

4 February 2026

Committee Secretariat
Economic Development, Science and Innovation Committee
Parliament Buildings
Wellington

Dear Committee Members,

Commerce (Promoting Competition and Other Matters) Amendment Bill (Bill No. 237-1)

1. Thank you for this opportunity to make a submission on the Commerce (Promoting Competition and Other Matters) Amendment Bill (the *Bill*) which proposes amendments to the Commerce Act 1986 (*Act*).
2. Orion New Zealand Limited (*Orion*) supports the Bill, and we make this short submission on two aspects of the Bill.

Background

3. Orion is responsible for the electricity distribution network across Central Canterbury, covering both rural and urban areas, including Christchurch. The network spans over 8,000 square kilometres, serving more than 233,000 homes and businesses, making Orion the third largest Electricity Distribution Business (*EDB*) in New Zealand.
4. Orion is a Lifeline Utility for the purposes of the Civil Defence Emergency Management Act 2002. Orion has a statutory duty under this legislation to ensure it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency.
5. Orion is a Council-owned company, with its shareholders being the Christchurch City Council (via Christchurch City Holdings Ltd) and the Selwyn District Council. Orion also owns Connetics, an industry service provider, and together they form the Orion Group.
6. Central Canterbury is experiencing rapid growth and change, with Christchurch at its centre. Electricity distribution is fundamental to the wellbeing and economic prosperity of the region. Orion's services are crucial for both residents and businesses, and Orion is playing a key role in New

Zealand's transition to a low carbon economy.

7. In this context, Orion's Group Purpose of "Powering a cleaner and brighter future with our community" is central to all we do. As Aotearoa New Zealand transitions to a low carbon economy, the energy sector has a critical part to play, primarily through electrification. Orion has established its purpose to be a vital player in that transition for our community and our region. We are focused on helping our community realise its dreams for a future that is new, better, and more sustainable over the long term.
8. Looking ahead, Orion faces a rapidly evolving energy landscape, shaped by climate change, technological advancements, and increasing electricity demand. This demand is driven by the need for decarbonization and population growth.
9. With that background in mind, we now set out our comments on the Bill.

Collaborative activities

10. Orion supports the proposed amendments concerning the recognition of collaborative activities under the Bill. We note that the current Acts's prohibition on cartels can create uncertainty and hesitation among parties considering collaboration. This apprehension may discourage parties from exploring whether their collaborative initiatives could indeed be permissible within the law. As a result, there is a risk that beneficial and legitimate collaborative activities may not proceed, potentially stifling innovation and cooperation. We hope that the changes in the Bill will help alleviate these concerns.
11. The Bill currently provides for a new statutory notification regime to allow firms to notify proposed collaborative conduct and proceed unless the Commerce Commission objects. (See new sections 65E to 65Q and new Schedule 8.) There is also a new power for the Commission to grant class exemptions to proactively exempt classes of collaborative conduct under new section 65R.
12. In light of these new proposed provisions, we ask the Committee to consider including in the Bill, reference to examples of proposed collaborative activities. A particularly useful example is when

activities involve collaborations formed in direct response to an emergency.¹ The Commission has provided guidance for business collaboration during emergencies,² but a legislative example—especially for the energy sector—would help facilitate rapid response in future crises.³

13. We have also identified one small technical change that we ask the Committee to make. Proposed new section 65E sets out the purpose and outline of sections 65F to 65Q. Subclause (3) states that *“This section is only a guide to the general scheme and effect of sections 65F to 65Q.”* We think that’s true of subclause (2) but not of subclause (1) which sets out the purpose (which is to provide a process for streamlined consideration of certain categories of conduct that are likely to be in the public interest or are unlikely to substantially lessen competition.) Other clauses refer to the purpose in new section 65E (e.g., new section 65H, 65L). Our submission is that new section 65E(1) should be split into its own section.

Confidential Information

14. We support strengthening the confidentiality order provisions in section 100 of the Act. In our view the protection of commercially sensitive information is of the utmost importance.
15. We note that new section 100AA introduces new protections for confidential information supplied to the Commission. The Commission would not be able to disclose the information, including under the Official Information Act 1982, unless one or more of the grounds specified in new section 100AA(2) apply. One of the grounds under new section 100AA(2)(e) is that *“the publication or disclosure is to a person who the Commission is satisfied has a **proper interest** in receiving the information; or”*. We note the term proper interest is used in the Reserve Bank of New Zealand Act 2021 and the Financial Markets Authority Act 2011. However, it is not clear what is contemplated by the words “proper interest”. We ask the Committee to consider inserting a definition of “proper interest” in the Bill to put the matter beyond doubt.

¹ If there is an emergency we rely on our stocks of equipment and the like, but for very large emergencies, our stocks and supply chains may be tested. We would collaborate with other electricity distribution businesses in these circumstances, and that was the case for the Cyclone Gabrielle response.

² https://www.comcom.govt.nz/assets/pdf_file/0019/215812/Business-collaboration-in-response-to-an-emergency-Guidance-March-2023.pdf

Concluding comments

16. Thank you again for the opportunity to provide this submission. We do not wish to be heard in relation to this submission.
17. If you have any questions please contact Vivienne Wilson, Policy Lead, Vivienne.wilson@oriongroup.co.nz, (03) 363 9898.

Yours sincerely

Vivienne Wilson

Policy Lead