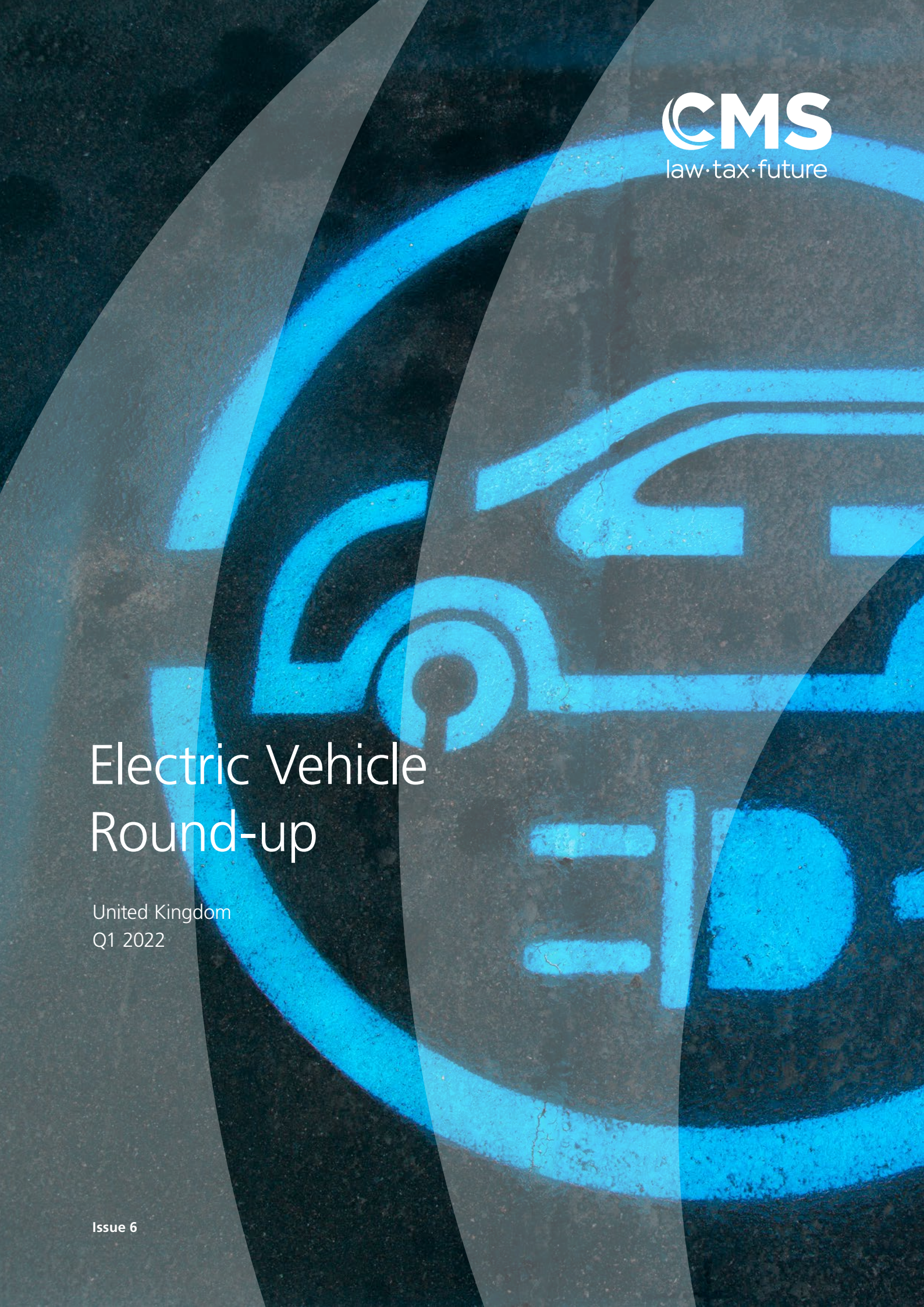

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Electric Vehicle Round-up

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Government unveils electric vehicle infrastructure strategy

On 25 March 2022, the UK Government published its Electric Vehicle Infrastructure Strategy (the "**Strategy**"). The Strategy aims to address two critical areas to the electric vehicle ("**EV**") industry: deployment of rapid chargers on strategic road networks, and availability of local on-street charging.

The Strategy forms an important part of the Government's wider net zero by 2050 plans, as transport is currently the UK's largest emitting domestic sector. The Strategy notes that fit for purpose EV charging infrastructure now stands as the single biggest challenge to decarbonisation of the transport industry.

Key takeaways

— By 2030, the Government expects the number of public chargepoints to increase from 29,600 currently to 300,000, which will coincide with the ban on sales of new petrol and diesel vehicles. The envisaged number of chargepoints is almost 5 x the number of fuel pumps available to consumers in 2022.

— In Spring 2022, the Government will launch the Local EV Infrastructure ("**LEVI**") Fund, allowing local authorities to bid for funding to plan and deliver local public charging infrastructure.

— To accelerate the rollout of 6,000 rapid chargepoints across England's motorways and major A-roads by 2035, the Government will consult on a Rapid Charging Fund between Winter 2022 and Spring 2023.

Government's action plan

The Strategy makes clear that the Government aims to make public chargepoints available to everyone. It envisages EV charging to become effortless, be it on- or off-street. It has identified that a reliable network of rapid chargepoints will be crucial in gaining consumers' trust. The Strategy focuses on the following areas:

1. Shift in focus of chargepoint subsidies
The Strategy confirms the ending of subsidy support for home charging and workplace charging at the earliest appropriate time. Instead, drivers without their own driveways and garages, as well as small accommodation business and the charity sector, will be able to apply for financial support, with a view to making EV charging accessible to all.

2. Ultra-rapid charging network on major roads
Cooperation with the private sector is expected to deliver at least six ultra-rapid, open access chargepoints (150–350kW) at every motorway service area in England by the end of 2023. The Government expects the network to comprise around 6,000 rapid chargepoints across England's motorways and major A roads by 2035.

To meet the target, the Government plans to launch a GBP 950m Rapid Charging Fund, which will allow electricity network infrastructure to be installed at strategic locations ahead of chargepoint demand to enable provision of chargepoints where this is not yet commercially attractive.

3. Chargepoint strategies on a local level
To scale up the rollout of public chargepoints on streets, local governments will be able to bid for a GBP 10m share of funding from the GBP 450m LEVI Fund each. Local councils who have not previously received EV infrastructure funding and those with a low number of chargepoints will be given priority. An additional GBP 50m of the LEVI will be allocated to upskilling and employing staff to work on public chargepoint planning and implementation.

The Strategy proposes that a strict obligation be put on the local authorities to develop and implement local charging strategies to plan for the transition to a zero-emission vehicle fleet.

Government will explore options for introducing a unified consent process for installing EV chargepoints, including consideration of a streamlined process for obtaining both the planning permission consent and the highways consent for the traffic management works at the same time.

4. Cooperation with Ofgem
An exponential growth in the number of EVs will place a significant burden on the energy system. To ensure smooth integration, the Government will work with Ofgem to encourage 'smart', off-peak charging (see our previous Law-Now here) and keep connection costs low so as not to deter chargepoint deployment. An 'electricity networks strategic framework' will be published in spring 2022 which will set out an overall approach with an aim to improve affordability of connections. The Government is also considering sharing chargepoint location and energy data to support network planning. See our previous Law-Now on Ofgem's key priorities for the EV transition here.

5. Regulatory changes to make chargepoints reliable and easy to use
The Strategy confirms that the Government is planning to propose new legislation aimed at improving user experience with public chargepoints (as covered in the story above).

Comment

The long-term aim of the Strategy is to make EV charging more accessible, cheaper and easier than refuelling a petrol or diesel car. The cooperation between the public and private sectors will be important to deliver the Strategy, which is a positive indication of political support to developers and investors. Ambitious as it may appear, the Strategy contains many policies that have previously been announced/consulted on. There have been concerns from motoring groups that the rollout of chargepoints will not meet demand and some in the industry anticipate that more action will be needed to provide infrastructure in rural areas – consenting, grid connections and land rights continue to be barriers to deployment.

The Government will review its approach to the Strategy by 2023 and work with bodies such as Electric Vehicle Energy Taskforce ("**EVET**"), the Automotive Council, and the EV Fleet Accelerator to monitor progress made. It will establish metrics to measure performance and decide whether further changes to the regulatory framework are required in 2023 and beyond. The Government is keen to emphasise its proactive approach to rolling out EV charging infrastructure ahead of 2030.

This is an abridged version of a full CMS Law-Now article which can be read here.

Consumer experience at public chargepoints: UK Government publishes its response

Introduction

On 25 March 2022, the UK Government published its response to the UK Office for Zero Emission Vehicles' ("**OZEV**") 2021 consultation on the consumer experience at public chargepoints ("**CPs**") (the "**Response**"). The consultation set out OZEV's policy ambitions across key areas such as streamlining the physical and digital payment methods offered to consumers, opening up CP data and ensuring a reliable charging network (our summary of the consultation can be found here).

The Response draws on feedback from over 1500 EV drivers and 13 chargepoint operators ("**CPOs**") and sets out the Government's final policies following the consultation.

Government's final policies

The policies set out in the Response apply only to public CPs and will be given effect via amendments to Part 2 of the Autonomous and Electric Vehicles Act 2018 and the Prices Act 1974.

1. Method of payment

The Response notes that while simple payment solutions have emerged, there remains no common method of access across CP networks, resulting in a more complicated consumer experience.

New CPs above 7.1kW and existing rapid CPs (50kW and above) will be required to have a non-proprietary method of payment that does not require a payee's mobile or internet connection. The payment method must also be compliant with the Alternative Fuels and Infrastructure Regulations 2017 ("**AFIR**") ad hoc requirement which ensures a consumer can use a CP without having to enter into a pre-existing contract.

This requirement will come into force immediately once amendments to the legislation have come into effect, and existing rapid CPs will need to be retrofitted to accommodate these changes within 12 months. The Government will carry out a further consultation on extending the minimum payment method to new chargepoints below 7.1kW.

2. Payment roaming

There is currently no payment solution which would allow consumers to take advantage of different payment platforms and subscriptions across the majority of networks. This is especially important for fleet vehicles who cannot rely on ad hoc payment.

As a result, the Government has mandated that all CPOs must align their services with a roaming provider (one who offers a payment app across multiple charging networks) within 24 months after the amended legislation is passed. In the interim, the Government will provide technical guidance to CPOs on accredited roaming providers to enable them to prepare their infrastructure appropriately.

It should be noted that the legislation will also include provisions to allow the Government to designate approved providers if the industry does not demonstrate significant progress within the 24-month period.

3. Open data

A key takeaway from the 2021 consultation was that EV drivers should be able to locate available and working CPs easily to allow for an efficient charging experience. The Government has identified "must have" data sets in order to achieve this, such as static data (information which does not change such as location, CP speed etc) and certain dynamic data (information which will change over time such as availability and state of repair).

Within 12 months of legislation taking effect, CPOs will be required to adopt Open Charge Point Interface (OCPI) data standards and to make static and some dynamic data openly available. The Government is currently working with industry and stakeholders through an open data workstream to develop a platform for making such data available; the expectation is that a solution will be operational by the end of 2022.

4. Pricing transparency

Pricing disparity and variation at CPs is also a key barrier to consumer confidence in the public charging network. The Response notes that consumers should be able to understand and compare pricing across the UK charging network to select the best available price.

Effective immediately from when the legislation is passed, CPOs will be required to display their pricing in pence/kWh. The precise method of display will be at the operator's discretion but must be clear to consumers and the price cannot increase once charging has commenced.

The Response also notes that due to the lack of standards, government will not be proposing to change regulations on MIR (Measuring Instrument Regulations 2016) compliant meters but will update guidance this year to clarify current legislation.

5. Reliability

In order to boost EV drivers' confidence in the reliability of public charging infrastructure, 99% reliability will be required for the UK's rapid charging network (including along the Strategic Road Network, at trunk roads and Motorway Service Areas) within 12 months of legislation being passed. Within the same timeframe, CPOs will be obliged to provide a 24/7 helpline to offer consumer support at all CPs.

There will be no exemptions for factors such as poor weather and reliability will be measured using open data. The Response notes that the Government will develop the reliability metrics with industry in the next year and this will be outlined in guidance documents.

The Government will monitor reliability data (which CPOs will be obliged to publish in line with OCPI standards) and publicly list those CPOs who do not maintain a reliable network. The Government will also enforce self-reporting until open data has been mandated.

The Response states that if sufficient improvements are not noted by the end of 2023, government will take the power to mandate 99% reliable charging across charging points of all speeds.

Enforcement

An appropriate body will be appointed to enforce these regulations and an enforcement regime (similar to that under AFIR) will be introduced whereby the enforcement body has the powers to inspect, test and remove hard and software situated on both public and private land. It may well be that the Office for Product Safety and Standards (OPSS) fulfils this responsibility under the AFIR.

Next steps

Legislation will be laid before parliament in 2022 (parliamentary business permitting) and will take effect either immediately, after 12 months or after 24 months. It is expected that all legislation will be effective by the end of 2024.

A summary of the key legislative measures and lead times for implementation set out in the response are as follows:

Legislation lead times (time allowed for compliance)	Legislative requirement	Rationale for the policy lead time
Immediately after legislation comes into effect	All new chargepoints over 7.1 kW to meet minimum payment requirements	We expect chargepoint operators to capitalise on the lead time between the Government response being published before legislation comes into effect.
12 months after legislation comes into effect	Pricing to be displayed in pence/kWh	We do not expect the transition to pence/kWh to be burdensome. The majority of chargepoint operators already use pence/kWh.
	Chargepoint operators to publish data and adopt the Open Charge Point Interface (OCPI) data standard	Chargepoint operators have been engaged for many years on this topic.
	Rapid chargepoints including those situated on the SRN to be 99% reliable	Rapid chargepoints are predominantly situated on the SRN, are fewer in numbers, and are not reliable at present.
	24/7 helpline	Time needed to recruit and train staff and establish the call line system.
	Public rapids retrofit to meet payment requirements	Time needed to undertake retrofitting on less numerous rapid chargepoints should not need to exceed 12 months.
12 months after proprietary networks' individual sites become public	Rapid charging sites that have become public retrofit to meet payment requirements	Time needed to undertake retrofitting per site that is opened to the public should not need to exceed 12 months.
24 months after legislation comes into effect	Review extending reliability to entire network	Time needed for data reporting systems to be created to monitor reliability without government intervention.
	Chargepoint operators must comply with payment roaming	Time needed to connect to roaming providers and develop roaming solutions should not need to exceed 24 months. There are already roaming providers in the market, and it is only those chargepoint operators who do not yet offer roaming that will need to take action to do so.

This is an abridged version of a full CMS Law-Now article which can be read here.

Ofgem updates supply licence guidance for EV chargepoint operators

On 9 March 2022, Ofgem published guidance on selling electricity to EV drivers. The guidance focuses on eight charging scenarios and outlines the rules that apply to each. It updates the 2019 version of the guidance and provides greater detail on the EV charging framework.

Background of the regulatory framework

Supply of electricity via electric wires to a premises requires a licence or a licence exemption under the Electricity Act 1989.

The supply of electricity to an EV can be broken down into two steps:

1. Provision of electricity from the grid to a chargepoint; and
2. Provision of electricity from a CPO to an EV.

Provision of electricity to a chargepoint *is* "supply" and will require a licence, unless it falls within an exemption. However, due to their mobile nature, Ofgem does not consider EVs to fit within the definition of a "premises". Consequently, as the Ofgem guidance explains, the sale of electricity by a CPO to an EV does not fall within the definition of supply.

EV charging scenarios

Ofgem groups the habits of EV drivers into eight scenarios. Slightly different rules relate to each, but two overarching principles apply in all:

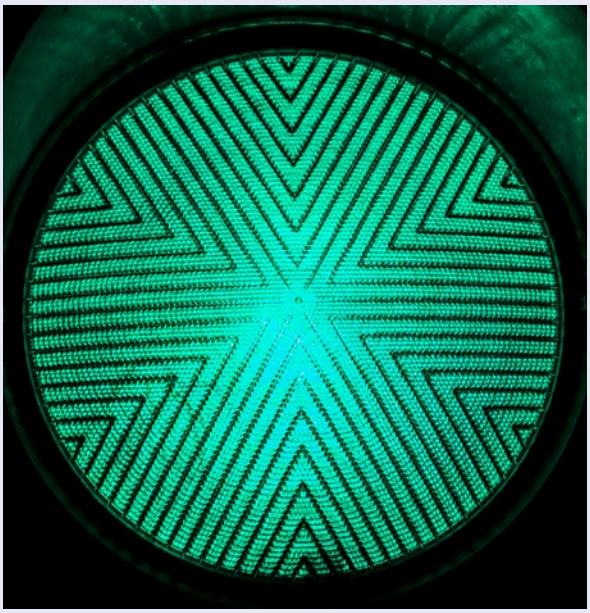
1. The supply of electricity to a microgrid or a chargepoint is "supply", either licensable or exempt; and
2. The sale of electricity from a chargepoint to an EV is not "supply" and does not require a licence.

Scenario	Applicable regulation
Home	An EV is treated the same way as a household appliance, and no licence is required to install, maintain or operate a home EV chargepoint.
Destination	This includes venues such as workplaces, car parks, shopping centres and sporting venues. If the venue then resells the power to a CPO, it is likely to be an exempt supply.
Forecourt	This scenario covers conventional petrol stations, dedicated EV garage forecourts and motorway services. Where this scenario differs is in the number of intermediaries involved in the transaction. Any parties that resell electricity down the supply chain between the licensed supplier and an EV user are still likely to be covered by an exemption.
On-street	On-street chargepoints can be stand-alone or part of street furniture, such as lampposts. Most often, electricity will be provided to the CPO via the local Distribution Network Operator's system and the supplier will be a licensed entity. If the street is part of a private microgrid network and the supplier operates onsite, it will likely fall within an exemption.
Home and roam	Under this scenario, EV drivers combine their domestic consumption of power with the use of designated on-street, destination and forecourt chargepoints. Each of the CPOs has its own supply contract, and the EV driver can have access to chargepoints from various providers. The driver's domestic supplier bundles the roaming charging services with the domestic electricity usage and provides the customer with a single bill.
Peer-to-peer	If a host is selling electricity from a licensed supplier directly to the EV driver, then they will likely fall within an exemption. On the other hand, if a host generates its own electricity (e.g. using solar panels or battery storage) and sells it, there is unlikely to be "supply" as there is no onward supply.
Mobile on-demand	This means instances where the chargepoint is not fixed, such as mobile batteries. Such mobile charging providers are not subject to supply rules.
Fleet	Many businesses have begun electrifying their fleets. The fleet model resembles the above seven scenarios and is most similar to "Home and roam". There are different ways in which employees can be reimbursed for charging their work EVs at home, including compensation via payroll or bundled products with the employee's domestic supplier. Currently, the fleet operator is unable to have a supply contract for EV charging at the employee's premises which would be separate to the employee's domestic electricity supply contract.

Comment

Ofgem's publication is welcome as it is a practical guide to navigate the regulatory framework of EV charging, including engaging with new EV charging models. While it provides useful information to EV drivers, CPOs, local authorities and businesses, it does not replace legal advice in relation to the application of electricity supply exemptions which are complex and fact specific.

EV Energy Taskforce publishes 'Drivers for Success 2035'



The EV Energy Taskforce group has published a report alongside the Government's EV Infrastructure Strategy that assesses the scale of rollout required for the UK to fulfil its ambition of phasing out internal combustion cars and vans in time to deliver net zero by 2050. It states that coordination action from the energy, infrastructure and automotive sectors as well as engagement from EV users will be required. The report identifies the following 'enabling conditions' to ensure the deployment of charging infrastructure meets these goals:

1. Public charging needs to be built ahead of need to gain consumer confidence:

— Targeted financial support, including blended public and private capital funding;

— Ofgem and government should ensure there are network investment incentives;

— Streamlined planning guidelines and consent protocols; and

— Common template for tendering by local government as well as education.

2. It is essential that local authorities have the tools, capabilities, powers and resources to ensure integrated energy and transport planning:

— Local authorities must have the mandate and obligation to develop and deliver local EV charging strategies, as well as support of consenting powers, toolkits, frameworks and guidance;

— DNOs must provide mechanisms for sharing knowledge, materials and learnings across local authorities in each region to develop a local transport energy plan; and

— Ofgem should facilitate efficient, anticipatory electricity network investment by network operators informed by common assumptions and local area energy plans.

3. Public chargepoints have to be used and usable – visible, accessible, connected, secure and interoperable to gain consumer confidence:

— A national data connectivity with an architecture that supports evolving EV charging requirements is necessary;

— A minimum level of service which includes accessibility, uptime and repair completion targets for CPOs and local authorities should build this into their procurement; and

— Relevant chargepoint, network and vehicle data open and accessible whenever possible to facilitate smart charging.

4. Smart charging, wherever appropriate, is essential if system cost is to be managed:

— Ofgem and government should further reform electricity market arrangements to encourage flexibility; and

— Government, industry and other stakeholders work together to align expectations for interoperability, cyber security, data privacy and grid stability, taking a whole systems approach to ensure a seamless integration of cross-sector data services.

5. Informing, educating and protecting EV users is critical to create the understanding necessary for mass market uptake:

— Government, local authorities and chargepoint operators will need to support consumers without access to domestic charging, by exploring and deploying a range of charging options appropriate to the locality and the use of 'home and roam' tariffs; and

— Consistent consumer protections must be implemented to ensure that industry deploys complaint handling mechanisms across the consumer journey, particularly to address issues with bundled packages including vehicle, chargepoint, tariff and finance.

MP Committee finds that new road tax for EVs required

Action on a new motoring tax is required this year if the treasury is to avoid a GBP 35bn 'black hole' in its finances, from the switch to EVs, according to the Transport Select Committee of MPs. The GBP 35bn is the cumulative sum raised at present from Vehicle Exercise Duty and Fuel Duty, neither of which are levied on pure EVs. With EVs making up more than 10% of new vehicle registrations in 2021 and sales of new petrol and diesel cars to be banned in the UK from 2030, the Committee predicts these two existing taxes will raise no revenue by 2040.

The Committee believe plans for road pricing, effectively charging motorists for how much they drive, should be prioritised by the Department for Transport. There is hope that road pricing may also help ease congestion, by setting lower tariffs at typically quieter times of the day and encouraging travel during these periods. Questions persist, however, over how to fairly price and monitor such a scheme, with appropriate and cost-effective technologies still under consideration.

Project launched to support EV chargepoint infrastructure rollout

On 25 March 2022, the Government's Geospatial Commission launched a discovery project, using location data to inform planning and delivery of EV chargepoints by local authorities, as part of the Government's wider strategy to develop the UK's EV charging infrastructure in advance of the 2030 end date for the sale of new petrol and diesel vehicles. Working in partnership with Frazer-Nash Consultancy, the Commission will carry out workshops with 10 local authorities to identify the challenges and opportunities of using location data to situate new chargepoints. The Commission hopes that the pilot will highlight the key stakeholders in any nationwide chargepoint rollout, identify what data is most predictive of consumer behaviour and, by extension, set out a vision for a nationwide chargepoint rollout. A finish date for the 10 council pilot is yet to be announced.

Industry body calls for new EV chargepoint regulator

The Society of Motor Manufacturers and Traders ("**SMMT**") published a seven-point plan in February 2022 calling for mandated targets for infrastructure rollout, supported by an independent regulatory body, to be called 'Ofcharge' (the Office of Charging). Ofcharge would monitor the industry and charging price levels, enforce regulated minimum standards, and keep consumers at the heart of planning.

The seven-point plan aims to:

1. Embed consumer-centricity in policy and a national plan on charging infrastructure;
2. Develop and implement a nationally coordinated but locally delivered infrastructure plan;
3. Invest significantly to upgrade all types of charging infrastructure, particularly public chargers, ahead of need;
4. Set binding targets to ensure adequate public chargepoint provision and social equity;
5. Enact proportionate regulation to deliver the best outcomes for consumer experience and expansion of provision;
6. Provide adequate enabling support to incentivise and facilitate delivery of charging infrastructure; and
7. Ensure electricity networks are future-proofed and fit for purpose for zero emission mobility.

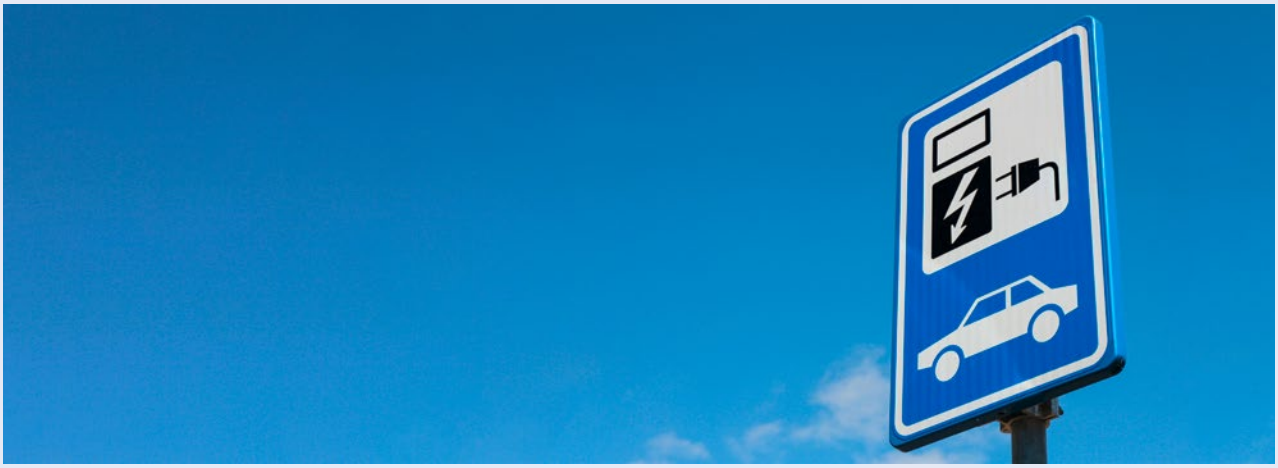
There has been a 3,000% increase in the number of standard public chargepoints within the UK from 2011 to 2021. The International Energy Agency calculates that the UK has one rapid charger for every 32 battery and electric vehicle, which is at the forefront of Europe, and not far behind China (1:11), South Korea (1:12) and Japan (1:17). However, SMMT thinks that this progress must be accelerated further, with a focus on consumer interests to ensure adequate and equitable roll-out of infrastructure with proportionate regulation, rather than prioritising commercial interests with a focus on the most profitable types of charger.

Further investment for UK's EV chargepoints

Alongside the Government's EV Infrastructure strategy, charging point operators have unveiled renewed levels of investment in UK charging points.

bp has announced a plan to invest a further GBP 1bn into new electric car charging points in the UK, augmenting the company's previous plans to install 16,000 superfast charging points by 2030, and the Government's plan to roll out 100,000 superfast chargepoints in the same period. bp estimates that superfast chargers, capable of providing the electricity needed for EVs to travel dozens of miles within minutes, can do the work of approximately 60 overnight street-based chargers.

Meanwhile, Uber announced plans for 700 fast EV chargepoints to be installed throughout the London boroughs of Newham, Brent and Redbridge as part of a GBP 5m investment. The funding was announced in 2020 and the new on-street chargers are set to boost London's overall charging network by over 7%. The rollout in Newham, Brent and Redbridge is the first time that boroughs have worked with the ride-hailing company to install chargers on London's streets. The chargers will be Uber branded and available for the public to use.



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