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| From: | General Secretariat of the Council |
| To: | Working Party on Transport - Intermodal Questions and Networks |
| Subject: | Fit for 55 Package - AFIR: Proposal for a Regulation on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU - presentation of articles 1, 2, 17 - 24 and annexes - questions from Germany |

Delegations will find in the annex, questions from the delegation of Germany on the subject mentioned above.

Art. 1

- A large number of EU provisions on price indications are defined in directives (e.g. the Price Indication Directive, Services in the internal Market Directive, Unfair Commercial Practices Directive), which the Member States have transposed into national law, either using or waiving the options available to them. Governing price indications through a regulation does not give Member States any latitude in implementation. This makes it particularly vital that the AFIR provides coherent provisions on price indications, which are compatible with the existing European regulatory framework. Did the Commission take this into account when drafting the regulatory contents? Germany believes there is a need for consultation on this issue, in particular with regard to the unit of measurement used as a basis for the pricing of charging current.
- We would like to request an explanation of what is meant by “mandatory Union wide targets” in Art. 1(2).
- Please specify what is meant by “corresponding Commission action” in Art. 1(3).
- Please clarify, whether the state aid framework (e.g. EEAG) will continue to permit financial support by Member States in future in spite of the mandatory targets set out for the deployment of infrastructure.

Art. 2

- We have some proposed changes to and questions on the definitions in Art. 2.
- In particular, we request that uniform terminology be used for the fuels throughout all dossiers in the ‘Fit for 55 Package’.
- Amendments proposed:
 - Point (3)(a):
 - “ammonia” shall be deleted;
 - after “hydrogen” shall be added as follows: “where it is used in connection with fuel cells”;

Rationale: Fuels used in combustion engines cannot be zero-emission, and the use of ammonia in fuel cells has not yet reached market readiness.

- Point (3)(b):

- “biomass fuels and biofuels as defined in Article 2, points (27) and (33) of Directive (EU) 2018/2001,” shall be deleted;

- “synthetic and paraffinic fuels, including ammonia produced from renewable energy,” shall be deleted.

Rationale: Use of varying or inconsistent definitions for renewable fuels should be avoided. We favour a dynamic reference to the new definition in the Proposal for RED II revision. In our opinion the definition shall be given as follows: “‘renewable fuels’ means biofuels, bioliquids, biomass fuels and renewable fuels of non-biological origin”, in order to correspond with Art. 2(22a) of Proposed Directive (COM(2021) 557 final).

- Point (3)(c): shall be entirely deleted

- “natural gas, in gaseous form (compressed natural gas (CNG)) and liquefied form (liquefied natural gas (LNG)) – liquefied petroleum gas (LPG)”

Rationale: In our view, these fossil fuels are not suitable as fuels for a transitional phase. In general, no further guidance should be given for the roll-out of fossil fuel infrastructure. The AFIR should only ensure that uniform designations are used for such fuels.

- “synthetic and paraffinic fuels produced from non-renewable energy” – We do not see any need for this provision.

- Point (10) – We propose the following change:

*“‘connector’ means the physical interface between the recharging **or refueling** point and the ~~electric~~ vehicle through which the ~~electric~~ energy is exchanged”*

- Point (38) – We propose the following change:

“alternative fuels infrastructure means an alternative fuels infrastructure which is located at a site or premises open to the general public, irrespective of whether the alternative fuels infrastructure is located on public or on private property, ~~whether limitations or conditions apply in terms of access to the site or premise and irrespective of the applicable use conditions of the alternative fuels infrastructure;~~”

- Point (47) – We propose the following change:

*“‘recharging **or refuelling** session’ means the full process of recharging **or refuelling** a vehicle at a publicly accessible recharging point from the moment the vehicle is connected to the moment the vehicle is disconnected;”*

- Point (56) – We propose the following change:

*‘safe and secure parking’ means a parking and rest area as referenced in Article 17, point(1)(b) **of Regulation (EU) 1315/2013** that is dedicated to heavy-duty vehicles overnight parking;*

- Point (59) – We propose the following change:

*“‘smart recharging’ means a recharging operation in which the **electrical power** delivered to the battery is adjusted in real-time, based on information received through electronic communication;”*

We would like to ask the European Commission to explain why a “real-time” requirement is to be imposed for smart charging, and ask whether “max. 15 min” (near real-time) could be conceivable as an alternative requirement. We consider the “real-time” requirement as troublesome, as, at present, seamless fast Internet and real-time market communication are not universally available.

Questions on definitions

- Point (3): We request an explanation of why definitions for “‘alternative fuels for zero-emission vehicles’, “renewable fuels”, “alternative fossil fuels” are necessary. These definitions no longer feature in the Regulation text that was submitted.
- Point (6): We request an explanation of what is meant by “telematics”.
- Point (16): We do not consider this definition sufficiently precise. What is meant by “often”?
- Point (30): We request an explanation of what is meant by “in return for remuneration”.
- Point (60) – We do not consider the definition sufficiently precise and request clarification of what is meant by “do not change often”.

Art. 17

- Article 17 must clearly indicate that the Member States are permitted to define fuel labelling requirements stricter than those in the Regulation.

- With regard to the provisions of **Art. 17(3)**, we would be interested to know whether the other Member States believe that it makes sense to retain the energy price comparison. Germany is of the opinion that the costs of implementing this provision outweigh its benefits.

Art. 19

- Article **19 (3)** also governs requirements for the properties of hydrogen used as a fuel by referring to point 3 of Annex II. Germany would like to request that the Commission delete the relevant standard ISO 14687:2019 from point 3.2 of Annex II. The Commission is authorized to govern the properties of fuels to the extent that Directive 98/70/EC (Fuel Quality Directive, FQD) and Commission Directive 2009/30/EU legitimate it to do so. The Fuel Quality Directive governs petrol and diesel fuels in particular, but not hydrogen as a fuel. If the Commission intends to introduce provisions to this effect, the Fuel Quality Directive would be the appropriate instrument.
- With regard to **Art. 19(6) and (7)**: Strict requirements at national level for cybersecurity and the use of smart metering must not be undermined. We are of the opinion that a recital shall be added for clarification: “Arts. 5 and 19 shall not undermine the high level of security requested at national level in the field of energy where smart meters subject to those national requirements are to be used.”