

**Consultation concerning revision of Directive 2004/52/EC and Decision 2009/750/EC on the European Electronic Toll Service. Input from the Dutch Ministry of Infrastructure and the Environment.**

Fields marked with \* are mandatory.

Please note in case of multiple choice question, the chosen answer is marked with green text , as is any additional information.

Section A: Respondent Details

\*1. Are you replying as/on behalf of:

as a citizen

**X on behalf of a public authority**

on behalf of an industry association or a non-governmental organisation (NGO)

on behalf of a company; other (please specify)

Please specify "other"

100 character(s) maximum

2. Please provide your full name and the name of the entity on whose behalf you are replying

100 character(s) maximum|:

xxxx

\*3. Is the entity on whose behalf you are replying registered in the EU Transparency Register?

Yes

**No**

4. Please indicate the registration number in the Transparency Register **N/A**

If you are not registered and would like to do so, you may sign up on the [Transparency Register](#) webpage

5. Please give your email address in case we have questions about your reply and need to ask for clarifications:xxxxx

6. Please indicate the country where you live or, if you reply on behalf of an entity, the country where it has its headquarters/place of establishment. International and/or European organisations please choose 'international'

Austria; Belgium; Bulgaria; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta;

**Netherlands**

Poland ;Portugal ;Romania ;Slovak Republic ;Slovenia; Spain; Sweden; United Kingdom

Iceland; Norway; Switzerland ;other European non-EU; non-European; international

\*7. Please specify which interests you (the organization on behalf of which you respond) represent: road infrastructure operator; road freight transport; professional road passenger transport (i.e. coach, bus or taxi); private car or motorbike use; rail transport; intermodal transport; other/many mode(s) of transport (please specify); pedestrian/public transport use

**other (please specify)**

Please specify "other"

100 character(s) maximum

**Dutch Ministry of Infrastructure and the Environment**

\*8. Please indicate whether you agree to the publication of your response.

Under the name indicated – I agree to the publication of all information in my response, except for my email address

**Anonymously** – I agree to the publication of all information in my response, except the replies to question 2 (name), question 4 (registration number) and question 5 (email address)

## Section B: Questionnaire

### Completion of the internal market for electronic toll services

The European rules on EETS say that road operators "shall accept on a non-discriminatory basis any EETS provider (The EETS provider is a legal entity providing the European Electronic Toll Service to the road user) requesting to provide EETS on the[ir] EETS domain". However, the practical meaning of "non-discriminatory basis" is not defined in the legislation, leading to reported misunderstandings in the framework of contractual negotiations between toll chargers and toll service providers. Some Member States prefer to tender out to the same one company the operation of the electronic tolling system, enforcements and/or the collection of tolls. In such a situation, it is difficult to dissociate the part of the remuneration of this company which corresponds to the collection of tolls alone – activity in which the company competes against the EETS providers. Hence, it is difficult to compare the treatment of EETS providers with that of the incumbent, and to establish whether the EETS provider is discriminated against.

Current rules on EETS provide for the establishment, in each Member State, of a Conciliation Body entitled to mediate in case of dispute between the road operator and the EETS provider relating to their contractual relations or negotiations. The conciliation body doesn't however have the powers to enforce the outcome of its mediation.

\* 9. Do you think that the EU legislation should provide for the separation of accounts between the toll-charger and toll-service-provider activities, when they are both performed by the same company?

Yes

No

I don't know

Comments 1000 character(s) maximum

*It is already stated in article 8 of the Decision that "where an organization provides both Toll Charger and EETS Provider services, Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published separately for each type of activity and that cross subsidies between the two activities are excluded.*

*The accounting systems for Toll Charger and EETS Provider activities shall be kept separate and from accounts relating to any other type of activities so that a clear evaluation can be made of the costs and benefits related to EETS provision."*

It is unclear whether a further act of legislation concerning the separation of accounts in this matter, is going to provide insights that will enable a mediation body to establish an act of discrimination against a registered EETS service provider, attempting to be accredited for a toll domain, based on remuneration. When Member States tender out to one company, the total price involved concerns many points of comparison between tender offers. The price of remuneration for particular services may well be an integral part of the offer made. From a different viewpoint concerning a separation of accounts, efforts should always be made to prevent a possible misuse of company sensitive data, in areas for which said data is not delivered.

\*10. Should the powers of the conciliation bodies be increased so that they can enforce the respect of the outcome of the mediation procedure upon the parties to the dispute?

Yes

No

I don't know

Comments 1000 character(s) maximum

As stated in article 10 of the Decision, "Member States shall take the necessary measures to ensure that its Conciliation Body is independent in its organization and legal structure from the commercial interests of Toll Chargers and EETS Providers." This should be a party that both sides of a possible difference in opinion can respect and trust. As such, a conciliation body is not easily available nor chosen. However, where it concerns the possible outcome of negotiations, a conciliation body should not be put in a position to overrule a toll charging party. If the matter is not resolved to the satisfaction of both parties before a conciliation body, perhaps a judge should be involved. The conciliation body could provide a recommendation to that end with a preferred solution.

### Organisation of the market

The current EETS legislation imposes upon EETS providers the obligation to offer their service across all tolled roads in the EU within 24 months from the moment of their registration.

Many industry players indicated this as one of the blocking factors for the roll out of the service. There are well more than a hundred electronic toll domains in the EU, and before being allowed to offer its services in any of them, the EETS provider must go through a complex technical accreditation procedure and contractual negotiations, which can easily take a year. Conducting this exercise in all toll domains in parallel is close to impossible.

Accreditation to a toll domain can be very costly – 100-200 thousand Euros on average – and technically challenging. Only a few companies specialized in toll collection have the necessary resources to successfully go through this process in all EU toll domains. Some stakeholders therefore point out that, by maintaining the obligation of full European coverage, the EU legislator de facto creates the conditions for a monopolistic or oligopolistic market.

The removal of the requirement to cover all EU toll domains will probably allow more companies to enter the market (and thus make the latter more competitive); the downside of it is that EETS providers might decide not to cover peripheral toll domains, where business opportunities are less attractive.

**\*11. Should the European Union:**

Maintain the obligation for EETS providers to cover all toll domains in the EU;

Leave it to the EETS providers to decide which toll domains they want to cover by their services.

Other (please specify) Please specify "Other" 1000 character(s) maximum

Comments 1000 character(s) maximum

The current obligations for EETS Providers, as stated in article 4 of the Decision, include EETS contracts covering all EETS domains within 24 months following their registration in accordance with Article 19. In reality considering the many EETS toll domains in Member States, this seems an excessive demand, especially in view of the different demands that are set out from the different toll domains. Normal contract negotiations can easily take months. Two years therefore seems a relative short period to effect this obligation. In order to level the negotiation field for service providers in terms of their position opposite toll chargers of the different toll domains, the choice of which toll domains they wish to engage in, could be left to them. However, Member States at the fringe of the territory and Member States with less vehicles involved and therefore less enticement for service providers to make a good business case, have valid concerns about the effect on their territory, if this obligation is dismissed. These concerns should be addressed before any definitive choices are made. E.g. it could be impressed upon service providers to at least provide services to neighboring countries, in order to let a coverage to adjacent toll domains grow naturally.

**Coverage of the service**

The EETS legislation, as it stands today, applies to all electronic tolling systems, urban or interurban, for any types of vehicles, which require the installation of on-board equipment. In other terms, the EETS does not need to cover systems using automatic number plate recognition (ANPR) as primary vehicle recognition system, such as the London Congestion Charge or 'electronic vignettes'. (Like their paper equivalent, electronic vignettes give access to a defined network for a certain period of time against a lump sum payment. The user typically enters his/her number plate in the system and indicates the period when he/she intends to use the roads, and is invoiced accordingly.)

By definition, ANPR-based systems are not concerned by the problem of lack of interoperability of on-board equipment, since they do not require such equipment to be installed in the vehicle. However, the fact that they are not covered by the EETS implies that users receive separate invoices, and must pay separately for the use of roads covered by these systems. Maybe more importantly, the mushrooming of new city tolls (and other ANPR based systems) may leave some users unaware of the obligation to pay. In such a case, drivers may be fined for inadvertently omitting payment. EETS, and automatic deduction of the toll due from the account of the user, may help avoid such problems. It is often highlighted that pan-European interoperability of tolls is really required only by commercial vehicles (trucks and buses), which – if engaged in international transport – cross State borders on a daily basis. This is not the case for passenger cars, typically used within the borders of one Member State, and only occasionally crossing one or two borders. For these users, operators of roads situated in border areas typically negotiate local interoperability agreements, e.g. interoperability between motorway concessions located on both sides of the Pyrenees in France and Spain. Some automobile clubs have indicated, on behalf of their members – car drivers – their lack of interest in the topic. In light of this, the question arises if the cost of EETS for passenger cars does not exceed the potential social benefits. Of course, the situation might change in the future in electronic tolling for cars becomes more widespread than today.

\*12. Do you think the scope of EETS should be extended to systems based on automatic number plate recognition, such as e-vignettes or the London congestion charge?

Yes

No

I don't know

Comments *1000 character(s) maximum*

The current EETS scope is systems with the use of an On Board Unit (OBU). The choice for OBU's is obvious where the road charging system is distance based. An OBU requires much more data for effective use, than is necessary in systems based on automatic number plate recognition (ANPR). As such, all the requirements currently in the EETS for parties involved (toll chargers, service providers, Member States etc.), are disproportional to what would be achieved by an extension to systems based on ANPR.

\* 13. Do you think that the EU should continue regulating how to achieve interoperability between electronic tolls applying to passenger cars, or should this be left for the Member States to achieve?

We need EU rules

This matter should be left to the Member States

Other (please specify) Please specify "Other" *1000 character(s) maximum*

Comments *1000 character(s) maximum*

The current EETS scope is systems with the use of an OBU, no matter whether these are mandatory for freight vehicles or passenger cars. It seems valid that interoperability of those systems is advisable in order to achieve the maximum freedom of movement between Member States for passenger cars. However, most Member States with a tolling system for passenger cars have chosen an e-vignette or specific toll roads. Interoperability of those systems is not cost effective, considering the relative low percentage of all passenger car use, that is being used for long distances through several different tolling systems. In conclusion, if a system involving an OBU is used for passenger cars, interoperability with other such systems would certainly be desirable, especially for neighboring countries, and to this end lessons should be learned from the OBU systems for freight. The current goal however is realizing an actual interoperability for EETS systems for freight.

#### Cross-border recovery and enforcement of tolls

Currently, no harmonised rules exist at EU level governing the recovery of unpaid tolls from users of vehicles registered in another Member State. To tackle this issue, road operators opt for one of three approaches:

1. Accept it that once the user left the country (and does not return), the amount of the unpaid toll is lost.
2. Sign bilateral agreements with neighboring countries on the exchange of vehicle registration data. This way, the number plate of the offender registered by enforcement devices can be matched with a name and address to which the payment recall/fine can be sent. So far, only a few such bilateral agreements have been signed.
3. Use the services of a professional debt recovery company.

On average, losses from foreigners not paying their tolls amount to a small proportion of the road operator's revenues from tolls, but not chasing foreign registered offenders (solution 1 above) can be seen as unfair to compliant users. Furthermore, the problem can become significant on certain roads and toll domains, notably in vicinity of State borders and in free flow systems (where no barriers stop the vehicle until payment has been made).

The use of debt recovery companies (solution 3.) is expensive: it can typically 'eat' 10-20% of the recovered toll/fine. Exchange of vehicle registration data directly between national administrations could be more efficient. In principle, this can be done on a bilateral basis (solution 2 above), but the result is patchy: typically, each Member State will sign agreements with a few other States only. Ready technical solutions exist and could be used for the purpose of an EU-wide exchange of vehicle registration data, such as the system currently used for the cross-border enforcement of road safety related offenses.

\* 14. Should the European Union establish a mandatory mechanism for the exchange of data on toll offenders to facilitate recovery of unpaid tolls, or should Member States be left to decide if they wish to participate in such exchanges on a bilateral basis?

The EU should establish a mandatory mechanism

Member States should be left to find bi- or multilateral solutions

Other (please specify) Please specify "Other" *1000 character(s) maximum*

Comments 1000 character(s) maximum

To keep support for road pricing, no matter what system, it is essential that all users, including foreign users, pay the tolls. This is in particular a (political) issue in member states with a relatively high percentage of international transport. As stated in the question, currently an effective approach to ensure the payment by foreign vehicles, is lacking. Also, a fourth approach that is used in some member states: road side inspection, is not cost-effective and besides could be seen as not proportional. For this reason, a revisited directive should establish a mandatory mechanism to ensure payment by all vehicles.

None withstanding the answer to question 12, in which it is stated that the full regime of the EETS directive is disproportional to the added value for other toll schemes, this mandatory mechanism for the exchange of data on toll should apply to toll schemes that are currently not part of the EETS-directive, for example schemes using ANPR, vignette and/or barriers. To keep the mechanism as efficient as possible, it would be advisable to utilize EUCARIS and the national vehicle registration authorities.

#### How much should the EU get involved in the setup and operation of national systems

Most of the big electronic tolling systems for trucks, which were put in place in the Member States over the last 13 years, cost around 600-800 million euros to set up. Furthermore, yearly operation and maintenance costs consume up to 15% of the toll revenues. At the same time, a few examples (e.g. Hungary) show that by re-using, for the purpose of tolling, existing intelligent transport systems (e.g. commercial tracking and tracing devices), it is possible to reduce the setup and operation costs of tolling systems to a fraction of the former figures.

On-board units are one of the main cost items for new satellite-based electronic tolling systems. By making a new national system technically compatible with those which already exist in neighbouring countries, the road operator can make important savings on on-board equipment and thus considerably reduce the final bill. Yet, so far, this tendency has not prevailed in the EU.

Finally, mutual recognition of elements of the procedure of accreditation of EETS providers to different toll domains could reduce complexity and costs. Again, such co-operation so far exists at the national level (between road concessionaires in the same country), but not between Member States. It may seem warranted for the EU to provide for greater harmonisation of national systems and procedures, and promote certain solutions to reduce the cost of electronic tolling for the road operators and, ultimately, for the society. On the other hand, this might be seen as restricting the margin available to Member States to decide on the most appropriate technical solutions for electronic tolling on their territories.

\* 15. Should the European Commission be given the right to scrutinize the planned architecture of new electronic tolling systems (including tender specifications for the contract to set up and operate the tolling scheme) and take a position, before they are put in practice?

Yes

No

I don't know

Comments 1000 character(s) maximum

Member States are within their right to come up with an architecture of new electronic tolling systems etc and as such choose the most appropriate technical solution considering the political choices made concerning the system. It may well be that the future holds innovative new applications, which are currently not available. Generally speaking Member States, when considering a new system, will of their accord find their way to the European Commission in order to get the relevant input, as well as learn from best practices in other Member States. As such, there is insufficient ground to give such a specific right to the European Commission, when considering new national plans.

\*16. If Yes, Should this position of the European Commission be binding to the Member State/road operator?

Yes

No

Comments 1000 character(s) maximum

The European Commission already has a clear position as guardian of European law. However, where it concerns the authority of Member States, the European Commission should not be given a position

where it has more authority concerning a (potential) national system, than the democratic system in a member state.

\*17. Should the European Commission harmonize the procedures for accrediting an EETS provider to a toll domain, with the aim to reduce the cost and burden associated to it?

Yes

No

Comments *1000 character(s) maximum*

Generally speaking, harmonizing procedures in order to reduce the associated costs and burden, is a good thing, specifically where it concerns lowering the administrative burden for businesses. Member States have already implemented in their national laws, article 3 of Decision 2009/750/EC, which states the requirements to be fulfilled by EETS providers in order to be registered in a Member State where they are established. Once registered, service providers have access to contract negotiations with all toll domains within the EU. The procedures involved in order to be accredited to a specific toll domain reflect the national system in place, which can differ in technical requirements, as well as equity involved (number of vehicles concerned, total amount of income etc.). This should be taken into account, when considering what aspects of said accreditation, that is currently left to the member states, could be harmonized.

#### Attachments

Please upload any documents (supporting documents, positions papers) which you would like to attach to your reply.