



*Association Européenne des Concessionnaires
d'Autoroutes et d'Ouvrages à Péage*

**PROPOSAL FOR AMENDMENT OF EUROVIGNETTE
DIRECTIVE 1999/62/EC – COM(2017)275**

POSITION PAPER

ASECAP is the European Association of Operators of Toll Road Infrastructures, whose members' networks today span more than 50,266 km of motorways, bridges and tunnels across 22 countries.

ASECAP's purpose is to defend and develop the system of motorways and road infrastructures in Europe applying tolls as a means to ensure the financing of their construction, maintenance and operation.



The European Commission is particularly concerned about the deterioration of road infrastructure in many Member States because of inadequate maintenance due to permanent decreases of public spending on road maintenance.

To face this situation, the European Commission has issued proposal for amendments of Directive 1999/62/EC – COM (2017) 275, with the aim of moving towards the full implementation of the principles of 'pay-per-use' (i.e. applying distance related tolls and/or time related user charges) and 'polluter pays' to generate revenues and guarantee the financing of future investments.

ASECAP shares this approach and thinks that tolling is the fairest and the most sustainable way to develop new roads and to manage and maintain existing ones. Public funds are saved and may be used to attend other social priorities; concessionaires anticipate the financing of the facility; the payment of the motorway is differed in several years; investments have no impact on public accounts; dedicated staff and resources are allocated to manage and maintain the specific motorway; there is room for traffic demand modulation, provided that it is within the limits of a sustainable tariff, as also specified below, and that the system is reasonably feasible; toll motorways are the safest roads of the whole network and it guarantees the generation of revenues to assure the correct maintenance of the facility.

ASECAP also welcomes the clear indication to allocate the proposed congestion charges and the correspondent revenues by investing them in solutions aimed at supporting infrastructure and services of collective transport, elimination of bottlenecks in the trans-European transport network and the development of alternative infrastructures for users (proposed new point 3 article 9).

Nevertheless, we believe that the proposed text has not been ambitious and focused enough to really move towards the full implementation of the previously mentioned principles.

The proposal still leaves at the choice of the Member States the possibility to introduce or keep tolls or user charges. This wilfulness breaks the European internal market and impedes common policies to obtain and earmark revenues.

Indeed the extreme flexibility allowed to Member State in applying tolls (and possible extra-charges in certain conditions) is an obstacle to improve the overall transportation system, because it penalizes users as well as operators of the motorway system.

Primarily, toll charges are defined as a rule in the concession contracts. They already contain costs of construction, maintenance and management of the infrastructure, including the mitigation of environmental impact and other social costs as well as other charges and taxes pertaining to the State.

Accordingly, a sustainable approach should not consider tariffs increases beyond the levels on which the concession financial planning was based, otherwise the overall financial sustainability of the project would be imperilled; as a consequence the project finance objective would be verified.

Indeed, the obligation of the “pay per use” principle, as well as the “polluter pay” principle, have to be the first objectives in order to share a fair and homogeneous toll system in the European market. Therefore, the Directive will not only have to depict the new charging schemes, but will also need to take into account that their practical applicability is possible in the various European toll domains.

In the impact assessment, the European Commission explains its rejection to a mandatory implementation of charging system based on the sensitivity of the Member States and the negative perception that users may have regarding this measure. To overcome this reticence, we believe that it is important that the European Member States explain to the civil society how these measures can cope problems of scarce public resources for the conservation of infrastructures. In addition, it



should be explained that charging systems permit to allocate public funds to other social priorities that are increasing year-by-year (p.e. pensions).

The subsidiarity principle is also an argument used by detractors of tolls to avoid its mandatory implementation. We remember that other Directives, as it is the case of Directive 2000/60/EC, establishing a framework for Community action in the field of water policy, have adopted mandatory obligations to members States without jeopardizing their competences. Article 9 of the above mentioned Directive, states that *“Member States shall take account of the principle of recovery of the costs of water services, including environmental and resource costs (...), and in accordance in particular with the polluter pays principle.”*

The proposal submitted by the European Commission does not make mandatory to earmark revenues to optimize the road network and the whole road transport infrastructure system. This is essential to achieve the objectives pursued by the Directive, notably the recovery of the costs of construction, maintenance, operation and development related infrastructure. The investment of revenues generated to the infrastructure network and a clear explanation of this matter to the citizen by their Member States, would contribute to a better understanding and acceptance by society.

In addition, we believe that earmarking will provide continuity on infrastructure investments, without been subject to annual budgetary constraints due to reasons of fiscal consolidation or political criteria. Thus, it will ensure a sustained investment flow and would allow keeping properly maintained the road network which construction has required a huge investment in the past decades.

Another specific aspect that we want to raise is that, even if we share with the European Commission the need to spread the “pay per use” and “polluter pays” principles, particular considerations should be adopted towards current existing tolling systems, especially when complex interconnected networks are concerned.

The proposal for revision acknowledges eventually what ASECAP and its members have been advocating, i.e. the infrastructure costs do include also environmental protection applications, for noise or other types of pollution; therefore the tolls do include elements actions aimed at reducing the external costs cause by the traffic. Actually, concessions, that have always been tolling all vehicles, light and heavy, do apply perhaps in the best possible way the Directive principles, directly re-investing the revenues to improve the performance of the infrastructure, for the benefit not only of the users but also of the surrounding territory.

Yet, it has to be highlighted that those tolling systems already implemented in different members States, that are in line with the provisions of the Directive and that are producing excellent results, have required important investments and do need a stable long-term framework. Investors need legal certainty and changes as some of those proposed in this Directive will have impacts directly on their economic and financial models. A fundamental concern is that, adapting the tariff schemes for light vehicles will oblige to change the entire tolling system, the classification systems, to adopt new anti-fraud procedures, to face new investments and to change the existing tariff policies. This



will irremediably suppose to renegotiate existing contracts, and it will imply uncertainties and long delays, during which also investments would have to be postponed.

As a consequence, every provision with a possible effect on the existing concessions has to be very carefully balanced. On this aspect, it has to be noticed that, with the proposed definition of “a substantially amended tolling or charging arrangement” in point (29) of article 2, the directive will affect retroactively the existing contracts as soon as their *“costs or revenues are affected by at least 5% in comparison with the previous year”*. This requirement does not take into account the complexity of the life of a concession scheme, that cannot be simplified down to the comparison of a yearly percentage variation, and no investor would accept a clause according to which its investment may be subject to automatic adaption to unforeseeable legal changes on such a condition.

ASECAP believes that the European Commission should be stricter in promoting and forcing the implementation of real tolls and/or user charges in the Member States, to avoid distortions and to profit from all the benefits that tolls can bring.

In this sense, we welcome the possibility that tolls or user charges may be introduced in other roads than the ones included in the trans-European road network (proposed amendment to article 7). Nevertheless, we also think that the European legal framework should be open enough to allow Member States to decide implementing the tolling system that better suits to their particularities and needs. Thus, ASECAP is against technical overregulation that limits flexibility.



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