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Submission on Exploring a Consumer Data Right for the Electricity Sector

Bluecurrent welcomes the Ministry of Business, Innovation and Employment's (MBIE) discussion paper on *Exploring a consumer data right for the electricity sector* (the Discussion Paper), dated August 2024.

As indicated in Bluecurrent's submission on the *Customer and Product Data Bill* (CPD Bill), we support the introduction of an economy-wide framework for a consumer data right (CDR) in New Zealand. We support a well-designed and cost-effective CDR that makes it easier for consumers to access their data, and for third parties to provide new and innovative services that benefit consumers.

We support a sectoral designation approach for introducing CDR in New Zealand and welcome an early designation of the electricity sector.

To facilitate the development of any CDR arrangements in the electricity sector, we suggest:

- that MBIE commission a sector-wide study quantifying the potential costs and benefits of an electricity CDR;
- the development of cost allocation principles prior to the determination of any electricity CDR fees and charges;
- an industry-led development of API standards and protocols for the electricity CDR in the first instance, akin to the industry-led development of APIs for the banking CDR;
- that alignment between the electricity CDR and the *Electricity Industry Participation Code* be prioritised in the CDR's design, implementation, and operation; and
- that electricity CDR regulations provide that the electricity CDR will not interfere with existing commercial agreements and other ways of accessing data, including the ability to agree alternative access terms outside of the CDR framework – to preserve consumer choice.

We set out our responses to the consultation questions, including discussion of the above suggestions, using the submission template provided by MBIE for this consultation (attached).

We are happy to discuss our submission with MBIE officials or provide further information that MBIE may find useful to progress its work on the electricity CDR. Please contact

No part of this submission is confidential, and we are happy for MBIE to publish it in its entirety.

Yours sincerely

Neil Williams
Chief Executive

Responses to MBIE's consultation questions - Bluecurrent

The Energy Use Policy team welcomes your feedback on as many sections as you wish to respond to; please note you do not need to answer every question.

Status quo and problem definition	
1.	What are your experiences of accessing consumer and product data for electricity under the status quo?
	Bluecurrent is a smart metering and data services provider and is not a data access seeker under current regulatory and market arrangements. We believe that data access seekers – such as electricity consumers, retailers, distribution networks, and flexibility service providers – are better placed to respond to this question. (*Note*: In relation to retailers, Bluecurrent has been a data provider for retailers seeking to fulfil consumer data requests. We often perform this function when consumer data requests occur in large numbers, i.e. hundreds of ICPs.)
2.	Do you agree with our summation of the status quo and problem definition? Is anything missing or incorrect in your view? And please provide any evidence you may have to support your views.
	Bluecurrent broadly agrees with MBIE's summation of the status quo and problem definition regarding data access in the electricity sector. The introduction of a consumer data right (CDR) in New Zealand has gained widespread support (including cross-party support in Parliament), with its potential benefits comprehensively identified in the *Customer and Product Data Bill*. We support a CDR that is well-designed and cost-effective, making it easier for consumers to access their data and for third parties to provide new and innovative services that benefit consumers. While the benefits of CDR were discussed in previous MBIE consultations, there appears to be an absence of sector-wide studies quantifying its overall benefits and costs for the electricity sector. We therefore suggest that MBIE commission such a study, which could also quantify the likely size of the investments required to deliver the expected benefits of CDR in a timely manner. The study could further identify the type of approaches that would be most cost-effective in achieving the outcomes envisaged in the *Customer and Product Data Bill*. We note that various sector-wide studies had been conducted which quantified the potential benefits and costs of other specific reforms in the New Zealand electricity sector. These include, among others, Sapere's study on understanding the potential of distributed energy resources (DER), Distributed-Energy-Resources-Understanding-the-potential-main-report-final.pdf (srgexpert.com), and the Boston Consulting Group's report, *The Future is Electric*, the-future-is-electric-full-report-october-2022.pdf (bcg.com). Sector-wide cost-benefit studies had also been commissioned to inform the Australian Energy Market Commission's work on flexible trading arrangements (or multiple trading relationships), e.g. Energeia Report- Benefit Analysis of Load Flexibility from CER - 15 Aug 2024.pdf (aemc.gov.au). Similar studies focusing on CDR would help provide clarity around the costs and benefits of designing and implementing an electricity CDR in New Zealand, and greater certainty for those who will be captured by, or intend to actively participate in, this new regime.

	The above study, or similar/other studies, could also examine the barriers behind the low uptake of CDR in designated sectors in Australia and how those barriers can be avoided or addressed in New Zealand.
3.	Do you think that regulatory options are necessary to unlock better access to customer and product data?
	A regulatory option such as a CDR could provide a more standardised access to designated customer and product data, particularly for third parties. CDR is expected to provide a level of consistency in terms of speed and formats for data delivery in designated sectors. Having (standardised) access to granular data enables third parties to develop new and alternative offerings and compete in the market. The delivery of customer and product data is not costless, regardless of the terms or method of access and availability; there are costs to the production, secure storage, routine archiving or deletion, and dissemination of data. In this regard, we suggest that cost allocation principles be developed to help determine how costs under a potential electricity CDR could be allocated efficiently, fairly, and in a transparent manner. The sector-wide cost-benefit study we suggest in our response to Question 2 could help inform that principles development process. While CDR may be a regulatory option, it does not necessarily mean it cannot be designed to be sufficiently flexible to respond to market and technology changes. We would support industry-led approaches in the development of API standards and protocols for the electricity CDR while preserving flexibility 'in the how', e.g. technical specifications and functionalities. Industry participants are highly familiar with existing data access arrangements and can provide practical insights that would help facilitate the establishment of the electricity CDR. We value the greater flexibility and speed that industry-led approaches can provide, particularly in the early stages of CDR implementation, compared to a centralised or highly structured approach. Industry-led approaches provide greater flexibility for errors to be corrected or improvements to be made early in the process. Inputs from multiple sector participants, subjected to robust discussion and testing, help ensure that unintended consequences can be exhaustively identified and avoided.
4.	What do you consider to be the likely outcomes for access to customer and product data in the absence of a CDR for electricity?
	An electricity CDR is intended to provide a level of consistency in the speed and formats by which consumers and third parties can access data for their own benefit, or the benefit of other consumers, respectively. CDR is expected to provide a predictable consumer outcome for a predictable cost and timeframe and enable new/third parties, who currently do not have entitlement to data, to obtain it to develop new or innovative services. The potential benefits of an electricity CDR can be better realised if it is designed to interact seamlessly with the *Electricity Industry Participation Code* (the Code) and ongoing and impending data-related reforms undertaken by the Electricity Authority. This will minimise confusion among industry participants and consumers, and avoid unnecessary compliance costs that will ultimately be borne by consumers. Consumer choice should be protected by ensuring that the electricity CDR will not interfere with existing commercial agreements and other ways of accessing data, including the ability to agree

	alternative access terms outside of the CDR framework. This will also ensure that other ways of accessing data, and the ability to access data that may not be captured by the CDR regime, are available to all data access seekers.
What a consumer data right for electricity could look like	
5.	Who else may be impacted by a designation of the electricity sector? Should particular groups or classes of entities be explicitly included or excluded from a potential designation?
	In Bluecurrent's view, MBIE has correctly identified the individuals and parties that could be captured and impacted by a designation of the electricity sector. These include consumers (individuals and entities), accredited requestors, third parties, and data holders. Other relevant parties include MBIE, the Office of the Privacy Commissioner, and dispute resolution scheme.
6.	What customer data do you think is the most important? And what else (now or in the future) would be important? And why? What are the benefits from consumers having ready access to this data?
	Bluecurrent generally agrees with the framework proposed by MBIE in considering the datasets that could be included for electricity CDR designation (page 22 of the Discussion Paper): • Whether the consumer dataset supports a use case that promotes the interests of consumers. • The availability or need to access other data to support the use case. • The ease of providing the data in accordance with the CDR technical standards, which includes a consideration of the cost of satisfying the technical standards. We consider the customer data identified on page 23 of the Discussion Paper to be a good starting point for determining the core data that could be designated. The proposed core data includes: 1) customer-related data such as the name of current account holder, current plan the customer is on, meter type/configuration, ICP, and address, and 2) metered data, i.e. half-hourly consumption data. We suggest that any electricity CDR regulations be designed to be sufficiently flexible to accommodate other customer data that is not included in the initial dataset, or will become important as markets and technologies evolve, to be captured for CDR designation. It is reasonable to expect increasing demand for more complex data as new and innovative products and services are introduced into the electricity market. For example, information on dimensions such time, seasonality, days of the week, number of measuring elements/phases/registers may be required. The delivery of more complex data is likely to involve costs that should be considered in the design of the electricity CDR, e.g. costs associated with repeatable methods for customer identification and authorisation, regardless of the detailed datasets that may be developed.
7.	If access to customer data is designated for all consumers (residential, small business, large business and large consumers) what are the potential benefits, risks or costs associated with each type of customer? And why?

	Bluecurrent agrees with MBIE's default preference for all consumers to have access to their own data and be able to share it. The value that CDR can potentially unlock not only depends on consumer size, but also in how consumers use the data (e.g. in making investment decisions), or add value to it, for themselves and their customers. Currently, all types of consumers can already access data in various ways and in varying degrees of ease. CDR is expected to enable or speed up consumer and third party access to designated customer and product data. Limiting improved access to data via CDR to certain consumer types would defeat the purpose of achieving the economy-wide benefits that CDR is intended to achieve. We believe that a key aspect in ensuring a cost-effective implementation of the electricity CDR and the timely delivery of its benefits is to keep the initial arrangements simple and robust ('do the basics well'). Importantly, this would help promote initial consumer uptake. In this regard, we suggest that future MBIE consultations examine the causes of the slow uptake of CDR in designated sectors in Australia, so they can be avoided or addressed in the introduction of CDR in New Zealand.
8.	What product data do you think is the most important? And what else (now or in the future) could be important? And why? What are the benefits from this data?
	Bluecurrent broadly considers the product data being considered by MBIE for potential designation on page 24 of the Discussion Paper to be important for consumers. These include: 1) tariff/pricing plans, 2) plan types, 3) network, 4) required meter type/configuration, and 5) additional fees, discounts, credits or other benefits.
9.	Are there any other issues with product data we should be aware of? And why? Please provide examples.
	In Bluecurrent's view, retailers and traders who provide market offerings directly to end customers are better placed to identify issues to be explored in relation to product data.
10.	What factors should be considered when identifying who the best data holder is under a potential CDR regime? And how might contracting agreements affect the application of a CDR in regard to data holders? (e.g., contracts between metering equipment providers and retailers to share data).
11.	Do you agree with our initial framework for how to identify/designate data holders? Why or why not?
	<u>Response to both questions 10 and 11:</u> Bluecurrent considers the factors outlined by MBIE on page 26 the Discussion Paper to be a good starting point in determining the best data holder(s) for a potential electricity CDR. These include the following: • Who has access to a dataset for any given customer and is capable of being considered for designation as a data holder? • Is the purpose for which the data is held aligned to the purpose for which it would be used if designated?

	• Can the data transfer obligations arising upon designating a consumer dataset under the CDR be satisfied most cost-efficiently by one or a group of entities with access to the dataset, being designated as the data provider? • Are there other competition or public interest reasons to require certain parties with access to the data to be designated as a data provider? As a smart metering and data services provider, Bluecurrent is open to the possibility of performing the role of a data holder for electricity CDR purposes. Greater certainty on what the CDR data holder role specifically involves would assist us in determining our suitability for this role, or what we need to do to become suitable for the role. We expect to make this assessment as MBIE's CDR workstream progresses. We consider it important that any future CDR arrangements will not interfere with existing commercial agreements and other ways of accessing data, including the ability to agree alternative access terms outside of the CDR framework. This will ensure that consumer choice (in how consumers access data) is protected, including the ability to choose what access mechanism best works for different consumers. There is a universe of data that cannot conceivably be covered by the electricity CDR, and consumers' access to this data should not be limited, should they wish to access and use it to develop new or improved products and services.
12.	What actions could be designated for electricity under a CDR? And why? What are the potential benefits from these? Please provide examples.
	Bluecurrent is inclined to agree with MBIE's current proposal not to designate any "actions" at this stage for CDR purposes. We prefer to keep a new CDR regime simple, low-cost, and flexible so it can take off the ground quickly while allowing any necessary features in the future to be easily accommodated by the regime. We therefore suggest that any proposed CDR regulations provide for the flexibility for the addition of actions that could be considered appropriate for designation in future years.
Potential benefits and risks	
13.	What are your thoughts on the potential impacts of a designation on the interests of consumers? Are there any specific benefits that are likely to be enabled with designation? What is the likely scale of the benefits, and over what timeframe will they occur?
	Bluecurrent shares MBIE's observation that "the scale of these [*CDR*] benefits and the timeframe over which they are delivered are currently unclear" (page 29 of the Discussion Paper). As indicated in our response to Question 2, the development of a CDR for the electricity sector can benefit from a sector-wide study of the costs and benefits of its design, implementation, and continued operations. We suggest that MBIE commission such a study which could also assess the likely size of the investments required to deliver the expected benefits of CDR in a timely manner. The study could further identify the type of approaches that would be most cost-effective in achieving this outcome. A sector-wide view of the costs and benefits of an electricity CDR can help individual sector participants make more informed decisions in relation to the roles they may be mandated, or choose, to play under a CDR framework.

14.	Do you have any comments on the specific interests of different types of consumers, such as, residential, business, industrial, rural, Māori, or other groups of consumers?
	As the electricity sector transitions to a highly digitalised future, more data at shorter intervals is expected to be needed by an increasing number of parties. These parties include those listed above, and parties beyond the electricity sector, e.g. transport sector participants. As a smart metering and data services provider, Bluecurrent is willing to work with any parties that require data to develop new and innovative services under current arrangements and any future CDR framework. In fact, we are an active participant in multi-party trials that aim to unlock the value of data and help increase flexibility in the electricity system, e.g. dynamic load control and multiple trading relationships. We are equally happy to work with multiple parties to help facilitate the implementation of CDR in the electricity sector, subject to any necessary regulatory approval(s).
15.	What are your views on the nature and scale of costs/benefits? Who would these costs/benefits apply to and when?
	It is reasonable to expect that the nature and scale of the costs and benefits of an electricity CDR will be driven by the design and development requirements of the new regime, and the costs of maintaining it over time. As indicated in our response to question 2, a sector-wide cost-benefit study will help inform the development of any regulations for an electricity CDR, and therefore the potential costs and benefits to the relevant parties. We reiterate our suggestion that MBIE commission such a study, including the likely size of the investments required to deliver the expected benefits of CDR in a timely manner. The study could also identify the type of approaches that would be most cost-effective in achieving this outcome. It could further identify the causes of the slow uptake of CDR in Australia and how they can be avoided in New Zealand. In addition, we suggest that the costs and benefits of the electricity CDR, should it be implemented, be monitored over time. The online CDR monitoring dashboard that is maintained by the Australian Government could provide a model for monitoring the uptake of CDR in New Zealand, see Performance | Consumer Data Right (cdr.gov.au).
16.	Would you be able to quantify potential additional costs to your organisation associated with designation under the Bill?
	The potential additional costs to Bluecurrent associated with the designation of the electricity sector will depend on the role(s) we will be playing, directly or indirectly, in the implementation and continued operations of the electricity CDR. We expect this to become clearer as MBIE progresses this work, including via future consultations. For example, we expect greater clarity whether MEPs can become data holders and/or accredited data requestors under a CDR framework. Bluecurrent agrees that there will be costs associated with the following (page 30 of the Discussion Paper): • Upfront costs to set up the necessary systems; • Ongoing compliance and functionality costs once the systems have been set up; • Compliance costs for a new regulatory regime; and

	• Costs involved in standards development. In relation to standards development, we emphasise that strong access controls would be required to keep the designated data safe and secure, which will have associated costs. Determining the magnitude of all the above costs is a discovery process, driven by the eventual structure and design of the new CDR framework. For example, API standards development could be initiated by industry participants in the first instance, which is our preferred approach. Industry approaches would also help in the early discovery of potential misalignments between the Code and the electricity CDR, and the development of practical solutions to address them. Our preference is for any initial CDR arrangements in the electricity sector to be kept simple but flexible so that more functionalities can easily be added/removed in the future. This would help ensure that the electricity CDR will not increase the regulatory burden and raise costs for consumers.
17.	Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data?
	Bluecurrent considers the identification and implementation of the appropriate security, privacy and related settings to be critical in the success and sustainability of any CDR arrangements for the electricity sector. They provide the foundations for a robust CDR framework that help instil consumer confidence in CDR for the long term. The electricity sector can learn from the experience of the banking sector and from the implementation of CDR in designated sectors in Australia regarding the benefits and risks of the above settings. We would support industry-led approaches in the development of standards for an electricity CDR, including standards for security and related settings. We consider that overall, standards should help facilitate, rather than hinder or delay, the implementation of any CDR arrangements in the electricity sector.
18.	Are there any risks from the designation to intellectual property rights in relation to customer data or product data?
	Bluecurrent generally agrees with MBIE's assessment that the proposed CDR designation for the electricity sector will not pose risks in relation to property rights. We also agree that this is because designated customer and product data is intended to be confined to data that customers should have access to via retailers' websites, plans, and account data. We suggest that any proposed CDR regulations for the electricity sector explicitly provide that intellectual property created through new technology will not be in the scope of the sector designation.
Other aspects of a potential designation	
19.	What do you consider to be important if designing an accreditation regime for the sector?

	Bluecurrent considers the accreditation criteria set out by MBIE on page 33 of the Discussion Paper to be a good starting point for designing an accreditation regime for an electricity CDR. The proposed accreditation criteria include the following: 1) persons must be fit and proper, 2) entities/persons hold relevant insurance, 3) information security requirements, and 4) demonstrate compliance with the Regulations and Bill. We expect further MBIE consultations to uncover any other necessary criteria that would help ensure the robustness of the accreditation process and instil consumer confidence in accredited data requestors. In addition, any proposed accreditation regime should be cost-effective so as not to drive electricity prices up, ensuring electricity affordability throughout the energy transition.
20.	What are your views on fees for requests for customer electricity data under the Bill? If fees are charged, what limits or restrictions should be placed on fees? Do you have any comments on the costs and benefits of the various options?
	Bluecurrent suggests the development of cost allocation principles prior to determining specific fees and charges for a potential electricity CDR. This will help ensure that costs are allocated efficiently, fairly, and in a transparent manner. Some factors that will influence the level of costs and benefits would be difficult to quantify until key details of any proposed electricity CDR arrangements are determined. These include, for example, the parties that will perform specific roles, the communication and IT standards that will be adopted, timeframe for data delivery, etc. We also suggest that the costs and benefits of the electricity CDR to participants and consumers be assessed over time.
21.	Are there any particular considerations for electricity that should be taken into account for a consumer consenting process?
	Bluecurrent believes that the appropriate privacy and security settings should be in place to protect the integrity of any proposed CDR for the electricity sector. This would instil consumer confidence in CDR processes, helping to ensure that any established electricity CDR will have enduring value for consumers who use it. We are keen to learn from the banking sector's experience in developing APIs for CDR, including the approach used for ensuring that customer consent is protected. In our view, a customer should be allowed to withhold consent at any time, and consent should be time-limited or allowed to expire. This provides greater choice for consumers using the electricity CDR.
22.	Do you think that standards should be led by industry, by government or co-led? What is the role of industry in developing standards? And why?
	Bluecurrent prefers industry-led approaches in the development of standards for an electricity CDR, in the first instance. Industry participants could work together to develop the appropriate API standards and protocols for the verification of customer identity and authorisation for the sharing of the customer's data to third parties – while preserving flexibility 'in the how' such as technical specifications and functionalities.

	Commonly agreed API standards and protocols could also help define minimum service levels that would ensure a level of service consistency across all consumers who use the electricity CDR. In our view, electricity industry participants are well-placed and face strong incentives to work together to develop industry arrangements for an electricity CDR. For example, over the past two years or so, participants have made significant progress in addressing issues around access to power quality data for distribution networks (in addition to consumption data), placing them in a good position to develop other data access solutions involving multiple parties. Existing data access arrangements in the electricity sector can provide insights that would help facilitate the development of CDR in the sector. We are keen to learn any insights and lessons from the banking sector's industry-led development of APIs for the banking CDR. Industry-led arrangements could provide greater flexibility that is much needed in the early stages of CDR design and implementation (compared with highly prescriptive arrangements such as hard-coded rules or regulations). More flexible industry-led approaches could provide greater flexibility for errors to be corrected or improvements to be made early in the process. In such environments, inputs from various perspectives are subject to robust iterative discussion and testing, which helps ensure that unintended consequences can be thoroughly identified and avoided. Importantly, industry-led approaches are more conducive for innovative commercial solutions to be developed, allowing innovation that benefits consumers to flourish.
23.	How do you believe a CDR and the Code could/could not work together?
	Bluecurrent emphasises the need for any proposed electricity CDR and the Code (and other ongoing and impending reforms undertaken by the Electricity Authority) to operate seamlessly. This would help ensure an orderly transition to a more accessible data environment. Alignment between the electricity CDR and the Code would minimise confusion among industry participants and consumers, and avoid unnecessary compliance costs that will eventually be borne by consumers. Electricity industry participants are already facing multiple reforms in a sector that is transitioning towards greater digitalisation and decarbonisation. Overlaying a new CDR framework on the industry, if not well designed, will adversely affect both participants and consumers. More coordinated but flexible approaches, such as the industry-led development of APIs for CDR proposed in this submission, will help ensure that unnecessary complexities and costs are identified and avoided, and the benefits of CDR are delivered in a timely manner. The use of regulatory sandbox-type arrangements could assist in testing transitional and new arrangements that potentially conflict with existing Code provisions. These arrangements can become 'test beds' for new arrangements such as the electricity CDR, which participants should be able to access any time before they 'go live' with their new market offerings.

General comments:

Thank you

We appreciate you sharing your thoughts with us. Please find all instructions for how to return this form to us on the first page.