Submission template

### Unlocking value from our customer data

This is the submission template for the discussion document, Unlocking value from our customer data.

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in the discussion document by **5pm on Monday 24 July 2023**. Please make your submission as follows:

1. Fill out your name, organisation and contact details in the table: “Your name and organisation”.
2. Fill out your responses to the consultation document questions in the table, “Responses to discussion document questions”. Your submission may respond to any or all of the questions in the discussion document. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. If you would like to make any other comments that are not covered by any of the questions, please provide these in the “Other comments” section.
4. When sending your submission:
	1. Delete these first two pages of instructions.
	2. If you wish for your submission to be published anonymously, please state this in the cover letter or e-mail accompanying your submission.
	3. Note that, except for material that may be defamatory, MBIE intends to upload PDF copies of submissions received to MBIE’s website. MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission. If your submission contains any confidential information:
		1. Please state this in the cover page or in the e-mail accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 that you believe apply. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.
		2. Indicate this on the front of your submission (eg the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
	4. Note that submissions are subject to the Official Information Act 1982 and may, therefore, be released in part or full. The Privacy Act 2020 also applies.
5. Send your submission:
* as a Microsoft Word document to consumerdataright@mbie.govt.nz(preferred), or
* by mailing your submission to:

Consumer Data Right Project Team

Commerce, Consumers and Communications

Ministry of Business, Innovation & Employment
PO Box 1473

Wellington 6140
New Zealand

Please direct any questions that you have in relation to the submissions process to consumerdataright@mbie.govt.nz***.***

## Submission on discussion document: *Unlocking value from our customer data*

### Your name and organisation

|  |  |
| --- | --- |
| **Name** |  |
| **Organisation (if applicable)** |  |
| **Contact details** |  |

[Double click on check boxes, then select ‘checked’ if you wish to select any of the following.]

[ ]  The Privacy Act 2020 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

[ ]  MBIE intends to upload submissions received to MBIE’s website at [www.mbie.govt.nz](http://www.mbie.govt.nz). If you do not want your submission to be placed on our website, please check the box and type an explanation below.

I do not want my submission placed on MBIE’s website because… [Insert text]

### Please check if your submission contains confidential information:

[ ]  I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because… [Insert text]

### Responses to discussion document questions

|  |
| --- |
| **How will the draft law interact with protections under the Privacy Act?**  |
|  | Does the proposed approach for the interaction between the draft law and the Privacy Act achieve our objective of relying on Privacy Act protections where possible? Have we disapplied the right parts of the Privacy Act? |
|  |  |
| **Consent settings: respecting and protecting customers’ authority over their data** |
|  | Should there be a maximum duration for customer consent? What conditions should apply? |
|  |  |
|  | What settings for managing ongoing consent best align with data governance tikanga? |
|  |  |
|  | Do you agree with the proposed conditions for authorisation ending? If not, what would you change and why? |
|  |  |
|  | How well do the proposed requirements in the draft law and regulations align with data governance tikanga relating to control, consent and accountability? |
|  |  |
|  | What are your views on the proposed obligations on data holders and accredited requestors in relation to consent, control, and accountability? Should any of them be changed? Is there anything missing? |
|  |  |
| **Care during exchange: standards** |
|  | *Do you think the procedural requirements for making standards are appropriate? What else should be considered?* |
|  |  |
|  | *Do you think the draft law is clear enough about how its storage and security requirements interact with the Privacy Act?* |
|  |  |
|  | *From the perspective of other data holding sectors: which elements of the Payments NZ API Centre Standards[[1]](#footnote-1) are suitable for use in other sectors, and which could require significant modification?* |
|  |  |
|  | *What risks or issues should the government be aware of, when starting with banking for standard setting? For example, could the high security standards of banking API’s create barriers to entry?* |
|  |  |
| **Trust: accreditation of requestors** |
|  | Should there be a class of accreditation for intermediaries? If so, what conditions should apply? |
|  |  |
|  | Should accredited requestors have to hold insurance? If so, what kind of insurance should an accredited requestor have to hold? |
|  |  |
|  | What accreditation criteria are most important to support the participation of Māori in the regime? |
|  |  |
|  | Do you have any other feedback on accreditation or other requirements on accredited requestors? |
|  |  |
| **Unlocking value for all** |
|  | Please provide feedback on:* *the potential relationships between the Bill safeguards and tikanga, and Te Tiriti/the Treaty*
* the types of use-cases for customer data or action initiation which are of particular interest to iwi/Māori
* any specific aspirations for use and handling of customer and product data within iwi/hapū/Māori organisations, Te Whata etc, which could benefit from the draft law.
 |
|  |  |
|  | What are specific use cases which should be designed for, or encouraged for, business (including small businesses)? |
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|  | What settings in the draft law or regulations should be included to support accessibility and inclusion? |
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|  | In what ways could regulated entities and other data-driven product and service providers be supported to be accessible and inclusive? |
|  |  |
| **Ethical use of data and action initiation** |
|  | What are your views on the proposed options for ethical requirements for accreditation? Do you agree about requirements to get express consent for de-identification of designated customer data? |
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|  | Are there other ways that ethical use of data and action initiation could be guided or required? |
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| **Preliminary provisions** |
|  | What is your feedback on the purpose statement? |
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|  | Do you agree with the territorial application? If not, what would you change and why? |
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| **Regulated data services** |
|  | Do you think it is appropriate that the draft law does not allow a data holder to decline a valid request? |
|  |  |
|  | How do automated data services currently address considerations for refusing access to data, such as on grounds in sections 49 and 57(b) of the Privacy Act? |
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| **Protections** |
|  | Are the proposed record keeping requirements in the draft law well targeted to enabling monitoring and enforcement? Are there more efficient or effective record keeping requirements to this end? |
|  |  |
|  | What are your views on the potential data policy requirements? Is there anything you would add or remove? |
|  |  |
| **Regulatory and enforcement matters** |
|  | Are there any additional information gathering powers that MBIE will require to investigate and prosecute a breach? |
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| **Administrative matters** |
|  | Are the matters listed in clause 60 of the draft law the right balance of matters for the Minister to consider before recommending designation? |
|  |  |
|  | What is your feedback on the proposed approach to meeting Te Tiriti o Waitangi/Treaty of Waitangi obligations in relation to decision-making by Ministers and officials? |
|  |  |
|  | What should the closed register for data holders and accredited requestors contain to be of most use to participants?  |
|  |  |
|  | Which additional information in the closed register should be machine-readable? |
|  |  |
|  | Is a yearly reporting date of 31 October for the period ending 30 June suitable? What alternative annual reporting period could be more practical? |
|  |  |
|  | Should there be a requirement for data holders to provide real-time reporting on the performance of their CDR APIs? Why or why not? |
|  |  |
|  | What is your feedback on the proposal to cap customer redress which could be made available under the regulations, in case of breach? |
|  |  |
| **Complaints and disputes** |
|  | In cases where a data holder or requestor is not already required to be member of a dispute resolution scheme, do you agree that disputes between customers and data holders and/or accredited requestors should be dealt with through existing industry dispute resolution schemes, with the Disputes Tribunal as a backstop? Why or why not? |
|  |  |

### Other comments

1. New Zealand API standards to initiate payments and access bank account information. They are based on the UK’s Open Banking Implementation Entity standards but tailored for the New Zealand market. Market demand has driven development and led to the creation of bespoke functionality for New Zealand. [↑](#footnote-ref-1)