

# THE FUTURE OF E-CHARGING INFRASTRUCTURE: ITALY

22 APRIL 2020 • ARTICLE



THIS ARTICLE IS PART OF A SERIES ON THE FUTURE OF E-CHARGING INFRASTRUCTURE IN THE EUROPEAN UNION AND UNITED KINGDOM.

In this piece we will discuss:

1. Overview of the Italian e-mobility market
2. Legal Framework for constructing and operating EV charging stations
3. What different business models do we see in the Italian market?

## 1. OVERVIEW OF ITALIAN E-MOBILITY MARKET

According to the National Infrastructure Plan for the Recharging of Vehicles powered by Electricity (*Piano Nazionale Infrastrutturale per la Ricarica dei veicoli alimentati ad energia elettrica – PNire*)<sup>1</sup> prepared by the Italian Ministry of Infrastructure and Transport, the transport sector accounts for about 30% of both Italy's energy consumption and its CO<sub>2</sub> emissions. To address this in light of national emissions reduction targets, the automotive industry has responded by manufacturing electric vehicles on an increasingly large scale, the results of which are already visible. These electrically-powered vehicles, including hybrids, now have sufficient range and performance to replace traditional propulsion vehicles, at least in metropolitan areas and for ordinary day-to-day travel requirements. Regardless, the ever-increasing number of electrically powered vehicles on Italian roads means adequate provisions must be made regarding the electricity grid and the construction of charging stations.

Indeed, the absence of an infrastructure network for alternative fuels, as well as common technical specifications for vehicle-infrastructure interfaces, is considered a major obstacle to market uptake of alternative fuel powered vehicles and their acceptance by consumers. Moreover, the absence of a harmonised national development plan for alternative fuel infrastructure negates the benefits of economies of scale.<sup>2</sup>

The move to sustainable and environmentally friendly transport will inevitably shift to the nationwide deployment of the latest generation of fast and ultra-fast charging stations, without which the market for electric and hybrid cars will not be able to take off despite the general willingness of users to purchase zero emission vehicles.

The construction of new infrastructure networks, in particular charging points (*colonnine di ricarica*), is therefore crucial.

At present, there are almost 8,200 public and private (publicly accessible) charging points in Italy, the regional distribution of which is rather uneven. Lombardy is the only region with over 1,000 charging points, followed by Lazio, Piedmont, Emilia Romagna, Tuscany and Sicily with over 500 each. Northern Italy has the highest number of charging points, both in total terms (51%) and for “fast charge” charging points specifically (53%).

In 2019 the number of private charging points in Italy grew by circa 60% compared to the previous year, with the total stock of private charging points installed nationally estimated at 11,000 – 13,000 points.<sup>3</sup>

In light of the central role played by charging points, particular attention is being paid by Italy to the concrete development of the required infrastructure, both through the implementation of precise administrative procedures relating to the construction of the latter and with respect to the introduction of mechanisms aimed at encouraging their diffusion.

## 2. LEGAL FRAMEWORK FOR CONSTRUCTING AND OPERATING CHARGING STATIONS<sup>4</sup>

Infrastructure for charging electric vehicles can be built (i) on public land; (ii) on publicly accessible locations owned by private individuals; or (iii) on privately-owned land.

Installations located on public land or publicly accessible locations owned by private individuals shall be accessible by all users with non-discriminatory access, subject to specific conditions of authentication, use and payment.

In accordance with the provisions of Legislative Decree no. 257 of 16 December 2016,<sup>5</sup> the charging infrastructure can be of standard power, i.e. between 3.7 kW and 22 kW or high-power charging points.

The standard power charging point includes the following types:

- slow: equal to or less than 7.4 kW; and
- accelerated: greater than 7.4 kW and equal to or less than 22 kW.

The high-power charging point includes the following types:

- fast: greater than 22 kW and equal to or less than 50 kW; and
- ultra-fast: greater than 50 kW.



The charging points can also be installed in garages or condominium areas. Unlike charging points located on public land or publicly accessible locations owned by private individuals (which, as mentioned above, are accessible by any user), private charging points can only be used by the individual owner, while condominium charging points are a common asset that can be used by condominiums, within the limits and modalities provided for by the respective condominium regulations.

## i) What is legally required to construct a charging station?

For charging points located on publicly owned land, pursuant to art. 23, paragraphs 2-bis of Law Decree no. 5 of 9 February 2012,<sup>6</sup> converted into Law no. 35 of 4 April 2012,<sup>7</sup> a SCIA<sup>8</sup> (Certified Reporting of Start of Activity – *Segnalazione certificata di inizio attività*) is required from operators building charging points.

The SCIA must be filed with the relevant municipality. The Ministerial Decree of 3 August 2017,<sup>9</sup> issued by the Ministry of Infrastructure and Transport (“the Ministerial Decree”), identifies the declarations, attestations, sworn statements and technical drawings that must be submitted together with the SCIA as follows:

- the project framework documentation (*documento di inquadramento del progetto*);
- the project’s technical specifications (*progetto tecnico*);
- a report summarising the technical specifications of the recharging infrastructure (*relazione sulle caratteristiche tecniche dell’infrastruttura di ricarica*); and
- a copy of the request for connection to the electricity distribution network or modification of an existing connection, in accordance with the regulatory requirements of energy sector authority ARERA (*copia della richiesta di connessione alla rete*).

If required, the right to install and operate electric vehicle recharging facilities on publicly owned land can be authorised by the relevant authorities in accordance with the provisions of Law no. 241/1990.

Such concessions have a pre-established duration period that can be extended upon specific request of the concessionaire, following approval by the relevant authority (i.e. the grantor). After the expiration of a concession, the operator is obliged to restore, at his own expense, the site to its original condition. In order to guarantee any construction work is correctly executed, concessionaires are usually required to provide a guarantee covering any and all damage to persons, property and animals.

**"After the expiration of a concession, the operator is obliged to restore, at his own expense, the site to its original condition."**

Furthermore, pursuant to art. 1, par. 3 of the Ministerial Decree, the construction of charging points on privately owned land or property that is publicly accessible, remains a free building activity (*attività ad edilizia libera*)<sup>10</sup> – i.e. not subject to authorisation or SCIA if the following requirements and conditions are met:

- the charging point does not require a new connection to the electricity grid or a modification of an existing connection;
- the charging point complies with current technical and safety standards;
- the installation of the charging point is carried out by a qualified professional and in compliance with electrical safety standards; or
- the installer must certify the compliance of the infrastructure with electrical safety standards.

If the charging infrastructure is to be built on land subject to legal constraints (e.g. landscape protection), the relevant documentation required by the national, regional and/or special local regulations in must be acquired.

Somewhat differently from the above, charging infrastructure can be installed on privately owned condominiums either:

- autonomously, by the individual owner of a car garage who informs the administrator (no particular authorisations are required), providing for the installation of a metre upstream of the system, which determines the related expenses; in this case it will be the administrator's task to verify that the system is built in compliance with current regulations, the rights of other condominiums, safety and decorum of the property; it must also establish, at the expense of the private condominium owner, the cost and any updating of the Fire Prevention Certificate; or
- in communal areas, where there are several stalls in the condominium, it is necessary to ask the administrator for permission. Following a specific request, in the event that the condominium refuses to authorise it or does not respond within three months of it being made in writing, the person concerned may install, at his own expense, the infrastructure for the electric recharging of vehicles. All infrastructure costs will in any case be borne by the requesting condominium owner.





## READ OUR OTHER COUNTRY UPDATES ON THE FUTURE OF E-CHARGING INFRASTRUCTURE

When local authorities (e.g. municipalities) wish to set up charging infrastructure for electric vehicles on publicly accessible areas, they can carry out public evidence procedures through the publication of calls for tenders for the development of charging infrastructures in compliance with the provisions of the Italian procurement code (i.e. Legislative Decree no. 50/2016). In such cases, the costs of construction, operation and maintenance of the charging station shall be borne entirely by the successful tenderer, who will collect the proceeds from the sale of the energy concerning the charging service offered to the users, without any consideration for the relevant contracting authority (excepting possible fees for using publicly owned land).<sup>11</sup>

Finally, it should be noted that the PNire clarifies that the correct management of publicly accessible electric vehicle recharging points requires the use of a management system that allows for the:

- Interoperability between charging systems and different circuits, in order to facilitate end-users. This means that a single charging point or a set of charging points cannot be managed according to proprietary logics and remain isolated from the surrounding infrastructure, but each single installation must be able to be used by consumers belonging to different circuits or territories, constituting a single large charging network comprising distinct systems able to “talk” to each other; and
- Ad hoc recharging modes, in order to facilitate access for occasional users. This means that the end user must not be required to sign a contract (or to register) with the operator of a specific recharging station but must be provided with the tools to use the recharging service without contract or registration. The measure also requires an adequate number of publicly accessible charging points be set up by 31 December 2020, taking into account the estimated number of electric vehicles locally and the needs associated with the installation of publicly accessible charging points at public transport stations.

**"The Directive aims to meet EU objectives on reducing both transport emissions and dependence on traditional fossil fuels."**

### ii) What are the legal requirements for operating a charging station?

#### 1. EU-Directive 2014/94/EU

Directive 2014/94/EU<sup>12</sup> of the European Parliament and the Council of 22 October 2014 on the establishment of an infrastructure for alternative fuels. The Directive establishes a series of measures for the implementation of an infrastructure for alternative fuels, aimed at minimising oil dependency and mitigating the environmental impact of the transport sector. It aims to meet EU objectives on reducing both transport emissions and dependence on traditional fossil fuels.

## 2. Legislative Decree no. 257 of 16 December 2016

Legislative Decree no. 257 of 16 December 2016, which entered into force on 14 January 2017, lays down minimum requirements for the implementation of alternative fuels infrastructure, including charging points for electric vehicles. Art. 4 specifies that by 31 December 2020, an adequate number of charging points accessible to the public must be set up to ensure inter-operability between existing points and any to be installed and, depending on market needs, that electric vehicles are able to operate in urban and suburban agglomerations at least.

## 3. PNire – National Infrastructure Plan for the recharging of electric-powered vehicles

PNIRE focusses on the construction of infrastructural networks for the charging of electrically powered vehicles. It was drawn up with the aim of defining specific guidelines to guarantee the unitary development of e-charging services at a national level.<sup>13</sup>

## 4. Ministerial Decree of 3 August 2017

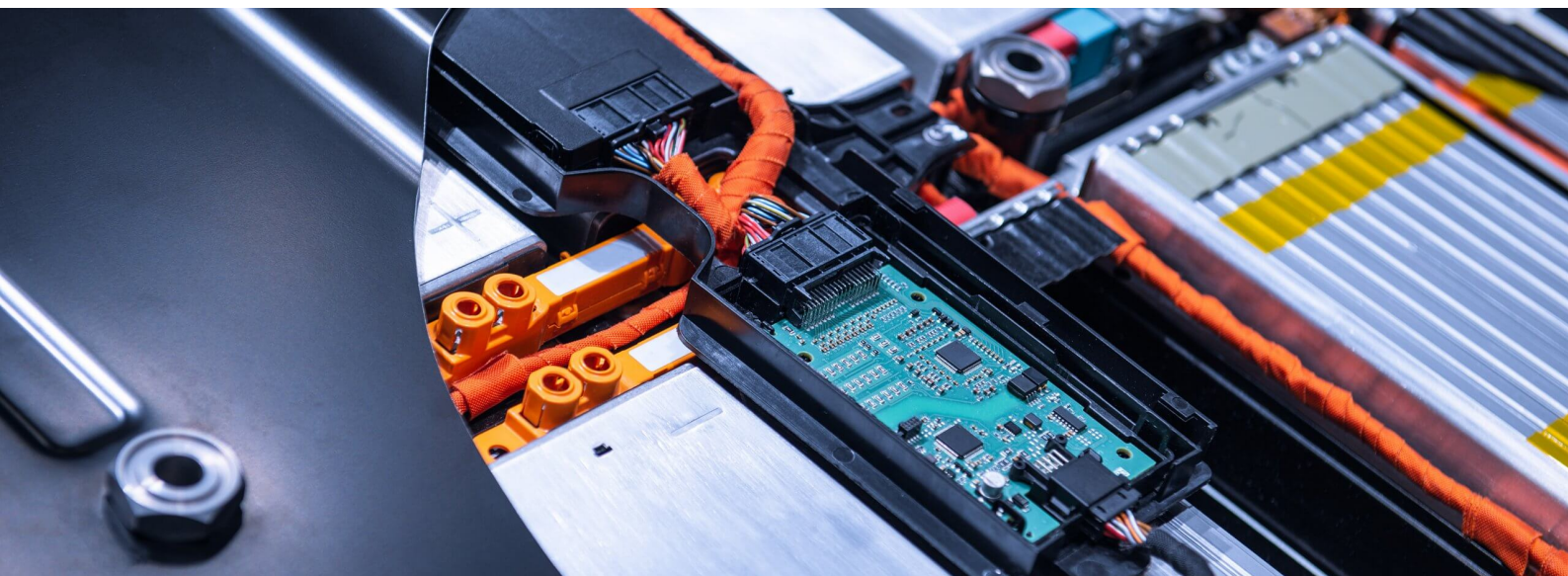
The Ministerial Decree of 3 August 2017 identifies the declarations, certificates, affidavits, and technical documents to be submitted, as well as the SCIA concerning the construction of charging infrastructure for electric vehicles.

### iii) Are there any subsidies or tax incentives to motivate construction or operation of charging stations?

Pursuant to the Decree of the Prime Minister (*D.P.C.M. – Decreto del Presidente del Consiglio dei Ministri*) of 1 February 2018<sup>14</sup> (Programme Agreement between the Ministry of Infrastructure and Transport and the Regions for the construction of an infrastructure network for the charging of vehicles powered by electricity – *Accordo di programma per la realizzazione della rete infrastrutturale per la ricarica dei veicoli alimentati ad energia elettrica*), the share financed by the State for the construction of recharging columns is equal to:

- 35% of the value of the project for the construction of slow or accelerated AC direct current recharging systems, ensuring that at least one socket delivers a power of at least 22 kW; and
- 50% of the project value for fast DC current recharging systems with power equal to or greater than 50 kW or for domestic type charging.

The remainder will be borne by third parties, including public bodies, regions, autonomous provinces, municipalities delegated by the regions to which they belong or under the responsibility and coordination of regions/autonomous provinces as well as private operators, with a maximum public contribution ceiling of €200,000, in compliance with the European “de minimis” legislation which limits state aid granted to individual private companies. These funds have been used to a minimal extent given regional governments’ lack of resources to cover their share.



A tax deduction was introduced in 2019 for the construction of charging points for electric vehicles for private use:

- it is intended for taxpayers who incur documented expenses, from 1 March 2019 to 31 December 2021, relating to the purchase and installation of charging infrastructure for vehicles powered by electricity; and
- any deductions are to be divided among the relevant parties in ten equal annual instalments, shall be no more than 50% of the total expenses incurred and will be calculated based on a total amount not exceeding €3,000.

It should be noted that incentive mechanisms are also provided for the purchase of electric vehicles. According to the Budget Law 2019,<sup>15</sup> as amended by Law Decree no. 162/2019,<sup>16</sup> for those who register a new electric vehicle of category M1 (intended for the transport of persons, with a maximum of eight seats in addition to the driver's seat) a contribution of up to €6,000 is available.

A maximum contribution can be obtained if, at the time of purchase, a vehicle of the same category approved to Euro classes 1, 2, 3, 4 is scrapped; in the absence of scrapping, the amount contributed will be no more than €4,000.

The requirement to obtain the incentive is that the list price of the car, excluding VAT, is no more than €50,000. Contributions can be used by companies, sole proprietorships, non-entrepreneurs (including professionals), natural persons and the public administration.

Clearly, the incentive to acquire electric vehicles will determine the need for more charging infrastructure, with potential openings in the relevant market segments.<sup>17</sup>

## 3. WHAT DIFFERENT BUSINESS MODELS DO WE SEE IN THE MARKET?

The development of the charging infrastructure market is closely linked to the extent spread of electric vehicles.

In the first few months of 2019, Italy passed the threshold of 1,000 pure electric cars registered in a single month, a result that was repeated in May and June of that year and which was certainly due to the purchase incentives (the so-called Ecobonus) introduced by the Budget Law 2019, thanks to which the most significant barrier to the increase of electric mobility, i.e. the high initial cost to purchase vehicles, was greatly reduced.

This increased to circa 6,000 “pure” electric cars (BEV – Battery Electric Vehicle) sold in the first seven months of 2019, a thousand more than in 2018, with growth of 113% compared to the same period the previous year.<sup>18</sup>

**"In the first few months of 2019, Italy passed the threshold of 1,000 pure electric cars registered in a single month."**

As regards the forecasts for electric vehicle registrations, three different scenarios have been assumed:<sup>19</sup>

- Base scenario: this scenario anticipates a maximum of 2.5m electric vehicles in circulation by 2030, with a peak of market share in that year of new registrations equal to 30% of the total;
- Moderate development scenario: in this scenario, the number of electric vehicles reaches 23% of new registrations in 2025 and 50%+ by 2030, when the number of vehicles in circulation exceed 5m (c13% of all vehicles in circulation); and
- Accelerated development scenario: the most dramatic scenario sees a rapid increase in registrations before 2025, when they will reach 30% of new registrations and with almost 2m vehicles on the roads.

**"For electricity suppliers, there is a double possibility of obtaining a margin on both the electricity sold and the charging service."**

In the light of the above, the installation and management of publicly accessible charging points could represent a new line of business for operators in the electricity market.

In this case, the sale of electricity is coupled with a charging service. For electricity suppliers, therefore, there is a double possibility of obtaining a margin on both the electricity sold and the charging service, which includes the installation and management of the charging points.

This is not the case when there is no relationship between the electricity supplier and the charging station operator. In this case, interesting issues could arise

concerning the regulation of contractual relations between electricity suppliers and charging station operators. There may also be interesting developments regarding the relationship between operators and users regarding the services offered by the latter and relative methods of delivery.

Italy nevertheless represents a still embryonic market, burdened by considerable initial costs.

However, the increase in the number of electric vehicles expected in all the above scenarios, accompanied by a rapid spread of public charging points, should lead to an increase in turnover and cover the investment costs per charging point within a reasonable period of time after commissioning.<sup>20</sup>



Of course, return times also depend on how much competition there will be and the margin that can be obtained on the sale of electricity.

Regardless, the Italian market appears primed for massive development, suggesting great benefits to business lines connected to e-mobility.

## DISCLAIMER

Please note that this briefing is not exhaustive of all legal aspects that may be relevant in this context and cannot replace legal advice in a specific situation.

## GO BACK TO THE FUTURE OF E-CHARGING INFRASTRUCTURE IN THE EUROPEAN UNION AND UNITED KINGDOM.

[1] <http://www.governo.it/sites/governo.it/files/PNire.pdf>

[2] Source: <http://www.cnpi.eu/dal-cnpi-arriva-la-linea-guida-con-tutte-le-istruzioni-per-luso-sulla-mobilita-elettrica/>

[3] Source: E&St Group – School of Management Politecnico di Milano; Smart Mobility Report 2019.

[4] In relation to administrative proceedings, as a general comment, it should be noted that the Italian Government, by means of Law Decree no. 18 of 17 March 2020 (“**LD 18/2020**”) – as subsequently amended by Law Decree no. 23 of 8 April 2020 (“**LD 23/2020**”) – containing emergency measures related to the spread of Covid-19, established the suspension and extension of various procedural deadlines. Pursuant to article 103 of LD 18/2020, as amended by article 37 of LD 23/2020, the period between 23 February 2020 and 15 May 2020 is not taken into account for the purposes of calculating the time limits and deadlines for administrative proceedings pending on 23 February 2020 or commenced after that date. The terms for the formation of the will of the Authorities in the forms of significant silence (*silenzio significativo*) provided for by the law are extended or deferred for the corresponding time. In addition, all certificates, attestations, permits, concessions, authorizations and enabling acts, expiring between 31 January and 15 April 2020, shall remain valid until 15 June 2020.

[5] <https://www.gazzettaufficiale.it/eli/gu/2017/01/13/10/so/3/sg/pdf>

[6] <https://www.gazzettaufficiale.it/eli/id/2012/02/09/012G0019/sg>

[7] <https://www.gazzettaufficiale.it/eli/id/2012/04/06/012G0056/sg>

[8] The SCIA, mainly governed by DPR no. 380/2001, is a simplified authorisation title which, where admitted, replaces any act of authorisation, licence, non-constitutive concession, permit or authorisation, whatever it may be called, including applications to be entered in registers or roles, with the sole exception of cases where there are environmental, landscape, cultural constraints, or acts relating to national defence, public security, immigration, asylum, citizenship, administration of justice, administration of finance, including acts relating to seismic zones and those imposed by Community legislation. This is a private act aimed at communicating the intention to engage in an activity directly permitted by law. As of today, the control of the Public Administration is carried out after the beginning of the activity. In the case of ascertained lack of requirements, the Public Administration, within sixty days (reduced in certain cases to thirty days) may adopt justified measures prohibiting the continuation of the activity and removing any harmful effects caused, unless the person concerned, where possible, does not comply with the regulations in force within a period set by the administration, in any case not less than thirty days.

[9] <https://www.gazzettaufficiale.it/eli/id/2017/12/13/17A08289/sg>

[10] Please refer to art. 6 of DPR no. 380/2001; these are construction activities which do not require special authorisation, and are therefore subject to simplified administrative regime.

[11] for example, please see: <https://www.comune.calvenzano.bg.it/files/competitions/25/86/bando%20pubblico.pdf>

[12] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0094>

[13] Source: <https://www.rinnovabili.it/mobilita/rete-di-ricarica-veicoli-elettrici/>

[14] <https://www.gazzettaufficiale.it/eli/id/2018/06/20/18A04300/sg>

[15] <https://www.finanze.gov.it/opencms/it/fiscalita-nazionale/Manovra-di-Bilancio/Manovra-di-Bilancio-2019/Legge-di-Bilancio-2019/>

[16] <https://www.gazzettaufficiale.it/eli/id/2019/12/31/19G00171/sg>

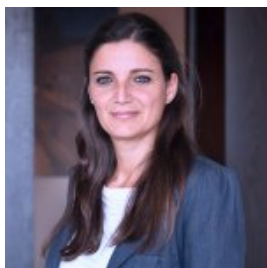
[17] <https://www.vpsolar.com/finanziaria-2019-incentivi-per-auto-elettriche-e-colonnine-di-ricarica-detraibili-al-50/>

[18] Source: E&St Group – School of Management Politecnico di Milano; Smart Mobility Report 2019.

[19] Source: E&St Group – School of Management Politecnico di Milano; Smart Mobility Report 2019. Please note that in the first half of 2018, 4,129 electric cars were registered, 89% more than in the same period in 2017.

[20] Source: <http://www.mercatoelettrico.org/Newsletter/20190712Newsletter.pdf>

## KEY CONTACTS



### **TIZIANA MANENTI**

PARTNER • ROME

T: +39 06 68 40 581  
M: +39 340 8216 697

[tmanenti@wfw.com](mailto:tmanenti@wfw.com)



### **CRISTINA BETTI**

SENIOR ASSOCIATE • ROME

T: +39 06 6840 851

[cbetti@wfw.com](mailto:cbetti@wfw.com)

### **DISCLAIMER**

Watson Farley & Williams is a sector specialist international law firm with a focus on the energy, infrastructure and transport sectors. With offices in Athens, Bangkok, Dubai, Dusseldorf, Frankfurt, Hamburg, Hanoi, Hong Kong, London, Madrid, Milan, Munich, New York, Paris, Rome, Seoul, Singapore, Sydney and Tokyo our 700+ lawyers work as integrated teams to provide practical, commercially focussed advice to our clients around the world.

All references to 'Watson Farley & Williams', 'WFW' and 'the firm' in this document mean Watson Farley & Williams LLP and/or its affiliated entities. Any reference to a 'partner' means a member of Watson Farley & Williams LLP, or a member, partner, employee or consultant with equivalent standing and qualification in WFW Affiliated Entities. A list of members of Watson Farley & Williams LLP and their professional qualifications is open to inspection on request.

Watson Farley & Williams LLP is a limited liability partnership registered in England and Wales with registered number OC312252. It is authorised and regulated by the Solicitors Regulation Authority and its members are solicitors or registered foreign lawyers.

The information provided in this publication (the "Information") is for general and illustrative purposes only and it is not intended to provide advice whether that advice is financial, legal, accounting, tax or any other type of advice, and should not be relied upon in that regard. While every reasonable effort is made to ensure that the Information provided is accurate at the time of publication, no representation or warranty, express or implied, is made as to the accuracy, timeliness, completeness, validity or currency of the Information and WFW assume no responsibility to you or any third party for the consequences of any errors or omissions. To the maximum extent permitted by law, WFW shall not be liable for indirect or consequential loss or damage, including without limitation any loss or damage whatsoever arising from any use of this publication or the Information.

This publication constitutes attorney advertising.