

Appendix C Summary of feedback and the Authority's response

The table below summarises all the feedback received on the clause 2.16 notice and the Authority's response to this feedback.

Topic	Summary	October Submitter	Authority's response
Consolidation	There was overall recognition of and support for the proposal to consolidate multiple existing requests, creating consistency, eliminating overlap and reducing regulatory burden.	Electric Kiwi, ERANZ, Mercury, Meridian, Hanergy, Nova, Genesis, Fincap	Noted
Regular reporting	There was overall support for proposal to introduce monthly reporting instead of ad-hoc reactive information requests, creating regulatory certainty and consistency, eliminating overlap and reducing regulatory burden.	Electric Kiwi, ERANZ, Mercury, Meridian, Hanergy, Nova, Genesis, Fincap	Noted
Reliable data to inform decision making	There was overall support for the collection of more comprehensive data on a mandatory basis to inform policy decision making.	Electric Kiwi, ERANZ, Mercury, Meridian, Hanergy, Nova, Genesis, Fincap	Noted
Increased publication	There was overall support for increased publication of insights and data to inform industry, balance information asymmetry, increase participation and create transparency. Some retailers were concerned that the Authority may create misleading or distorted reports if the data is not accompanied by an explanation or is taken out of context	Electric Kiwi, ERANZ, Mercury, Meridian, Hanergy, Nova, Genesis, Fincap	Noted The Authority is experienced in creating monitoring insights, providing relevant context, and dealing with data quality issues. The clause 2.16 notice has been through a robust process of refinement to ensure consistency of return and data quality. The Authority also has a practice

	eg a retailer accepting consumers with poor credit may have higher rates of disconnection.		of consulting with relevant parties before publishing adverse findings.
Protection for small consumers	<p>Consumer advocates strongly supported the proposal saying it was essential for the Authority to know more about small consumers to fulfil its function to protect domestic and small business consumers.</p> <p>One retailer felt that the Authority should be focusing on competition issues, rather than on issues like disconnections.</p> <p>ERANZ asked for more information about the protective measures envisaged and how the data will enable the Authority to conclude that protective measures are warranted.</p> <p>One retailer commented that the Authority's "aggregate" approach to interpreting its statutory objective was not being followed.</p>	Consumer NZ, Fincap, ERANZ, Flick, Nova, Meridian	<p>Increasing the Authority's monitoring of the retail market is essential to realising the Authority's statutory objectives.</p> <p>As set out in the Authority's October consultation paper there are many areas of research and monitoring that support work to promote competition, efficiency and reliability for the long-term benefit of consumers.</p> <p>It is also essential for the Authority to know more about the experiences of domestic and small business consumers in order to exercise its new function of developing measures to protect those consumers. ¹ The effectiveness of the Consumer Care Obligations can be assessed once more information is obtained.</p>
Consumer Care Obligations	<p>In the October 2024 consultation two consumer advocates were concerned about the removal of some fields from the clause 2.16 notice and the Authority's reliance on the compliance reporting framework set out in clauses 11A.4 to 11A.11 of the Consumer Care Obligations.</p> <p>UDL supports the focus on disconnections and medically dependent consumers in the clause 2.16 notice but is concerned that there may be a disconnect and gap between the clause 2.16 notice and the compliance</p>	Fincap, UDL	<p>The Authority has a robust compliance reporting framework in place, collecting key data on a monthly basis through the clause 2.16 notice and receiving annual reports through the reporting and record keeping provisions in the Consumer Care Obligations.</p> <p>The first year of reports (monthly and annual) may uncover issues and gaps. Improvements to the clause 2.16 notice can be considered during the proposed Post Implementation Review process in 2027.</p>

¹ The Electricity Industry Act 2010 was amended in late 2022 to add a new function and objective.

	<p>reporting framework in relation to complaints reporting. They also note that complaints that are resolved promptly may not be captured, with potentially systemic issues going unnoticed.</p> <p>UDL recommend an audit process to ensure retailers are correctly categorising and reporting complaints.</p>		<p>The Consumer Care Obligations include a reporting and certification regime which we expect to reveal categorisation and reporting issues.</p>
Data quality	<p>In the December consultation retailers were concerned that the data was highly de-normalised and not going to be of good quality. They saw issues with data integrity, accuracy, completeness, consistency. They also noted that some of the data expected would require significant cleaning prior to submission.</p> <p>In the October consultation concern was focused primarily on the half-hourly metering data and the cost of cleaning it before reporting.</p> <p>One retailer continued to raise concerns that the data is not standardised but recognised the need for flexibility.</p>	<p>ERANZ, Genesis, Mercury, Contact, Nova, Meridian</p>	<p>The clause 2.16 notice has been through a robust process of refinement to ensure consistency of return and data quality. The first Post Implementation Review will highlight refinements.</p>
Authority's compliance with Information Privacy Principle 1 (data minimisation)	<p>Some retailers submitted that the Authority is collecting more information than necessary for its purpose and risks breaching the Privacy Act 2020 (Information Principle 1).</p> <p>In the December submissions this was a general comment. However in the October submissions, after the clause 2.16 notice had been improved by the Authority, the concern was focused primarily on the proposed collection of half-hourly metering data. They noted that:</p> <ul style="list-style-type: none"> this was the most complex, onerous and expensive part of the clause 2.16 notice 	<p>ERANZ, Genesis, Mercury</p>	<p>The decision paper discusses the collection of half-hourly metering data in more detail.</p>

	<ul style="list-style-type: none"> the proposed uses for half-hourly metering data were not clear and requested more detailed information using samples and aggregated GXP level data can achieve the same results ingesting and analysing the HHR would require significant resource and queried whether the Authority had allocated sufficient resource to this work. 		
Authority compliance with Information Privacy Principle 3A (Collection of personal information other than from individual concerned)	One retailer noted that transparency will be important, to ensure consumers understand what is happening to their personal information.	Hanergy	The Authority supports the goal of greater transparency, where appropriate. Retailers may wish to update their privacy terms even if they conclude that the new Information Privacy Principle 3A (likely to be passed into law during 2025) does not compel disclosure of the Authority's information acquisition.
Authority compliance with Information Privacy Principle 5 (storage and security of information)	Many retailers noted the significant security risks associated with holding such a large volume of personal information, pointing out that any cyber-attack/data breach would be very serious. One noted that some risks (eg the risk of re-identification) could increase if the CDR is progressed.	Electric Kiwi, Meridian, Genesis	The Authority takes its compliance with the Privacy Act 2020 seriously and is following the recommendations set out in its Privacy Impact Assessment to ensure personal information is safe and secure. It will be reviewing and updating the PIA every six months and this will continue for at least two years following ingestion of data.

<p>Authority compliance with Information Privacy Principle 11 (limits on disclosure of personal information)</p>	<p>Some retailers were concerned that publication at meshblock level was too granular. They felt that there was a risk of re-identification by using too small sample sizes (eg less than 30) and that being merged with other publicly available datasets (eg Stats NZ). They felt this risk was heightened when there are sophisticated third parties with resources to target client segments.</p>	<p>Contact, Genesis</p>	<p>Data will not be published at a level granular enough to risk re-identification.</p> <p>Any analysis which merges data with Census data or other data held by Stats NZ will be checked by Stats NZ to ensure confidentiality rules have been applied.</p>
<p>Retailer compliance with the Privacy Act 2020 generally</p>	<p>Two retailers were concerned about their own compliance with the Privacy Act 2020 asking for assurance that the data can be “transferred, hosted and deleted securely”. They noted that they are “guardians of their customer’s personal information” suggesting the clause 2.16 notice increased the risk of a security breach while they were collecting the data for the Authority.</p>	<p>Electric Kiwi, Nova</p>	<p>It is assumed the concern is around retailer’s obligations in Information Privacy Principle 11 (limits on disclosure of personal information).</p> <p>As the Authority is compelling disclosure of information using its statutory powers, the Authority expects that the disclosure will fall within one of the exceptions to the principle (section 22 of the Privacy Act 2020).</p> <p>Retailers are also reminded that they would not be responsible under the Privacy Act 2020 for a breach of Information Privacy Principle 5 (storage and security of personal information) by the Authority.</p> <p>The Authority believes retailers should already have processes in place to receive personal information safely and securely and does not think the additional requirements in the clause 2.16 notice increase this existing risk.</p>
<p>Privacy Impact Assessment (PIA)</p>	<p>There were multiple comments about the PIA and they were mixed. Two agreed with the treatment of privacy implications but others commented that:</p>	<p>Meridian, Genesis, Mercury</p>	<p>The Authority believes the PIA contains sufficient information for the industry and consumers to understand how the Authority is intending to manage privacy risks</p>

	<ul style="list-style-type: none"> • there was inadequate detail and that retailers needed more information given they were guardians of the consumers data • they would like to see the Office of the Privacy Commissioner’s feedback on the PIA • the recommendations should all be completed before collection. 		<p>and confirms that OPC reviewed the PIA before publication.</p> <p>The Authority will be progressing the recommendations in the PIA and publishing an updated PIA every six months at least two years following ingestion of data.</p> <p>The OPC’s submission to the December consultation can be found on the Authority’s project page.</p>
Confidentiality	Some retailers are concerned that their commercially sensitive information will be released by the Authority in response to an Official Information Act (OIA) request.	Meridian, Genesis	<p>The Authority already holds a significant amount of commercially sensitive data and has well established policies and procedures for handling OIA requests. All responses are approved by a lawyer and a member of the Senior Leadership Team.</p> <p>Each OIA request is unique and will accordingly need to be assessed on a case-by-case basis against the provisions of the Act. The Authority will use the guidance provided by the Ombudsman on their website.</p> <p>There is a well-established ground in the OIA for withholding commercially sensitive information where it is necessary to ‘protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information’ (section 9(2)(b)(ii)). This provision is subject to the public interest test though and the Authority will always need to consider the countervailing public interest in release.</p> <p>If the Authority considers that it is in the public interest to release commercially sensitive information it will endeavour to consult with relevant parties before doing so to ensure it fully understands the sensitivity. It will also consider ways of releasing that reduce the sensitivities eg</p>

			<p>anonymisation or supervised viewing in person. Given the Authority will be publishing a lot of the information on its website, the Authority expects that there will be a minimal number of OIA requests.</p> <p>If there is information that is subject to an obligation of confidence eg, provided to the retailer pursuant to a contract with confidentiality provisions, the retailer would need to highlight this to the Authority.</p> <p>The Authority will handle any confidential information in accordance with clause 2.22 of the Code. The Authority may, as part of undertaking its statutory function, wish to publish information derived from the information collected as part of this notice. In these situations, the Authority's Information Management Policy and the Code will apply.²</p>
Intrusive	<p>In both consultations retailers commented on the scale of the information request and the volume of data being collected. Responses in October reiterated this concern but focused on the collection of half-hourly metering data as being the primary issue.</p> <p>One submitter noted that this would be amplified if the information was acquired by Statistics New Zealand and placed into the Integrated Data Infrastructure.³</p> <p>One retailer commented that the Authority should trust competitive forces to yield appropriate benefits for consumers instead of attempting to “second guess” the results.</p>	Contact, Meridian, ERANZ, Electric Kiwi, Nova	<p>The Authority is confident that increased retail market monitoring is needed to perform its statutory functions. This is outlined further in the decision paper.</p> <p>Further information about the Government Statistician's powers of acquisition can be found in the Data and Statistics Act 2022. Statistics New Zealand includes information about its activities on its website.</p>

² [Information Management policy](#)

³ [Integrated Data Infrastructure | Stats NZ](#)

Capacity and capability	<p>Some retailers expressed doubt that the Authority had the capacity and capability to analyse the data in a timely way.</p> <p>There were suggestions that the Authority should take a staged approach focusing on aspects where there was a clear purpose and then demonstrating that it can use the data before proceeding to gather more.</p> <p>One retailer suggested that the Authority be required by the Code to commission an external review of its work to ensure the intended outcomes are being achieved.</p>	Flick, Mercury, Nova	The Authority has carefully assessed capability and capacity requirements before making this decision.
Sharing data	Consumer NZ suggested sharing certain information with switching providers to improve switching rates eg consumption data, pricing plan, fixed term, break fees.	Consumer NZ, Sustainability Trust	The Authority has a separate project looking at switching and consumer mobility.
Cost benefit analysis flawed	<p>Many retailers submitted that the Authority's analysis of the costs and benefits is wrong. They said that:</p> <ul style="list-style-type: none"> • The benefits have been overstated, particularly in relation to half-hourly metering data. • The costs have been understated, particularly in relation to half-hourly metering data. • It is hard to assess the benefits without knowing the problem being solved or the policy question being answered (ie, these are hypothetical benefits not tangible benefits). • The Authority's internal costs should be included in the analysis. • The existing information requests are not active so are not an accurate counterfactual. 	ERANZ, Electric Kiwi, Contact, Mercury, Genesis, Meridian,	<p>The Authority is confident that the benefits outweigh the costs and will lead to significant benefits for consumers.</p> <p>The Authority has commissioned a re-evaluation of the cost-benefit analysis by an independent third party in response to submission feedback, which supports this position and can be found in Appendix E.</p>

	<ul style="list-style-type: none"> • The aggregated questions about MDC have increased and are not held or easily retrieved and accordingly increase the cost of complying with the clause 2.16 notice. • Information about bundled services cannot be of medium importance as it is a small subset. • Opportunity costs cannot be accounted for. 		
<p>CDR and an overarching strategy for data</p>	<p>Many submitters, of varying types, noted the risk of misalignment with the requirements of any CDR in the electricity industry and how this could create extra work and cost for retailers. They noted that technical standards would need to be aligned.</p> <p>One submitter noted that the benefits may overlap with the benefits of the CDR and should not be counted twice.</p> <p>One retailer suggested that the Authority should consider the overarching strategy for data in the industry and assess how the various data projects interact, ensuring they are coordinated and streamlined. Another suggested consulting on a roadmap so industry can support the Authority to identify meaningful insights.</p> <p>One consumer advocate recommended that templates for the provision of consumption data to consumers are tested with consumers.</p> <p>One retailer suggested using a more modular format ie each request or table should ask for data falling into one theme or bucket as this would align better with any CDR.</p>	<p>Mercury, ERANZ, Genesis, UDL</p>	<p>The Authority is working closely with MBIE in relation to the potential designation of a Consumer Data Right in the electricity industry.</p> <p>The Authority is of the view that the proposed clause 2.16 is aligned with a potential CDR. Retailer system improvement, implemented to assist in the provision of the data requested through the Authority's clause 2.16 notice may be useful in enabling retailer delivery of key aspects of the CDR, particularly the request for half-hourly metering data.</p> <p>The Authority is also working on the following projects in a coordinated manner:</p> <ul style="list-style-type: none"> • Options to improve visibility of low voltage networks via distributor access to smart meter and power quality data • MDAG's recommendation to require retailers to use half-hourly metering data rather than default demand profiles for reconciliation.⁴ • Updating the consumption data template

⁴ [Price discovery in a renewables-based electricity system: Final Recommendations PAPER 2023](#)

	One retailer said they did not think the clause 2.16 notice would meaningfully impact the implementation of CDR.		<p>As with CDR the Authority is confident that the work required to respond to the clause 2.16 notice will be helpful for its future projects.</p> <p>In the first half of 2025, the Authority will be sharing more of our long-term view of how the sector is changing. This includes decentralisation, and digitalisation as an enabler of change.</p> <p>The Authority has adapted the clause 2.16 notice in response to this feedback, to make the final RMM Notice more modular in design.</p>
More information requirements should be added to the clause 2.16 notice	<p>Many consumer advocates and interested parties requested that the clause 2.16 notice be expanded. Suggestions related to matters such as:</p> <ul style="list-style-type: none"> • fixed term • break fees • complaints, metering fees • health conditions • customer satisfaction • retailer responsiveness • whether a smart meter is installed and communicating • estimates versus actual reads • eligibility criteria for the tariffs. 	Consumer NZ, UDL, Common Grace, Toast, Flick, DPA,	Additional items which fall outside of the current consultation scope will be retained on a feedback register for further consideration as part of the Post Implementation Review processes.
Duplication of effort	Submitters noted the risk of duplication of effort eg: Registry data	Electric Kiwi, ENA, Consumer NZ, Flick, SDFG	The Authority acknowledges the various initiatives, both current and proposed, in the data collection space and will continue to work across the Authority and partner

	<p>Powerswitch</p> <p>Commerce Commission information on bundling EIEP3 and EIEP13A via Registry Transfer Hub</p> <p>MBIE Quarterly Retail Sales survey and QSDEP</p>		<p>agencies, including MBIE and the Commerce Commission to streamline requirements and consolidate effort wherever possible.</p>
Bundled services	<p>Some submitters queried whether the Authority has jurisdiction to collect information about bundled services.</p>	<p>Electric Kiwi, ENA, Contact, Genesis, Nova</p>	<p>Information being collected from retailers about the services they have bundled with electricity is relevant to their electricity retailing (ie bundling influences electricity pricing practices and marketing strategies).</p>
Innovation	<p>Two retailers suggested that the proposed clause 2.16 notice could impede competition, creating entry and expansion costs that would impact smaller new entrants disproportionately and constrain innovation generally. They suggested that constraining data models and definitions could suppress innovation, with retailers tailoring plans and development work to fit with the data request framework.</p>	<p>Meridian, Nova</p>	<p>The Authority has not required response to all requirements from very small retailers, given they may not have the economies of scale to justify automation. The Authority expects most others will be able to automate their reporting.</p>
Workability and technical issues	<p>Load control may not be easily reportable by retailers import and export lines charges.</p>	<p>UDL, Meridian</p>	<p>The Authority has considered this feedback and engaged with the SDFG to refine the relevant definitions within the clause 2.16 notice to assist retailers interpreting the request.</p>
Direct source from MEP	<p>One retailer suggested collecting data directly from the MEP</p>	<p>Octopus</p>	<p>The RMM looks to collect data to provide a complete customer view. MEP's hold only a small portion of this view, whereas retailers are able to provide all customer related data.</p>

Implementa- tion	<p>Some retailers made suggestions about how to implement the clause 2.16 notice:</p> <ul style="list-style-type: none"> • The Authority should maintain some flexibility to cater for different types of retailers eg small retailers who need to do reporting manually. • A staggered approach would help retailers to manage costs ie providing less complex data early and then having more time to provide the more complex data • An iterative “test and learn” approach should be used • A longer Implementation period is needed to design, build, develop and test the data provision with 12-24 months needed for the provision of half-hourly metering data • Better clarity about accuracy tolerance levels for half hourly data ie how much cleaning of the half-hourly metering data is required after receipt from the MEP • Test run should be conducted with 100 ICPs • Worked example should be expanded. 	Hanergy, Flick, 2degrees, Mercury, Meridian	<p>The Authority has considered these views in finalising the clause 2.16 notice and notes that all retailers will have slightly different circumstances.</p> <p>Individual circumstances, behaviour and attitude would be considered in the event of any enforcement process by the Authority. The Authority’s compliance strategy, framework and policies are available on its website.⁵</p>
Very small retailers	One submitter said that all retailers should be subject to the clause 2.16 notice.	Fincap	Key consumer protection information is going to be collected from very small retailers (see Table 8 in the clause 2.16 notice). Gathering the remaining information is not necessary for the Authority’s competition and

⁵ [Our compliance strategy, framework and policies | Electricity Authority](#)

			efficiency analysis. Given compliance will have a disproportionate impact on very small retailers the Authority will continue to exclude them from the other requirements as proposed.
Secondary networks	<p>Two submitters noted that consumer protections should extend to:</p> <ul style="list-style-type: none"> “consumers in retirement villages, campgrounds, apartments and tenancies” “customers who are resident on a customer network without an ICP” <p>UDL suggests that complaints reporting should extend to “residential consumers” which includes complainants who are not account holders.</p>	Fincap, UDL	<p>The Authority has issued some guidance about the meaning of “retailer” and who must comply with the Consumer Care Obligations. This can be found on the Authority’s project page for the Consumer Care Obligations.⁶</p> <p>The clause 2.16 notice has also had a new field added to identify when a trader is acting on behalf of a retailer.⁷</p> <p>Over the first year the Authority will analyse the data received and cross reference this against other data it holds (eg, information in the Registry and Participant Register) to assess any gaps.</p> <p>Refinements can be made in the first Post Implementation Review.</p>
Central data repository	A small number of submitters of varying types proposed that a better approach would be to create a central meter data store.	UDL, Flick, SDFG	The Authority acknowledges these views but notes that the creation of any central meter data store would take some years to develop and implement. The Authority expects the clause 2.16 notice to create significant benefits in the meantime and that any work to streamline retail systems and data structures to handle automated data transfer will align with any future state.

⁶ [Consumer Care Obligations – Retailer Guidance](#)

⁷ Trader and Retailer are defined in the Act and the Code.

Registry Data	A stakeholder noted that the quality of the data in the Registry needed improving, to improve overall monitoring results.	Consumer NZ	The Authority is progressing work to address this known issue.
Retailer Score Cards	A consumer advocate suggested that the Authority use the data to publish retailer scorecards.	UDL	The Authority will consider this recommendation as part of its wider consumer protection work but does not consider it a priority at this time.
Annual Survey	One consumer advocate suggested that the Authority mandate that retailers conduct an annual consumer survey.	UDL	The Authority will consider this recommendation as part of its wider consumer protection work but does not consider it a priority at this time.