

> POSITION PAPER

regarding the proposal of the European Commission
for a regulation on the deployment of alternative
fuels infrastructure from the 14th of July 2021

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The German Association of Local Public Utilities (Verband kommunaler Unternehmen, VKU) represents more than 1 500 public utilities and local-economy companies in the sectors of energy, water/wastewater, waste management and telecommunications. With over 283 000 employees, approximately 123 billion euros of sales revenue were generated and more than 13 billion euros were invested in 2019. In the final customer segment, the VKU member companies have a large part of the market in the central supply and disposal sectors: electricity 62 percent, gas 67 percent, drinking water 91 percent, heating 79 percent, wastewater 45 percent. Every day, they dispose of 31 500 tonnes of waste and significantly contribute through separate collection to the fact that Germany has the highest recycling quota in the European Union, at 67 percent. More and more local companies are committing themselves to broadband development. 203 companies invest more than 700 million euros per year. For broadband development, 92 percent of the companies are counting on taking glass fibres right into the buildings. We keep Germany running – climate-neutral, efficient, sustainable. Our contribution to today and tomorrow: #Daseinsvorsorge. Our positions: 2030plus.vku.de.

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VKU agrees to a publication of the position statement (on the Internet) including personal data.

The process to amend the European Directive on the deployment of alternative fuels infrastructure (2014/94/EU, AFI Directive, AFID) is necessary in order to keep up with technological progress in the development of recharging infrastructure and vehicle technologies. In particular, the ramp up of registration figures for electrical vehicles that has already taken place makes it necessary to set the right course now for a well-developed European network of publicly accessible normal- and fast-chargers. The European recharging infrastructure should be secure, reliable and convenient. Pricing should be transparent for the consumers and access to the recharging infrastructure should be simple, non-discriminatory and free of barriers for all European users.

Significance of the proposal for local public utilities

In Germany, a total of 46 174 publicly accessible recharging points were in operation by the 01/08/21¹. Approximately 15 percent of these are fast-chargers. Local energy providers in particular have taken on a leading role in rolling out this infrastructure, and are committed to its continued expansion. They provide the recharging infrastructure in cities and in the countryside, which consumers and companies increasingly rely on when deciding to switch to electrical vehicles.

In Germany and the rest of Europe, it is now a matter of advancing the expansion of charging infrastructure. This requires the creation of framework conditions appropriate for activating all investor potentials. This can only succeed if the AFIR leaves **the largest possible leeway for the competitive development of customer-friendly operation- and business models.** It must give the member states provisions that guarantee operators of publicly accessible recharging points the best possible safety and predictability in their investments.

VKU's key positions

The draft of the regulation on the deployment of alternative fuels infrastructure addresses many aspects that must be considered for the rapid development of a sufficiently extensive infrastructure for alternative fuels, which is harmonised at the European level. At this stage it is paramount that all available investor are being activate. This is only going to possible if the competitive development of customer-friendly operation- and business models as mentioned above is not being interrupted, and, secondly, customers are being provided with transparency concerning costs and conditions of use of the offers. Accordingly, from VKU's point of view the following points must be adjusted in the proposal:

¹ <https://nationale-leitstelle.de/verstehen/>, consulted on the 21/09/21.

- › **Undefined legal terms**, such as the “transitional phase”, in which fossil fuels also count as alternative fuels in the context of the regulation, must be specified.
- › The **definition of publicly accessible recharging points for electrical vehicles** must differentiate between various use cases, reducing the burden for small providers in particular with regard to the technical requirements.
- › The approach of reinforcing and harmonising **the instrument of national policy frameworks** is a step in the right direction. However, particularly in the area of recharging infrastructure for electrical vehicles, a purely quantitative and reactive demand side assessment does not seem fit for purpose.
- › The provisions proposed for the mandatory **payment instruments at recharging points** with a power output of over 50 kilowatts, and in particular the retrofitting obligation for existing infrastructure creates high costs that will have an adverse effect on the consumer prices and may also lead to the existing offer of recharging points being reduced.
- › A Europe-wide, harmonised **pricing components system** will only do justice to the goal of transparency for the consumer if the consumers have the possibility of easily comparing the services offered. Alongside other pricing components, a limitation to the price per unit (litre, kilowatt hour, kilogram) therefore seems appropriate.

VKU's positions in detail

Regarding Article 2, point 3c

Recommendation:

The term “transitional phase” in which alternative fuels from fossil sources are included in the scope of the regulation must be defined in terms of time, with regard to planning security for investors and operators of the related infrastructure, as well as for private and commercial users.

Justification:

It is correct to include alternative fuels from fossil sources in the scope of application of the regulation. The obvious intention of the European Commission to only allow this for a given time period is equally reasonable with regard to the goal of climate-neutrality. However, in the opinion of VKU, this time period should be clearly defined in order to give market participants and consumers planning security. This is necessary firstly because investments in infrastructures must usually be economically viable in the long term, and secondly because the alternative fuels listed in the AFIR draft are linked to other European legislation, such as the “Clean Vehicles Directive”.

Regarding Article 2, point 38

Recommendation:

VKU encourages to mandate Member States to differentiate between use cases regarding technical requirements in the context of the AFIR, via a **de-minimis rule or a comparably effective instrument**. It is thereby worth mentioning that a differentiation according to recharging performance alone will presumably be insufficient.

In the opinion of VKU, recharging points that are de facto not publicly accessible should not be included in the scope of the regulation or national regulatory measures. It is **absolutely necessary to avoid** the exclusion of offers by retailers, furniture stores or similar businesses from the scope of application. Instead, this principle should apply to holiday homes, doctors' practices, lawyer cabinets, sporting clubs and similar.

Justification:

The proposed definition of the term "publicly accessible" does not instruct the Member States to differentiate between different use cases of publicly accessible recharging points. In Germany, a similar regulation that implemented the AFID is in force, the Recharging Station Regulation (Ladesäulenverordnung), which over time has shown clear weak points. **It led to the same technical and organisational requirements being applied to the "wallbox" of a holiday home as to freestanding recharging stations on public roads or "High Power Charging" (HPC) hubs on the motorway.** This leads to the holding back of investments in the important area of "destination charging" (catering, sports clubs, doctors' practices, etc.). These recharging points are considered publicly accessible under the proposed definition, which is de facto not the case, as the operator only provides the recharging point for their own customers.

Investment restraint is particularly caused by the **legal consequences**. For example, the owner of a holiday house would have to fulfil a large part of the technical and organisational requirements **of Article 5 of this draft regulation**, the same way as an operator of a HPC fast-charger with a shop and restaurant on a motorway service station. This leads to high running costs beyond the hardware (wallbox) acquisition price, as the operator concerned would have to conclude a number of service contracts.

The primary purpose of their commercial activity is renting out a holiday home. The possibility for their customers to recharge their car is only an add-on, inseparably linked to their main service. This could be an appropriate delimitation criteria, for example, when defining whether such an offer is included in the scope of application of the regulation or not. However, it must be ensured that offers where a recharging station is part of the nature of the operation, and where the recharging station is therefore at least a secondary purpose of the commercial activity, remain in the scope of this regulation. This includes offers on retailer parking lots, for example.

Regarding Article 3 Paragraphs 1a and b

Recommendation:

Instead of the proposed reactive targets, Member States should determine their national recharging infrastructure development goals based on a predictive demand assessment, regularly verify them in the context of the reporting to the national policy framework and develop them further if necessary.

Justification:

In the opinion of VKU, the demand assessment for publicly accessible recharging infrastructure proposed in the draft regulation presents two essential weaknesses that could eventually endanger the success of electromobility:

- **The demand assessment is conducted independently of the actual demand** on the basis of a purely quantitative criteria (1 kilowatt of recharging capacity per registered vehicle). Depending on the circumstances in a Member State, the actual demand for a publicly accessible recharging infrastructure may be lower or higher than this figure. Furthermore, this criterion could lead to the type of recharging infrastructure (normal/fast) and its distribution across various use cases being left out of the assessment. This, in turn, could lead to less consumers and companies being willing to switch to electric vehicles.
- **The system proposed here is also a reactive approach**, which could equally lead to restraint in the shift to electrical vehicles. The solution to the proverbial chicken or egg problem lies in basing the recharging infrastructure expansion on expected future demand. The appropriate recharging infrastructure must already be present when the consumer decides to buy an electric vehicle running on battery. The approach chosen in the regulation draft will tend to always lead to a certain under-supply, as the recharging infrastructure is only built when the vehicles are already registered. This could potentially lead to disappointed users, meaning that less of them would decide to switch to an electrical vehicle.

The demand assessment should instead be conducted based on structural data, traffic flow data, annual mileages of the various vehicle categories (and thus their energy consumption), socio-economic data, already available recharging infrastructure and other influencing variables. Furthermore, the predicted sales figures of the car manufacturers and the recharging technologies of the cars should be taken into account.

The German Ministry of Transport has established the publicly accessible [StandortTOOL](#) based on such data. It visualises **the local and regional recharging requirements in high resolution** for the entire territory of the Federal Republic of Germany for the years 2022, 2025 and 2030. There are two more points in favour of this approach:

- Potential investors for recharging infrastructure, as well as municipal and private landowners can draw upon **excellent qualitative information** and transfer their reasoning to concrete plans with profitability forecasts.

- The **effect of financing programs** at the European, national and regional levels can be better managed.

It should be assessed whether and how the Member States can be supported in collecting and processing this data and how the know-how can be transferred. **It is important to not leave the Member States to solve this on their own**, in order to ensure consistent high-quality demand planning.

Regarding Article 5 Paragraph 2

Recommendation:

VKU considers it necessary to define requirements for customer-friendly payment systems instead of concrete provisions in the context of the AFIR. The recharging point operators should be obliged to offer Europe-wide and easily accessible payment systems. In the opinion of VKU, these should include the free distribution of electricity, (contactless) payment by credit or debit card and mobile-phone-based solutions (smartphone app or mobile website), as equal alternatives.

Justification:

Fundamentally, regulation that is too detailed limits the freedom of investors and operators of recharging infrastructures for the competitive development of operating and business models. It also limits the operators' capacity to react to the users' changing needs.

VKU considers it necessary to define **requirements for customer-friendly payment systems** instead of concrete provisions in the context of the AFIR. The recharging point operators should be obliged to offer Europe-wide and easily accessible payment systems. **In our opinion, these should include the free distribution of electricity, (contactless) payment by credit or debit card and mobile-phone-based solutions (smartphone app or mobile website), as equal alternatives**. The decision for one or more of these options should be at the discretion of the investor or recharging station operator. They bear the risk and must therefore have the possibility of providing the users with easily accessible and attractive offers that they will accept.

For mobile-phone-based solutions, **no user accounts with third parties** (such as Paypal, GiroPay etc.) **should be necessary** for payment processing. It must be possible to enter the credit or debit data directly into the app or the web interface.

The provision proposed in the proposal for a regulation does not differentiate between use cases and applies to all recharging points with an output of 50 kilowatts or more. There is a big difference, however, between a freestanding recharging station on a public thoroughfare or an HPC fast-charger of an establishment, such as a shop or a restaurant (comparable with a conventional gas station). The use of card-reading devices is recommended for fast-chargers, as they can be expected to have significantly higher rate

of usage and number of customers. However, VKU does not consider it necessary to mandate this through legislation, as operators will make this decision themselves.

VKU therefore opposes the provision proposed. In particular, for freestanding recharging stations, the provision in the draft regulation would create high costs with comparatively little benefit. In Germany, depending on the region, only two to five percent of all charging processes are on an ad-hoc basis. Card payment would only be necessary in these few cases. However, there are additional costs of several hundred euros per recharging point for the necessary hardware (card reading device) and its integration into the system (setup costs and software), plus additional running costs for the provision of a payment processing system. **The costs of retrofitting existing infrastructure would be even higher and in no way economically viable, which is why we decidedly oppose this provision.**

In addition, the proposed solution raises another issue that particularly affects the principle of transparent information for users regarding prices and conditions of the pending or completed recharging process (→ **Article 5 Paragraph 5 Sentence 1**). Most recharging stations do not have an in-built display that can be used to call up or display prices and information.

Both the conditions for ad-hoc recharging and for the billing and payment of the recharging process usually take place via a mobile device of the user (smartphone). This is established in the market and accepted by the customers. This approach lowers operating costs (avoidance of vandalism damage to the recharging stations) and offers a comfortable recharging experience, from price information, to information about the current recharging process, to the billing and payment of the recharging process – possible by credit card or other means of payment. The customer can also immediately have an invoice displayed and saved in PDF format. Other processes would need to be implemented for payment by card, for example billing on the bank statement or through the customer having to log into a website in order to receive the invoice.

VKU considers it necessary to promote the acceptance for publicly accessible recharging infrastructure and thus for the use of electric vehicles through **the AFIR, which harmonises certain customer-friendliness requirements across all Member States**. These also include the minimum requirements for customer-friendly payment processes defined above. In our opinion, it is just as important to **communicate transparently with the user about prices and conditions**. The users must be able to obtain information about all price components of a pending recharging process. This way, they can calculate the approximate costs and easily compare the prices of various providers.

As long as this principle is ensured, **detailed rules about the implementation of these requirements do not seem necessary**. The practise that is already accepted by the users is the display of prices and their components in digital form on their mobile devices (smartphones). In the future, the so-called plug-and-charge process will be introduced, which is currently the object of the revision of the communications norm ISO 15118. The display of the price in the vehicle itself will then become relevant. Central displays or other appropriate displays may also become relevant in future business models. VKU is explicitly

in favour of regulation that is **open both regarding new approaches and technologies**, as is the case with the current draft.

Regarding Article 5 Paragraph 5 Sentence 2

Recommendation:

The electricity price must be given in euros per kilowatt hour.

Justification:

Permissible price components for ad-hoc recharging should be defined in the context of the European regulation. In our opinion, this includes **the electricity price per kilowatt hour**, fixed price components and additional costs, for example if the recharging point is blocked for longer than necessary. Service provision costs may be added to this, for example for the reservation of a recharging point or a time slot. Dynamic prices should also be possible, for example depending on the current occupancy of the recharging infrastructure, the current price of electricity or the time of day.

However, the display of the electricity price in particular seems to be the sole requirement that lets the user easily compare offers. In Germany, the display of this price is obligatory. The options given in the current proposal, of giving fixed prices per recharging process or time-dependent rates, are the price models least preferred by the users, according to surveys conducted by our member companies. This is linked to the lack of information on how much energy they receive for the given price, which does not ensure transparent information for the user.

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