

Anticipated acquisition by Chargemaster plc of Elektromotive Limited

ME/5897/13

The OFT's decision on reference under section 33(1) given on 25 March 2013.
Full text of decision published 18 April 2013.

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

PARTIES

1. **Chargemaster Plc:** ('Chargemaster') is a privately held company. It manufactures and provides electric vehicle supply equipment (EVSE)¹ including installation and maintenance of the equipment. Chargemaster's UK turnover in 2011 was £[1.5 – 2] million with a total worldwide turnover in the same year of £[3 – 3.5] million.
2. **POLAR:** Chargemaster also provides EVSE network management services to charging post owners and electric vehicle (EV) owners. In particular, Chargemaster operates POLAR, a UK public network of charging posts (owned by Chargemaster) available to EV owners on a subscription bases.
3. **Elektromotive Limited:** ('Elektromotive') Elektromotive Group Limited is a company incorporated in Singapore and listed on the Singapore stock exchange. Elektromotive, a subsidiary of Elektromotive Group Limited,² is a company incorporated in England and Wales and listed on the London Stock Exchange.¹ Elektromotive provides EVSE including installation and maintenance. Elektromotive's relevant turnover in the UK to 31 March 2012 was £[1 – 1.5 million].³

¹ EVSE charges the batteries of electric vehicles.

² Elektromotive Limited has issued a total of 97 shares: 55 shares are held by Elektromotive Group Limited, 42 shares are held by Mr C K Taylor-Haw.

³ Elektromotive provided a 13-month figure of £[1 – 1.5 million] for the 13 months to 31 March 2012, Elektromotive's total turnover in the 13 months to March 2012 was £[2.5 – 3 million].

4. **Charge Your Car Limited (CYC):** Elektromotive part owns CYC, a 50/50 joint venture with Charge Your Car North Limited (which in turn is owned by Gateshead College, an Independent Further Education Corporation).⁴ CYC provides EVSE network management services to charging post owners and EV owners. CYC operates a UK public network of charging posts (owned by third parties) available to EV owners on a subscription basis.ⁱⁱ

TRANSACTION

5. Chargemaster is acquiring 100 per cent of the share capital of Elektromotive for a cash consideration of £8.5 million. The share and purchase agreement for this Acquisition was exchanged on 12 December 2012 and they expect to complete in April 2013 (the transaction is conditional on clearance by the OFT).
6. The statutory deadline in this case is 26 March 2013.

JURISDICTION

7. As a result of this transaction Chargemaster and Elektromotive ('the parties') will cease to be distinct.
8. The parties overlap in the supply, installation and maintenance of EVSE and the supply of EVSE network management services in the UK.
9. The Office of Fair Trading (OFT) considers that the share of supply test set out in section 23 of the Enterprise Act 2002 (the Act) is met since the information available to it indicates that, post-merger, Chargemaster will have a share of supply of EVSE (including installation and maintenance) exceeding 25 per cent. The parties estimate in their Notification that the share of supply of EVSE sales (including installation and maintenance) would be [40 – 50] per cent.⁵

⁴ Both Elektromotive and Charge Your Car North Limited each have 50 per cent ownership of CYC.

⁵ The parties estimate in their submission that Charge master has a [20 – 30] per cent share of supply, whilst Elektromotive has a [10 – 20] per cent share of supply, resulting in a combined share of supply of [40 – 50] per cent (due to rounding).

10. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

MARKET DEFINITION

11. The parties overlap in:

- the sale, installation and maintenance of EVSE
- the provision of EVSE network management services.

Product market definition

12. In defining the relevant market, the OFT starts from the narrowest possible candidate market in which the parties overlap and then determines the extent to which this narrow candidate market may be widened through demand-side or supply-side substitution.⁶

Product Scope: EVSE

13. The parties consider that there are three categories of EVSE and that each category is a distinct product market:
 - home charging equipment
 - public and workplace charging equipment, and
 - rapid charging equipment.
14. The parties submitted that a household requiring home charging equipment would be unlikely to switch to commercial⁷ charging point equipment in reaction to a five per cent, non-transitory, increase in the price of the home charging equipment.
15. Third party customers commented that they would not switch between different types of EVSE, corroborating the parties' submission.
16. On the supply-side, the parties submitted that all suppliers of charging units are capable of manufacturing all power units of 22 kW or less, which

⁶ Merger Assessment Guidelines paragraph 5.2.7

⁷ Here commercial means public and workplace charging equipment and/or rapid charging equipment.

includes both home charging and public/workplace charging EVSE.⁸ However, not all are capable of manufacturing the more powerful rapid charging unit (50kW). The parties also highlighted that some manufacturers are principally focused on rapid charging posts, and do not manufacture lower powered units.

17. Some third party competitors reported that they focus on manufacturing or supplying different types of EVSE, although this was often a strategic decision rather than a lack of capability.
18. The OFT has not found it necessary in this case to conclude on whether the supply of home charging EVSE, public and workplace EVSE and rapid charging EVSE are all part of the same market. Accordingly, on the basis that there may be limited demand-side substitutability between these types of EVSE, the OFT has considered this merger on the cautious basis of regarding home charging equipment, public and workplace charging equipment, and rapid charging equipment separately for the purposes of the competitive assessment.

Installation and maintenance of EVSE

19. The OFT may consider combining primary and secondary product markets into one relevant product market. Installation and maintenance could be considered a secondary product to EVSE. The parties submitted that installation of EVSE is a distinct product market but did not comment on whether this was also the case for maintenance. The parties both offer installation and maintenance services as part of the provision of public and workplace, and rapid charging EVSE. Both parties employ qualified electricians as part of their maintenance services, but for public and workplace customers, such as local authorities, the parties' contract to supply EVSE will generally include installation and maintenance services.
20. Third party competitors agreed that installation and maintenance are typically included as part of the provision of EVSE (excluding home charging equipment).

⁸ EVSE supplies electric vehicles at different levels of charge. Home charging EVSE supplies electricity at 3kW AC. Public and workplace EVSE supplies electricity at different charge levels, but generally these will be 3, 7 and 22 kW AC. Rapid chargers generally supply electricity at 50kW DC.

21. It is not necessary in this case for the OFT to reach a conclusion on whether the relevant market should include the supply of EVSE either on a standalone basis or together with installation and/or maintenance since the OFT does not consider that competition concerns arise whether they are looked at separately or together. In this decision the OFT has considered the supply of EVSE together with installation and maintenance services.

Product scope: EVSE network management services⁹

22. The parties submitted that they 'consider EVSE network management services to constitute a distinct market, albeit at the moment a very small one.' The parties provided examples of network management being provided separately from the supply of charge points: London,¹⁰ where Siemens is the network management supplier but only currently a small supplier of EVSE hardware amongst five other suppliers, and Plugged in Midlands, where POD Point is the network management supplier yet there are ten EVSE hardware suppliers in the scheme.
23. As noted above, the OFT may consider combining primary and secondary product markets into one relevant product market. EVSE network management services could be considered a primary product with the subsequent sale of EVSE (that is compatible with the EVSE network) as the secondary product. The parties argued that most charge points are compatible with different EVSE network software as they comply with the Open Charge Point Protocol (OCPP).¹¹ They noted that many of the Plugged in Places (PiP) projects¹² had a range of EVSE suppliers under their

⁹ Network management services allow end users to use all public charge points - including rapid chargers - within the same network ownership group via a convenient, uniform payment system.

¹⁰ The London area refers to the Source London PiP area. Source London, which is operated by Transport for London, has brought together London's new and existing charge points into one network.

¹¹ The Open Charge Point Protocol (OCPP) is an open protocol between charging stations and a managing central system. The protocol has already been adopted by several similar initiatives in different countries. It has been implemented by charge point vendors and central system suppliers in a wide range of countries including: Austria, Belgium, China, Denmark, Estonia, Finland, France, Germany, Great Britain, India, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Russia, Spain, Sweden, Switzerland, Turkey, and the United States. (See: www.ocpp.nl/)

¹² The PiP areas have been set up with the aim to work with the industry to provide infrastructure that delivers greater interoperability, better accessibility and helps with longer journeys (see www.gov.uk/government/publications/plugged-in-places)

framework agreements and one provider of EVSE network management services (Table 1).

Table 1: Plugged in Places EVSE and EVSE network management providers

PiP Area	Framework EVSE Suppliers	EVSE network management supplier	Estimated Charge Points¹³
Source London	Chargemaster, Elektromotive, POD Point.	Siemens	900
Sources East	APT, Chargemaster, Elektromotive, POD Point.	POD Point	400
Plugged in Midlands	APT, Charging Solutions, Chargemaster, Chargepoint Services, Elektromotive, GE, POD Point, RNE, ROLEC, Zero Carbon World.	POD Point	350
Milton Keynes	Chargemaster, POD Point	Chargemaster	80
Scotland	APT, Elektromotive, POD Point, Rolec.	Charge Your Car	220
Northern Ireland	Elektromotive, POD Point, Siemens.	POD Point	100
North East	Elektromotive, POD Point.	Charge Your Car	700
Manchester	Elektromotive	Charge Your Car	50

Source: Information received from Parties

24. Some third party customers suggested that they had no preference for using charge points supplied by their EVSE network service providers. Other customers noted that they either used the same supplier for both EVSE and EVSE network services or had a preference for this arrangement. A typical comment was that, once a particular manufacturer has been appointed, there is a degree of lock-in because the manufacturer controls the access arrangements via its EVSE network services. There was a general consensus from competitors that there were some issues around making EVSE compatible with the network services provided by the parties.
25. Given the potential compatibility issues between EVSE and EVSE network services, and some customers preferring to use one supplier for both, it may be appropriate to distinguish between suppliers that can offer both

¹³ Parties estimates for the number of charge points in each PiP area

EVSE and EVSE network services and those that only offer EVSE with limited EVSE network services (for instance, data collection only).

26. The OFT has not found it necessary in this case to conclude on whether EVSE network management services forms a separate service market to the supply of EVSE. In this decision the OFT has taken a cautious approach and considered the extent to which suppliers of EVSE are active in the supply of the EVSE network services in considering the competitive position of those suppliers in the supply of EVSE, as well as considering the supply of EVSE network management services separately.

Geographic scope

27. The parties submitted that the geographic market for EVSE products is European and, to some extent, global. They submit that competitors across Europe compete aggressively in the UK. They noted that there is a different standard for some products in France (called Type 3) but that the principal French manufacturer, Schneider, competes aggressively in the UK with UK standard Type 2 products. They noted that many European competitors either operate from a small sales office based in the UK or directly from their home country.
28. The parties provided a list of 39 European manufactures of EVSE as well as a further seven US/Canadian manufacturers that were also active in Europe. Of these 46 EVSE manufacturers, the parties believe that 11 are active in the UK and that eight of these have UK offices. The parties expect many of the European manufacturers not yet active in the UK to operate in the UK as the market size increases.
29. Third-parties noted that some continental European EVSE manufacturers did not supply into the UK. They also considered that while some other continental European suppliers were active in the UK, they were focused on their national markets. Third parties noted that for European suppliers to compete in the UK, suppliers would need a UK presence. One competitor explained that overseas competitors have tended not to expand into the UK due to different standards and lack of maturity and market size in the UK. Another explained that some continental European suppliers sold small volumes of EVSE in the UK but that they had to be compliant with the EVSE network software in the UK.

30. Customers noted that they do or would consider suppliers based primarily outside the UK but almost all considered that a UK presence would be beneficial or required in order to provide on-going support given that the technology is relatively new and, therefore, prone to technical difficulties. On-going support cited by customers included data services, site surveys and maintenance.
31. While not finding it necessary to conclude on the geographic market in this case, the OFT has assessed this merger on a national basis.

Customer markets

32. The OFT may sometimes define relevant markets for separate customer groups if the effects of a merger on competition to supply a targeted group of customers may differ from its effects on other groups of customers. Alternatively, it may define one relevant market but take into account the scope for price discrimination between different customer groups.¹⁴
33. The parties submitted that car manufacturers, energy companies (both for provision of charge points to households), government (central and local) and 'major store chains' accounted for the majority of their sales of EVSE. Third-parties also noted the same types of customer.
34. One competitor reported that the main suppliers to local authorities and the wider public sector differed to those working with car manufacturers. It considered that the main suppliers to car manufacturers were multinational firms able to offer global solutions, such as ABB, Schneider and Siemens. In contrast it believed that the main competitors for public charge points to the public sector were Chargemaster, Elektromotive and POD Point.
35. Given the level of information available on public EVSE as opposed to workplace EVSE and the activities of the parties in the public sector, the OFT's assessment will at times focus on the supply of charge points to public sector customers such as local authorities at points in its competitive assessment, although the competitive assessment is relevant to the parties' activities in the public and workplace sector as a whole. However, the OFT is aware that the set of competitors supplying the public sector may differ to that of other customers and so has taken into account the

¹⁴ Mergers Assessment Guidelines, Paragraph 5.2.28

scope for price discrimination between different types of customer in its assessment at these points.

Conclusion on the frame of reference

36. The OFT has not found it necessary to conclude on the market definition in this case. Taking a cautious approach the OFT has examined the merger using the following product and services frames in the UK:

- Home EVSE
- Public and workplace EVSE
- Rrapid chargers
- EVSE network services.

37. The OFT has considered the supply of EVSE together with installation and maintenance services.

HORIZONTAL ISSUES

38. Horizontal unilateral effects can arise where a firm merges with a competitor that previously provided a competitive constraint, and are more likely where the merger firms' products compete closely. Below the OFT sets out evidence on market shares and the closeness of competition between the parties in relation to EVSE and EVSE network services.

Market shares

39. The parties submitted that there are no independent market research reports, or readily available data held by Government, that they can rely on in order to come to an estimate of their share of supply. A breakdown of the parties' estimates of their combined 2011 market share is at Table 2 below. The parties estimates on market shares are based on:

- for the supply of home charging points, public and workplace charge-points and rapid chargers, estimates are based on revenues
- for the supply of EVSE network services, estimates are based on the number of charge points that they supply EVSE network services to in each of the PiP areas. Market shares could be higher if EVSE outside these PiP areas are included.

Table 2: 2012 UK shares in EVSE and EVSE network services (per cent)

	Home charging EVSE	Dual socket public and workplace EVSE	Rapid chargers (EVSE)	EVSE network services
Chargemaster	[30 – 40]	[20 – 30]	[0 – 10]	[0 – 10]
Elektromotive / Charge Your Car	[0 – 10]	[10 – 20]	[0 – 10]	[30 – 40]
Combined share of supply	[40 – 50]	[40 – 50]	[10 – 20]	[30 – 40]

Source: Parties' estimates

Note: EVSE shares based on revenues. EVSE network management services based on number of charge points that are supplied with EVSE network management services in the PiP areas.

40. Third parties typically estimated that the parties had a combined market share of around [50 - 60] per cent or more in each of home charging EVSE, public and workplace EVSE and EVSE network services. They estimated that POD Point also accounted for significant shares in each of these markets. No other competitor was noted as having significant shares.
41. The Office for Low Emission Vehicles (OLEV)¹⁵ has provided OFT with figures for the level of funding it has provided over the last three years as part of the PiP grant programme and approximate estimates of the number of charge points funded broken down by type. Together with approximate estimates on the price of different types of EVSE, the OFT has estimated the minimum market size for each type of EVSE (Table 3). These market sizes suggest the parties would have a share of around [30 - 40] per cent in home EVSE and [30 – 40] per cent in public and workplace EVSE. While these are only approximate estimates, they broadly corroborate the parties' market share estimates in Table 2 above.

¹⁵ OLEV is the body responsible for implementing the UK Governments strategy for encouraging the growth of low and ultra-low emission vehicles as a vital part of the Government's plans for a modern transport system. The Governments latest strategy - 'Making the Connection – the Plug-In Vehicle Infrastructure Strategy' - was published in June 2011. (see www.gov.uk/government/organisations/office-for-low-emission-vehicles)

Table 3: PiP Grant figures by Financial Year (£m) 2010/11 – 2012/13

	2010/11	2011/12	2012/13 ¹⁶	Implied combined share of parties (per cent)
Level of PiP funding	2.2	2.9	5 – 5.5	-
Indication of minimum size of EVSE market	4.4	5.8	10 – 11	-
- of which home EVSE	1	1	2	[30 – 40]
- of which public and workplace EVSE	3	4	7-8	[30 – 40]
- of which rapid chargers	1	1	1	[0 – 10]

Source: OLEV data, parties' revenues and OFT analysis

Note: Government provides 50 – 75 per cent matched funding for the supply and installation of posts.

42. While it has not been possible to estimate the parties' market shares with any degree of certainty, the evidence available indicates that they are sufficiently high to suggest competition concerns may arise in the supply of home EVSE, public and workplace EVSE and EVSE network management services.
43. The extent to which unilateral effects may arise in the supply of home EVSE, public and workplace EVSE and EVSE network management services are assessed in more detail below. The OFT considers the parties' arguments and sets out evidence on the closeness of competition between the parties including the parties' bidding data, internal documents and third-party information.

Unilateral effects

44. The parties submitted that the EVSE market as a whole is very young, in particular, the market for EVSE network management services is generating minimal revenues at the moment. The parties contend that the EVSE market, including the home charging market, is competitive with approximately 10 new players entering the UK market in the last 18

¹⁶ Estimated

months.¹⁷ The parties submitted that entry into the UK market is likely in the next few years, especially as a further 20 or more European players are starting to take interest in the UK market. The parties estimate that the number of competitors active in the UK will rise to 20 or so by 2015. The parties argued that many of these players are subsidiaries of multi-national companies with significant resources available for marketing and promotion of their products. They submit that the UK market is therefore likely to become even more competitive over the next five years.

45. The parties note that the UK EVSE market has been heavily influenced over the last three years by the government funded PiP programme which is coming to an end on March 31st, 2013. They argue that the programme, particularly the framework agreements set up across the public and workplace EVSE schemes in the regional PiP areas, provides a degree of protection to early players in the market such as Elektromotive, Chargemaster and POD Point. They submitted that the new Government funded scheme, which launched on 19 February 2013, will result in the removal of these market barriers and will allow further competition in the UK market, particularly from Continental European players. They further noted that the EVSE technology used in other European countries is standardised and may be sold in the UK with little modification.

Unilateral effects in home charging

46. Competitors' responses indicated that there were a range of competitors to the parties in home EVSE in the UK including: ABB; APT; POD Point; Rolec and Schneider. Customers named the same suppliers but also mentioned: Charge Point Services; Charging Solutions; Ensto Limited; EV Chargers Direct; GE; RWE npower; SSE Contracting and Zero Carbon World.
47. In general, third-party responses suggested that the parties were not close competitors in the supply of home EVSE.
48. In 2012, Elektromotive had very small revenues (£ < 100,000) in home EVSE compared to those of Charge master (£4 – 500,000). POD Point had significantly larger revenues in this area [£1 - £2m]. Third-parties have confirmed that Elektromotive is not very active in home EVSE and that

¹⁷ The parties estimate the number of companies active in the market in the UK since 2007 are as follows: 2007 – 1; 2008 – 1; 2009 – 2; 2010 – 4; 2011 – 5; 2012 – 12; 2013 – 15.

there are a range of other competitors in particular POD Point, Charge Point Services, Schneider Electric and Rolec.

49. Given the above the OFT considers that there seems to be no realistic prospect of a substantial lessening of competition in the market for home EVSE. The OFT therefore considers the supply of home EVSE no further.

Unilateral effects in public and workplace charge points

50. OLEV has confirmed that the UK Government has introduced a new grant scheme on 19 February 2013 that replaces the PiP programme.¹⁸ The new scheme will allow all businesses equal opportunity to access government funding.¹⁹
51. The parties argued that they will have no ability to increase prices in the market after the merger as all tenders now have a large number of bidders, often eight or more, competing aggressively. They further note that prices having fallen by at least 20 per cent over the last 12 months.

Third party views

52. Competitors' responses indicated that there were a range of competitors to the parties in public and workplace EVSE in the UK including APT, POD Point, Rolec, Schneider and Siemens. Customers named the same suppliers but also Charge Point Services, Charging Solutions, Ensto Limited, EV Chargers Direct, RWE NPower, SSE Contracting and Zero Carbon World.
53. Customers, in general, did not note that the parties were close competitors with respect to public and workplace EVSE. A number of customers noted that they had not chosen Elektromotive in the past for their public and workplace EVSE, as Elektromotive lacked a dual socket charger and so did not meet the tendered specifications. Customers noted that Elektromotive have recently introduced a dual socket charger and so was able to effectively compete in this market again.
54. Two customers believed that the merger would not change their negotiating strength, noting that there were other suppliers that would still drive competition.

¹⁸ See OLEV press release at: www.gov.uk/government/news/new-measures-announced-to-support-the-uptake-of-plug-in-vehicles

¹⁹ OLEV does not anticipate any expenditure from these schemes until 2013-14.

55. Competitors, in contrast, believed that the parties competed closely in the supply of public and workplace EVSE. A number of competitors ranked Chargemaster, Elektromotive and POD Point as the three main competitors in public and workplace EVSE.
56. Some competitors suggested that Chargemaster, Elektromotive and POD Point were all in a strong position to supply public EVSE in the UK as they were the main three providers of EVSE network services. Competitors noted that it was difficult to supply public EVSE due to difficulties of making their equipment compatible with the EVSE network services of these three service providers. This was corroborated by some customers, who noted that they sourced, or preferred to source, both public and workplace EVSE and EVSE network services from the same supplier and had experienced technical issues when they had mix and matched suppliers. One competitor noted that other manufacturers can compete on the equipment side, however, the EVSE services and back office systems give the incumbents (Chargemaster, Elektromotive and POD Point) an inherent advantage

Parties' internal documents

57. Chargemaster's January 2012 investor note and Elektromotive's 2012 business plan point to three main competitors in EVSE in the UK: Chargemaster, Elektromotive and POD Point. The parties contended that this investor note was produced by a third party and not Chargemaster.²⁰
58. Chargemaster's January 2012 investor note also refers to no other competitors in the UK and explains that the competition it faces from Elektromotive is more severe from that of POD Point. It notes that POD Point's weaknesses are: reported quality issues; a small range of products and lack of technical innovation (no in-house development). It does, however, note that POD Point has a similar concept to Chargemaster with 'twin bays'. It further notes that Elektromotive's 'primary product is out-dated (only services one bay)' and that Elektromotive has expensive installation and 'lack of visibility in the market'. The parties, and third parties, have identified that some of the Elektromotive's weaknesses that

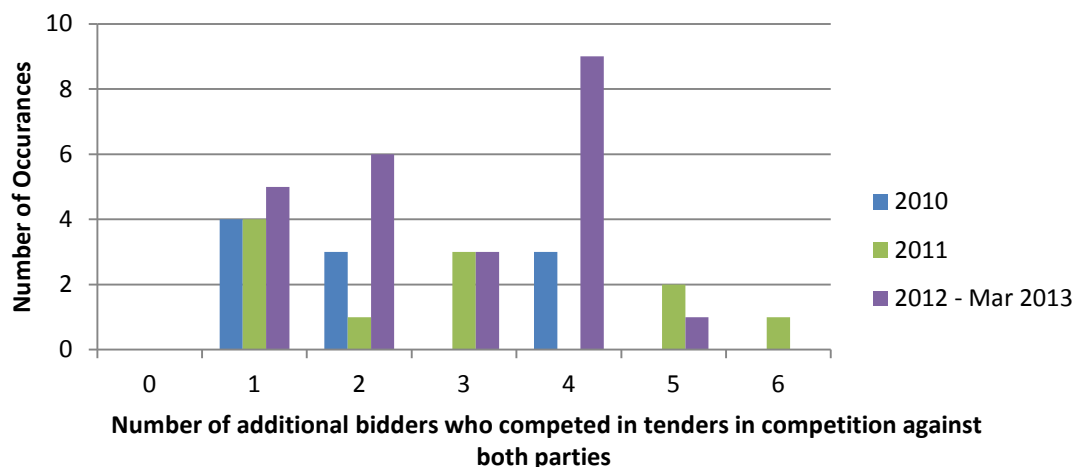
²⁰ The parties argued that the note reflects historic research carried out by a third party in 2011 and reflects the market conditions at that time when there were significantly fewer companies active in the UK market – five – and not reflective of a much more competitive market in 2013 with 15 companies active in the UK market.

Chargemaster identified may have changed as Elektromotive has recently developed a twin bay charge point.

Bidding data

59. The parties submit that they do not have complete visibility of who participates in tenders to supply EVSE. Nonetheless, they compiled a set of 'best-estimate' bidding data on all the tenders that they had participated in and the competitors that they understand were short-listed over the period 2010 - 2012. The parties supplied an updated list of bidding data covering the period January 2012 to March 2013 in response to OFT's questioning.
60. The OFT has compiled both party's initial data into one dataset to assess to what extent the parties competed with each other and if so against how many other competitors.²¹

Chart 1: Bidding analysis of tenders involving public access charge points



Source: Parties bidding data

61. Despite the caveats around the robustness of the data,²² the OFT considers that the results are probative of the extent of competition between suppliers. On this basis, the OFT notes²³ that:

²¹ The results in chart 1 are best treated with caution as result of the inevitable inconsistencies in the data and the limited visibility the parties had over the tenders.

²² The parties recognised that they did not have full sight of competitors and successful bidders in putting together their bidding data. The OFT could not fully reconcile the bidding data supplied by each of the parties, nor could the OFT reconcile bidding data supplied by the parties with similar data supplied by third parties.

- The parties competed against each other in [40 – 50] per cent of tenders where either party participated from 2010 to January 2013.
- It appears that in 2010 the parties competed against each other in [70 - 80] per cent of tenders but that this dropped to [20 – 30] per cent in 2012/13. When Chargemaster and Elektromotive bid against each other, there were two or fewer other bidders in [50 – 60] per cent of the tenders from 2010 to January 2013. In 2010, this was the case for [70 – 80] per cent of tenders and it dropped to [40 – 50] per cent in both 2011 and 2012/13.

62. The data on participation of suppliers in tenders for the provision of public access charge points shows the strength of the parties relative to other EVSE suppliers and support the following points.²⁴ In particular:

- The parties accounted for [50 – 60] per cent of the 'wins' from 2010 to January 2013. POD Point and APT have won a number of tenders ([20 – 30] per cent [10 – 20] per cent respectively) over the same period.
- From 2012 to March 2013 (See Table 4):
 - Chargemaster was the main bidder submitting bids in [40 – 50] tenders, closely followed by: POD Point ([40 – 50]); Elektromotive ([40 – 50]) and APT ([30 – 40]).
 - Ten other companies are included as active bidders over the period. In particular, Siemens ([10 – 20] submitted bids), ABB ([10 – 20]) and Charging Solutions ([0 – 10]) are recorded as being especially active.
 - APT and Elektromotive both won the most contracts awarded over the period ([10 – 20]), with POD Point winning [10 – 20] and Charge master [0 – 10]. The parties estimated the value of these contracts, which indicates that, by value, APT and POD Point won the largest proportion of the contracts ([30 – 40] per cent and [20 – 30] per cent respectively).

²³ Based on the bidding data originally submitted by the parties

²⁴ **Note:** This data only covered the parties' data on tenders that they participated in. It does not include data on those tenders where neither party was active. The parties were unable to supply an estimate for the number of tenders where they did not participate.

Table 4: Summary of the bidding information covering 2012 – March 2013

Company	Number of tenders submitted	Number of bids won	Proportion of bids won by value (per cent)
Chargemaster	[40 – 50]	[0 – 10]	[0 – 10]
Elektromotive	[40 – 50]	[10 – 20]	[20 – 30]
POD Point	[40 – 50]	[10 – 20]	[20 – 30]
APT	[30 – 40]	[10 – 20]	[30 – 40]
Siemens	[10 – 20]	[1 – 10]	[10 – 20]
Others	N/A	[1 – 10]	[1 – 10]

Source: Parties bidding data

- The analysis of the parties' bidding data suggests that APT and POD Point are providing significant constraints on the parties. Further, other competitors have been successful in competition with the parties.

63. Given the evidence available to it, the OFT does not consider that the merger raises a realistic prospect of a substantial lessening of competition in the supply of public and workplace charge points.

Unilateral effects in rapid charge points

64. The parties estimated that their combined share of the supply of rapid charging EVSE is thirteen per cent with an increment of five per cent. A number of third-parties noted that the parties only resold rapid chargers produced by other manufacturers. No third parties suggested the proposed merger was a cause for concern with respect to the supply of rapid chargers.

65. Given this, the OFT concludes that there is no realistic prospect for a significant lessening of competition in relation to the supply of rapid charging EVSE.

Unilateral effects in EVSE network management services

66. The OFT has investigated whether as a result of the merger, the parties may raise prices or reduce the quality of service in the supply of EVSE network services.

67. The parties emphasised that Chargemaster is not, and does not intend to be, active in supplying this service. Chargemaster operates POLAR, a network management service covering its own network of posts, but this is a different offering to the provision of network services for third parties. Further, although Chargemaster was awarded the contract to provide network services for the Milton Keynes PiP area three years ago, Chargemaster explicitly stated that, over the last two years, there had been a number of tenders for EVSE network services none of which Chargemaster has bid for, sought or considered supplying services for.
68. The parties submitted that the market for EVSE network services is very young and generating minimal revenues at the moment. They note that other suppliers including IBM and Siemens have indicated that they will enter this market aggressively. They point to Siemens' provision of EVSE network services to Transport for London and an IBM press release dated October 2012.²⁵ This IBM press release notes that IBM has 'teamed with ESB ecars to implement a fully integrated smarter charging IT system that will help manage electric vehicle public charge points, which are being rolled out across Ireland by ESB ecars.'²⁶
69. Indeed, based on the parties' current estimated shares of supply, Chargemaster supplies less than five per cent whilst POD Point and Siemens supply [30 – 40] per cent or more each.
70. Third-party responses agreed. They noted that, in addition to the parties, POD Point, Siemens, and APT were actively supplying these services in the UK. Rolec is also reported to be present, albeit focusing on pay-as-you go networks.
71. The OFT notes that, even though it is not actively bidding for EVSE network management contracts at the moment, Chargemaster has the ability to be a potential competitor in this market in the future. It has the ability and experience of currently operating similar networks, so is in a position to bid for future contracts. However, the OFT also notes that there are many other potential competitors who have similar levels of experience. These competitors could also enter the UK EVSE network management services market.

²⁵ See: www-03.ibm.com/press/uk/en/pressrelease/39006.wss

²⁶ ESB is the Electric Supply Board of the Republic of Ireland (and also supplies electricity to Northern Ireland).

72. Therefore, the OFT considers that, after the merger, sufficient competition will remain to prevent a realistic prospect of a substantial lessening of competition from arising as a result of the merger in regard to the supply of EVSE network services.

VERTICAL ISSUES

73. The OFT examined whether, after the merger, the parties could limit the compatibility of their EVSE network management services with the EVSE from competing manufacturers. This could strengthen the parties' ability to obstruct competitors' winning contracts to supply public and workplace EVSE as customers would be keen to ensure that the posts they purchase are compatible with the local network.
74. In general the OFT frames its analysis of vertical effects according to whether the merged entity would have the ability to harm its rivals, the incentive to do so (that is, would it find it profitable?) and whether the overall effect of such an action amounted to a substantial lessening of competition.²⁷

Ability

75. The parties argue that the OCPP enables any charge-point to communicate with an OCPP management system and that the Charge Your Car management system has been designed to be fully OCPP compatible. The parties pointed out that customers specify in their tender documentation that posts must be OCPP compatible, so any EVSE network management services supplier will be able to communicate with all posts.
76. Third-parties noted that there had been compatibility issues between using EVSE from one supplier and EVSE network services from another. Some customers expressed a preference for using the same supplier for both services or that they did so already. There was an expectation by third parties that these compatibility issues would be resolved in the near future.
77. However, the OFT considers that the parties are unlikely to have the ability to increase their ability to win public and workplace EVSE contracts by restricting access to their EVSE network services. Should the parties limit the compatibility of their EVSE network services to only their EVSE

²⁷ Mergers assessment Guidelines paragraph 5.6.6.

equipment, the OFT considers customers would choose alternative EVSE network services. This is because customers expressed a preference for EVSE network services that are compatible with a range of equipment. This is reflected in their use of EVSE network services with a range of EVSE from different manufacturers and their insistence that all EVSE must be OCPP compatible.²⁸

78. The OFT considers that, in particular, the Governments' insistence that in order for businesses to access the Government's new grant that public EVSE must be:

- OCPP compliant, and
- allow electric vehicle customers to access new posts by way of a pay-as-you go system

79. This will mean that, notwithstanding any other factors, the parties will not have the ability to restrict their competitors' ability to link their EVSE charging points to the parties' EVSE network management systems, and, even if they could, access to public charging posts through an EVSE network management system is likely to become significantly less critical to EV owners, and EVSE public post owners, over time due to the Government's focus on requiring the provision of a pay-as-you-go system to provide access to the EVSE charging points.

80. Given this, the OFT does not consider that the merger raises a realistic prospect of a substantial lessening of competition with respect to vertical effects.

ENTRY AND EXPANSION

81. The OFT has discussed a number of points relating to entry and expansion above. However, given the outcome of our competition assessment above, the OFT has not found it necessary to discuss barriers to entry and expansion in specific detail in this case.

²⁸ The continual development of the OCPP standards will also mean that the protocol is likely to keep pace with market developments, further restricting the ability of any EVSE network service supplier from gaining an advantage through its position in the network management market.

THIRD PARTY VIEWS

82. The OFT received comments from customers and competitors of the parties. Third party views have been discussed in other parts of the decision where appropriate.
83. The majority of customers indicated that they were not concerned with the merger. However, the majority of competitors indicated some concerns with the merger, in particular that the parties would be able to prevent or restrict competitors from connecting to the parties established EVSE network management services and thus gain an advantage in the supply of posts to public and workplace customers.
84. However, the OFT noted that these third party competitors generally considered four or five suppliers as potential competitors to the parties and the OFT was not provided with any compelling evidence to support the views that the OCPP would be inadequate to prevent the parties from restricting access to their networks. In particular, the OFT was not provided with any evidence as to why competitors who are active in the market at the moment, as well as the threat of new entry from larger potential competitors, could not provide a competitive constraint to the merged entity after the merger.

ASSESSMENT

85. The parties overlap in the provision of EVSE in the UK, and in the supply of EVSE network management services.
86. The OFT has examined the merger using the following product and services frames in the UK:
 - Home EVSE
 - Public and workplace EVSE
 - Rapid chargers
 - EVSE network management service.

The OFT has considered the supply of EVSE together with installation and maintenance services.

Home EVSE

87. The OFT's investigation has identified a number of competitors to the parties in the supply of home EVSE. These were corroborated by third parties who confirmed that the parties are not close competitors and that there are a number of other competitors active in this market. The OFT concludes that there is little prospect for a significant lessening of competition in relation to the home charging EVSE market.

Public and Workplace EVSE

88. The parties have a combined share of supply of around [40 – 50] per cent. Historic bidding data and third-party responses suggest that the parties have been two of three main competitors in the supply of public and workplace EVSE, the other competitor being POD Point.
89. However, recently competitors such as POD Point and APT have been successful in winning bids in competition with the parties. This is confirmed by the bidding data that showed that after the merger, the merged entity will face strong competition from POD Point and APT. Moreover, a number of other competitors are also active in the market, including Charge Point Services, Rolec, Siemens and Schneider. Further, from 19 February 2013, the new Government grant scheme will open up this market to additional competition.
90. In light of the above, the OFT considers that there is no realistic prospect of a substantial lessening of competition in the supply of public and workplace EVSE.

Rapid Chargers

91. Estimates of the parties' combined share of supply in rapid chargers were below 25 per cent. A number of third-parties noted that the parties only resold rapid chargers produced by other manufacturers. No third parties suggested the rapid charging market was a cause for concern. The OFT concludes that there no realistic prospect for a significant lessening of competition in relation to the rapid charging EVSE market.

EVSE Network Services

92. Third parties consider that there are three main providers of EVSE network management services, the parties and POD Point. However, the parties have submitted that Chargemaster is not, save for the contract for the Milton Keynes PiP area, active in this market, explicitly stating that it has not bid for EVSE network management contracts for at least two years. Chargemaster's POLAR network only supports Chargemaster's own network of charging posts and Chargemaster has not bid for any network management support contract in the last two years.
93. As a result, the OFT concludes that Chargemaster is not a significant actual competitor in the market for the provision of EVSE network management services.
94. Chargemaster, however, has the ability to be a potential competitor in this market in the future. It has the ability and experience of currently operating similar networks, so is in a position to bid for future contracts. However, the OFT notes that there are many other potential competitors who have similar levels of experience. These competitors could also enter the UK EVSE network management services market.
95. The OFT considers that the loss of Chargemaster as an actual or potential competitor in this market will not result in a substantial lessening of competition due to its lack of activity to win contracts to supply these services over the last two years and the number of other actual and potential competitors
96. The OFT concludes that there is no realistic prospect for a significant lessening of competition in relation to the provision of EVSE network management services.

Vertical Issues

97. The OFT concludes that the merged parties would not have the ability to influence or restrict customer choices of public and workplace EVSE suppliers due to their position as a supplier of EVSE network management services. Customers require EVSE suppliers to provide equipment that is OCPP compatible and EVSE network service providers to provide a system that works with such data. The OFT has not therefore had to conclude on

the merger parties' incentives to exercise any competitive advantage or the effect that might arise.

98. The OFT has also concluded that the parties will not have the ability to restrict access to their EVSE charging points to those end consumers using their EVSE network management systems, and, even if they could, access through an EVSE network management system is likely to become significantly less critical over time due to the Government's focus on requiring the provision of a pay-as-you-go system to provide access to the EVSE charging points.

Conclusion

99. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

100. This merger will therefore not be referred to the Competition Commission under section 33(1) of the Act.

ⁱ The OFT is happy to clarify that Electromotive is not quoted on the London Stock Exchange.

ⁱⁱ The OFT is happy to clarify that CYC operates a pay-as-you go scheme for EV users.