

From: Jennifer Halliday  
Senior Director, Advocacy and External Engagement  
Competition and Markets Authority

16 November 2023

## **Open letter to electric vehicle chargepoint operators and motorway service area site operators**

The Competition and Markets Authority (CMA) is dedicated to promoting competitive markets and tackling unfair behaviour to support productivity, innovation and sustainable growth for the benefit of people, businesses, and the wider economy.

Helping to accelerate the UK's transition to a net zero economy is a strategic focus for the CMA.<sup>1</sup> In 2021 we published a [market study report on electric vehicle \(EV\) charging](#). Our review of this developing sector aimed to help identify and tackle any emerging issues, early on. As highlighted in our [2023 market study report into road fuels](#), the EV charging sector will become increasingly important to drivers as petrol and diesel vehicles are phased out.<sup>2</sup>

For drivers to switch to EVs, they must feel confident that there is a comprehensive, competitive charging network in place across the UK, and that charging is as simple and convenient as filling up with petrol or diesel. EV charging at motorway service area (MSA) sites will be key to enabling the transition to EVs, to give drivers confidence on long-distance journeys and alleviate 'range anxiety'. However, our 2021 study found barriers to competition and investment in some parts of the charging sector – in particular, we highlighted concerns about very limited competition along motorways.

Our market study report made several recommendations to the UK government and the devolved governments to help unlock investment in the sector, open up competition, and build people's trust.<sup>3</sup> This included a recommendation to roll-out the £950m Rapid Charging Fund (RCF) at pace, and attach conditions to it to help open up competition at MSA sites across England.

---

<sup>1</sup> [CMA Annual Plan 2023 to 2024](#).

<sup>2</sup> By 2030, under UK government's [zero emission vehicle \(ZEV\) mandate](#), 80% of new cars sold must be ZEVs.

<sup>3</sup> As outlined in [our submission to the House of Lords Environment and Climate Change Committee Inquiry into EVs](#), we welcome the progress made against several of our recommendations, including: the development of a UK-wide strategy and accompanying plans in Wales, Scotland and Northern Ireland; commitments to support local on-street charging; and new public chargepoint regulations to improve drivers' charging experience.

As the sector continues to evolve, this open letter is to remind chargepoint operators (CPOs) and MSA site operators of the CMA's market study findings on motorway charging, and of their ongoing obligations under competition law.

Since our study we have engaged closely with the Office for Zero Emission Vehicles (OZEV), including by providing advice to help take forward our recommendation on the design of the RCF Pilot and the RCF Main scheme, to help improve competition at MSAs – for example by enabling multiple CPOs to supply charging at a single site. As noted in our market study report, we have also continued to monitor developments in the sector.

The CMA welcomes OZEV's work to take forward the RCF and to attach competition conditions to the scheme, as recommended in our market study. We encourage OZEV to continue work to roll-out the RCF at pace and urge the sector to take up the RCF when available, to help get chargepoints in the ground at MSA sites as quickly as possible.

As well as continuing to engage with OZEV on our market study recommendations, earlier this year OZEV referred the RCF Pilot to the CMA's Subsidy Advice Unit (SAU) as required in the Subsidy Control Act 2022. The SAU evaluates assessments of compliance with the requirements of the Subsidy Control Act carried out by public authorities on the highest value subsidies and subsidy schemes and publishes non-binding reports.<sup>4</sup> The SAU's role in relation to the RCF Pilot was to evaluate OZEV's assessment of the scheme's compliance with the requirements set out in the Subsidy Control Act.

The SAU's [report was published on 15 June 2023](#). In preparing its report, the SAU took account of OZEV's consideration of the CMA's market study recommendations and advice on the RCF as set out in OZEV's assessment. The SAU report noted in particular that OZEV generally made appropriate references to the CMA market study, although OZEV's assessment could have set out the rationale for its decision on the relevant market study recommendations in more detail. The SAU's report did not advise directly on whether and to what extent OZEV should act on the relevant market study recommendations. It is for OZEV to decide how to take the SAU's advice on its assessment on board, including, as necessary, in relation to the design, roll-out and timings of the RCF, with the benefit of the SAU's evaluation. OZEV's assessment of compliance of the RCF Main scheme will also come to the SAU for evaluation in due course.

Alongside OZEV's ongoing work to support the sector, we are aware of increased sector-led activity and investment at MSA sites. We understand that these developments include some single CPOs applying for electricity grid capacity at MSA sites, with MSA site operator consent, ahead of the RCF roll-out. This may result in a small number of CPOs controlling access to electricity grid capacity at those MSA sites, which could limit competition from new entrants and lead to one or a few incumbent CPOs at MSA sites.

---

<sup>4</sup> The SAU cannot evaluate assessments proactively, but only when referred by the public authority. The SAU has a statutory obligation to carry out its evaluation within 30 working days of accepting the public authorities' assessment.

The CMA has already investigated suspected breaches of the Competition Act 1998 in relation to the supply of EV chargepoints on or near motorways.<sup>5</sup> Following our market study, we launched a [competition law case](#) into long-term exclusive arrangements for the supply of EV chargepoints which were entered into between the chargepoint operator Gridserve Holdings Limited and three MSA site operators (MOTO Holdings Limited, Roadchef Limited and Extra MSA Property (UK) Limited and a number of its subsidiaries). This followed concerns that such lengthy exclusivity arrangements for the supply of EV chargepoints would foreclose other CPOs from entering the market and thereby impede the effective roll-out of the RCF.

This enforcement action resulted in commitments from all of those involved – including commitments to reduce the length of exclusivity periods, and to not enforce exclusive rights at any MSA site that is granted RCF funding. The CMA also published an [open letter to the sector](#), providing further details of our work.

While we welcome increased private investment and efforts which help to boost charging infrastructure along motorways, it is critical that this investment is carried out in a way that is compliant with competition law and ensures operators can enter and compete fairly. Arrangements which lead to long-term exclusivity between CPOs and MSA site operators and/or incumbency of a single operator at a site or across multiple sites, could breach competition law. In the long term, opening up charging at MSA sites to multiple CPOs will give drivers a choice of operators; competition within sites will also help deliver better outcomes for drivers (for example in terms of reliability and quality of charging).

All CPOs and MSA site operators should ensure that their arrangements comply with competition law, seeking independent legal advice if necessary, and making any changes to existing commercial arrangements to ensure compliance. These legal obligations apply independently of and – for those operators taking up the RCF – in addition to, any competition conditions attached to the RCF Pilot or Main scheme.<sup>6</sup>

We also remind operators of our market study findings on the public charging experience – where we highlighted issues with the reliability of chargepoints along motorways and the need for all chargepoints to be interoperable with all EV models. We welcome the [public chargepoint regulations](#) which will help to bring about changes in these areas when they come into effect. It is crucial that CPOs engage with the regulations now to help ready themselves for compliance.

The CMA is committed to playing its part in the ongoing development of the EV charging sector into one that will serve people, businesses and the wider economy, now and into the future. We will continue to engage closely with OZEV and other key stakeholders to help ensure the roll-out of the RCF in a way which supports competition and the development of a positive charging experience for drivers along motorways.

---

<sup>5</sup> The Competition Act 1998 prohibits, in certain circumstances, agreements and conduct which prevent, restrict or distort competition, and conduct which constitutes an abuse of a dominant position.

<sup>6</sup> As do all aspects of competition and consumer protection which fall under the CMA's remit as the UK's principal competition and consumer protection authority – including the UK merger regime and consumer protection laws.

We will continue to monitor charging along motorways and the sector more broadly, across the UK. We will also consider intervening using our tools – which include taking enforcement action – where we think further action is needed to improve competition and innovation and to ensure good outcomes for drivers in this critically important sector.

Yours faithfully,

Jennifer Halliday  
Senior Director, Advocacy and External Engagement  
Competition and Markets Authority