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Submissions
Electricity Authority
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By email: submissions@ea.govt.nz

ERANZ submission on quick wins for increasing access to electricity services

The Electricity Retailers Association of New Zealand (ERANZ) welcomes the opportunity to provide feedback on the Electricity Authority's (the Authority) 23 April 2019 consultation paper: Quick wins for increasing access to electricity services.

In this submission, ERANZ is commenting on the high-level principles underpinning the drive to improve the processes around access and sharing of consumer data, and the issues that could result. As ERANZ is not engaged at an operational level our members are better placed to provide a detailed assessment of the technical and practical implications of by the three proposals discussed in the consultation paper.

We do however note that a number of our members have expressed strong misgivings about the drafting of the Authority's proposal. Some have received initial feedback from the Privacy Commission which leaves them in doubt as to whether the current proposal will enable retailers to comply with their obligations to customers under the Privacy Act, and therefore risks exposing the industry to criticism it has failed to sufficiently protect and ensure the security of customer data.

ERANZ urges the Authority to engage fully with the detail of the submissions from ERANZ members. Unless there is change through the submissions process, ERANZ is concerned that the Authority's proposal risks erosion of customer confidence in the industry

ERANZ supports improved data access but protecting consumers remains paramount

ERANZ strongly supports the principle that consumers (or their appointed agents) should have easy access to their electricity consumption data. Consumption data is an important resource, having value in a wide range of applications, including enabling new forms of consumer participation in the market.

However, to maintain consumer trust and confidence in the electricity industry it is essential that any use of a consumer's data is made with their knowledge and consent, and only used for the purposes authorised by the consumer.

In his 2017 briefing to the incoming minister, the Privacy Commissioner noted:

“The operation of an innovative and vigorous economy and an efficient government depends on confidence in organisations’ ability to treat personal information appropriately. Companies and government agencies have found that inadequate attention to privacy of customer and client data can erode trust and confidence, impede the delivery of essential public services, and wipe out shareholder value.”¹

Consumers can authorise others to access their consumption data on their behalf. The retailer processes for verifying a consumer’s authorisation is paramount and must comply with the Privacy Act.

Retailers do not and should not take this verification lightly. Inappropriate disclosure of data will result in consequences for retailers both through the sanctions contained in the Privacy Act and through reputational damage.

Any mandated process for verifying and providing agents with customer data needs to be sufficiently robust and balance the obligations of the retailer with respect to their duties to their customers, while not being overly onerous for the agent.

Retailers are invested heavily in improving data access

Many retailers have either built, or are in the process of building, online portals via which consumers can access their data directly. Most households (around 90 per cent of ICPs) can now independently access their consumption data at any time. These consumers can then share their data with whomever they decide, without any need for involvement with their retailer.

Retailers have experienced a marked change in the nature of data requests, in terms of both frequency and quantum. In 2017 this prompted ERANZ to set up Data Working Group, which focuses on issues involving the use, security, and sharing of data with a view to improving retailer and sector-wide understanding and processes.

Benefits of a mandated process need to outweigh the cost

While ERANZ supports steps to improve customers’ and agents’ access to data, we do have concerns that codifying the process for agent request for consumers data could result in higher operational costs as a result of retailers needing to build and maintaining new systems, or change existing systems, to comply with mandated requirements. Dependent on the final processes are chosen, these costs could be significant and would ultimately be borne by electricity users.

¹ [Briefing to the incoming minister of justice: Hon Andrew Little, from the Office of the Privacy Commissioner, October 2017](#)

Given consumers can increasingly access and share their data without retailer involvement, we are concerned the costs of moving to a mandated process may be disproportionate to the scale of the problem the proposals seek to mitigate.

International trends regarding data should be considered

We need to ensure that mandated processes are not just fit for purpose now but are likely to continue to be so in the future.

Information privacy and data protection is a dynamic field that has developed rapidly against a background of technology changes such as cloud computing and data analytics; social networking; cross-border data transfers; the Internet of Things; artificial intelligence and robotics. Data privacy is an area of increasing academic research internationally. The conclusions are that more safeguards are required, not less.

The European Union and Australia have recently moved to grant more protections for consumers of their data. For example, the European Union's General Data Protection Regulation (GDPR)² brings a new set of "digital rights" for EU citizens. GDPR standards lift the baseline internationally in response to the challenges to consumers and data protection in today's global digital economy.

Technology will likely diminish the need for consumption data solely via smart meters

Unlike overseas jurisdictions, the New Zealand electricity sector has been notable in rolling out smart metering technologies without a regulatory mandate. These technologies enable more timely collection and remote reporting of electricity consumption data without estimation, but have inherent constraints. Smart-meters may be leapfrogged by emerging technologies that enable real-time, consumer-level electricity consumption to be accurately estimated. These technologies could be as simple as being able to remotely identify what internet-connected devices a consumer is using at any given time, given the known power consumption characteristics of a given device. Hence, the competition to understand consumers' behaviours and preferences may advance through technologies other than smart metering.

Regulatory treatment should allow for the possibility of this longer-term outcome and ensure regulation does not impede it or create costly ongoing compliance obligations.

Conclusion

ERANZ is supportive of ensuring customers and their agents can access data. However, the industry must be cognisant of the need to balance the drive for competition and innovation via greater data access, against the protection of the rights of consumers. Care must also be taken that the costs imposed through implementing a mandatory regime are proportional to the benefits gained, and the scale of the problem it seeks to resolve. Wider longer-term privacy and technological trends should also be considered.

² <https://www.eugdpr.org/>

Thank you for your consideration of this letter. We look forward to continuing to work with the Authority for the benefit of the sector and the long-term interests of consumers.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Burrows', with a long horizontal flourish extending to the right.

Cameron Burrows
Chief Executive