

European Competition Enforcement in EV Charging

The End of Undisciplined Vertical Integration

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Agenda



- 1) The Italian EV Charging Market**
- 2) The Market Squeeze Case Against Enel X**
- 3) The Legal Proceeding and the Sanction**
- 4) The Concept of the Equally Efficient Competitor**
- 5) European Warning Signs: Germany, Denmark, the Netherlands**
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The Italian EV Charging Market

~36,000

Public charging points in Italy
(2023)

~40%

Enel X Way's share of public
charging points

+120%

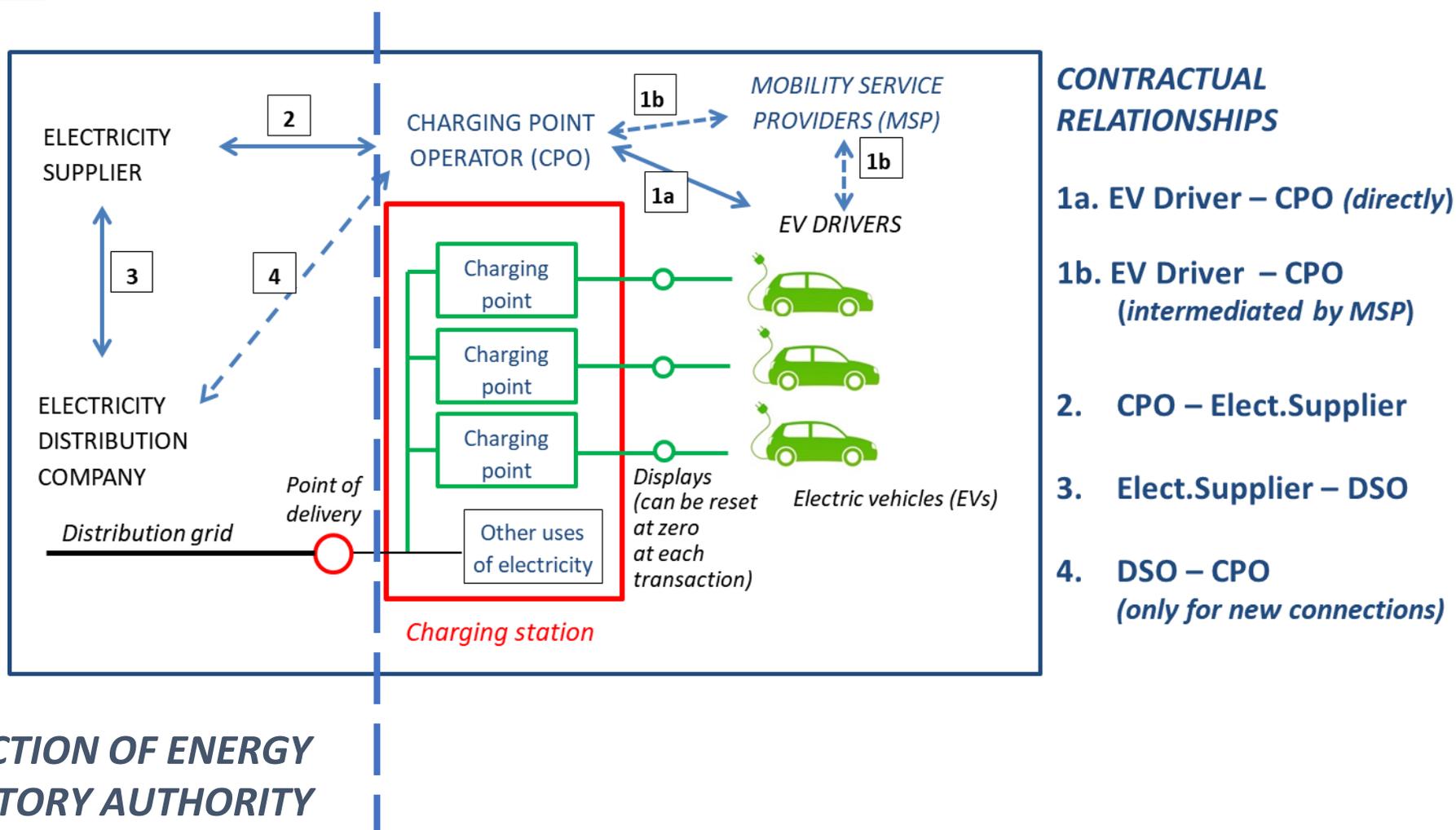
Growth in public charging
points 2021–2023

2 years

Duration of AGCM's first
in-depth EV market analysis

Source: AGCM Decision n. 31646 (July 2025)
first comprehensive market analysis of Italy's EV charging sector

The EV Charging in public places – roles



JURISDICTION OF ENERGY REGULATORY AUTHORITY

Source: CEER paper New Services and DSO Involvement, March 2019, Ref: C18-DS-46-08

The EV Charging Value Chain: CPO and MSP

CPO

Charging Point Operator

Installs, owns and physically manages charging stations.
Operates on a wholesale basis with MSPs.
Can also have direct relationship with customers (“ad hoc”)



Independent MSPs rely on fair “wholesale” pricing from CPOs to offer their competitive “retail” services.

MSP

Mobility Service Provider

Offers end-users access to multiple CPO networks via apps, RFID cards or subscriptions.
Operates on a retail basis.

There is no specific regulation of third party access for CPOs.

The Vertical Integration of the Enel Group

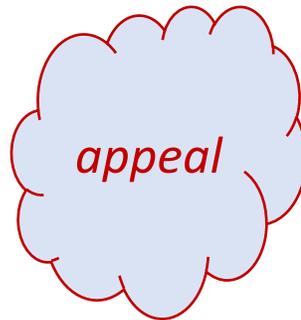
In the Enel Group **Enel X Way acts as the CPO** (dominant infrastructure owner), while **Enel X acts as the MSP**, competing directly against independent MSPs for end-consumer contracts.



The Structural Conflict:

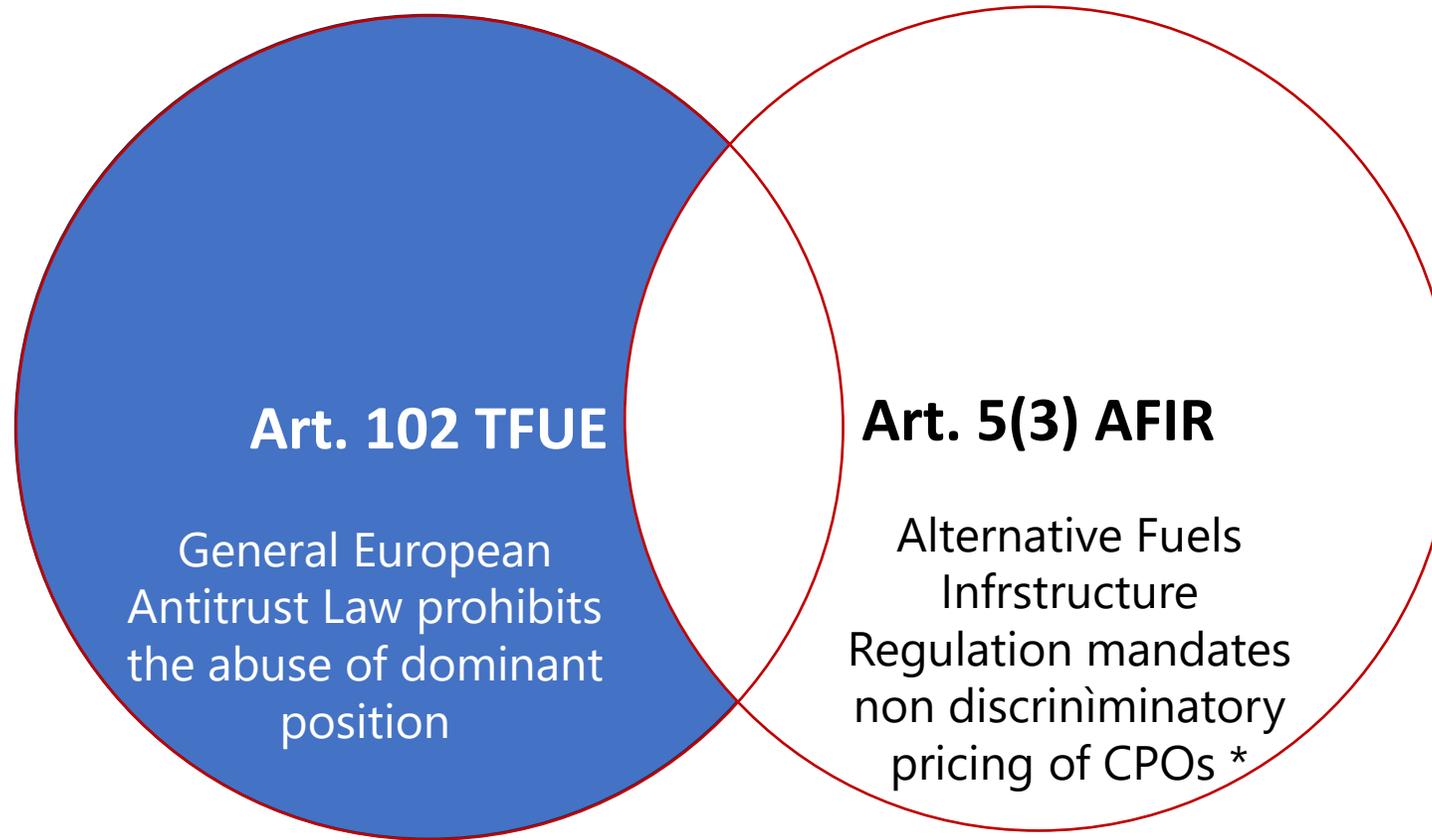
Operating as both the dominant supplier of wholesale access and a direct competitor in the retail market created a “chokepoint”, granting the group the ability to dictate market conditions for independent competitors.

The Legal Framework of the AGCM Case



Source: AGCM Decision n. 31646 (July 2025)

General Antitrust vs Sectoral Regulation



Facts are preliminary to AFIR entry into force (April 2024)

Nonetheless, AGCM decision pre-empts the AFIR ruling

The Dominant Position and Market Definition

Relevant Market Definition	AGCM Findings on Dominance
<p>Upstream (wholesale)</p> <p>Provision of EV charging services to MSPs — access to Enel X Way's charging infrastructure.</p>	<p>~40% of public charging points</p> <p>Enel X Way held the largest share of physical charging infrastructure nationally.</p>
<p>Downstream (retail)</p> <p>Provision of EV charging services to end-users (drivers) by MSPs.</p>	<p>Essential facility doctrine</p> <p>The charging network was considered an essential input that independent MSPs could not readily replicate.</p>
<p>Geographic scope</p> <p>Local markets defined by catchment areas around charging infrastructure (1–4 km radius for AC; 5–10 km for DC).</p>	<p>Local dominance confirmed</p> <p>Analysis of catchment areas showed persistent local concentration enabling exclusionary pricing.</p>

Legal tensions and Corporate Defense

THE COMPANY

Market Maturity. The sector is still in an embryonic state, making traditional definition of «dominance» premature

Unpredictable Macroeconomics. The contested period featured highly volatile and unpredictable electricity prices

Geographic Scope. Contested the definition of local geographic market and the calculation of dominance

THE AUTHORITY

Competition. *The necessity to protect competition dynamics precisely during the early stage of a new infrastructure*

Replicability test. *The pricing strategy was proved to be structurally exclusionary for equally efficient competitors*

Local concentration. *It grants disproportionate market power, and therefore requires robust local geographic market definitions*

The Equally Efficient Competitor (EEC) Concept



AGCM profitability analysis revealed that Enel X Way's Pay-Per-Use AC charging tariffs for direct consumers (Oct. 2022 – Mar. 2023) were priced lower than the wholesale prices charged to competing MSPs — an "explicitly below-cost" strategy (Decision 31646, pt. 205).

REPLICABILITY TEST: *Compare upstream wholesale price against Enel X's own retail price: could a hypothetical equally efficient MSP cover its costs and earn a reasonable margin?*

The non-replicability was demonstrated limited to AC low-power charging, where the below-cost retail pricing incumbent MSP strategy compressed the margins of independent MSPs ("margin squeeze"), making it impossible for an equally efficient competitor to operate profitably.

The Sanction: 2.3 M€

2.3 M€

Joint liability*:

**MSP Enel X S.r.l. +
CPO Enel X Way Italia S.r.l.**

Gravity: 10% of relevant sales value

Abuse of dominant position classified as a serious infringement of EU competition law (Art. 102 TFEU).

Base value: avg. of 2022 & 2023 annual sales

Relevant sales = MSP services market. Average used given asymmetric market growth (€10–32M/yr).

Duration multiplier: 1 year, 3 months

Infringement period: June 2022 – August 2023 (AC low-power charging only).

No aggravating / no mitigating circumstances

Spontaneous implementation of proposed commitments not accepted as attenuating (conduct already ceased).

() Note: Ewiva S.r.l. (Enel-Volkswagen JV for high-power charging) was also investigated but the final decision focused on Enel X Way and Enel X Way Italia only, because after corporate restructuring, Enel X S.r.l. was successor by merger of Ewiva.*

The EU Warning Signals



The AGCM ruling did not emerge in isolation — it is the first enforcement action of a growing interest of EU Competition Authorities in EV charging.

The EU Warning Signals: Germany



The **Bundeskartellamt** explicitly warned that vertically integrated CPOs with dominance setting abusive supply prices for competing MSPs represents a significant potential obstacle to competition.

BKA has not issued ex-post enforcement actions against specific anticompetitive practices.

The Sektoruntersuchung (150+ pages, Oct. 2024) remains analytical.

The EU Warning Signals: Denmark



In December 2023, **KFST** declared the EV charging market not well-functioning and issued 7 recommendations.

Vertical operators using market power in public charging to gain an unfair advantage in the home charging market — amplified by bundling practices.

A radical policy recommendation: a temporary 5-year ban on bundling home and public charging services, to eliminate switching costs and consumer lock-in.

The recommendation faced severe industry pushback (Dansk e-Mobilitet, FDM).

The EU Warning Signals: the Netherlands



In 2015-16, ACM's concerns led to voluntary commitments for Allego to purchase electricity from external suppliers — avoiding formal unbundling violations and preserving open market access.

*Recent sector investigations targeting hidden fees and unclear tariff structures in EV charging led **ACM** to mandate obligatory disclosure of full tariff structures to both consumers and competing MSPs.*

ACM maintains a baseline of consumer protection with continuous monitoring — ex-post sanctions remain available but have not been deployed yet (as of August 2025).

A Tool-Box for Competition *(and regulatory)* Authorities

Country and Competition Authority	Approach	Key Focus Area	Current Status
Italy <i>(AGCM)</i>	Ex-post Enforcement	Margin squeeze and dominant position	2.3 M€ sanction
Germany <i>(BKA)</i>	Analytical / sector inquiry	Margin squeeze risks	Warning, only monitoring
Denmark <i>(KFST)</i>	Policy Reform / Advisory	Lock-in effects; against bundling (home+public) EV services	Recommendation to Government
The Netherlands <i>(ACM)</i>	Transparency / regulatory mandates	CPO-MSP price transparency	Voluntary commitments first, then monitoring and ruling for transparency



THANK YOU FOR YOUR ATTENTION!

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For more information and references

www.rivistaenergia.it/2025/09/sanzione-agcm-enel-x/

(in Italian; soon in English on ERRA website)