

















**ASECAP POSITION PAPER ON THE PROPOSAL
AMENDING DIRECTIVE 1999/62/EC ON THE
CHARGING OF HEAVY GOODS VEHICLES FOR THE USE OF
CERTAIN INFRASTRUCTURES**



FULL MEMBERS			Companies	km
Austria		ASFINAG Autobahnen- und Schnellstraßen-Finanzierungs-Aktiengesellschaft	3	2.103,7
Belgium		N.V. Tunnel Liefkenshoek	1	1,4
Croatia		HUKA Hrvatska Udruga Koncesionara za Autoceste s naplatom cestarine	4	1.163,5
Denmark		SUND & BAELT Holding A/S	2	34
Spain		ASETA Asociación de Sociedades Españolas Concesionarias de Autopistas, Túneles, Puentes y Vías de Peaje	33	3.378,4
France		ASFA Association professionnelle des Sociétés Françaises concessionnaires ou exploitantes d'Autoroutes et d'ouvrages routiers	17	8.444,7
Greece		TEO Fonds Routier National Hellenique	1	916,5
Hungary		AKA Alföld Koncessziós Autópálya Zrt	3	865
Ireland		NTR National Toll Roads Ltd.	8	113
Italy		AISCAT Associazione Italiana Società Concessionarie Autostrade e Trafori	23	5.654,7
Norway		NORVEGFINANS Norske Vegfinansieringsselskapers Forening	36	664,2
The Netherlands		N.V. Westerscheldetunnel	1	20

Poland		AWSA Autostrada Wielkopolska	3	210
Portugal		APCAP Associação Portuguesa das Sociedades Concessionárias de Auto-Estradas ou Pontes com Portagens	6	1.556,2
United Kingdom		Macquarie Motorway Group	1	42
Serbia		Public Enterprise "Roads of Serbia"	1	603
Slovenia		DARS Družba avtoceste v Republiki Sloveniji, d.d.	1	457,2
FULL MEMBERS			144	26.227,5
ASSOCIATE MEMBERS				
Germany		TOLL COLLECT GmbH		
Morocco		ADM Société Nationale des Autoroutes du Maroc		
Slovak Republic		NDS Národná diaľničná spoločnosť		
Czech Republic		KTS KAPSCH Telematic Services		

**AN ASECAP REFLECTION PAPER ON
THE EUROPEAN COMMISSION'S PROPOSAL
AMENDING DIRECTIVE 1999/62/EC ON THE CHARGING OF HEAVY
GOODS VEHICLES FOR THE USE OF CERTAIN INFRASTRUCTURES**

Following the publication by the European Commission of the “Greening transport package” including:

- a strategy to internalize external costs of transports and
- the proposed revision of the Eurovignette directive

ASECAP wishes to provide information and reflection on charging policies, toll motorway sector performance and electronic tolling interoperability.

INTRODUCTION

ASECAP (*Association européenne des Concessionnaires d'Autoroutes et d'Ouvrages à Péage*) is the European professional Association of Operators of Tolloed Road Infrastructures. It gathers 21 members representing 148 organisations that manage a toll network of over 26,000 km and 4 associate members.

The vision of ASECAP and its members is an environmentally friendly efficient transport system and for this objective they promote tolling as the most effective tool to finance the construction, operation and maintenance of motorways and other major road infrastructures for the benefit of the European citizen.

ASECAP and its members are committed to:

- Strengthening the efficiency of their networks and permanently improving the level of service provided to the European citizens, by keeping up with the latest technology developments and the best operational practises;
- Exchanging information and experience, participating in research programmes and further developing and enhancing the direct “user payer” toll system as an instrument of a sustainable, safe and environmentally friendly transport policy.

ASECAP draws from this representation a unique expertise recognised in the field of infrastructures financing, construction, management and maintenance.

BACKGROUND

The existing directive, i.e. directive 1999/62 as modified by directive 2006/38, represents a strong binding framework, fundamentally addressing the principle of guaranteeing equal treatment of motor transportation along European roads, preventing the introduction of “excise duties” hidden under the form of tolls.

In the latest revision of the Eurovignette directive (Directive 2006/38), the European Commission was asked to propose a strategy for internalising all the external costs of transport and to assess a model to serve as a basis for their calculation in all transport modes, accompanied, if appropriate, by a proposal for revising Directive 1999/62/EC on the charging of heavy goods vehicles for the use of infrastructure.¹

More recently, in its resolution of 11 March 2008 on sustainable European transport policy, the European Parliament urged the Commission to come up with such a model, a strategy for implementing it in all modes, and legislative proposals starting with a review of the directive.

¹ Art. 11 - Directive 2006/38/EC

GENERAL REMARKS

- a) The political decision to pursue greener transport policies throughout EU Member states is supported by all. However, “greener policy” is a complex matrix, and it must be underlined that, if no clear provisions are adopted with well identified accompanying measures leading to a coherent transport policy, then the result may be a transport service that will remain practically the same in terms of quality but more expensive as cost.
- b) Transport charges are an important instrument to achieve the above political objectives. Transparent and fair transport charges should reflect the real infrastructure cost (user-payer principle) and in addition should better take into account the external costs related to air pollution, noise and congestion caused by the actual use of vehicles, trains, planes or ships (polluter-payer principle). By doing so, correct price signals are sent to infrastructure users, thus providing incentives to optimise the use of infrastructures manage congestion and reduce local pollution.
- c) A cautious stepwise EU strategy for reflecting the real infrastructure costs and internalizing external costs in the price paid by the users is crucial in order to promote sustainable transport in the Community, mainly in the current context characterized by energy scarcity and its repercussions on the society.
- d) Such a strategy must apply to all transport modes, while taking into account their own characteristics and specificities;

The proposed Eurovignette directive

The proposed directive aiming to internalize external costs could be considered as a hybrid framework directive. The following should be noted:

The key element pursued by the European Commission is to differentiate the user charges according to the type of vehicle, the location and the time of use. Allowing Member States to raise additional revenues based on external costs charging could therefore provide incentives to national authorities to implement differentiated charges. Road freight transport, parallel to the highly positive results on socio-economic growth, is considered the source of negative impacts of pollution and congestion in the area in question. The additional revenues generated by charging these external costs from road transport are set by an independent authority safeguarding their use to compensate the society of the affected regions, to reduce pollution at source, combat congestion and develop additional or alternative capacities.

The annexes of the proposal illustrate simplified models for the estimation of external costs that can be used for the calculation of road user charges.

Once the directive will be adopted, the E. Commission will closely monitor the methodologies in force to ensure proportionality, possible exceptions mainly in mark-ups for mountainous areas, transparency, non-discrimination and earmarking of the revenues.

- a) However, the above detailed and socio-economically “costly” orientations - on which various sectors have already expressed many reservations - are not mandatory but just optional.
- b) On the one hand, the directive goes up to the final micro-detail of internalizing all the external costs and charging accordingly, while on the other, it allows the Member States, if they wish to do so, to maintain time-related charges “until the moment when a more efficient and environmentally friendly system, based on distance traveled, can be implemented in their territories”. It is commonly recognized that **time-based charges are not as fair as distance-based charging** because they are levied on a daily, weekly, monthly or annual basis, ignoring the proper use of infrastructure made during these periods.
- c) The EU objectives towards a sustainable transport system are fair and well accepted by everyone – citizens, industry and policy makers – who, in parallel, commonly recognize that road transport is the most efficient mode of transport in terms of reliability, cost, accessibility and comfort, contributing to the socio-economic growth. Unilateral measures without accompanying actions and incentives might just make road transport more expensive (with serious consequences on Europe's competitiveness), while failing to reach Europe's objectives in terms of transport sustainability. Recent publications clearly demonstrate that a higher burden placed on road transport aiming at achieving an **artificial modal shift** will not modify the preference of professional users, logistics companies and freight forwarders' to favour road transport because cost is just one element of a complex matrix called “service quality” that they always identify and respect.
- d) **Tolling has proven to be the most efficient tool to finance the construction, operation and maintenance of high-quality road infrastructures providing an excellent service to the road users while respecting the environment.** The allocation of tolling revenues into the road infrastructure itself is the *sine qua non* condition to maintain the high infrastructure standards and provide Europe with an efficient, greener and well-managed transport network.

ASECAP wishes to express its concern on the lack of precise and detailed provisions on crucial aspects such as the **earmarking of revenues**, but also on the definition of the independent authority in charge of collecting them, the articulation between infrastructure charges, external costs charges, tolling regimes etc. It remains unclear what concrete consequences the proposal will have on existing tolling schemes, since the implementation tools described in the proposal do not seem to be detailed enough and leave a **dangerous gap of uncertainty on the future system of concession in Europe**; as a matter of fact, although a safeguard clause is present about the existing concessions, it has some elements of weakness and do not prevent the application along them of provisions, such as the toll modulation according to the pollution classes, very difficult to properly accommodate in the financial framework of an existing contract.

In order to facilitate the work of the European policy-makers and finally achieve an easily applicable and efficient legislative tool, some urgent clarifications are needed.

MAIN ISSUES AT STAKE

I) TIME-BASED CHARGING VS DISTANCE-BASED CHARGING

Surprisingly, the text still supports the implementation of **time-related vignettes that are not connected to the real use of infrastructure**. Generally, user charges are part of an indicative pricing scheme that so far is commonly considered as an “unfair” one. The proposed provisions reflect a problem of consistency since it is impossible, both politically and economically, to maintain in a legal framework – aiming at introducing a “fair charging system” – the less fair time-related model.

ASECAP urges the European institutions to clarify their position and, consequently, to abandon this incoherent approach.

II) TRANSLATING INTO REALITY THE THEORETICAL MEASUREMENTS OF EXTERNALITIES METHODOLOGIES

a. Identifying the right externalities...

Internalizing external costs consists in a theoretical estimation allowing the interested parties to differentiate rather heavily even if they try to address the same externalities, of the same vehicle combinations, during the same time periods in the given traffic congestion and noise pollution.

Some question should be raised on the methodology adopted by the European Commission in order to set the calculation methods of external costs. More investigations are also needed when identifying the various externalities that have to be integrated under the “polluter pays principle”. The following examples prove that the debate over the external costs that have to be integrated into the internalisation of external costs process is far from being universally shared:

Congestion:

- it is widely recognised by all the economic models that traffic congestion is mostly affecting urban areas and that it is mainly caused by private cars; both elements are out of scope of this directive;
- congestion costs are already borne by users themselves since already having to cope with the delays they provoke; the proposal addresses and affects a minor part only of the traffic, leaving the main drivers of congestion untouched.
- excessive charging scheme could have the effect of redirecting traffic along lower quality, less safe, toll free roads, causing an unintended and unwanted collateral damage.

Noise pollution and the existing concession schemes:

- In order to offer the best service both to their clients and to the region crossed by their network, motorways concessionaires invest heavily in acoustic barriers, sound abating, pavement properties etc. To mitigate the negative effects of road transport in this field, incentives should be provided to the market players (concessionaires, vehicles and tyres manufacturers, road construction companies, road traffic authorities, etc.).

ASECAP therefore considers that in the current tolling schemes the “noise” externality is already internalised to a large extent.

b. Establishing an independent authority

According to the European Commission, the calculation of the external cost charge shall be set by “an authority designated to this end and which is legally and financially independent from the organisation in charge of managing or collecting part or all of the toll revenue”.

There is great concern that the proposed scheme of **27 designated authorities** setting the external costs charges (though always legally and financially independent) will finally lead to 27 different amounts of the external cost charges, for the simple reason that these designated authorities can only translate differently the theoretical methodology estimations and technicalities.

It is almost certain that the E. Commission relevant bodies will finally have to devote most of their time to closely monitor the appointed authorities and their methodologies to ensure proportionality, possible exceptions (mainly in mark-ups for mountainous areas), transparency and non-discrimination. A centralized system is needed, which, at this moment in time, EU authorities do not appear to be suitably equipped to operate in terms of available resources.

c. Specific considerations related to the concessionaires regime

The very heavy constraints proposed in the text, both on the matter of preventive communication and on the validation of toll levels, would be extremely difficult to apply in the case of **concessions schemes** which must obligatorily be assigned through a tendering process; the **complexity of the financial architecture of a modern concession** and the relevant signed contracts with the states would make it difficult to function efficiently within such a limiting framework where the result of the tender would appear to have to be always scrutinized by the EU Authorities even before it is closed. The specific requirements for deep investigations on concessions contracts are not needed. Since the legality of concessions is not at stake, it will appear rather chaotic and bureaucratic to see the Commission permanently involved in deep investigations in the concessions’ contracts and in relevant information which though always legal is most of the times “business sensitive”.

More generally, negative repercussions, to be quantified, on traffic levels of existing motorways concessions are foreseeable at a time when the increase in fuel prices is already causing a drop in traffic. Moreover, the toll breakdown into “infrastructure” and “external

costs” would result in difficulties not only in terms of applying methods and parameters that have not been scientifically shared but also in the separation of components to be included in the tolls.

Also, the mandatory application of the toll modulation according to the vehicles pollution characteristics, although in principle desirable, cannot fit without collateral effects in an existing concession scheme, which financial parameters have been set – and on the long term – without such a provision, since it introduces an additional element of uncertainty to the traffic related revenues.

III) EARMARKING OF THE COLLECTED REVENUES

ASECAP welcomes the obligation to earmark revenues from external costs charges. However, the current wording of the proposed text is unclear. A well defined system is necessary to ensure an earmarking that would really favour investments into a greener road transport sector. If the aim of the collected charge is to tackle and reduce the harmful effects produced by road transport, incentives must support either intra-sectoral or, if needed, inter-sectoral greener innovations. An orientation leading to an arbitrary promotion of non road transport alternatives would lead to an artificial **commercial unbalance** with the road sector subsidizing other modes, something that would consist in a clear infringement of the EU's primary objectives in terms of open market economy and undistorted competition.

ASECAP urges the European policy-makers not to fall again into the trap of the modal shift dogma they decided to abandon as artificial, but to reason instead in terms of transport co-modality and optimisation of each mode of transport as clearly stated in the 2006 revision of the White Paper on Transport policy.

It is of utmost importance that the Member state in which an infrastructure charge and/or an external cost charge are levied, safeguards that:

- a) Infrastructure revenues are re-invested in the infrastructure network used and obviously deteriorated by road users.**
- b) External cost revenues generated are re-directed to the affected regions and are earmarked for measures to be adopted by society in order to be compensated for the burden it bears.**

IV) INTRODUCTION OF ELECTRONIC TOLLING SERVICES (ETS)

ASECAP and its members fully support a **pan-European interoperability of electronic toll collecting systems** and have always been at the forefront of the work for the definition of such a toll system. The CESARE project, Common Electronic Fee Collection System in Europe – a major project financed by European Commission, co-ordinated by ASECAP and with the participation of a number of member states known as the Stockholm group (Germany, Finland, the Netherlands, Sweden, Switzerland, United Kingdom) that aims to define the contractual, technical and legal parameters of such tolling interoperability – has entered its fourth phase.

At this very moment, there are still many technical and legislative issues unsolved and the present Eurovignette seems to either underestimate or ignore these uncertainties related to the provisions of Directive 2004/52 which are still under examination.

V) ESTABLISHMENT OF A COMMITTEE TO ASSIST THE E. COMMISSION

The Eurovignette directive will consist in a general framework of actions to be undertaken by Member States. It is logic that there will be a strong need for activities to be undertaken after the adoption of the proposal for its proper application. For this reason, the directive establishes a “committee” that will regulate the technicalities of the applications.

ASECAP and its members believe that, in order the concept of “internalization of external costs” to become an efficient “market reality”, the relevant stakeholders should be present and assist the policy makers with their high-level degree of expertise and knowledge.

CONCLUSIONS

- Society moves towards a greener transport and differentiated road user charges based on congestion and pollution costs (the “external cost charge”) will be introduced by the directive. However, these differentiated road user charges are not a tax but a “payment that gives in return to the user the right to use the infrastructure and to consume scarce resources”;

ASECAP believes in a greener transport system which is socially justified and fully supports the above mentioned objectives. However, the E. Commission must ensure that this simple principle will be effectively safeguarded when the directive is implemented.

- A very well established tool does exist in Europe for environmentally friendly road infrastructures: the concession. **However, as a market tool capable of putting in practice the PPP principles (widely acknowledged to be the only means to boost the provision of high quality and safety European infrastructures) the concession model is somehow endangered by the proposal since it would be bound in a network of uncertain rules.**
- The text of the directive fails to establish a common charging regime throughout EU allowing the Member States to move from their existing systems (e.g. time based) to a “user pays principle” charging schemes (e.g. distance based). The proposed legislative action allows individual states to take unilateral measures, if they so wish, and internalize externalities according to very detailed estimations and methodologies included in the annexes. This approach should be stepwise not allowing individual states to take unilateral uncoordinated initiatives. The Member States are free to implement differentiated charges based on estimations of the cost of local pollution (air & noise), as well as congestion, according to the type of road, vehicle classification and period of time. They may introduce, in addition to the “infrastructure charge”, the “external costs charge” covering the costs borne by the society: congestion, air pollution, noise.

ASECAP believes that a framework allowing differentiated charging policies (moving from time based charging to fully internalised transport externalities) will threaten the proper and healthy market functioning recognizing that the borders define two different societies in neighbouring countries. This benchmark of conflicting policies is fully unacceptable for economic, market, and socio-economic reasons.

Instead, a common legal framework for all the Member States should be built at EU level, where all the countries apply the same rules. ASECAP believes that this framework should be introduced stepwise to avoid repercussions.

- The annex of the proposal provides estimations on the external part of the infrastructure cost as a matrix of parameters that theoretically vary according to the time, traffic conditions and congestion, weather conditions, environmental performance of the vehicles, etc. The above characteristics are not easily measurable. If no safeguards are guaranteed, there is a danger (mainly for central states) to be tempted to estimate arbitrarily high the various externalities.

ASECAP believes that there is a clear role for the EU bodies to monitor the system in order to avoid abusing the principles of the directive and to safeguard the good functioning of the road transport market.

- The amount of the external charge set for each combination of vehicles, type of roads and time of use must be set by an authority which is “legally and financially independent from the operator which operates the network and manages or collects the revenues”.

This crucial provision still has many undefined aspects and needs to be clarified.

- The collected revenues have to be earmarked and reinvested in “alternative infrastructures”, traffic management and research.

Earmarking is the basis of a fair charging scheme. However, when referring to “alternative infrastructure”, the policy makers should also (together with other non-road infrastructures) include the possibility to finance the upgrading of the same road infrastructure and/or the development of alternative road infrastructures in the region.

- After a transitional period (until December 2013), the external cost charges will have to be levied by means of electronic toll systems.

Industrial and technological realities follow their proper pace of development. Therefore, political statements, mainly when dealing with specific time horizons, should be prudent enough to respect this technological environment. Consequently, the reality may prove that the politically imposed 2013 deadline will be finally impossible to be met.