

3 September 2024

Committee Secretariat  
Economic Development, Science and Innovation Committee  
Parliament Buildings  
Wellington

Via email: [edsi@parliament.govt.nz](mailto:edsi@parliament.govt.nz)

## **ERANZ SUBMISSION ON THE CUSTOMER AND PRODUCT DATA BILL**

The Electricity Retailers' Association of New Zealand ('ERANZ') welcomes the opportunity to provide feedback to the Economic Development, Science, and Innovation Committee on the 'Customer and Product Data Bill' from July 2024.

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

### **Introduction**

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

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

### **Enabling technology and competition**

The Customer and Product Data Bill can promote competition and innovation for the electricity retail sector by allowing consumers to compare electricity plans more easily and switch retailers.

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

### **Supporting data framework**

Consumer confidence in any regime relies on data holders and accredited requestors maintaining robust data security over consumers' personal information. While the Customer and Product Data Bill is appropriately high-level on the specifics of such fast-evolving security arrangements, Clause 28 governs the requirements for data holders but not accredited requestors. This appears to place a more significant burden on data holders over accredited requestors.

ERANZ notes the public's expectation of robust data privacy and security measures for personal information held or passed on by electricity retailers. In the Hansard debate of the Bill's First Reading, MPs noted concerns about the security of current data-sharing arrangements and the need to improve practices.

*Recommendations from ERANZ:*

1. Clarifying security requirements: ERANZ recommends clearly defining the security obligations of accredited requestors to prevent any risk to consumers' sensitive data.

**Derived data**

In the current version of the Customer and Product Data Bill, data holders (electricity retailers) must provide data to customers and accredited requestors. This raises the question about providing derived data and whether this is included.

For electricity retailers, derived data refers to data generated or calculated from raw consumption data, which may include proprietary algorithms, insights, or analyses performed by the retailer, usually combined with other data sets such as weather information.

Retailers treat derived data as intellectual property, and sharing this data with competitors would infringe on the commercial investment made to understand better and, therefore, serve their customers. This total commercial investment can run into the millions of dollars.

The Bill defines derived data in Clause 33(3). Furthermore, Clause 16 provides for circumstances in which the data holder may refuse a request for data – but derived data is not explicitly one of these provisions. Clause 23 provides for circumstances in which the data holder may refuse a request for product data – again, this does not cover derived data.

*Recommendations from ERANZ:*

2. Clarify definition and scope: ERANZ recommends the Committee ensures the Bill provides clearer definitions and guidelines on what constitutes derived data versus raw customer data. This would help ensure that data holders (electricity retailers) are not unfairly obligated to share proprietary insights or commercially sensitive information.
3. Transparency in exemptions: ERANZ recommends the Committee amends the Bill to include transparent processes for data holders (electricity retailers) to justify why certain derived data cannot be shared, ensuring that these exemptions are applied fairly and consistently.

**Joint customers and privacy**

ERANZ notes a crucial difference in the operation of electricity accounts compared to financial accounts that is important for the implementation of the Customer and Product Data Bill.

For electricity services, a household may have multiple occupants who use the service, but often, only one individual is the named account holder. This contrasts with financial services, where usually all individuals who use the service are named as joint account holders.

As a result, the Bill's provisions for joint or commonly held accounts, as outlined in Clause 21, may not fully address the complexities of electricity accounts, where the usage and payment responsibilities may be shared among multiple household members who are not formally recognised as account holders.

*Recommendations from ERANZ:*

4. Consider different account structures: ERANZ recommends that the Committee and subsequent regulations consider this distinction by providing flexible mechanisms that allow all household members to access relevant data or participate in decision-making processes while ensuring that privacy and authorisation protocols are robust.

This approach would better reflect the realities of how electricity services are used within households and ensure that the Bill's provisions are effectively applied in the electricity sector.

### **Accuracy of data**

Electricity retailers rely on third-party providers (metering companies) for household electricity consumption data, often broken down into 30-minute segments. Retailers then aggregate and use this data for customer billing purposes, often for a whole calendar month. Under The Customer and Product Data Bill, retailers would then be required to pass household consumption data on to customers or accredited requestors upon request, but retailers may not have the capability to verify its granular accuracy when retailers do not use it themselves at this level of detail, and this could pose a challenge if customers believe it to be perfectly accurate.

While the Bill includes provisions related to the accuracy of data, but it does not explicitly require data holders to certify the accuracy of the data they provide when that data originates from third-party sources:

- Clause 31 requires data holders to comply with standards and regulations when providing data. However, the clause primarily focuses on how data is provided and does not explicitly mandate that the data must be verified or certified as accurate before it is shared.
- Clause 132 allows the chief executive to make standards, including technical standards related to data quality. However, it does not explicitly state that data holders are responsible for verifying the accuracy of data they receive from third parties.

Therefore, data holders who hold data about customers they did not generate cannot guarantee the accuracy of data sourced from third-party providers.

#### *Recommendations from ERANZ:*

5. Clarify data holders' responsibilities: ERANZ recommends the Committee clarify that the responsibilities of data holders do not cover the accuracy of third-party data. Retailers are only responsible for ensuring the data is passed on as received without requiring verification.
6. Include disclaimers: ERANZ recommends that the Committee allow data holders to include disclaimers when providing data to customers, indicating that the data is sourced from third parties and that the retailer cannot certify its accuracy.

This approach helps mitigate misunderstandings and ensures that consumers take into account the limitations of the data they receive.

Yours sincerely

Kenny Clark  
Policy Consultant