

Electricity Authority,  
PO Box 10041,  
Wellington 6143

12 June 2019

## **Quick Wins for Increasing Access to Electricity Services**

Dear Sir/Madam,

Thank you for the opportunity to make a submission in regards to the proposed Code change which, in our view, goes a long way towards 'finishing the job' on the Retail Data Project.

### **The Good**

The benefits are correctly identified and a process that facilitates digital authorisation, utilising digital signatures, and which is standardised across the industry is exactly what is needed. In addition, the active engagement by the Authority with the Privacy Commissioner to design a process which respects both a consumer's right to privacy, as well as their right to authorise agents to access their data is key to resolving the issues with TPP authorisation.

The industry has clearly demonstrated that left to their own devices, retailers will err towards their own self interest (protecting against privacy breach risk) at the expense of a consumer's data portability. By stipulating what constitutes an acceptable authorisation, the Code proposal will resolve this issue.

### **The Bad**

We have some concerns that the proposed Code amendment will not actually achieve the design proposed in Figure 1.

Specifically, given the experience of the last 3 years, it is naive to think that retailers won't request a copy of the authorisation for most, if not all requests. Paragraph 3.31 of the consultation paper suggests this will be possible, but this seems to be outside the functional scope of the API (perhaps due to concerns with the Authority having personal information). We can't reconcile this. The API should specifically allow for authorisation to be demonstrated (rather than just claimed) otherwise we will be back where we started in that there will be ad-hoc processes for passing authorisations around.

We note that the registry hub already handles significant amounts of personal information through EIEPs between retailers and lines companies. Storing authorisation information is not necessary, rather authorisation ids and hash values of the data fields may be a sufficient record for the Authority to keep in its systems.

The Code amendment doesn't appear to 'set out the grounds for this decision' (accept/reject) as is described in figure 1.

The fields in the API don't appear to marry to those required for acceptance in the Code amendment.

Two days may as well be 2 weeks for data-driven electricity services. 2 minutes would be more appropriate for accept/reject notifications where digital signatures have been provided.

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## The Ugly

Whilst it is great that this proposal is being pursued with pace as a set of 'quick wins', we have concerns with the fact that it has taken 3 years for there to be a review and subsequent response to the issues identified. The RDP review paper (in paragraphs 4.32 - 4.34) noted that clear signs of this issue were available as early as 1 year after implementation of the 2016 changes. There were also numerous submissions, not limited to our own, formal and otherwise, to suggest that the changes were ineffective due to issues with data authorisation.

Again, it is great to see some positive action now, but the process is not 'failing early' enough to provide the rapid changes that will be required for consumers to benefit from new technologies and business models. This lesson could be applied to other areas of focus for the Authority, but also in regard to this proposal. If further issues emerge and are clear after 6-12 months, these should be addressed with urgency.

Similarly, especially as it is a market facilitation measure, designing an API through an industry consultation process is probably not going to be effective. Submissions will no doubt highlight some important issues with the design, but it is important to use these to inform an iterative approach, using trials with a small number of parties before finalising a design.

Overall we think this proposal has the potential to be one of the most beneficial to consumers that has been undertaken in many years, and congratulate the Authority for making this move. As they say, and indeed, like our submission, better late than never.

We answer the specific questions in the consultation paper below, but if you have any further questions or would like to discuss any aspect of this submission then please don't hesitate to contact me.

Regards,

Stuart Innes  
CEO emhTrade

*Do you agree with the Authority Proposal to amend the Code to establish the contents required for an information request to be valid? Why?*

Yes, as we've previously noted to the Authority we are sure that there are valid claims of authorisation that are being rejected in breach of the Privacy Act. This has resulted in an inefficient equilibrium because it is not viable for an individual agent to challenge this in the courts to establish the contents required, thus regulatory intervention is warranted.

*Do you agree with the Authority proposal to amend the Code to prohibit retailers from requiring additional information and from requiring the information to be provided in a particular format? Why?*

Yes. Anything else would fail to achieve standardisation.

*Do you agree with the Authority proposal to amend the Code to establish timeframes for communicating a rejection or revocation of an authority? Why?*

Yes, although 20-120 seconds would be more appropriate for a rejection where that authorisation was through a digital signature.

Although we recognise it is outside the scope of this proposal, the Authority should keep a watch on whether 5 days remains an appropriate turnaround time for consumption data. If the proposal is successful, this is likely to be the next constraint to further development of digital services that utilise consumption data.

*Do you agree with the Authority proposal to establish an Agent Authorisation API? Why?*

Yes, although as described above we see some issues with the design in that it only allows an agent to claim authorisation rather than evidence it, where the Code amendment allows retailers the opportunity to ask for that evidence. We think this will be required for virtually all requests, so the API should support that.

*Should use of the proposed Agent Authorisation API be mandatory for both agents and retailers?*

Yes, but perhaps only where a digital signature is used, and without inhibiting agents and retailers to mutually agree an alternative process, thereby allowing further innovation. The API should be a fallback position that all agents can rely on being supported by all retailers.

*Do you agree with the inclusion of the three additional registry fields into the ICP connection data API and My meter web portal? Why?*

We think further consideration of the impact of the 'in-switch' flag should be given in the context of the work on saves and winbacks that has been undertaken by both MDAG and the EPR. Many incumbent retailers will have contact information that can be mapped to an ICP and are likely to utilise the in-switch flag to insert themselves into a switch process - an 'intercept' rather than a save or winback - which may have a negative impact on retail competition, as only some participants will have the data to map from an ICP to a potential customer and their contact details. In that sense we question the assertion in para 3.43 that this is not personal information is correct.

*Do you agree that there are other fields that have not been identified that should be added to the ICP connection data API and My meter web portal? Why?*

No comment

*Do you agree that the proposals do not breach the obligations imposed by the Privacy Act of 1993? Why?*

As per question 6, the fact that an ICP is in-switch could become Personal Information if provided to any party that was able to map a customer/person to that address. The act of switching power companies is Personal Information (as opposed to say the ANZSIC code of the property).

On the whole though, we think that, rather than breaching the rights of a consumer, the proposal effectively underpins and reinforces the obligations that retailers have under the Privacy Act. That is, the obligation to provide personal information to an agent of any person about whom they hold that information where it is reasonable to believe that agent is duly authorised. By providing clarity around what is reasonable, the amendment will end the practice of using unwarranted or at least overly-conservative privacy concerns as a means to withhold data.