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Subject: State Aid SA.60775 (2020/N) – RRF – Germany
Publicly accessible charging infrastructure for electric vehicles in Germany (Förderrichtlinie Öffentlich zugängliche Ladeinfrastruktur für Elektrofahrzeuge in Deutschland)

Excellency,

1. PROCEDURE

(1) On 28 December 2020, the German authorities notified, according to Article 108(3) of the Treaty on the Functioning of the European Union (the “TFEU”), the above-mentioned measure to support publicly accessible charging infrastructure for electric vehicles in Germany (“the notified measure” or “the notified scheme”).

(2) On 21 January 2021, the Commission requested additional information concerning the notified measure, which the German authorities provided on 22 February and 19 March 2021.

(3) Following a call with the German authorities on 24 March 2021, the Commission services requested additional information by letter dated 13 April 2021 as well as on 1 June 2021, which the German authorities provided on 11 May 2021 and 4 June 2021.

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DEUTSCHLAND
(4) On 11 May 2021, the German authorities informed the Commission that this measure is part of the Recovery and Resilience Facility\(^1\) ("RRF") plans of Germany.

(5) By letter dated 11 May 2021, the German authorities agreed to waive their rights under Article 342 of the TFEU and Article 3 of Regulation 1/1958\(^2\) and to have the present decision adopted and notified in English.

2. **Detailed Description of the Measure**

2.1. **Objective of the notified measure**

(6) Electric vehicles can make an important contribution to reducing greenhouse gas emissions ("GHG") and pollutant emissions, as well as noise emissions. Strengthening electric mobility can help to reduce reliance on fossil fuels and is a key element in the mobility shift needed in order to achieve the German climate targets in the transport sector of 40 - 42 % less emissions by 2030 compared to 1990 levels.

(7) The German Federal government’s objective is to support the use of electric vehicles by developing an open and user-friendly charging infrastructure network that provides a wide geographical coverage and meets the requirements of the market so that users of electric vehicles can charge them quickly and easily anywhere in Germany. A comprehensive and demand-oriented network of charging infrastructure is essential for the market ramp-up of electric mobility.

(8) Under the national Climate Protection Programme 2030\(^3\) and the Charging Infrastructure Master Plan\(^4\), the German Federal government has set the goal of achieving the deployment of one million publicly accessible charging points by 2030 through corresponding funding programmes running until 2025 (with the notified measure being one of them).

(9) The notified measure consists in an aid scheme that follows on from an existing scheme that was approved by the Commission on 13 February 2017\(^5\) and which was extended until 30 June 2021 by the Commission on 10 December 2020 (SA.59743\(^6\)) (the “existing scheme”). The German authorities have indicated that the existing scheme elicited strong interest during the six funding calls that were conducted between 2017 and 2020, with a total of over 7 000 applications. While only 10 000 publicly accessible charging points were available in Germany at the beginning of 2017, by the end of 2020 this number had risen to around 29 000

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\(^2\) Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).
\(^3\) Klimaschutzprogramm 2030.
\(^6\) Decision SA.59743(2020/N) – Modification to SA.46574 – Charging infrastructure for e-mobility in Germany, C(2020) 8913 final.
(12 000 of which were supported under the existing scheme). New registrations of electric vehicles have increased in 2019 and especially in 2020\(^7\) compared to previous years, according to the Federal Motor Transport Authority (Kraftfahrt-Bundesamt (KBA)).

(10) Despite these developments, according to the German authorities, the wide-scale deployment of publicly accessible charging infrastructure on a purely commercial basis remains not feasible, as there is only a low number of electric vehicles on the market and, without adequate charging infrastructure, the market for electric vehicles cannot develop further. The German authorities therefore aim to support the deployment of at least 50 000 additional publicly accessible charging points (including at least 20 000 fast charging points) by the end of 2025.

2.2. Legal basis

(11) The legal bases of the notified measure are:

- the draft Funding Guideline for electric vehicle charging infrastructure in Germany (Förderrichtlinie Öffentlich zugängliche Ladeinfrastruktur für Elektrofahrzeuge in Deutschland\(^8\)) (the "Funding Guideline");
- sections 23 and 44 of the Federal Budget Code (Bundeshaushaltsordnung) and the general administrative regulations issued thereunder.

2.3. Budget and duration of the scheme

(12) Aid under this scheme may be awarded as from its approval until 31 December 2025.

(13) The total budget of the notified measure is EUR 500 million. It does not include any funding by the German Federal states (Länder).

(14) The budget of the notified measure is partly made available through the RRF.

2.4. Scope of the notified measure

(15) The scheme aims to promote the construction of publicly accessible charging infrastructure for electric vehicles in Germany consisting of permanently installed and mobile charging points, including the required connection to the grid.

(16) The notified measure will support the installation of:

(a) fast charging points (> 22 kW) or standard charging points (3.7 to 22 kW) and the associated connection to the grid (and buffer storage); or

(b) the upgrading or replacement of existing charging infrastructure and the reinforcement of the grid connection at locations that were operated prior to the entry into force of the measure, if additional value added can be demonstrated and provided they have not already been supported under another public funding measure covering the same eligible costs.


\(^8\) The Funding Guideline will enter into force after the Commission’s approval of the notified measure.
The electricity required for charging must come from renewable sources and must not have been subsidised under the German Renewable Energy Act (Erneuerbare-Energien-Gesetz). The owner or operator must prove the supply of renewable energy at the charging station, either by submitting a green electricity contract for the supply of electricity to the charging station or by submitting a proof of self-produced renewable electricity that is supplied and consumed directly at the charging station.

The notified measure aims to address all the different fields of application for the use of publicly accessible electric charging infrastructure identified in the model of the National Platform for Electric Mobility⁹ (see under section: publicly accessible installation site, 15-40%, ‘Öffentlich zugänglicher Aufstellort, 15-40%’ in Table I):

<table>
<thead>
<tr>
<th>Typische Anforderungen für Ladeinfrastruktur</th>
<th>Privater Aufstellort 60-85 %</th>
<th>Öffentlich zugänglicher Aufstellort 15-40 %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garage (with or without ownership)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parkplatz (z.B. Tiefgaragen, Mehrfamilien-</td>
<td></td>
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<tr>
<td>-häuser, Wohnblocks)</td>
<td></td>
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<tr>
<td>Firmenparkplätze auf Nutzgebäude</td>
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<tr>
<td>Ladestation/Lade-Hub Innenorts</td>
<td></td>
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<tr>
<td>Ladestation/Lade-Hub an Autobahn, Bundesstraße</td>
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<tr>
<td>Kundenparkplätze (z.B. Parkhäuser</td>
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<tr>
<td>(z.B. Einzugscentren)</td>
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<td></td>
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<tr>
<td>Straßenrand, öffentliche Parkplätze</td>
<td></td>
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</tr>
</tbody>
</table>

Table 1: Fields of application for the use of publicly accessible and non-publicly accessible charging infrastructure (source: German authorities)

2.5. Aid beneficiaries

The scheme will be open to economic operators active in all sectors and areas of activity.

2.6. Form of aid, eligible costs and aid intensity

The aid will be provided in the form of direct grants.

The eligible costs are the investment cost for the construction, installation and upgrade of charging points for electric road vehicles. Eligible costs include expenses for the procurement, assembly and installation of standard and fast charging points and the one-off costs for connection to the electricity grid. Expenses for renting/leasing of the land are excluded from the eligible costs. The German authorities have further confirmed that if the charging point is constructed on public land, the land will be acquired or leased under market conditions.

The maximum aid intensity is 60% of eligible costs following a competitive bidding procedure.

The following caps on aid amounts will also apply:

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⁹ The National Platform for Electric Mobility is an advisory body to the German Federal government that brings together vehicle manufacturers and component suppliers, energy companies, scientists, professional associations and members of civil society.
(a) standard charging points (3.7 kW to 22 kW): aid cap of EUR 2 500 per charging point;
(b) fast charging points (> 22 kW to < 100 kW): aid cap of EUR 10 000 per charging point;
(c) fast charging points ≥ 100 kW: aid cap of EUR 20 000 per charging point;
(d) connection to the low-voltage grid: aid cap of EUR 10 000 per site;
(e) connection to the medium-voltage grid: aid cap of EUR 100 000 per site;
(f) combination of buffer storage with grid connection: aid cap according to the corresponding grid connection (see aid cap of letters (d) and (e)).

(24) To benefit from the maximum aid intensity, the charging infrastructure must be accessible for public use 24 hours a day seven days a week, otherwise the aid intensity is reduced by 50%. The charging infrastructure must in any case be accessible for public use for 12 hours a day from Monday to Saturday.

(25) The aid intensity for charging infrastructure may be reduced to below 60% depending on market developments in the field of publicly accessible charging infrastructure in Germany which, according to the German authorities, will be monitored on an ongoing basis. Due to the annual degression of funding, the respective aid intensities may be lowered every year based on the above-mentioned market monitoring.

(26) Calculated on the basis of the total level of the funding of the financial assistance over the lifetime of the programme, the maximum funding amount per aid applicant is limited to a maximum of 20% of the funds. The German authorities have indicated that supplementary upper ceilings may be defined within separate funding calls.

(27) The aid beneficiary must ensure that the charging infrastructure is in operation for at least six years (minimum operating period). Third parties may operate the charging infrastructure but the aid beneficiary must be the owner of the charging infrastructure for the entire minimum operating period.

(28) Planning, approval and operation costs of the charging infrastructure and services provided by the beneficiaries themselves (e.g. use of own staff or materials) are not eligible for aid.

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10 The German authorities have explained that the development of the costs for charging infrastructure, in particular the charging points themselves, is to serve as orientation and reference value. The relevant data (in particular acquisition costs as the technologies become more mature) is collected and analysed by the National Lead Agency for Charging Infrastructure with the help of OBELIS, the online platform for reporting on all charging stations funded by the Federal government.

11 The German authorities have indicated that in addition to the Federal Ministry of Transport and Digital Infrastructure’s (Bundesministerium für Verkehr und digitale Infrastruktur (BMVI)) own research and interdepartmental coordination within the Federal Government, NOW GmbH's National Lead Agency for Charging Infrastructure is responsible for regular market monitoring in the form of its own research and permanent exchange with stakeholders and interest groups.

12 Only those services provided by third parties in return for payment can be funded.
The charging infrastructure must be located in the territory of the Federal Republic of Germany. Applicants must determine the location of the charging infrastructure for the approval of the aid.

2.7. Selection of beneficiaries and projects

The application procedure is designed as a one-step process. State aid under the notified scheme will be awarded based on a competitive bidding process, by means of at least one call for funding per calendar year (Förderaufrufe) that will be launched after the approval of the notified scheme. Applications are submitted using the easy-Online electronic form system (available at https://foerderportal.bund.de/easyonline/). The granting authority is the Federal Agency for Administrative Services (Bundesanstalt für Verwaltungsdienstleistungen (BAV)).

Aid is granted on the basis of the lowest requested aid amount per charging point within the same category (principle of best value for money). The performance categories are based in particular on the charging capacity in kW and are defined in the respective funding calls: The best value for money criterion will be based on the cost per kW of installed capacity and will constitute the ranking tool among the applicants that meet the eligibility criteria. Due to limited budget availability, not all applications will be considered, only those with the highest ranks.

The amount of aid is degressive over the period of lifetime of the Funding Guideline, i.e. the maximum aid amounts will be reduced with each funding call that takes place.

2.8. Funding by the Federal states

The Länder may supplement the notified measure with their own schemes to promote charging infrastructure, provided that such schemes comply with the requirements of the Federal Funding Guideline.

2.9. Cumulation

The aid cannot be cumulated with any aid received under another public funding measure when aimed to cover the same eligible costs. The German authorities have committed to ensure, in close coordination with the Länder, that the same eligible costs will not be funded twice.

2.10. Transparency, reporting and monitoring

The German authorities will annually submit to the Commission the reports

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13 The German authorities have explained that within a performance category, preference is given to those applications that require the least funding in relation to the maximum possible funding. Those applicants who require a smaller share of the maximum possible funding in relation to other applicants in order to realise their project per performance category thus have a greater chance of receiving the grant.

14 The total funding provided by the Länder through their own programmes may not exceed 20% of the amount specified in the Federal Funding Guideline.
provided for by Article 26 of Council Regulation (EU) 2015/1589. They will maintain for at least 10 years from the date of award of the aid, detailed records containing the information and supporting documentation necessary to establish that all compatibility conditions are met, and provide them, on written request, to the Commission within a period of 20 working days or such longer period as may be fixed in the request.

(36) The German authorities have confirmed that the Funding Guideline will be published on the central website of the Federal Gazette (www.bundesanzeiger.de), posted in the Federal funding database (www.foerderdatenbank.de) and publicised as part of the public relations work of the BMVI and the federally owned program company NOW GmbH.

(37) The German authorities further have confirmed to publish information on each individual aid award exceeding EUR 500 000.

(38) In addition, the Federal funding advisory service will provide advice on the possibilities for funding under the Funding Guideline. The funding calls as well as all modalities of the funding will also be announced on the website of the granting authority (BAV).

3. ASSESSMENT OF THE MEASURE

3.1. Existence of State aid within the meaning of Article 107(1) of the TFEU

(39) By virtue of Article 107(1) of the TFEU ‘any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.’

(40) The qualification of a measure as State aid thus requires the following conditions to be met cumulatively: a) the measure must be financed through State resources and be imputable to the State; b) it must grant a selective advantage liable to favour certain undertakings or the production of certain goods; c) the measure must distort or threaten to distort competition and d) the measure must have the potential to affect trade between Member States.

3.1.1. Imputability and involvement of State resources

(41) In order for a measure to be found as being granted by a Member State or through State resources in any form whatsoever, it must be granted directly or indirectly through State resources and be imputable to the State.

(42) In this case, as the aid takes the form of a grant that will be paid to the beneficiaries from the German Federal budget, the aid is granted directly through State resources. In view of the fact that the granting authority is the Federal Agency for Administrative Services (BAV) and that the measure is enacted...
through the Funding Guideline, the decision to provide the aid is imputable to the German State.

(43) The Commission therefore concludes that the measure is financed from State resources and is imputable to the German State.

3.1.2. Existence of a selective advantage

(44) An advantage, within the meaning of Article 107(1) of the TFEU, is any economic benefit, which an undertaking would not have obtained under normal market conditions, that is to say in the absence of State intervention. Article 107(1) of the TFEU also requires that a measure, in order to constitute State aid, is selective in the sense that it favours 'certain undertakings or the production of certain goods'.

(45) By reducing the investment costs for the installation of charging infrastructure for electric vehicles in Germany by means of a non-repayable grant, the aid beneficiaries will be granted an economic advantage, which they would not have obtained under normal market conditions.

(46) The notified measure is selective as only eligible aid beneficiaries providing charging infrastructure for electric vehicles in Germany will be selected within the limits of the available budgetary appropriations based on a competitive application process.

3.1.3. Impact on competition and on trade between Member States

(47) In accordance with settled case-law, for a measure have a potential impact on competition and trade it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.

(48) The notified measure strengthens the market position of selected undertakings active in the electric mobility sector where trade between Member States exist. By receiving aid for the installation of publicly accessible charging infrastructure for electric vehicles in Germany, only certain undertakings will benefit from the scheme in Germany compared to their competitors in Germany and other Member States. Therefore, the measure has potentially distortive effects on competition and is likely to affect trade between Member States.

3.1.4. Conclusion regarding the existence of State aid

(49) In light of the above, the Commission concludes that the notified measure involves State aid within the meaning of Article 107(1) of the TFEU.

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3.2. Legality of the measure

(50) The notified measure was notified by the German authorities on 28 December 2020.

(51) The German authorities have confirmed that the entry into force of the notified measure is conditional upon its approval by the Commission.

(52) By notifying the measure before its implementation, the German authorities have respected the notification and standstill obligation laid down in Article 108(3) of the TFEU.

3.3. Compatibility of the aid measure

(53) The Commission considers, in line with its decision-making practice, that the assessment of the compatibility with the internal market of the aid provided under the notified measure regarding the development of publicly accessible charging infrastructure for electric road vehicles requires an assessment based directly on Article 107(3)(c) of the TFEU18.

(54) Publicly accessible charging infrastructure for electric road vehicles does not fall within the definition of energy infrastructures set out in point (19) of the Guidelines on State aid for environmental protection and energy 2014-2020 (“EEAG”)19, but constitutes road transport infrastructure. Under point 15(b) of the EEAG, aid for such infrastructure is excluded from the scope of those Guidelines.

(55) Article 107(3)(c) of the TFEU states that: “The following may be considered to be compatible with the internal market: (...) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest”.

(56) The notified measure may be considered to be compatible with the TFEU if the criteria set out in Sections 3.3.1. to 3.3.6. are met.

3.3.1. Contribution to the development of certain economic activity

(57) Article 107(3)(c) of the TFEU provides that the Commission may declare compatible ‘aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest’. Therefore, to be considered to be compatible under that provision of the Treaty, aid must contribute to the development of a certain economic activity20.

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a) Identification of the supported economic activity

(58) The notified measure aims at developing economic activities related to the sector of the construction, installation and operation of publicly accessible charging infrastructure for electric road vehicles in Germany, as the availability of a geographically comprehensive network of charging infrastructure is essential for increasing the market share of electric vehicles.

(59) By requiring that the charging points must be supplied with electricity from renewable energy, the notified measure also aims at enhancing the use of renewable energy in the electric mobility sector.

(60) The Commission therefore considers that the notified measure will contribute to the development of certain economic activities as required by Article 107(3)(c) of the TFEU.

b) The aid facilitates the development of the economic activity

(61) The German authorities have confirmed that the aid can only be granted if the projects have not yet been initiated prior to the aid application. Moreover, the measure will not be implemented prior to the approval of the measure by the Commission (see recital (51)).

(62) On the basis of the information provided by the German authorities, the Commission considers that, without the aid, the aid beneficiaries would have little or no financial incentive to invest in charging infrastructure. In fact, new charging infrastructure would not be deployed without aid, as the number of electric vehicles on the road is still relatively low and, coupled with the high investment costs and the relatively small amount of electricity supplied at a charging point, do not yet allow for a cost-effective operation in all locations.

(63) The Commission notes that the notified measure is designed in such a way as to incentivise private investors to invest in charging infrastructure by creating a viable business model for such investment21.

(64) Moreover, the Commission considers that the support for the ramp-up phase of charging infrastructure in Germany will lead to a wider up-take of electric vehicles which, in turn, will enable a cost-effective operation of charging infrastructure in the future. It is expected that the aid will create the conditions for the further expansion of charging infrastructure by the industry without any need for additional aid (see recitals (9) and (10)).

(65) Finally, the Commission notes that the measure goes beyond the requirements of Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure22 as it covers not only urban and suburban areas but also rural areas, so as to ensure a homogeneous distribution of charging points across the German territory.

21 The current aid scheme also demonstrates the incentive effect of the aid: Data from the Federal Network Agency on the new commissioning of publicly accessible charging infrastructure and evaluations conducted by the Federal Office of Administration as the granting authority for the existing scheme show that more than 50% of the growth in registered publicly accessible charging points since 2017 was funded under that scheme.

additional aspect aims in particular at improving customer acceptance, interoperability and social fairness.

(66) On this basis, the Commission concludes that the notified measure has an incentive effect, as the aid will help to incentivise operators to construct, install or upgrade charging infrastructure. It will, thus, facilitate the development of the identified economic activity.

3.3.2. Aid which does not adversely affect trading conditions to an extent contrary to the common interest

a) Positive effects of the aid measure

(67) The notified measure is expected to have a range of positive effects in facilitating the development of the electric mobility sector (see recitals (58) to (66)).

(68) Moreover, the notified measure is in line with Directive 2014/94/EU according to which Member States should develop an appropriate national legal framework for the provision of alternative fuels and related infrastructure (see its Article 4).

(69) Furthermore, the notified measure will have positive effects in terms of environmental protection and climate change mitigation by contributing to CO₂ emissions and local pollution reduction, in accordance with the carbon-neutrality objectives set out in the European Green Deal. In fact, it supports charging point operators to use electricity from renewable sources, thereby promoting the development of economic activity in the electric mobility sector in a climate-friendly manner.

(70) In this respect, through the support for charging infrastructure, the measure is also expected to encourage more users to change from internal combustion engine vehicles to electric vehicles, with lower greenhouse gas and pollutant emissions.

(71) According to the European Sustainable and Smart Mobility Strategy, the increased deployment and use of renewable and low-carbon fuels must go hand-in-hand with the creation of a comprehensive network of charging and refuelling infrastructure to fully enable the widespread uptake of low- and zero-emission vehicles in all transport modes. ‘Recharge and Refuel’ is also a European flagship under the Recovery and Resilience Facility, targeting, by 2025, to build one million out of 3 million public charging points needed by 2030.

(72) The EU also aims to achieve climate neutrality, i.e. become an economy with net-zero greenhouse gas emissions by 2050, in line with the EU’s commitment to global climate action under the Paris Agreement. With a view to attain this ambitious objective, the EU has set in the 2030 Climate and Energy Framework.


binding targets to cut GHG emissions in the EU by at least 40% below 1990 levels by 2030. As part of the European Green Deal, the Commission proposed in September 2020 to raise the 2030 GHG emission reduction target, including emissions and removals, to at least 55% compared to 1990, which has been included by the European Council in its conclusions on 10/11 December 2020\(^{27}\).

(73) The Commission therefore concludes that the notified measure has positive effects in facilitating the development of the electric mobility sector and in a way that creates incentives for emission reductions in line with the relevant EU objectives of clean mobility as well as net-zero greenhouse gas emissions by 2050. The fact that the aid fulfils the relevant EU objectives (see recitals (68), (71) and (72)) shows that the aid has such a positive effect in that respect.

b) Negative effects of the aid measure

(74) In addition, the Commission needs to assess whether and how the aid measure minimises the distortions on competition and trade. In this regard, the Commission considers the following principles:

a) need for State intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, for example by remedying a market failure or addressing an equity or cohesion concern;

b) appropriateness of the aid measure: the proposed aid measure must be an appropriate policy instrument to address the contribution to an economic activity; and

c) proportionality of the aid: the amount and intensity of the aid must be limited to the minimum needed to induce the additional investment or activity by the undertaking(s) concerned.

(75) The implementation of the scheme will lead to a situation where some selected operators will receive the aid, namely those who apply and are eligible, and some will not, namely those who are not eligible, do not apply or do not qualify.

(76) As explained in recitals (30) to (32), the notified measure involves a competitive bidding process that has been designed to be open to a particularly wide range of projects that may contribute to facilitating the development of the economic activities in question.

(i) Need for State intervention

(77) In order to demonstrate the necessity of the measure, it has to be established that the measure enables the development of an economic activity, which would not have taken place in the absence of the measure, or at least would not have taken place on the same terms.

\(^{27}\) This is also enshrined in the proposed European Climate Law (COM/2020/80 final of 4 March 2020), the European Parliament and Council reached a provisional agreement on the Climate Law Regulation in April 2021.
The Commission considers that the German authorities have demonstrated that there is a need for State intervention for support to publicly accessible electric charging infrastructure. According to the German authorities, the economic operation of such infrastructure remains difficult due to the low number of electric vehicles in circulation. The market ramp-up of electric mobility is slow as there is not enough charging infrastructure available. Hence, there is a market failure in that no market is yet forming. The financial support for the development of publicly accessible charging infrastructure will therefore minimise the economic risk for aid beneficiaries until sufficient electric vehicles are registered, which in turn will then enable the proper economic operation of charging infrastructure.

Moreover, for the reasons pointed out in recital (79), it is not realistic to expect market operators themselves to take on the risk and remedy the current inadequacy of charging infrastructure in Germany, let alone ensure that new charging stations meet the necessary technical standards, with density and layout ensuring geographical coverage within the time limits required by Directive 2014/94/EU. There is a need for State intervention to accelerate the process.

The Commission also notes that apart from the existing scheme, which is in place until end of June 2021, there are no other measures relevant to the area of publicly accessible charging infrastructure for remedying the market failure with regard to the ramp-up of electric mobility. Although there are small subsidy programmes in various municipalities and a few state-specific subsidy programmes, these usually only cover a small part of the additional costs or have much lower financial resources, so that their impact is limited to the local level. Thus, the market failure currently still exists.

As set out in recitals (78) to (81), several factors and risks, in particular the novel and uncertain development of the market for charging infrastructure for the electric mobility sector and the associated high investment costs, continue to prevent operators from changing to electric vehicles without incentives.

The possibility to receive support for publicly accessible charging infrastructure will increase the interest in investing in charging infrastructure, thus contributing to the development of the economic activities related to the supply chain of electric vehicle charging as well as contributing to a change by operators to electric vehicles, which, in turn, will contribute to the attainment of the CO2 emission reduction targets in that sector in Germany.

In light of the elements detailed in recitals (78) to (83), the Commission therefore considers that the notified measure is necessary to support the targeted economic activity and in a manner that increases environmental protection.

(ii) Appropriateness of the aid measure

Member States can make different choices with regard to policy instruments and State aid control does not impose a single way to intervene in the economy.

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28 E.g. see BMVI study ‘Charging infrastructure 2025/2030 - scenarios for market ramp-up’ (Ladeinfrastruktur 2025/2030 – Szenarien für den Markthochlauf), published in autumn 2020 and forecasting a need for at least 440,000 publicly accessible charging points in Germany by 2030.
However, State aid under Article 107(1) of the TFEU can only be justified by the appropriateness of a particular instrument to contribute to the development of the targeted economic activities.

(86) The Commission normally considers that a measure is an appropriate instrument where the Member State can demonstrate that alternative policy options would not be equally suitable to contribute to the development of economic activities and where it can demonstrate that alternative, less distortive, aid instruments would not deliver equally efficient outcomes.

(87) As regards the form of the aid, the German authorities have indicated that, compared with other types of aid, a direct grant is the most appropriate measure, as it is likely to be the most effective means of contributing to the development of publicly accessible electric infrastructure. The German authorities have explained that in view of the very significant additional costs of electric mobility technology, purely regulatory measures will not be sufficient to achieve the market targets and also the climate targets for the mobility sector.

(88) The Commission agrees that the type of aid chosen, i.e. direct grant as opposed to a loan or tax credit, is in comparison to the latter easily and directly accessible (without additional administrative procedures) and enables to support operators in a simple and straightforward manner without significant delays.

(89) In addition, a nation-wide charging infrastructure goes hand in hand with the need to step up electric vehicle sales. Directly funding the deployment of publicly accessible charging infrastructure is likely to incentivise investments in such infrastructure and ultimately incentivise the purchase/use of electric vehicles.

(90) Therefore, the Commission considers that the type of aid chosen is appropriate to address the observed market failure.

(iii) Proportionality

(91) Under Article 107(3)(c) of the TFEU, the amount and intensity of the aid must be limited to the minimum needed to induce the additional investment or activity by the undertaking(s) concerned.

(92) First, the maximum aid intensity for charging infrastructure is capped at 60% of the eligible investment costs. Even though the present assessment is based directly on Article 107(3)(c) of the TFEU, it can be regarded as a strong indication in terms of proportionality that the aid intensity is below the maximum aid intensity which would be applicable on the basis of point 80 of the EEAG (namely up to 100% as the aid will be granted on the basis of a competitive bidding process, see recitals (30) to (32)).

(93) The Commission considers that the respective maximum aid intensity of 60% of the eligible investment costs ensures that the high capital expenditure for the provision of charging infrastructure can still be accomplished. According to the German authorities, in particular basing themselves on the experience gained from the existing scheme, a lower aid intensity would not allow any private investments in charging infrastructure.
In order to limit the funding to the minimum necessary, the maximum aid intensity of 60% of the eligible investment costs will be constantly reduced in subsequent funding calls in line with the development of the relevant market.

In addition, the Commission takes a favourable view of the fact that additional specific caps on the amount of aid apply under the notified scheme in order to further safeguard the proportionality of the aid (see recital (23)).

Moreover, the non-discriminatory, transparent and open application procedure in the form of competitive bidding (as explained in recitals (30) to (32)), where applicants compete on known criteria for a limited budget, ensures that the aid amount is limited to the minimum necessary by encouraging operators to submit competitive applications. The competitive bidding process forces the applicant to submit a bid that includes only the minimum aid required, as otherwise the bid risks losing out to a competing bid requiring less aid.

The Commission notes that, as set out in Section 2.7, the grants will be awarded on the basis of the principle of best value for money (see, in particular, recital (31)).

In light of the above, the Commission notes that the measure provides for a number of safeguards to ensure that any aid is limited to the minimum necessary to achieve its objectives.

Therefore, the Commission considers that the measure is proportionate.

3.3.3. Avoidance of undue negative effects on competition and trade and balancing test

According to the submissions of the German authorities, the notified measure will have only a limited effect on competition and trade.

On the negative side, the Commission notes that the measure is liable to strengthen the competitive position of the operators of the supported charging stations as opposed to their competitors (including refuelling stations). However, the Commission considers that, given that the application procedure will be operated in a fair, open and transparent manner, as it provides for application criteria open to all potential operators of charging infrastructure throughout the EU and sets non-discriminatory criteria regarding participation in the measure, the aid is limited to the minimum necessary. Therefore, the measure is designed to limit any distortions of competition as much as possible.

On the positive side, the Commission notes that the measure will facilitate, not only the supported economic activities, but also the development of zero-/low emission mobility-related activities, e.g. incentivise also the investments in electric vehicles. Moreover, the measure will have positive effects in terms of environmental gains, as it will induce a reduction of pollutant emissions, thus contributing to climate and air quality objectives.

The Commission recalls the aforementioned degression in determining the aid intensity, and positively notes the information provided by the German authorities that the maximum aid intensity of 60% would only be granted in 2021, with likely reductions in subsequent years in line with the development of the market.
Particularly against the backdrop of the continuing lack of economic viability of operating publicly accessible charging infrastructure for electric road vehicles, as well as in light of the current consequences of the COVID-19 pandemic, numerous potential applicants require an attractive framework in order to invest in the development of such publicly accessible charging infrastructure.

(104) The Commission also considers that the measure is designed in a way which minimises the risk of a dominant market position of individual providers by introducing a maximum cap of 20% of the public funds over the lifetime of the programme per individual beneficiary to limit the risk of a dominant market position (see recital (26)).

(105) In view of the expected growth of sales of electric vehicles (see e.g. recitals (9), (10), (58) and (64)) the measure is also unlikely to contribute to the creation of overcapacities on the relevant product market (services of charging stations). Therefore, the measure does not lead to undue negative effects on competition.

(106) The Commission considers that the aforementioned safeguard (20% cap on public funds), by preventing the creation of market power in local markets, is of such nature as to avoid risks of distortion of competition in the downstream market for charging services.

(107) The Commission considers that the negative effects on competition and trade are limited by the broad eligibility of the scheme and use of a competitive bidding process, and are outweighed by the positive effects for the electric mobility sector and the broader environmental positive effects of that the aid will bring about.

3.3.4. Transparency of aid

(108) The Commission considers that the German authorities comply with their transparency obligations (see Section 2.10).

3.3.5. Conclusion

(109) In light of the above, the Commission considers that the notified measure contributes to the development of certain economic activities without adversely affecting trading conditions to an extent contrary to the common interest and is thus compatible with the internal market on the basis of Article 107(3)(c) of the TFEU.

3.3.6. Compliance with other provisions of EU Law

(110) Based on the information submitted in the notification, the Commission has no reason to doubt that the measure complies with EU law.

4. Conclusion

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.
If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

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European Commission  
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State Aid Greffe  
B-1049 Brussels  
mailto:Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President