



Submission to Draft National En-Route EV Charging Network Plan Consultation

Department of Transport

10 November 2023



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission



Introduction

The Competition and Consumer Protection Commission ('the CCPC') welcomes the opportunity to respond to the Department of Transport consultation on the Draft National En-Route EV Charging Network Plan ('the plan').

The CCPC has a statutory function under Section 10(3)(a) of the Competition and Consumer Protection Act 2014 to provide advice to policymakers on matters likely to impact on consumer protection and welfare, or competition, and the CCPC's submission reflects this mandate.

At this crucial early stage in the development of the electric vehicle ('EV') market in Ireland, it will be important that measures that are put in place to encourage the uptake of EVs will ultimately result in greater competition and meet the needs of consumers. Therefore, we welcome the objective in the plan to anticipate demand and to implement strategies to ensure consumers have access to a charging network that they can trust and easily use.

Due to the technical nature of many of the consultation questions, it is not in the remit of the CCPC to address them all. Therefore, we will limit our response to two key questions that concern consumer and competition issues (Questions 8 and 10).

Question 8: As part of chapter 4, a set of guiding principles have been identified to determine possible public interventions. Are you satisfied with the proposed principles, or do you feel that anything is missing?

The CCPC welcomes the inclusion of guiding principles to be taken into account when considering types of public intervention in the EV charging infrastructure.¹ We particularly welcome the inclusion of the principles to encourage and enhance private sector participation², to provide for a positive customer experience and equitable distribution of

¹ It should be noted that the CCPC does not have any role in monitoring and enforcing State Aid rules in Ireland.

² Principle 1

infrastructure across the State³, and to enhance and facilitate innovation among the guiding principles⁴.

We note the references to the importance of competition in the plan. As the review of international best practice cited in the plan has established, competition among prospective providers is a reliable way to obtain the best quality infrastructure at the lowest possible price. We note that the Alternative Fuels Infrastructure Regulation ('AFIR') states that the recharging points for electric vehicles should be developed as a competitive market and that many of the measures included in AFIR, such as Article 5 on recharging infrastructure, are designed to encourage competition in the market⁵.

Any Government interventions in this market should be designed with their competitive impacts in mind. Based on the consultation paper, the CCPC notes such interventions may include subsidies which will require State Aid approval, but they could also include measures which do not involve direct support, but which impact on competitive conditions in the market. One useful means of considering the competitive impact of interventions is by reference to the Organisation for Economic Co-operation and Development ('OECD') competition assessment toolkit when designing any new measures.⁶

The CCPC has also developed a competitive neutrality guidance document that we would encourage all policymakers to familiarise themselves with prior to designing new policies.⁷ The document incorporates elements of the OECD toolkit, and aims to help policymakers evaluate potential policies by providing practical examples of how competition may be affected and sets out a checklist of questions which can be used to test for likely competition impacts. The document should allow policymakers to consider the wider competition impacts of their policies.

³ Principle 4

⁴ Principle 5

⁵ Regulation (EU) 2023/1804: <https://eur-lex.europa.eu/eli/reg/2023/1804/oj>

⁶ The full OECD toolkit can be accessed at: <https://www.oecd.org/competition/assessment-toolkit.htm>

⁷ The full CCPC competitive neutrality report can be accessed at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/Competitive-Neutrality-Guidance.pdf>. This toolkit is aimed at policymakers and includes a series of questions that are intended to help evaluate the impact of the new measure on areas such as the ability of suppliers to compete and information available to consumers.

In relation to the policy for charging infrastructure for EVs, this would mean that policymakers should consider, not just the impact on the EV market, but also how policy could impact the evolution of other markets for low emission vehicles, such as hydrogen vehicles. Ensuring that no barriers are put in place in the development of this market is of particular importance, and we note that Article 6 of the AFIR requires Member States to have a minimum number of publicly accessible hydrogen refuelling stations deployed by 2030.

We believe that the benefits of competition should be referenced among the guiding principles to ensure it is always kept in mind while designing the support options to encourage en-route high powered charging infrastructure. This could be achieved by adding a reference to competition to the explanatory text for guiding principles number one and five.

For guiding principle number one, the reference to competition could be in relation to contestability and ensuring barriers of entry are low in order to allow new companies to easily enter the market. For guiding principle number five, the reference could be on the positive relationship between competition and innovation. This relationship is based on extensive research that shows competitive markets generate incentives for companies to differentiate themselves from their rivals in order to attract more customers. Investment in innovation is a well-established method to create differences and offer a stronger product or service to potential customers.

It will be important that the customer experience is always a key consideration when public interventions are being planned. It is encouraging that principle number four is focused on the customer and has recognised that the needs of customers in different locations (both urban and rural) have to be addressed. The successful uptake of EV vehicles will be enhanced if the results of new policy measures is an improved and positive experience for customers.

It is best practice to regularly review policy measures, and this is particularly relevant for the evolving EV market, as we note that the European Commission emphasis reporting and reviewing in the AFIR. Among the requirements in the AFIR is for Member States to

submit progress reports to the European Commission on the implementation of their national policy frameworks for alternative fuel infrastructure. We note that the AFIR will require the European Commission to review its impact across a number of elements, including whether its pricing components have provided consumers with clear and sufficient information. Since review mechanisms are an important element of the AFIR, it may also be appropriate for the Department to consider reviewing the appropriateness and effectiveness of measures taken under the plan.

Question 10: How well is competition working at present between EV charging providers and what are the key challenges to effective competition (including any emerging competition concerns)?

As the statutory body responsible for promoting competition in Ireland, the CCPC is monitoring the development of the Irish EV charging market. It will be important that customers have a range of options to choose from as the market matures and that no one operator dominates the market. Without effective competition there is a risk that customers will suffer from uncompetitive costs and poor quality of service.

The most comprehensive recent analysis of competition in the EV charging market was conducted by the consultancy firm Charles River Associates on behalf of the EU Commission. A report based on their analysis was published in April 2023.⁸

The report reviewed the market for the provision of publicly available charging infrastructure for EVs across the 27 EU Member States and the UK. Among the objectives of the report was to identify possible competition concerns in the sector. As part of the report, an in-depth investigation of four EU Member States was undertaken. Ireland was included as one of the Member States alongside Italy, Croatia and Belgium. These Member States were selected in order to cover different levels of market maturity ranging from ‘nascent’ to ‘in-development’ to ‘developed’. The report classified Ireland as ‘in-

⁸ The Charles River Associates report is available here: <https://op.europa.eu/en/publication-detail/-/publication/c9f5b4eb-72ee-11ee-9220-01aa75ed71a1>. The CCPC provided views to the authors of the report during its development.

development’ in terms of its EV market maturity. Other Member States considered to be in the same category are Portugal, Slovenia, Italy, Spain and Hungary.

In reaching its findings on Ireland the report took account of its ‘in-development’ stage and that, as an island economy, there is a lack of competition from neighbouring nations. Overall, the report findings support the view that countries exhibiting high levels of concentration are generally markets in their early phase and are in the process of expansion. This is borne out in Ireland, as the market started out as a non-competitive one in 2011 when ESB eCars was created to develop the market across the country. While ESB eCars remains the leading supplier with over 50% of recharging points in most counties and over 60% in major urban areas,⁹ its market share has eroded over the past few years following the entry of EasyGo and other firms - such as EVBox, Tesla and IONITY. Therefore, the report concluded that with the increased presence of new players underway, a competitive market seems to be developing over time.

The report raised concerns around “tipping” (e.g. a firm pulling away from its competitors once it gains an initial advantage in a market and thereby ensuring a high degree of concentration) due to the fact that ESB eCars has managed to maintain its market leading position despite the market opening up to private sector competition. The report concludes that the market is not fully developed and that recent private Charge Point Operators entry and significant private investment, make it likely that current high concentration is just reflective of ESB eCars’ first mover advantage. The CCPC believes that measures to ensure continued private entry and investment, as well as interoperability, should mitigate against market concentration.

While the Charles River Associates report provides very valuable insights into competition in the EV charging market in Ireland, there are still gaps in knowledge in certain areas. One example is in relation to roaming agreements and interoperability in order to make it easier for EV drivers to find and access charge points across the network. The CCPC expects that interoperability on reasonable and non-discriminatory grounds should be guaranteed in the delivery of the plan, including through giving effect to the measures contained in

⁹ Charles Rivers Associates analysis based on 2022 available data.

Article 5 of the AFIR. As noted above, evaluation of the effectiveness of the plan should consider if the benefits relating to interoperability are realised.

One example, is in relation to roaming agreements between EV charging operators (i.e. the ability for EV drivers to charge their vehicles on the road at any charging station). These types of agreements are prevalent in Ireland and in other countries, and while they clearly have benefits to consumers, it will be important that they don't create conditions that allow for collusion and the sharing of sensitive information between operators as this type of conduct can endanger the benefits of competitive markets and ultimately be harmful to consumer welfare.

Conclusion

At this key stage in the development of an En-route EV charging market in Ireland, it will be important that the guiding principles to encourage their rollout are designed with the mutually reinforcing objectives of enhancing competition and improving the consumer experience firmly in mind. To ensure this is the case, the Department should consider the OECD toolkit and the CCPC competitive neutrality guidance, that are referenced above, when considering any public intervention.

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