articulation of how the information will be used it is difficult to comment on the cost/benefit analysis.</p> <p>The “aggregated questions” have increased since the original proposed section 2.16 notice to incorporate medically dependent consumer data for improved monitoring of the Consumer Care Obligations. The responses required will be more time intensive for Mercury and other retailers to deliver as this information is not currently held at all or in a way that can easily be retrieved and reported as requested.</p> |
| <p>Q4. Do you agree the benefits of the proposed information notice are likely to outweigh its costs? If not, please explain why not.</p> | <p>We agree with Concept Consulting that <i>“benefits do not arise from receipt of the data per se but arise from the Authority utilising the data and assisting stakeholder utilisation.”</i>⁴</p> <p><i>“To maximise potential benefits the Authority needs to:</i></p> <ul style="list-style-type: none"> • <i>promptly produce and publish retail market metrics, underlying data (where possible¹⁶), analysis and tools to assist stakeholders in developing their understanding of the retail market, its operation and performance</i> • <i>proactively utilise data received to assess efficacy of current policy interventions (and act to address sub-optimal policy interventions)</i> • <i>proactively utilise data received to improve the efficacy of future decision-making.”</i>⁵ <p>As Concept has identified, materialising the benefits of the section 2.16 notice rests on actions that must be taken by the Authority. We therefore submit that it is essential for the Authority to build into the Code the requirement for external review of an ongoing notice issued under section 2.16 every 12-24 months to assess whether the desired outcomes are being met. The Authority must be held accountable for ensuring that the notice is cost effective. If for any reason it is found that the expected benefits have not been realised the Authority must be required to either amend the notice requirements or cease the request. This would prevent retailers from being required to provide data in perpetuity for no perceivable benefit.</p> |

⁴ “Assessment of the costs and benefits of new retail data requirements”, Concept Consulting, 22 August 2024
Page 4

⁵ Ibid, page 20

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| <p>Q5. Do you think there are other ways the Authority can maximise the benefits of this data?</p> | <p>We reiterate our recommendation in our original submission⁶ that the Authority could maximise the benefits of a data request under section 2.16 through a process of test and learn, for example:</p> <ul style="list-style-type: none"> i. Reduce the scope of the data request to focus on one specific area of interest; ii. Demonstrate that it can generate valuable insight from that data; iii. If no, back to base to try a different approach – if yes, extend the request to another specific area of interest and repeat process. <p>As a first iteration of our suggested approach, the Authority's first data request could comprise tables 1a, 1b, 2a, 2b, 3 and question 1. Once the Authority has demonstrated the ways in which it has maximised the potential benefits of the data it could then extend the section 2.16 information notice to include the balance of questions 2-9.</p> <p>Additionally, more clarity around the desired outcome will allow retailers to support the Authority and suggest other opportunities to maximise the benefits of data requested.</p> |
| <p>Q6. Do you agree that the privacy implications of the proposed data collection have been adequately considered and addressed? If not, please explain why not.</p> | <p>As per our original submission, we still have concerns that the Authority is collecting more information than is necessary to fulfil the purpose of the information request⁷ but note the Office of the Privacy Commissioner's (OPC) view that the request is proportionate provided mitigants are met (with only publishing aggregated data being a very important mitigant). We look forward to seeing the OPC's comments on the full Privacy Impact Assessment shared during this consultation.</p> <p>Our view is that the Authority should not collect any information until all the recommendations of the Privacy Impact Assessment have been implemented, including the completion of the external security review referred to under IPP5 and the implementation of any recommendations that might come out of that review.</p> |

⁶ Ibid

⁷ Ibid