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Submissions
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SUBMISSION ON ACCESS TO CONSUMPTION DATA

- 1 Orion New Zealand Limited (**Orion**) welcomes the opportunity to comment on the “Retail data project: access to consumption data” consultation paper (the **paper**) released by the Electricity Authority (Authority) in July 2014.

Introduction

- 2 Our submission is in two parts:
 - (a) General comments on the paper, and
 - (b) Responses to the specific questions as an appendix.
- 3 In summary we believe the paper:
 - (a) Overstates the net benefits of the proposal
 - (b) Underestimates the potential adverse impact on existing services
 - (c) Assumes, possibly incorrectly, that MEP service offerings and contractual obligations already cover the acquisition and provision of the data
 - (d) Does not identify a clear market failure and as a result unnecessarily cuts across normal commercial drivers and arrangements.
 - (e) Unnecessarily limits the ways that the objectives of the proposal might be met.

General comments

- 4 In our view the important question is not whether interval data *can* be useful to various parties. This can and will be discovered. Rather the question is: should the Authority regulate as proposed to require the acquisition and storage of such data by retailers and its provision to consumers at no charge? We think the case for regulation is weak.
- 5 The paper rightly identifies a variety of approaches taken by retailers both as to how and what interval data (and more aggregated data) they provide. This strikes us as healthy and an example of what we would expect to see in competitive markets. Consumers for whom access to more data is important will tend to favour retailers that provide it over those that do not. Consumers who do not value such data will make different choices. Likewise we would only expect those retailers that get value out of the interval data to incur the cost of acquiring and processing it. Because retailers have different business models and different value propositions, some will acquire it and some won't. Perhaps most importantly, retailers that currently acquire such data may find that the proposal reduces the value of acquiring it.
- 6 The proposal cuts across these market arrangements.

What is the data for?

- 7 One particular problem with the paper is the lack of worked examples of *how* interval data might be used to achieve the efficiency gains. As we see it, consumers are faced with at least three relevant areas where they need to make decisions with respect to electricity supply. These are:
 - (a) Which retailer is best for me?
 - (b) What pricing plan is best for me?
 - (c) Should I invest in this (or that) technology?

- 8 As we see it, none of these decisions is helped by having interval data.

Choice of retailer

- 9 We do not see that interval data helps with this, at least for residential and small business customers. Both the pricing and analysis tools (such as Powerswitch) work perfectly well with billed consumption information. Interval data would need to be aggregated to support the analysis which is just an extra and unnecessary step and one prone to error.

- 10 As we noted in our submission on the Retail data project¹, the Authority seems to have serious concerns about the quality of Powerswitch's comparisons, but will not come out and flatly say this, or provide reasons for its concerns. This is not only unfair, it is peculiar, particularly given that Powerswitch underpins the ongoing WMN campaign. We believe that a comparison using Powerswitch based on just one bill produces a reliable result in most cases, and even where it does not, it is unclear why interval data would produce a better result than using annual consumption data (which is Powerswitch's own recommendation).²
- 11 Moreover if there are real problems with Powerswitch, it may well be that the lowest cost approach is to fix them!

Pricing plans

- 12 It is unclear to us how a consumer goes about deciding whether to change pricing plans, but we observe that many and perhaps most such changes are beneficial because they change the profile of consumption. For example, moving to night rate pricing usually only benefits a consumer if they choose to have their hot water heating only occur at night. The existing profile does not help with this decision. What is needed is much more broad-brush information such as that "hot water heating typically accounts for X% of consumption so the savings would be \$Y per year".

Investment

- 13 Again the key point is that material investments will change the consumption profile. For example, an investment in PV will reduce metered consumption overall, but particularly on summer days, and not at all on winter evenings. How much PV changes things will depend on a variety of factors, but the existing profile will not be a very useful input.

Cost benefit analysis

- 14 A major weakness with the paper is the cost benefit analysis.
- 15 A number of recent Authority papers have used a methodology that effectively assumes benefits. We appreciate this is a difficult area, and that the Authority is bound to attempt such analysis, but we believe the Authority is consistently failing to apply higher level qualitative benefits assessments before moving to quantify them.
- 16 In this particular case both the allocative and productive efficiency benefits rest on an assumption that switching rates will increase as a result of the proposed change, yet there is no explanation as to how or why this would happen.

¹ Orion New Zealand Limited, *Submission on EA Consultation Paper - Retail data project Mar 2014*, 11 March 2014, para 10, page 3.

² The Authority presumably has similar concerns about other comparison sites such as switchme.co.nz?

- 17 Even if the increase in switching rates occurred, we would need to be confident that:
- (a) Regarding allocative efficiency, the elasticity of demand will be that high when a customer switches to save money. It is important to be sure that consumers switching to lower cost retailers do in fact actually materially increase consumption. Is there any evidence of this?
 - (b) Regarding productive efficiency, the pressure here must already be considerable given New Zealand's high rates of switching. This must reduce the marginal gains available from further switching.
 - (c) There is not a lower cost way to achieve the same benefit. (One possible option to the proposal that would provide much of the benefit (at least from the first source – retailer switching) but at much lower cost is that retailers be required to notify customers of the last twelve months of billed consumption for each meter / register).
- 18 We also appreciate that it can be difficult to assess the benefits of potential innovation, but we would have thought the paper should at least have noted that a key underpinning of innovation is the ability of the innovator to maintain their IP, and that the proposal undermines that for existing innovations. There is also a risk that the proposal will inappropriately socialise the development cost of third-party providers' IP.
- 19 Regarding cost, we are surprised that the proposal is so prescriptive as to *how* the obligation to provide interval data is to be met. It requires retailers to develop systems and processes, and store interval data for extended periods. We are concerned that some recent entrant retailers' business cases may be undermined by the proposal. We would have thought it is more sensible to require retailers to provide the data, but leave it to them how they manage this, for example via third parties. By definition this will be lower cost, and it will also relate the cost more to the demand for the service. We also note there are likely to be less metering providers than retailers, and that data management and provision is more likely to be a core competency of metering providers than it is of retailers.

Contractual arrangements

- 20 The paper does not pay much attention to the contractual arrangements that may impact on the proposal. We think that these arrangements are important.
- 21 Even if smart metering supports the acquisition of interval data, this does not mean that:
- (a) Any or all retailers have rights to it,
 - (b) Any or all retailers acquire it or store it themselves,

- (c) Where they can acquire it or store it, that they can (contractually) provide it to third parties,
- 22 On the other hand, retailer contracts with metering providers may limit the providers' ability to provide the data to third parties.
- 23 Where retailers are acquiring the data, they will have made an assessment as to the value of that data to them, and part of this value will relate to an ability to limit access by others. A requirement to provide this data to customers and third parties will reduce the perceived benefit to retailers, and may mean they no longer acquire it.
- 24 Then there are the contractual arrangements between retailers and their customers. It is all very well to assert that customers have rights to consumption data, but rights are tradable. Customer contracts may restrict or limit retailers' obligations to their customers regarding provision of data (particularly data that is not used for billing), and may also limit what a customer can do with any data provided.

Concluding remarks

- 25 Thank you for the opportunity to make this submission. Orion does not consider that any part of this submission is confidential. If you have any questions please contact Bruce Rogers (Pricing Manager), DDI 03 363 9870, email bruce.rogers@oriongroup.co.nz.

Yours sincerely



Bruce Rogers
Pricing Manager

Appendix: Response to specific questions

Question	Response
<p>Q1: Do you have any comments on the description of the current situation, including:</p> <p>a) The link between consumer engagement and retail competition?</p> <p>b) Current levels of consumer engagement?</p> <p>c) Current limits on access to consumption data?</p>	<p>While it is probably true that consumers being more engaged might help enhance retail competition, care needs to be taken in assuming that any lack of engagement is indeed related to the availability of information. Some products and markets are just inherently more or less interesting than others, and we observe in many markets different levels of engagement across the spectrum of consumers.</p> <p>Having said that, there is clearly a significant proportion of customers that are actively engaged in the market despite any limitations on access to data. We presume the relationship between increased engagement and improved competition is one that displays diminishing returns, so we may already have accrued a large proportion of the benefits available. An efficient and effective sharemarket does not require all shareholders to be constantly monitoring the market – a relatively small number of brokers and major players is sufficient.</p> <p>Regarding limits, and without saying whether it is good or bad, we observe or understand that:</p> <ul style="list-style-type: none"> • Not all retailers hold interval data even if it is collected by the metering provider • Whether any party acquires and stores interval data (and for how long they store it) will depend on the contractual arrangements in place and the business models of the parties. • Not all smart metering provides “billing quality” interval data (the interval data is not necessarily the basis on which the billed consumption is calculated) • The fact that retailers currently provide a range of access approaches suggests the market is working: it is offering choice. Aspects of the proposal imply that retailers will have to procure and store data when perhaps only a few consumers will want it. This means the cost will be incurred even if the benefit never happens. Moreover, if the data is provided at no cost to the requesting consumers then the cost will be shared across all other consumers, which is both inefficient and unfair.
<p>Q2: What are your comments on the Authority’s assessment of the problems arising from limited access to consumption data?</p>	<p>The comments in response to Q1 above provide important context for considering the problems identified. For example:</p> <ul style="list-style-type: none"> • While the lack of access to more granular data by other parties may affect the ability of those parties to innovate, the requirement that the existing retailer make the data readily available may limit their incentives to both innovate (by losing IP) and incur the cost of procuring the data in the first place. There is a risk that there could be less access to data overall.

	<ul style="list-style-type: none"> • Potential and existing suppliers whose innovation may be “no frills” will incur additional cost if they are required to collect and provide access to data they do not need or use. • It is not obvious why a consumer who is not engaged with limited data becomes more engaged with more data? If Sarah (Appendix D, example one) is confused by having to enter one or two numbers from a bill which will identify the plan she is currently on, it is unclear why she will be less confused having to aggregate thousands of data points from a file that does not identify what plan she is on. • In some cases the interval data will not (or will not appear to) add up to billed consumption data. Even where there is a good explanation for this it is hardly likely to build confidence. • It is very unclear what sorts of analyses are contemplated that more granular data would support. The most significant savings available to consumers - after they have found the cheapest retailer - result from changes in the nature and timing of their use of networks. Knowing what the existing profile is does not help much if the change required to benefit the consumer changes their profile. Moreover, few distributors have pricing that requires interval data to carry out such an analysis. Even one example of such an analysis would help the case. • We believe that understanding the attributes of existing customers (for example how they heat their homes and what their family structure is) provides very good indicators of the nature of their load profiles. This can be leveraged by all parties without analysing any consumption data at all. • Data being provided “free” to consumers does not mean that it is provided at no economic cost. Unless the value of possible innovations exceeds the cost of acquisition it should not occur. Subsidised innovation can be value destroying.
<p>Q3: Do you have any comments or suggestions about whether the criteria used in developing the proposal are a suitable basis for the proposed Code amendment?</p>	<p>We are not sure that the criteria start from the correct identification of the actual or appropriate “primary custodian” of the data.</p> <p>The criteria talk about provision at reasonable cost (4.2.2 (b)) whereas the actual proposal implies that data provision (up to some threshold) should be at no cost to the consumer (4.3.2).</p>
<p>Q4: Do you have any comments or suggestions about the requirement for retailers to provide consumption data?</p>	<p>The retailer may not currently have the data, the contractual right to acquire it or the database to store it. At the very least the requirements should be <i>permissive</i> as to how consumers gain access to the data.</p> <p>We see no justification in the paper for an approach that <i>requires</i> retailers to provide the data at no cost to the requesting consumer. This should be left as a choice. Some will (and some already do) and some won't.</p>
<p>Q5: Do you have any comments or suggestions</p>	<p>The Code requirement to retain data for 48 months does not, we believe, apply to data that is not</p>

<p>about the process for responding to requests to provide consumption data?</p>	<p>used in the reconciliation process.</p>
<p>Q6: Do you have any comments or suggestions about the development of procedures requiring the supply of data using standardised formats and structures?</p>	<p>There may be other standards already in place that are more suitable for the purpose.</p>
<p>Q7: Do you have any comments or suggestions about whether retailers should be required to hold consumption data?</p>	<p>If they do not currently hold it then it should not be assumed that they can gain access to it at zero cost. If they do currently hold it then provision to third parties may not align with their contracts with the metering/data providers. Since the data may not have been used for billing, or be consistent with billed quantities, there can no presumption that it will be error free or consistent with billing data. If the data is to be so validated it will add material cost to the process.</p> <p>As noted in the paper and above, such a requirement drives cost into the retailer's business, particularly if the retailer has a low cost business model.</p> <p>What if the retailer cannot agree terms for provision of such data by the MEP?</p>
<p>Q8: Do you have any comments or suggestions about the requirements of the process for providing interval data?</p>	<p>It is not clear if retailers are able to contract out their obligations, for example by entering into arrangements with MEPs or other parties. It would seem sensible to allow this.</p> <p>We note that the number of MEPs is less than the number of retailers, and that MEPs are generally better resourced and more expert at data management than smaller retailers. MEPs are also arguably less likely to fail.</p>
<p>Q9: Do you have any comments or suggestions on privacy, confidentiality and security of consumer data?</p>	<p>No.</p>
<p>Q10: Do you have any other comments or suggestions on the proposal?</p>	<p>See our responses to other questions.</p>
<p>Q11: Do you agree that the purpose and objectives of the proposal as set out in section 5.2 are appropriate and consistent with the Authority's statutory objective? If not, why not?</p>	<p>No comment.</p>
<p>Q12: Do you agree that the proposal is preferable to other options? If not, please explain your preferred option in terms consistent with the</p>	<p>No.</p> <p>In our view the paper has not established that there is a material unmet need, has not adequately considered the risk of unintended consequences or potential contractual constraints on acquisition</p>

<p>Authority's statutory objective.</p>	<p>and dissemination of the data and has not identified a market failure.</p> <p>We believe a regime that leaves it up to the retailer whether they procure and/or provide the data, and at what (if any) cost, would lead to superior economic outcomes. For example third party service providers should be prepared to pay the cost of acquiring the data if they can indeed add value for consumers in excess of the cost. If they cannot, the data should not be acquired.</p> <p>We agree that option 4 should not be progressed at this time as it is likely to be much more expensive and intrusive.</p>
<p>Q13: In particular, do you agree that option 1 is better than option 4?</p>	<p>Yes, without agreeing that option 1 is superior to the status quo.</p>
<p>Q14: What are your views on the establishment of a centralised meter data store at some point in the future?</p>	<p>It would need to be considered on its merits at that point.</p> <p>We note that a common data store might arise as a commercial solution to the perceived problem.</p>
<p>Q15: Do you agree with the assessment of benefits, costs and net benefits? If not, please explain your reasoning.</p>	<p>No.</p> <p>This method of benefit assessment can be characterised as follows:</p> <ul style="list-style-type: none"> • An idea or proposal for change is raised • We can see that it might generate some benefits • The industry is big, so even if the benefits are small on a percentage basis and / or there's not much chance of the benefits actually accruing, that still adds up to a large dollar value of expected benefits • That large benefit value is much bigger than the likely costs. <p>We do not see how any proposal for a change to the Code could fail a net benefits test under this approach. This means the approach is not useful, since it cannot discriminate between good and bad ideas.</p> <p>However, IF benefits are real and material, then third parties should already be offering services to consumers be it on a fee basis or a share of savings basis. In other words, where is the market failure?</p> <p>As noted above, the approach also assumes that there is always more efficiency to be gained, and that the existing competition is insufficient to drive most of the potential efficiency gains.</p> <p>The paper understates the potential risk to innovation by existing retailers, and may have significantly understated the financial and contractual barriers to data acquisition and provision. In effect the proposal free-rides on existing retailers' arrangements (if they exist).</p> <p>We are puzzled by the assumption in Table 5 that shows the modification cost being highest for medium sized retailers. We would have thought the cost per retailer would be fairly similar</p>

	<p>irrespective of size, and we believe the cost could easily be much higher than even the highest of the estimates.</p> <p>Regarding dynamic efficiency (5.4.33 to 5.4.35), it is not the risk that there is reduced investment in smart metering technology that is important, but rather the risk that certain functionality is not enabled or supported. Smart metering is much more than the equipment at customers' premises. Commercially, no party will willingly incur costs that it cannot recover from someone.</p>
<p>Q16: Do you agree that with the Authority's assessment that the proposed Code amendment meets the requirements of Section 32 of the Act?</p>	<p>No.</p> <p>We do not believe there is a clearly identified market failure.</p> <p>We doubt the proposal will produce net benefits.</p>