

## ChargeUp Europe input to DG Competition call for contributions on the role of competition rules to enable sustainability policies

[ChargeUp Europe](#) is an industry alliance acting as the voice of the electric vehicle (EV) charging infrastructure sector. ChargeUp Europe has been formed to accelerate the switch to zero emission mobility and ensure that people can have a seamless driver experience with access to high quality, readily available charging infrastructure across Europe.

As of today, our member companies – Allego, ChargePoint, EDP, EVBox, eway, Fastned, GreenWay, has-to-be and Total - represent over 190.000 charging points in all 27 EU Member States.

Our industry is at the core of the transition to decarbonize the transport sector. Electro-mobility technologies are progressing fast as well as the interest from the European consumers to drive electric. The market rules though are not always adequate since they often refer to other industry segments and fail to respond to the specifics of the e-mobility market configuration.

The e-mobility sector is at the cross-road of energy, transportation and digital policies. All these aspects need to be considered in conjunction in order to protect the driver's interest and at the same time offer them the broadest and most inclusive offer from the market.

Different parties are involved in the ecosystem of e-mobility from the electricity supplier, the charging point owner, the charging point operator, the e-mobility service provider and the driver.<sup>1</sup>

With the current level of maturity of the e-mobility market, **we consider of utmost importance a proper implementation of the existing competition rules to avoid market distortions or incumbent advantage positioning in this sector.**

The Green Deal is the EU policy tool that provides our sector with a strong and clear vision for the long-term. But at the same time, competition authorities have the possibility to foster sustainability by targeted enforcement where anticompetitive practices are similarly detrimental for sustainability perspectives or consumer's interest <sup>2</sup>.

Examples have shown cases where cartels have prevented consumers from buying sustainable products. In our case, we can observe commercial practices that work against the interest of the consumer to access e-mobility services in a competitive way. Our argument is that **European competition policy should help to address some existing market fragmentations in order to enable the Green Deal to deliver on its objectives.**

We list below a few examples related to specific market segments of the e-mobility sector:

### 1) Roaming

- a. **What is Roaming?** It is the possibility for an electric driver to charge at different charging stations (operated by Charging Point Operators) with a subscription or contract with just one e-Mobility Service Provider, without having to subscribe to all of them thanks of cooperation agreement between EV charging service providers.
- b. **What do we encounter?** Some difficulties on interoperability where some large market players (CPOs) do not agree to set bilateral roaming agreements which ultimately leads to market

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<sup>1</sup> Infographics about the e-mobility ecosystem are available on [ChargeUp Europe website](#).

<sup>2</sup> OECD Background note [“Sustainability and competition”](#)

share preservation and undermines the creation of a truly open charging network accessible to all EV drivers.

c. **Impact on the consumer:**

- Fewer opportunities to access a higher number of charging stations with one single subscription.
- High roaming fees if the networks charge third parties more than their own drivers.
- Barrier for employers as they can only use limited networks as a substitute for conventional fuel cards.
- It is also at the same time a barrier to market entry for non-incumbent players.

We consider this anti-competitive behavior as a financial burden for the consumer and a reduction of choice and innovation. Since the EV infrastructure market is still nascent and because e-mobility serves the purpose of the Green Deal, competition policy should be applied in the same terms in this case.

## 2) Concession policies for highways and deployment of chargers

We believe that when Member States allocate dedicated fast-charging sites in open and transparent ways, that enables new players entering the market, it enables fair competition and leads to higher-quality options for electric-vehicle drivers<sup>3</sup>.

We therefore propose that:

- Member States design strategies for how to allocate sites on high-traffic corridors and highways in a transparent and open process and;
- Concessions for fast charging should be dedicated concessions, and not be bundled with other services, such as other energy carrier or restoration, in order to reduce conflict of interest and enable access for all interested market participants.

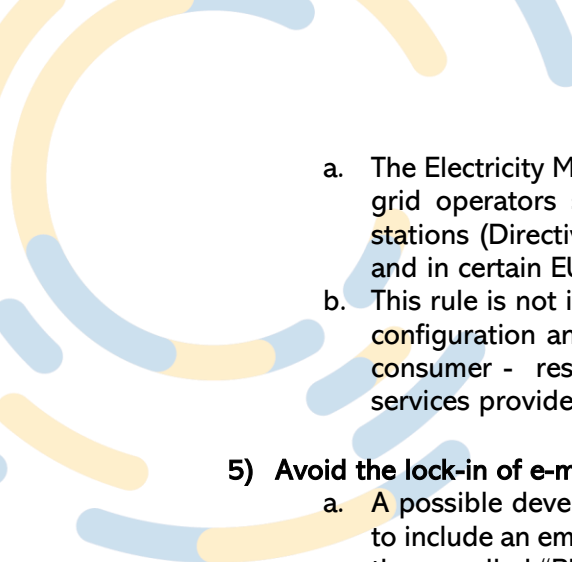
## 3) Public tender design

- a. **What is tendered?** Municipalities, publicly owned companies and also large companies issue tenders for different elements of the charging infrastructure value chain. Some tenders comprise hardware only, some want specific charging hardware, some only tender the backend and others tender hardware but explicitly non-connected low-cost hardware. These procedures need to follow the EU Public Procurement Directive principles.
- b. **What do we encounter?** We encounter tenders that are designed in a way that reduces competition. We have experienced cases where tender criteria:
  - request one charging hardware vendor only via technological features or even the product name (e.g. workplace charging)
  - request charging hardware only that is not networked and therefore not upgradable for grid-friendly charging (e.g. city in Western Germany)
  - request hardware only and want to use their own backend which is not capable of handling grid-friendly charging (e.g. large city)
  - pre-select applicant on revenue basis considering the entire company operations. This therefore favours large corporate entities with sometimes smaller EV divisions compared to state-of-the-art companies in EV charging that have overall smaller turnover due to limited scope of activities.
- c. **Impact on the consumer:** This loss of competition results in the customer getting a solution that is inferior and this in turn is slowing down the EV market uptake. In complex environments such as the EV charging sector, demand control features, billing for various user groups and future-proof systems are crucial.

## 4) Role for the Distribution grid operators

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<sup>3</sup> ChargeUp Europe is currently working on a dedicated position paper which will be available soon.

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- a. The Electricity Market Design directive has outlined very clearly the role that Distribution grid operators should have regarding the ownership and the operation of charging stations (Directive 2019/944, Art.33). DSOs need to act as neutral market facilitators, and in certain EU Member States they currently go beyond their legal mandate.
  - b. This rule is not implemented in all markets yet which is leading to uncompetitive market configuration and restrictive access to new market players, with a consequence for the consumer - restricted offering in terms of Charging Stations operators and e-mobility services providers.

#### **5) Avoid the lock-in of e-mobility services providers**

- a. A possible development in the near future to improve the experience of the EV driver is to include an embedded e-mobility service provider in the vehicle. That would also enable the so-called “Plug&charge” function.
- b. We should avoid that this feature prevents the driver to opt for other e-mobility services providers after the vehicle acquisition.
- c. Open competition between e-mobility services providers should be guaranteed despite commercial pre-agreements between the vehicle manufacturer and the selected e-mobility service provider.

#### **6) Product technical specifications - sockets and shutters**

- a. Market fragmentation on local technical hardware should be addressed and avoided as it leads to market exceptions in the Member States, which ultimately drive increased local cost for EV infrastructure market deployment and limits the choice for consumers.

We fully support the objective of DG Competition to leverage the role that European Competition rules could have in implementing the Green Deal. Under the first title of the consultation dedicated to State Aid, we support the approach to lowering the level of State Aid for activities with a negative environmental impact. In the context of deploying an electric-vehicle charging network though, we stress the importance to target this support to projects where there is evidence of a lack of market interest with the sole objective to develop an integrated network of chargers.

Among the examples listed above, we consider that in many cases Anti-trust rules should be applied in order to avoid restrictive behavior that could materialize in restricting market entries of newcomers.

**19 November 2020**

#### **About ChargeUp Europe**

ChargeUp Europe, based in Brussels, is an alliance representing the Electric Vehicle (EV) charging infrastructure sector. ChargeUp Europe has been formed to accelerate the switch to zero emission mobility and ensure a seamless driver experience with access to high quality, readily available charging infrastructure across Europe. As of today, our member companies – Allego, ChargePoint, EVBox Group, EDP, evway, Fastned, GreenWay, has-to-be and Total - represent over 190.000 charging points in all 27 EU Member States.

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