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COM(2017) 275 final

2017/0114 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of  
certain infrastructures**

(Text with EEA relevance)

{SWD(2017) 180 final}

{SWD(2017) 181 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

An efficient and reliable transport system is essential for the smooth functioning of the internal market and is a key sector of the economy. While road transport plays the most important role in the inland transport system, it is a source of a number of socio-economic and environmental challenges (e.g. climate change, air pollution, noise, congestion). Road pricing can play a key role in incentivising cleaner, more efficient operations, and its coherent design is crucial to ensuring fair treatment of road users and sustainable infrastructure financing.

Directive 1999/62/EC<sup>1</sup> provides the legal framework for charging heavy goods vehicles (HGVs) for the use of certain roads. The Directive aims to eliminate distortions of competition between transport undertakings by a step-wise harmonisation of vehicle taxes and establishment of fair mechanisms for infrastructure charging. It sets minimum levels of vehicle taxes for HGVs and specifies the modalities of infrastructure charging, including the variation of charges according to the environmental performance of vehicles.

So far, however, the Directive does not contain elements specifically contributing to the reduction of CO<sub>2</sub> emissions from transport. CO<sub>2</sub> emissions from road transport in 2014 were still 17% higher than in 1990. The highest share of these emissions originates from passenger cars (over 60%), while that of HGVs is increasing. Under current trends, the emission reduction will not be sufficient to achieve the EU goals set for 2030 and 2050.

Road infrastructure is degrading in many Member States because of inadequate maintenance. Public spending on road maintenance has decreased in the EU by about 30% between 2006 and 2013 and stood at 0.5% of GDP in 2013 (compared to 1.5% in 1975 and 0.8% in 2008). This leads to various negative economic, social and environmental impacts including increased vehicle operating costs, pollutant and noise emissions, increased journey times, accidents, and negative effects on the economy.

The current legislation only applies to HGVs, all other vehicles are left unaddressed. In this area, which includes in particular passenger cars, and absent specific limits, there is a risk of short-term vignettes being priced comparatively too high and hence of discrimination vis-à-vis occasional, mostly foreign users. Another potential problem of discrimination, common to all types of vehicles, is compensation of national users in case time-based charges are introduced.

The negative impacts of road transport represent significant costs to society. While cars and vans cause less damage to the infrastructure than heavy duty vehicles (HDVs, including HGVs and buses/coaches), passenger cars are at the source of about 2/3 of external costs (including the cost of climate change, air pollution, noise, accidents and other negative impacts) generated by road transport, or about 1.8-2.4% of GDP.

In addition, congestion is a persistent problem inside and outside urban areas; however, it has only been sporadically addressed by Member States. Road traffic peaks result in considerable

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<sup>1</sup> Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures, OJ L 187, 20.7.1999, p. 42–50.

social costs, which amount to 1% of EU GDP. Two thirds of these costs are attributable to passenger cars and 20-30% to interurban traffic.

The objective of the initiative is to make progress in the application of the 'polluter pays' and 'user pays' principles, thereby promoting financially and environmentally sustainable and socially equitable road transport.

The initiative contributes to the Regulatory Fitness Programme (REFIT), since it is intended to bring about an update to and simplification of certain provisions of the Directive.

- **Consistency with existing policy provisions in the policy area**

This initiative aims at addressing the shortcomings of existing legislation (Directive 1999/62/EC), i.e. at a better fulfilment of the legislation's objectives. The terms proposed would simplify certain provisions of the Directive, by removing the variation of tolls based on Euro emission class, whose benefits are now quickly diminishing, and by eliminating cumbersome notification requirements, in particular related to external cost charging.

In addition, it is proposed to include buses, passenger cars and vans in the scope of the Directive, thereby ensuring more consistent pricing of infrastructure use across the road transport sector. Given the issue of CO<sub>2</sub> emissions explained above, it is also proposed that road charges reflect such emissions.

- **Consistency with other Union policies**

The initiative is part of the Commission's effort to create an Energy Union, and of a series of proposals related to low-emission transport<sup>2</sup>, including the revision of CO<sub>2</sub> emission Regulations for cars and vans, proposals for the certification and monitoring/reporting of CO<sub>2</sub> emissions from lorries and buses; and related initiatives in the field of road transport, notably on the revision of the legislation on interoperable electronic tolling services and of the rules governing the internal market for road haulage and bus and coach services.

The proposed changes are in line with the goals set by the 2011 White Paper on transport<sup>3</sup> that called for moving towards full application of the 'polluter pays' principle (enshrined in the Treaty on the Functioning of the European Union) and the 'user pays' principle in order to ensure more sustainable transport and infrastructure financing. To facilitate distance-based charging, the legislation on the interoperability of electronic toll collection<sup>4</sup> is revised in parallel. The proposed changes are also consistent with environmental legislation relating to vehicle emissions and noise.

Furthermore, with the extension of its scope, the initiative builds on certification procedures to be adopted with regard to the CO<sub>2</sub> emissions of HDVs and on the Regulations governing pollutant and CO<sub>2</sub> emissions from light duty vehicles. As far as the affected road network is concerned, the proposal refers to the revised Union guidelines for the development of the trans-European transport network.

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<sup>2</sup> COM(2016) 501 final: European Strategy for Low-Emission Mobility

<sup>3</sup> COM(2011) 144 final: Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system

<sup>4</sup> Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community, OJ L 166, 30.4.2004, p. 124 and Commission Decision of 6 October 2009 on the definition of the European Electronic Toll Service and its technical elements, OJ L 268, 13.10.2009, p. 11.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

The legal bases for Directive 1999/62/EC are Articles 71 and 93 of the EC Treaty (now Articles 91 and 113).

The provisions of the Directive affected by this proposal pertain to tolls and user charges, an area to which Article 91 TFEU applies.

As far as amendments of certain provisions of Chapter II of the Directive on vehicle taxes are concerned, these fall under Article 113 TFEU and are addressed in a separate legal proposal.

### **• Subsidiarity (for non-exclusive competence)**

The EU shares competence with Member States to regulate in the field of transport pursuant to Article 4(2)(g) TFEU. However, an adaptation of the existing rules can only be operated by the Union itself. The extension of EU rules to other vehicle categories is justified by the impacts of those on the problems at EU- and global levels. Insofar as passenger cars, minibuses and vans are concerned, such inclusion would in particular help preventing the risk of Member States treating occasional users or vehicles registered abroad unequally. The inclusion of buses/coaches would help diminishing distortions of competition in the internal market for passenger transport by according preferential treatment (i.e. exemption from paying for the use of infrastructure) to these vehicles vis-à-vis rail transport, which is subject to such charging.

More generally, since all of these vehicles make use of the same road infrastructure and contribute to CO<sub>2</sub> emissions, air pollution and congestion, their inclusion is justified in view of the identified problems.

### **• Proportionality**

The proposed measures only contribute to achieving the objectives set, notably of a consistent application of the 'polluter pays' and 'user pays' principles, and do not go beyond what is necessary to this end.

The extension of the scope beyond HGVs is necessary in order to ensure that coherent rules are applied to all road vehicles and to be able to address the problems that are not only or not primarily related to HGV traffic (degrading infrastructure quality, high CO<sub>2</sub> emissions from road transport, air pollution, noise, congestion, or the discrimination of foreign users).

Costs to Member States, businesses and citizens are limited compared to the potential benefits. The proposal does not impose the application of road charges by Member States, but harmonises the way such charges should be applied across the Union. It also does not imply any increase of the level of existing charges.

As part of the impact assessment, a number of possible policy measures have been discarded based on the proportionality principle, such as mandatory infrastructure charging or mandatory congestion charging.

### **• Choice of the instrument**

Since the legal act to be amended is a Directive, the amending act should in principle take the same form.

### 3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The Commission published its evaluation of Directive 1999/62/EC in 2013<sup>5</sup>. An external 'Evaluation of the implementation and effects of EU infrastructure charging policy since 1995' was published in January 2014<sup>6</sup>. The evaluations identified various problems linked to road charging of HGVs under the current legislative framework.

While 24 Member States have implemented some form of road charging and there has been a tendency to move towards network-wide distance-based tolling, this transition has been slow and there are persistent inconsistencies across the Union. The evaluation found great disparities in national road charging policies and concluded that the lack of harmonisation in both the type of charges (time-based vignettes, distance-based tolls, differentiated or not) and the type of charge-collecting technologies that are used results in additional administrative burden and costs both for public authorities and users.

While the Directive furthers the objectives set, a number of shortcomings were identified:

- The scope: it is possible to exempt HGVs below 12 tonnes, which leads to an uneven playing field in freight transport;
- Time-based charges allowed by the Directive are ineffective in covering infrastructure costs, incentivising cleaner, more efficient operations or reducing congestion;
- The application of external cost charging is too complex, while for the (mandatory) variation according to Euro emission classes, only the maximum variation is defined, and freedom left to Member States within this maximum;
- The variation of charges to fight congestion: the revenue-neutrality requirement appears to be too cumbersome to apply and could be seen as unfair if only applied to HGVs even though all road users contribute to congestion.

While the evaluation focused on the current terms of the Directive, the input from stakeholders has pointed at other relevant issues, including the need to reduce CO<sub>2</sub> emissions from HDVs and to provide a framework for charging in respect of passenger cars (and other vehicle categories), notably in order to avoid discrimination of occasional (foreign) road users.

- **Stakeholder consultations**

Stakeholder consultations complied with the minimum standards for the consultation of interested parties set out in the Commission Communication of 11 December 2002 (COM(2002) 704 final).

Open and targeted consultation methods and various consultation tools were used.

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<sup>5</sup> Ex-post evaluation of Directive 1999/62/EC, as amended, on the charging of heavy goods vehicles for the use of certain infrastructures, SWD(2013) 1 final

<sup>6</sup> <http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=10296156>

- 1) A standard 12-week online open public consultation was organised via the website "Your Voice in Europe" on the basis of questionnaires.

The open public consultation (OPC) ran from 8 July to 5 October, with late contributions also accepted. The OPC contained two sets of questions: one aimed at understanding the perceptions of users addressed to the general public, and a more technical one to experts.

The Commission received 135 responses to the questionnaires as well as 48 additional documents. The responses covered a variety of stakeholder groups, including transport undertakings (42%), consumers/citizens (14%), public authorities (13%), the construction industry (7%), public transport associations (4%), and tolling service/solution providers (4%).

- 2) Targeted consultation with specific stakeholders and specialists took place throughout the impact assessment process and involved:
  - a) a series of thematic seminars with stakeholders and Member States organised by the Commission during September and October 2015.
  - b) A conference on the road initiatives on 19 April 2016.
  - c) 21 interviews with stakeholders selected based on specific data needs carried out by the contractor preparing the impact assessment support study.

#### *Summary of input received and use of results*

There was general support for measures to incentivise the use of fuel efficient vehicles, although less specific support for doing this through a variation of road charges. Many non-Member State interviewees supported the introduction of CO<sub>2</sub>-based variation and the phasing out of differentiation by Euro emissions class. While doubts have been expressed regarding its short-term feasibility, there was no obvious opposition to the revenue-neutral variation of charges based on CO<sub>2</sub> emissions.

In relation to possible measures to ensure the quality of roads, there was a notable difference between, (1) the views expressed in the online public consultation and the views of most stakeholders interviewed, and (2) the views of the Member States interviewed. The majority of respondents to the first group generally supported the measures to ensure the quality of road infrastructure. On the other hand, Member States were generally not supportive of the measures.

For possible measures to avoid discrimination and ensure a level playing field, the views of Member States and other stakeholders differ again. Respondents to the online public consultation strongly supported the application of the 'user pays' and 'polluter pays' principles, and for the EU to ensure that vignette prices are set proportionately. Many additional contributions and non-Member State interviewees supported the phasing out of time-based user charges, so that charging can only be based on distance. On the other hand, Member States were divided on the need for further action in this respect.

With respect to ensuring an efficient transport system, the majority of respondents to the online public consultation believed that dealing with congestion should be left to Member States, with the most popular option for congestion charging being that it should apply to all vehicles. The need for any congestion charging to cover all vehicles, not just HGVs, was

underlined by those who supported congestion charging. Member States were in general in favour of more flexibility.

- **Collection and use of expertise**

The problem definition was based on evaluations partly using external expertise (Evaluation of the implementation and effects of EU infrastructure charging policy since 1995, Update of the Handbook on external costs of transport<sup>7</sup>), complemented by additional research.

An external contractor assisted with a support study for the Impact Assessment<sup>8</sup>, which was concluded in April 2017.

- **Impact assessment**

The initiative is supported by an Impact Assessment, which has received a positive opinion, with reservations, from the Regulatory Scrutiny Board. The Board made recommendations requiring better justification of the objective related to CO<sub>2</sub> emission reduction and clarifications regarding

- the differentiated treatment of road charging revenues,
- the deficiencies of the current legislation,
- the discarding of certain options and
- the expected impacts.

The comments have been taken into account in the revised impact assessment, providing further details and explanation, as indicated in Annex I of the impact assessment report. Among other adjustments, the following modifications were made to address the issues mentioned above:

- Explanations on the complementarity with other environmental charges/taxes and with CO<sub>2</sub> standards were added in the problem definition and description of the problem drivers in particular. While the other instruments might have been effective, they have not been sufficient to curb CO<sub>2</sub> emissions from transport to the extent required by the EU's commitments.
- Explanations on the reasons for different treatment of revenues generated by optional congestion charging were added in the annex describing the retained policy measures. One of the main reasons is related to the acceptability, fairness and the objective to counteract any regressive effect of the charge.
- Further explanation was added in the description of the evaluation and implementation of the current legislation as well as in that of the problem drivers, specifically referring to the role of the legislation and its deficiencies.
- The description of the reasons for discarding measures on mandatory road charging and generalised earmarking of revenues was complemented with further details.
- More detailed description of the expected impacts on CO<sub>2</sub> emissions, on affected Member States, as well as on simplification were added in the relevant sections.

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<sup>7</sup> Ricardo-AEA et al (2014), Update of the Handbook on External Costs of Transport: [http://ec.europa.eu/transport/themes/sustainable/studies/sustainable\\_en](http://ec.europa.eu/transport/themes/sustainable/studies/sustainable_en)

<sup>8</sup> Ricardo et al. (2017), Support Study for the Impact Assessment Accompanying the Revision of Directive 1999/62/EC.

Four policy options were considered, reflecting an increasing level of regulatory intervention, subsequent options (PO1 to PO4) building on each other.

The first policy option (PO1) includes legislative changes to update only some provisions of the Directive and the extension of its scope to buses and coaches, vans and passenger cars in order to address all identified problems. The changes related to removing exemptions, updating reporting requirements and maximum values of external cost charges as well as the simplification of requirements for external cost charging. The option also includes the introduction of non-discrimination and proportionality requirements for charging light vehicles.

PO2 targets the issue of CO<sub>2</sub> emissions, and includes the phasing out of time-based charges for HDVs. This option includes rules on the variation of infrastructure charges according to CO<sub>2</sub> emissions for HDVs, and a phasing-out of the current variation according to Euro emission classes.

PO3 (with variants a and b) includes additional measures for light vehicles, addressing interurban congestion as well as CO<sub>2</sub> and pollutant emissions from all vehicles (PO3b). Finally, PO4 would make external cost charging mandatory for HDVs and gradually phase out, for all vehicles, the possibility to resort to time-based charging, so that only distance-based charging would remain available.

The impact assessment, assuming a replacement of current time-based charging schemes by distance-based ones in PO2 to PO4 (the alternative for Member States being not to charge), clearly showed that PO4 was the most effective but would bring its benefits at the highest costs. PO1 could only contribute to achieving the objectives in a very limited way although at practically no cost. PO2 and PO3 were more balanced in their economic, social and environmental impacts and would achieve those results at a reasonable cost.

The impact assessment identified PO3b, the variant including the variation of charges for light vehicles according to their CO<sub>2</sub> and pollutant emissions, as the preferred option, possibly complemented with the requirement of external cost charging on at least part of the network for HDVs and the phasing-out of time-based charging for light vehicles over a sufficiently long period. These are the measures retained in this proposal, which is thus situated between PO3b and PO4, but closer to PO4.

PO3b and PO4 would reduce congestion costs by 2.5-6% or €9-22 billion by 2030, provide additional toll revenues of €10-63 billion/year and help increase the investment in roads by 25-260% compared to the baseline.

They would significantly reduce the amount of CO<sub>2</sub>, NO<sub>x</sub> and particulate matter emissions from road transport. This would lead to a positive impact on public health, proportionate to the reduction in air pollution, and result in €370 million to €1.56 billion costs savings for air pollution and accidents by 2030, expressed as present value.

PO3b and PO4 would allow generating between 62,000 and 152,000 new jobs in case just 30% of the additional toll revenues were reinvested in road maintenance. In addition, all options would contribute to the equal treatment of EU citizens by halving the price of short term vignettes.

PO3 (a and b) would increase transport costs for freight by 1.1%, while costs for passenger transport would remain unchanged. In PO4, the costs for passenger and freight transport could



increase by up to 1.3-2.0 percent, depending on the actual uptake of distance-based charging by Member States (potentially including those that currently do not charge certain vehicle categories). Authorities would have to support the cost of deployment of new tolling systems or expanding existing ones, which would amount, for the Member States concerned altogether, to €2-3.7 billion until 2030. Extension of road charging to new parts of the network and new user groups would increase the compliance costs for road users by €198 to €850 million/year from 2025 onwards.

Impacts on SMEs, including the entire road haulage sector would be limited since road charges only represent a small percentage of overall transport costs. Any cost increase is either passed on to clients (shippers) or could be compensated by tax reductions made possible via the amendment of Chapter II of the Directive related to vehicle taxation. Consumer prices would not increase by more than 0.1% on average even if 100% of the costs are passed on.

- **Regulatory fitness and simplification**

While the regulatory costs related to the initiative would increase with moving to distance-based tolling, as would the compliance costs for many market players; these costs would be outweighed by higher revenues (for Member States and toll chargers), better road quality and more reliable travel times (for road users), reduced negative environmental and health impacts (citizens), and related external costs borne by society (taxpayers).

The REFIT dimension of this proposal comes from the simplification and updating of the requirements for road charging so that they are fit for purpose, that is:

- replacing the obsolete system of variation according to Euro classes for HDVs with more adequate CO<sub>2</sub> modulation of charges;
- simplification of the application of external cost charges for air pollution and noise (that is a better instrument than modulation by Euro class) by allowing the use of updated reference values without the need to do any calculation;
- simplification and updating of the application of mark-ups and facilitation of the application of congestion charges.

The simplifications concern mainly national authorities rather than businesses. However, these changes are accompanied by a separate proposal mentioned above, allowing the reduction of circulation taxes, which could make it possible to decrease the burden on hauliers (SMEs). Overall costs to road users, including citizens and business, are likely to increase, even if only to a small extent.

The initiative is expected to have a minor positive impact on competitiveness due to CO<sub>2</sub>-differentiated charging, leading to slightly higher uptake of low- and zero-emission vehicles, driving innovation. Increased uptake of congestion charging would be beneficial to the competitiveness of businesses, especially those that make use of just-in-time manufacturing.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

#### 4. BUDGETARY IMPLICATIONS

The proposal has no budgetary implications for the Union.

#### 5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The impact assessment report lists a set of 7 core indicators that will be used for monitoring the progress related to the main policy objectives: the evolution of CO<sub>2</sub> emissions from HDVs; the state of tolled road infrastructure; the proportionality and coverage of social costs by road charges; and the level of congestion on the inter-urban network in the EU.

In order to assess the impact of the legislation, it would be necessary to make a thorough evaluation once all the changes have been phased in. Five years after the new framework becomes applicable in its entirety would be the appropriate timeframe for such an evaluation. The effects of intermediate steps could be evaluated earlier.

The proposal includes specific reporting requirements for Member States related to revenues from road charging and the use of those revenues, as well as on the quality of toll roads.

- **Explanatory documents (for directives)**

Considering the scope of the proposal, the fact that it only amends Directive 1999/62/EC, which all Member States have transposed in full, it does not seem justified or proportional to require explanatory documents.

- **Detailed explanation of the specific provisions of the proposal**

The title is adjusted to reflect the extended scope.

*Article 1 – Subject matter and scope*

The article is modified to include into the scope of application of the rules on tolls and user charges vehicles other than HGVs. This is justified by the need to address a number of problems that do not only, or not even primarily, relate to HGVs.

*Article 2 – Definitions*

The following definitions are modified:

- 'trans-European road network': the definition is updated to be in line with the corridor approach set out in the revised TEN-T Guidelines in Regulation (EU) No 1315/2013;
- 'toll': the definition is reworded so as to take account of the option provided for in Article 7da to provide for a congestion charge;
- 'vehicle': the new definition proposed encompasses all “heavy duty vehicles” and all “light duty vehicles”, i.e., in addition to the goods vehicles already covered now, situated above the 3,5 tonnes limit, passenger cars, minibuses and vans as well as coaches and buses;
- 'vehicle of [a certain 'EURO'] category' and 'type of vehicle': the definition is reworded so as to include coaches and buses.

The definitions of 'congestion', 'congestion charge', 'transport operator', different vehicle types, including 'zero-emission vehicles', as well as 'substantially amended tolling

arrangement' are added in order to provide legal clarity as regards specific terms and to better specify the scope of certain provisions.

The definition of 'weighted average external cost charge' is deleted as the requirement to calculate it is removed.

#### *Article 7 – Tolls and user charges*

Paragraph 1 is divided in two paragraphs so as to differentiate between the networks mainly used by international traffic (the trans-European road network and motorways) and other roads. It is proposed that provisions on non-discrimination, proportionality of charges and on the collection and payment of tolls and user charges also apply to other roads.

To progress with the application of the 'polluter pays' and 'user pays' principles, and to gradually decrease the disparities among different charging schemes, paragraphs 6 and 7 are added with a view to phase out the use of time-based user charges (vignettes) first for HGVs and buses/coaches, then, at a later stage, for passenger cars and vans, on the networks used by international transport. The proposed dates allow sufficient time for Member States to adapt their charging systems, where applicable. Differentiated treatment of HDVs and LDVs is warranted by their different impact on infrastructure and by the lower level of maturity of charging LDVs.

In order to ensure fair treatment of hauliers, paragraph 9 is added to remove the possibility to exempt HGVs below 12 tonnes from road charging, and to extend the scope of application of any charging system to coaches/buses. The latter is justified by the comparable impact of buses/coaches on roads.

#### *Article 7a – User charges: proportionality and equal treatment*

Article 7a sets upper limits to user charges and to the relative price difference between annual and sub-annual vignettes. In this context, the following changes are proposed.

Paragraph 1 is divided in two paragraphs in order to specify that the existing requirements apply to HGVs and buses/coaches.

New paragraph 3 concerns passenger cars and specifies upper limits for relative price differences between annual and sub-annual vignettes, reflecting relevant use patterns, based on available data<sup>9</sup>. It also sets the date by which existing vignette schemes have to be adapted. Paragraph 4 addresses the same issue in respect of minibuses and vans.

#### *Article 7c – External-cost charging*

In respect of paragraph 1, it is proposed to introduce reference values instead of maximum values (set out in Annex IIIb). Paragraph 5 is added requiring the application of external-cost charging on at least those parts of the tolled network where air pollution and noise generated by heavy duty vehicle traffic is most significant, e.g. due to the size of the population exposed.

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<sup>9</sup> See the impact assessment as well as Booz & Co. (2012). *Study on Impacts of Application of the Vignette Systems to Private Vehicles*. <http://ec.europa.eu/transport/modes/road/studies/doc/2012-02-03-impacts-application-vignette-private-vehicles.pdf>

#### *Article 7da – Congestion charging*

New Article 7da allows the application of congestion charges – on top of the infrastructure charge – with a view to effectively addressing the issue of interurban congestion. To avoid discrimination of the users of any vehicle category, any such congestion charge has to be applied to all vehicle categories in a proportionate and even-handed manner. Maximum charge levels and equivalence factors between vehicles are specified in Annexes V and VI.

#### *Article 7f – Mark-ups*

It is proposed to extend the possibility to apply mark-ups beyond mountainous regions, while keeping the other pre-existing conditions for their application (regular congestion or significant environmental damage and the reinvestment of the revenues in a TEN-T project). Paragraph 4 is deleted as it has not helped the financing of priority projects but may hinder the application of external-cost charging. Since mark-ups and congestion charges are both intended to address congestion, they should not be cumulated (paragraph 5).

#### *Article 7g – Variation of charges, in particular for heavy duty vehicles*

It is proposed to phase out the variation of charges according to the Euro emission class of the vehicle. A new paragraph 4 is added to introduce the variation of infrastructure charges according to the CO<sub>2</sub> emission of HDVs, as soon as possible after the necessary certified CO<sub>2</sub> emission data become available. Once operational, the provision will incentivise the use of the cleanest and most efficient HDVs.

Since it is proposed to separately regulate congestion charging (new Article 7da, cf. above), it is also proposed to phase out the possibility of revenue-neutral variation of charges according to time of day, type of day, or season (cf. amendment in paragraph 1, previously paragraph 3).

#### *Article 7ga – Variation of charges for light duty vehicles*

New Article 7ga specifies the modalities for the variation of tolls and user charges according to the environmental performance of passenger cars, minibuses and vans. The variation shall be based on emissions of both CO<sub>2</sub> and air pollutants, as specified in Annex VII. This provision should incentivise the use of cleaner and more efficient vehicles.

#### *Article 7h – Notifications*

It is proposed to amend paragraph 3 so as to simplify the prior information of the Commission in respect of intended external cost charging, by confining the information to basic elements. To facilitate the introduction of external cost charging, it is proposed to remove paragraph 4 on the requirement of a prior Commission decision.

#### *Article 7j – Collection and payment of tolls and user charges*

In paragraph 3 and 4, it is proposed to add a reference to congestion charges in order to ensure that all possible charge elements are collected and paid in a coherent manner.

#### *Article 7k – Compensations*

It is proposed to limit the possibility to provide compensations to the case in which tolls are introduced (as opposed to user charges). This is to eliminate existing potential for discrimination of non-resident users.

#### *Article 9 – Use of revenues*

New paragraph 3 requires revenues from congestion charging to be used to address problems of congestion, e.g. by supporting alternative transport solutions or removing bottlenecks.

#### *Article 10a*

An amendment to paragraph 1 is proposed to update the review clause and to be in line with the simplification of Annex IIIb.

#### *Article 11 – Reporting*

Paragraph 1 is amended to update reporting requirements on tolls, toll revenues and the use of revenues, to include also information on the quality of toll roads. The existing point (e) in paragraph 2 is removed and new points (e) to (i) are added to include information on revenues from congestion charging, on total revenues from road charging, on the use of those revenues; and an evaluation of road maintenance and the level of congestion. Paragraph 3 is added to specify a minimum set of indicators related to the evaluation of the quality of toll roads. Paragraphs 4 and 5 are added to allow the Commission to define harmonised indicators by an implementing act and to report on the application of those indicators by Member States.

#### *Annexes*

In Section 3 of Annex 0 it is proposed to remove the references to 'EEV' vehicles and to add a table with Euro VI emission limits, so as to take account of Regulation (EC) No 595/2009.

In Annex III the proposed changes reflect the inclusion of coaches and buses into the scope of the Directive.

It is proposed to confine Sections 2, 3 and 4 of Annex IIIa to cases where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb. Certain provisions of section 4.2 are updated to take account of recent legislation on the sound level of motor vehicles.

In Annex IIIb, it is proposed to replace maximum weighted average external-cost charges for air pollution and noise with reference values for external costs charging, including the cost of both air pollution and noise generated by HGVs (Table 1) and coaches (Table 2). The values are calculated in light of the Update of the Handbook on External Costs of Transport<sup>10</sup>. The values may be multiplied by 2 not only in mountainous areas, but also around agglomerations.

In Annex IV, it is proposed to include a reference to 7- and 8- or 9-axle combinations into the table on vehicle combinations.

New Annex V, linked to proposed Article 7da (on congestion charging), lays down minimum requirements for levying a congestion charge, including as regards the parts of the network

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<sup>10</sup> <http://ec.europa.eu/transport/sites/transport/files/themes/sustainable/studies/doc/2014-handbook-external-costs-transport.pdf>

and time periods covered. Roads are categorised as metropolitan and non-metropolitan in order to differentiate between more or less densely populated areas. To ensure even-handed and proportionate pricing, equivalence factors are set out for different vehicle categories. Section 2 requires that the calculation of charges is transparent and the amounts per vehicle category and time periods for each concerned road segment are publically available and that they have to be adjusted regularly in order to keep the scheme effective.

New Annex VI, equally linked to Article 7da, limits the amount of the congestion charge per km based on marginal congestion costs provided by the Update of the Handbook on External Costs of Transport.

New Annex VII is linked to proposed Article 7ga, regarding the variation of tolls and user charges for light duty vehicles in accordance with environmental performance and it specifies the emission categories for the purposes of such variation. Reference is made to CO<sub>2</sub> and air pollutant emissions taking account of EU-wide standards and the latest and most accurate measurement procedures.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>11</sup>,

Having regard to the opinion of the Committee of the Regions<sup>12</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Progress towards the goal, which the Commission set out in its White Paper of 28 March 2011<sup>13</sup>, namely to move towards the full application of the 'polluter pays' and 'user pays' principles, to generate revenue and ensure financing for future transport investments has been slow and inconsistencies persist in the application of road infrastructure charging across the Union.
- (2) In its Communication on a European Strategy for Low-Emission Mobility<sup>14</sup>, the Commission announced that it would propose the revision of the Directive on the charging for lorries to enable charging also on the basis of carbon dioxide differentiation, and the extension of some of its principles to buses and coaches as well as passenger cars and vans.
- (3) All heavy duty vehicles have significant impact on road infrastructure and contribute to air pollution, while light duty vehicles are at the source of the majority of the negative environmental and social impacts from road transport related to emissions and congestion. In the interest of equal treatment and fair competition, it should be ensured that vehicles so far not covered by the framework set out in Directive 1999/62/EC of the European Parliament and of the Council<sup>15</sup> in respect of tolls and

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<sup>11</sup> OJ C , , p. .

<sup>12</sup> OJ C , , p. .

<sup>13</sup> White Paper of 28 March 2011 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system' (COM(2011) 144 final).

<sup>14</sup> COM(2016) 501 final.

<sup>15</sup> Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.7.1999, p. 42).

user charges are included into this framework. The scope of that Directive should therefore be extended to heavy duty vehicles other than those intended for the carriage of goods and to light duty vehicles, including passenger cars.

- (4) Time-based user charges do by nature not accurately reflect infrastructure costs actually induced and, for similar reasons, are not effective when it comes to incentivising cleaner and more efficient operations, or reducing congestion. They should therefore be gradually replaced by distance-based charges, which are fairer, more efficient and more effective.
- (5) In order to secure user acceptance of future road charging schemes, Member States should be allowed to introduce adequate systems for the collection of charges as part of a wider package of mobility services. Such systems should ensure a fair distribution of infrastructure costs and reflect the 'polluter pays' principle. Any Member States introducing such a system should ensure that it complies with the provisions of Directive 2004/52/EC of the European Parliament and of the Council<sup>16</sup>.
- (6) As in respect of heavy duty vehicles, it is important to ensure that any time-based charges applied to light duty vehicles are proportionate, including in respect of periods of use shorter than one year. In that regard, account needs to be taken of the fact that light duty vehicles have a use pattern differing from the use pattern of heavy duty vehicles. The calculation of proportionate time-based charges could be based on available data on trip patterns.
- (7) Pursuant to Directive 1999/62/EC, an external-cost charge may be imposed at a level close to the social marginal cost of the usage of the vehicle in question. That method has proven to be the fairest and most efficient way to take account of negative environmental and health impacts of air pollution and noise generated by heavy duty vehicles, and would ensure a fair contribution from heavy duty vehicles to meeting EU air quality standards<sup>17</sup> and any applicable noise limits or targets. The application of such charges should therefore be facilitated.
- (8) To this effect, the maximum weighted average external-cost charges should be replaced by readily applicable reference values updated in light of inflation, the scientific progress made in estimating the external costs of road transport and the evolution of the fleet composition.
- (9) The variation of infrastructure charges according to Euro emission class has contributed to the use of cleaner vehicles. However, with the renewal of vehicle fleets, the variation of charges on this basis on the inter-urban network is expected to become obsolete by the end of 2020 and should therefore be phased out by that time. From the same point in time, external-cost charging should be applied more systematically, as a targeted means to recover external cost in respect of situations in which it matters most.
- (10) The share of CO<sub>2</sub> emissions from heavy duty vehicles is increasing. A variation of infrastructure charges according to such emissions is capable of contributing to improvements in this area and should therefore be introduced.

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<sup>16</sup> Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community (Text with EEA relevance), *OJ L 166, 30.4.2004, p. 124–143*

<sup>17</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, *OJ L 152, 11.06.2008, p. 1-44*



- (11) Light duty vehicles generate two thirds of the negative environmental and health impacts of road transport. It is therefore important to incentivise the use of the cleanest and most fuel-efficient vehicles through the differentiation of road charges based on conformity factors defined in Commission Regulation (EU) 2016/427<sup>18</sup>, Commission Regulation (EU) 2016/646<sup>19</sup>, and Commission Regulation (EU) 2017/xxx<sup>20</sup>.
- (12) In order to promote the use of the cleanest and most efficient vehicles, Member States should apply significantly reduced road tolls and user charges to those vehicles.
- (13) Road congestion, to which all motor vehicles contribute in different proportions, represents a cost of about 1% of GDP. A significant part of this cost can be attributed to interurban congestion. A specific congestion charge should therefore be allowed, on condition that it is applied to all vehicle categories. In order to be effective and proportionate, the charge should be calculated on the basis of the marginal congestion cost and differentiated according to location, time and vehicle category. In order to maximise the positive effect of congestion charges, corresponding revenues should be allocated to projects addressing the sources of the problem.
- (14) Congestion charges should reflect the actual costs imposed by each vehicle on other road users directly, and indirectly on society at large, in a proportionate manner. In order to avoid that they disproportionately hinder the free movement of people and goods, they should be limited to specific amounts reflecting marginal congestion cost in near capacity condition, that is to say when traffic volumes approach road capacity.
- (15) The revenue-neutral variation of infrastructure charges applied to heavy goods vehicles, a suboptimal instrument for the purpose of reducing congestion, should be phased out.
- (16) Mark-ups added to the infrastructure charge could also provide a useful contribution to addressing problems related to significant environmental damage or congestion caused by the use of certain roads, not only within mountainous areas. The current restriction of mark-ups to such areas should therefore be removed. In order to avoid double charging of users, mark-ups should be excluded on road sections on which a congestion charge is applied.
- (17) In case a Member State introduces a system of road charging, compensations granted may, according to the case, result in the discrimination of non-resident road users. The possibility to grant compensation at such occasion should therefore be limited to the cases of tolls and should no longer be available in the case of user charges.
- (18) In order to exploit potential synergies among existing road charging systems so as to reduce operating costs, the Commission should be fully involved in the cooperation among Member States intending to introduce common road charging schemes.
- (19) Road charges can mobilise resources that contribute to the financing of the maintenance and development of high quality transport infrastructure. It is therefore appropriate to incentivise Member States to use revenues from road charges accordingly and, to this end, to require that they adequately report on the use of such

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<sup>18</sup> Commission Regulation (EU) 2016/427 of 10 March 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (*OJ L 82, 31.3.2016, p. 1–98*)

<sup>19</sup> Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (*OJ L 109, 26.4.2016, p. 1–22*)

<sup>20</sup>

revenues. That should in particular help identifying possible financing gaps, and raising the public acceptance of road charging.

- (20) Since the objective of this Directive is in particular to ensure that national pricing schemes applied to vehicles other than heavy goods vehicles are applied within a coherent framework that secures equal treatment across the Union, cannot be sufficiently achieved at Member State level but can rather, by reason of the cross-border nature of road transport and of the problems this Directive is intended to address, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (21) It is necessary to ensure that external-cost charges continue to reflect the cost of air pollution and noise generated by heavy duty vehicles as accurately as possible without rendering the charging scheme excessively complex, to incentivise the use of the most fuel-efficient vehicles, and to keep the incentives effective and the differentiation of road charges up-to-date. Therefore, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission for the purpose of adapting the reference values for external cost charging to scientific progress, defining the modalities for the revenue-neutral variation of infrastructure charges according to the CO<sub>2</sub> emissions from heavy duty vehicles, and adapting the modalities of the variation of infrastructure charges for light duty vehicles to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>21</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (22) In order to ensure uniform conditions for the implementation of the relevant provisions of this Directive, implementing powers should be conferred on the Commission. The advisory procedure should be used for the adoption of implementing acts establishing a harmonised set of indicators for the evaluation of the quality of road networks. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council<sup>22</sup>.
- (23) Directive 1999/62/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

#### *Article 1*

Directive 1999/62/EC is amended as follows:

- (1) the title is replaced by the following:

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<sup>21</sup> OJ L 123, 12.5.2016, p. 1.

<sup>22</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

"Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of vehicles for the use of road infrastructures";

(2) Articles 1 and 2 are replaced by the following:

#### *"Article 1*

1. This Directive applies to:

- (a) vehicle taxes for heavy goods vehicles,
- (b) tolls and user charges imposed on vehicles.

2. This Directive shall not apply to vehicles carrying out transport operations exclusively in the non-European territories of the Member States.

3. This Directive shall not apply to vehicles registered in the Canary Islands, Ceuta and Melilla, the Azores or Madeira and carrying out transport operations exclusively in those territories or between those territories and, respectively, mainland Spain and mainland Portugal.

#### *Article 2*

For the purposes of this Directive:

- (1) 'trans-European road network' means the road transport infrastructure referred to in Section 3 in Chapter II of Regulation (EU) No 1315/2013 of the European Parliament and of the Council\* as illustrated by maps in Annex I to that Regulation;
- (2) 'construction costs' means the costs related to construction, including, where appropriate, the financing costs, of one of the following:
  - (a) new infrastructure or new infrastructure improvements, including significant structural repairs;
  - (b) infrastructure or infrastructure improvements, including significant structural repairs, completed no more than 30 years before 10 June 2008, where tolling arrangements were already in place on 10 June 2008, or completed no more than 30 years before the establishment of any new tolling arrangements introduced after 10 June 2008;
  - (c) infrastructure or infrastructure improvements completed before 10 June 2008 where:
    - (i) a Member State has established a tolling system which provides for the recovery of these costs by means of a contract with a tolling system operator, or other legal acts having equivalent effect, which entered into force before 10 June 2008, or
    - (ii) a Member State can demonstrate that the case for building the infrastructure in question depended on its having a design lifetime in excess of 30 years
- (3) 'financing costs' means interest on borrowings and return on any equity funding contributed by shareholders;

- (4) ‘significant structural repairs’ means structural repairs excluding those repairs no longer of any current benefit to road users, in particular where the repair work has been replaced by further road resurfacing or other construction work;
- (5) ‘motorway’ means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which meets the following criteria:
- (a) it is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;
  - (b) it does not cross at grade with any road, railway or tramway track, bicycle path or footpath;
  - (c) it is specifically designated as a motorway;
- (6) ‘toll’ means a specified amount based on the distance travelled on a given infrastructure and on the type of the vehicle, the payment of which confers the right for a vehicle to use the infrastructures, comprising an infrastructure charge, and as the case may be a congestion charge or an external-cost charge or both;
- (7) ‘infrastructure charge’ means a charge levied for the purpose of recovering the construction, the maintenance, the operation and the development costs related to infrastructure incurred in a Member State;
- (8) ‘external-cost charge’ means a charge levied for the purpose of recovering the costs incurred in a Member State related to traffic-based air pollution or traffic-based noise pollution or both;
- (9) ‘congestion’ means a situation where traffic volumes approach or exceed road capacity;
- (10) ‘congestion charge’ means a charge which is levied on vehicles for the purpose of recovering the congestion costs incurred in a Member State and reducing congestion;
- (11) ‘cost of traffic-based air pollution’ means the cost of the damage caused by the release of particulate matter and of ozone precursors, such as nitrogen oxide and volatile organic compounds, in the course of the operation of a vehicle;
- (12) ‘cost of traffic-based noise pollution’ means the cost of the damage caused by the noise emitted by the vehicles or created by their interaction with the road surface;
- (13) ‘weighted average infrastructure charge’ means the total revenue of an infrastructure charge over a given period divided by the number of heavy duty vehicle kilometres travelled on the road sections subject to the charge during that period;
- (14) ‘user charge’ means a specified amount payment of which confers the right for a vehicle to use for a given period the infrastructures referred to in Article 7(1) and (2);
- (15) ‘vehicle’ means a motor vehicle, with four wheels or more, or articulated vehicle combination intended or used for the carriage by road of passengers or goods;
- (16) ‘heavy duty vehicle’ means a heavy goods vehicle or a coach or bus;
- (17) ‘heavy goods vehicle’ means a vehicle intended for the carriage of goods and having a maximum permissible mass exceeding 3.5 tonnes;

- (18) ‘coach or bus’ means a vehicle intended for the carriage of more than 8 passengers, in addition to the driver, and having a maximum permissible mass exceeding 3.5 tonnes;
- (19) ‘light duty vehicle’ means a passenger car, a minibus or van;
- (20) ‘passenger car’ means a vehicle with four wheels intended for the carriage of passengers but not more than eight passengers, in addition to the driver;
- (21) ‘minibus’ means a vehicle intended for the carriage of more than eight passengers, in addition to the driver, and having a maximum permissible mass not exceeding 3,5 tonnes;
- (22) ‘van’ means a vehicle intended for the carriage of goods, and having a maximum permissible mass not exceeding 3,5 tonnes;
- (23) ‘zero-emission vehicle’ means a vehicle with no exhaust emissions;
- (24) ‘transport operator’ means any undertaking transporting goods or passengers by road;
- (25) ‘vehicle of the ‘EURO 0’, ‘EURO I’, ‘EURO II’, ‘EURO III’, ‘EURO IV’, ‘EURO V’, ‘EURO VI’ category’ means a heavy duty vehicle that complies with the emission limits set out in Annex 0;
- (26) ‘type of vehicle’ means a category into which a heavy duty vehicle falls according to the number of its axles, its dimensions or weight, or other vehicle classification factors reflecting road damage, e.g. the road damage classification system set out in Annex IV, provided that the classification system used is based on vehicle characteristics which either appear in the vehicle documentation used in all Member States or are visually apparent;
- (27) ‘concession contract’ means a ‘public works contract’ as defined in Article 1 of Directive 2014/24/EU of the European Parliament and of the Council\*\*;
- (28) ‘concession toll’ means a toll levied by a concessionaire under a concession contract;
- (29) ‘substantially amended tolling or charging arrangement’ means a tolling or charging arrangement, which has been amended in such a way that costs or revenues are affected by at least 5% in comparison with the previous year, after correcting for inflation measured by changes in the EU-wide Harmonised Index of Consumer Prices, and excluding energy and unprocessed food, as published by the Commission (Eurostat).

For the purposes of point 2:

- (a) in any event, the proportion of the construction costs to be taken into account shall not exceed the proportion of the current design lifetime period of infrastructure components still to run on 10 June 2008 or on the date when the new tolling arrangements are introduced, where this is a later date;
- (b) costs of infrastructure or infrastructure improvements may include any specific expenditure on infrastructure designed to reduce nuisance related to noise or to improve road safety and actual payments made by the infrastructure operator corresponding to objective environmental elements such as protection against soil contamination.

\* Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network (OJ L 348 20.12.2013, p. 1.)

\*\* Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65.);

(3) Article 7 is replaced by the following:

*"Article 7*

1. Without prejudice to Article 9 (1a), Member States may maintain or introduce tolls and user charges on the trans-European road network or on certain sections of that network, and on any other additional sections of their network of motorways which are not part of the trans-European road network under the conditions laid down in paragraphs 3 to 9 of this Article and in Articles 7a to 7k.

2. Paragraph 1 shall be without prejudice to the right of Member States, in compliance with the Treaty on the Functioning of the European Union, to apply tolls and user charges on other roads, provided that the imposition of tolls and user charges on such other roads does not discriminate against international traffic and does not result in the distortion of competition between operators. Tolls and user charges applied on roads other than roads belonging to the trans-European road network and other than motorways, shall comply with the conditions laid down in paragraphs 3 and 4 of this Article, Article 7a and Article 7j(1), (2) and (4).

3. Member States shall not impose both tolls and user charges on any given category of vehicle for the use of a single road section. However, a Member State which imposes a user charge on its network may also impose tolls for the use of bridges, tunnels and mountain passes.

4. Tolls and user charges shall not discriminate, directly or indirectly, on the grounds of the nationality of the road user, the Member State or the third country of establishment of the transport operator or of registration of the vehicle, or the origin or destination of the transport operation.

5. Member States may provide for reduced toll rates or user charges, or exemptions from the obligation to pay tolls or user charges for heavy duty vehicles exempted from the requirement to install and use recording equipment under Regulation (EU) No 165/2014 of the European Parliament and of the Council\*, and in cases covered by the conditions set out in, Article 6(2)(a), (b) and (c) of this Directive.

6. Without prejudice to paragraph 9, from 1 January 2018, Member States shall not introduce user charges for heavy duty vehicles. User charges introduced before that date may be maintained until 31 December 2023.

7. From [the date of entry into force of this Directive], Member States shall not introduce user charges for light duty vehicles. User charges introduced before that date shall be phased out by 31 December 2027.

8. Until 31 December 2019, as regards heavy duty vehicles, a Member State may choose to apply tolls or user charges only to vehicles having a maximum permissible laden weight of

not less than 12 tonnes if it considers that an extension to vehicles of less than 12 tonnes would:

(a) create significant adverse effects on the free flow of traffic, the environment, noise levels, congestion, health, or road safety due to traffic diversion;

(b) involve administrative costs of more than 30 % of the additional revenue which would have been generated by that extension.

Member States choosing to apply tolls or user charges or both only to vehicles having a maximum permissible laden weight of not less than 12 tonnes shall inform the Commission of their decision and on the reasons thereof.

9. As of 1 January 2020, tolls and user charges applied to heavy duty vehicles shall apply to all heavy duty vehicles.

10. Toll and user charges for heavy duty vehicles on the one hand and for light duty vehicles on the other may be introduced or maintained independently from one another.

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\* Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1.)";

(4) Article 7a is replaced by the following:

*"Article 7a*

1. User charges shall be proportionate to the duration of the use made of the infrastructure.

2. Insofar as user charges are applied in respect of heavy duty vehicles, the use of the infrastructure shall be made available for at least the following periods: a day, a week, a month, and a year. The monthly rate shall be no more than 10 % of the annual rate, the weekly rate shall be no more than 5 % of the annual rate and the daily rate shall be no more than 2 % of the annual rate.

A Member State may apply only annual rates for vehicles registered in that Member State.

Member States shall set user charges, including administrative costs, for all heavy duty vehicle categories, at a level that does not exceed the maximum rates laid down in Annex II.

3. Insofar as user charges are applied in respect of passenger cars, the use of the infrastructure shall be made available at least for the following periods: 10 days, a month or two months or both, and a year. The two-monthly rate shall be no more than 30 % of the annual rate, the monthly rate shall be no more than 18 % of the annual rate, and the 10-day rate shall be no more than 8 % of the annual rate.

Member States may also make the use of the infrastructure available for other periods of time. In such cases, Member States shall apply rates in accordance with the principle of equal treatment between users, taking into account all relevant factors, in particular the annual rate and the rates applied for the other periods referred to in the first subparagraph, existing use patterns and administrative costs.

In respect of user charge schemes adopted before 31 May 2017, Member States may maintain rates above the limits set out in the first subparagraph, in force before that date, and corresponding higher rates for other periods of use, in compliance with the principle of equal treatment. However, they shall comply with the limits set out in the first subparagraph as well as with the second subparagraph as soon as substantially amended tolling or charging arrangements enter into force and, at the latest, from 1 January 2024.

4. For minibuses and vans, Member States shall comply either with paragraph 2 or with paragraph 3. Member States shall however set higher user charges for minibuses and vans than for passenger cars as from 1 January 2024 at the latest.";

(5) Article 7c is replaced by the following:

*"Article 7c*

1. Member States may maintain or introduce an external-cost charge, related to the cost of traffic-based air or noise pollution or both.

For heavy duty vehicles, the external-cost charge shall vary and be set in accordance with the minimum requirements and the methods referred to in Annex IIIa and shall respect the reference values set out in Annex IIIb.

2. The costs taken into account shall relate to the network or the part of the network on which external-cost charges are levied and to the vehicles that are subject thereto. Member States may choose to recover only a percentage of those costs.

3. The external-cost charge related to traffic-based air pollution shall not apply to heavy duty vehicles which comply with the most stringent of EURO emission standards.

The first subparagraph shall cease to apply four years from the date when the rules which introduced those standards started to apply.

4. The amount of the external-cost charge shall be set by the Member State concerned. If a Member State designates an authority for this purpose, the authority shall be legally and financially independent from the organisation in charge of managing or collecting part or all of the charge.

5. From 1 January 2021, Member States that levy tolls shall apply an external-cost charge to heavy duty vehicles on at least the part of the network referred to in Article 7(1) where environmental damage generated by heavy duty vehicles is higher than the average environmental damage generated by heavy duty vehicles defined in accordance with relevant reporting requirements referred to in Annex IIIa.";

(6) The following Article 7da is inserted:

*"Article 7da*

1. Member States may, in accordance with the requirements set out in Annex V, introduce a congestion charge on any section of their road network which is subject to congestion. The congestion charge may only be applied on those road sections which are regularly congested and only during the periods when they are typically congested.



2. Member States shall define the road sections and time periods referred to in paragraph 1 on the basis of objective criteria related to the level of exposure of the roads and their vicinities to congestion, such as average delays or queue lengths.
3. A congestion charge imposed on any section of the road network shall apply in a non-discriminatory manner to all vehicle categories, in accordance with the standard equivalence factors set out in Annex V.
4. The congestion charge shall reflect the costs imposed by a vehicle on other road users, and indirectly on society, but shall not exceed the maximum levels set out in Annex VI for any given road type.
5. Member States shall put in place adequate mechanisms for monitoring the impact of congestion charges and for reviewing the level thereof. They shall review the level of charges regularly, at least every three years, to ensure that they are not higher than the cost of congestion occurring in that Member State and generated on those road sections, which are subject to the congestion charge.";

(7) Articles 7f and 7g are replaced by the following:

*"Article 7f*

1. After informing the Commission, a Member State may add a mark-up to the infrastructure charge levied on specific road sections which are regularly congested, or the use of which by vehicles causes significant environmental damage, where the following conditions are met:

(a) the revenue generated from the mark-up is invested in financing the construction of transport infrastructure of the core network identified in accordance with Chapter III of Regulation (EU) No 1315/2013, which contribute directly to the alleviation of the congestion or environmental damage and which are located in the same corridor as the road section on which the mark-up is applied;

(b) the mark-up does not exceed 15 % of the weighted average infrastructure charge calculated in accordance with Article 7b(1) and Article 7e, except where the revenue generated is invested in cross-border sections of core network corridors, in which case the mark-up may not exceed 25 %;

(c) the application of the mark-up does not result in unfair treatment of commercial traffic compared to other road users;

(d) a description of the exact location of the mark-up and proof of a decision to finance the construction of core network corridors referred to in point (a) are submitted to the Commission in advance of the application of the mark-up;

(e) the period for which the mark-up is to apply is defined and limited in advance and is consistent, in terms of the expected revenue to be raised, with the financial plans and cost-benefit analysis for the projects co-financed with the revenue from the mark-up.

1a. In case of new cross-border projects, mark-ups may only be added if all Member States involved in such project agree.

2. A mark-up may be applied to an infrastructure charge which has been varied in accordance with Article 7g or 7ga.

3. After receiving the required information from a Member State intending to apply a mark-up, the Commission shall make that information available to the members of the Committee referred to in Article 9c. Where the Commission considers that the planned mark-up does not meet the conditions set out in paragraph 1, or where it considers that the planned mark-up will have significant adverse effects on the economic development of peripheral regions, it may, by means of implementing acts, reject or request amendment of the plans for charges submitted by the Member State concerned. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 9c(2).

4. The amount of the mark-up shall be deducted from the amount of the external-cost charge calculated in accordance with Article 7c, except for vehicles of EURO emission classes 0, I and II from 15 October 2011, III and IV from 1 January 2015, V from 1 January 2019, and VI from January 2023 onwards. All revenues generated by the simultaneous application of the mark-up and the external cost charges shall be invested in financing the construction of core network corridors listed in Part I of Annex I to Regulation (EU) No 1316/2013.

5. A mark-up may not be applied on road sections where a congestion charge is applied.

#### *Article 7g*

1. Until 31 December 2021, the infrastructure charge may be varied for the purpose of reducing congestion, minimising infrastructure damage and optimising the use of the infrastructure concerned or promoting road safety, where the following conditions are met:

- (a) the variation is transparent, made public and available to all users on equal terms;
- (b) the variation is applied according to the time of day, type of day or season;
- (c) no infrastructure charge is more than 175 % above the maximum level of the weighted average infrastructure charge as referred to in Article 7b;
- (d) the peak periods during which the higher infrastructure charges are levied for the purpose of reducing congestion do not exceed five hours per day;
- (e) the variation is devised and applied in a transparent and revenue-neutral way on a road section affected by congestion by offering reduced toll rates for hauliers who travel during off-peak periods and increased toll rates for hauliers who travel during peak hours on the same road section.

A Member State wishing to introduce such variation or changing an existing one informs the Commission thereof and provides it with the information necessary to assess whether the conditions are fulfilled.

2. Until 31 December 2020, in respect of heavy duty vehicles, Member States shall vary the infrastructure charge according to the EURO emission class of the vehicle in such a way that no infrastructure charge is more than 100 % above the same charge for equivalent vehicles meeting the strictest emission standards. Existing concession contracts may be exempted from this requirement until the contract is renewed.

A Member State may nevertheless derogate from the requirement of varying the infrastructure charge where any of the following applies:

- (i) it would seriously undermine the coherence of the tolling systems in its territory;

- (ii) it would not be technically practicable to introduce such differentiation in the tolling system concerned;
- (iii) it would lead to diversion of the most polluting vehicles with negative impacts on road safety and public health;
- (iv) the toll includes an external-cost charge.

Any such derogations or exemptions shall be notified to the Commission.

3. Where, in the event of a check, a driver or, if appropriate, the transport operator, is unable to produce the vehicle documents necessary to ascertain the emission class of the vehicle for the purposes of paragraph 2, Member States may apply tolls up to the highest level chargeable.

4. Within one year after official CO<sub>2</sub> emission data are published by the Commission pursuant to Regulation (EU) .../...\*\*\*\*\*, the Commission shall adopt a delegated act, in accordance with Article 9e, to define the reference values of CO<sub>2</sub> emissions, together with an appropriate categorisation of the heavy duty vehicles concerned.

Within one year from the entry into force of the delegated act, Member States shall vary the infrastructure charge taking into account the reference CO<sub>2</sub> emission values and the relevant vehicle categorisation. Charges shall be varied in such a way that no infrastructure charge is more than 100% above the same charge for equivalent vehicles having the lowest, but not zero, CO<sub>2</sub> emissions. Zero-emission vehicles shall benefit from infrastructure charges reduced by 75% compared to the highest rate.

5. The variations referred to in paragraphs 1, 2 and 4 shall not be designed to generate additional toll revenue. Any unintended increase in revenue shall be counterbalanced by changes to the structure of the variation which shall be implemented within two years from the end of the accounting year in which the additional revenue is generated.

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\*\*\*\*\* Commission Regulation (EU) .../... of XXX implementing Regulation (EU) No 595/2009 as regards the certification of the CO<sub>2</sub> emissions and fuel consumption of heavy-duty vehicles and amending Directive 2007/46/EC of the European Parliament and of the Council (OJ L ..., ..., p...).";

(8) the following Article 7ga is inserted:

*"Article 7ga*

1. For light duty vehicles, until 31 December 2021, Member States may vary tolls and user charges according to the environmental performance of the vehicle.

2. From 1 January 2022 Member States shall vary tolls and, in the case of user charges, at least annual charges, according to the CO<sub>2</sub> and pollutant emissions of vehicles in accordance with the rules set out in Annex VII.

3. Where, in the event of a check, a driver or, if appropriate, the transport operator, is unable to produce the vehicle documents necessary to ascertain the emission levels of the vehicle (Certificate of Conformity) pursuant to Commission Regulation (EU) .../...\*\*\*\*\*, Member States may apply tolls or annual user charges up to the highest level chargeable.

4. The Commission is empowered to adopt delegated acts in accordance with Article 9e amending Annex VII in order to adapt the modalities specified in the Annex to technical progress.

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\*\*\*\*\* Commission Regulation (EU) 2017/xxx of xxx supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Regulation (EC) No 692/2008 (OJ L xxx) and Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1.)";

(9) Article 7h is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

"At least six months before the implementation of a new or substantially amended infrastructure charge tolling arrangement, Member States shall send to the Commission:";

(b) paragraph 3 is replaced by the following:

"3. Before the implementation of a new or substantially amended external-cost charge tolling arrangement, Member States shall inform the Commission about the network concerned, the foreseen rates per vehicle category and emission class.";

(c) paragraph 4 is deleted;

(10) Article 7i is amended as follows:

(a) in paragraph 2, point (b) and (c) are replaced by the following:

"(b) such discounts or reductions reflect actual savings in administrative costs of the treatment of frequent users compared to occasional users;

(c) such discounts or reductions do not exceed 13 % of the infrastructure charge paid by equivalent vehicles not eligible for the discount or reduction.";

(b) paragraph 3 is amended as follows:

"3. Subject to the conditions provided for in Article 7g(1)(b) and (5), toll rates may for specific projects of high European interest identified in Annex I to Regulation (EU) No 1315/2013, be subject to other forms of variation in order to secure the commercial viability of such projects where they are exposed to direct competition with other modes of transport. The resulting charging structure shall be linear, proportionate, made public, and available to all users on equal terms and shall not lead to additional costs being passed on to other users in the form of higher tolls.";

(11) Article 7j is amended as follows:

(a) in paragraph 1, the second sentence is replaced by the following:

"To that end, Member States shall cooperate in establishing methods for enabling road users to pay tolls and user charges 24 hours a day, at least at major sales outlets, using common means of payment, inside and outside the Member States in which they are applied.";

(b) paragraph 3 is replaced by the following:

"3. Where a Member State levies a toll on a vehicle, the total amount of the toll, the amount of the infrastructure charge, the amount of the external-cost charge, and the amount of the congestion charge, where applied, shall be indicated in a receipt provided to the road user, where possible by electronic means.";

(c) in paragraph 4, the first sentence is replaced by the following:

"Where economically feasible, Member States shall levy and collect external-cost charges and congestion charges by means of an electronic system which complies with the requirements of Article 2(1) of Directive 2004/52/EC.";

(12) Article 7k is replaced by the following:

*"Article 7k*

Without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union, this Directive does not affect the freedom of Member States which introduce a system of tolls to provide for appropriate compensation.";

(13) in Article 8, paragraph 2 is amended as follows:

(a) in point (a) the reference to "Article 7(7)" is replaced by a reference to "Article 7a";

(b) in point (b), the words "and (2)" are inserted after "Article 7(1)";

(14) Article 9 is amended as follows:

(a) in paragraph 2, the second sub-paragraph is deleted;

(b) the following paragraph 3 is added:

"3. Revenues generated from congestion charges, or the equivalent in financial value of these revenues, shall be used to address the problem of congestion, in particular by:

(a) supporting collective transport infrastructure and services;

(b) eliminating bottlenecks on the trans-European transport network;

(c) developing alternative infrastructure for transport users.";

(15) Articles 9d and 9e are replaced by the following:

#### *"Article 9d*

The Commission is empowered to adopt delegated acts in accordance with Article 9e to amend Annex 0, the amounts in Tables 1 and 2 in Annex IIIb, and the formulas in sections 4.1 and 4.2 of Annex IIIa in order to adapt them to scientific and technical progress.

#### *Article 9e*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 7g(4), Article 7ga(4) and Article 9d shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Directive].

3. The delegation of power referred to in Article 7g(4), Article 7ga(4) and Article 9d may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 7g(4), Article 7ga(4) and Article 9d shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.";

(16) Articles 9f and 9g are deleted;

(17) Article 10a is replaced by the following:

"1. The amounts in euro as laid down in Annex II and the amounts in cent as laid down in Tables 1 and 2 in Annex IIIb shall be adapted every two years in order to take account of changes in the EU-wide Harmonised Index of Consumer Prices excluding energy and unprocessed food, as published by the Commission (Eurostat). The first adaptation shall take place by 31 March [the year following the two years after the entry into force of this Directive].

The amounts shall be adapted automatically, by increasing the base amount in euro or cent by the percentage change in that index. The resulting amounts shall be rounded up to the nearest euro with regard to Annex II, rounded up to the nearest tenth of a cent with regard to Annex IIIb.

2. The Commission shall publish in the Official Journal of the European Union the adapted amounts referred to in paragraph 1 by 31 March of the year following the end of two calendar years referred to in paragraph 1. Those adapted amounts shall enter into force on the first day of the month following publication.";

(18) Article 11 is replaced by the following:

*"Article 11*

1. Each year, Member States shall make public in aggregate form a report on tolls and user charges levied on their territory, including information on the use of revenues and the quality of roads where tolls or user charges are applied, as specified in paragraphs 2 and 3.

2. The report made public pursuant to paragraph 1 shall include information on:

- (a) the external-cost charge levied for each combination of class of vehicle, type of road and period of time;
- (b) the variation of infrastructure charges according to the type of vehicles;
- (c) the weighted average infrastructure cost charge and total revenue raised through the infrastructure charge, specifying any possible deviation compared to actual infrastructure costs stemming from the variation of the infrastructure charge;
- (d) the total revenue raised through external-cost charges;
- (e) the total revenue raised through congestion charges;
- (f) the total revenues raised through tolls and/or user charges;
- (g) information on the use of revenues generated by applying this Directive, and how this use has allowed the Member State to meet the goals referred to in Article 9 (2) and (3);
- (h) an evaluation, based on objective criteria, of the state of maintenance of the road infrastructure on the territory of the Member State, and its evolution since the last report;
- (i) an evaluation of the level of congestion on the tolled network in peak hours, based on real life traffic observations performed of a representative number of congested road stretches of the concerned network, and its evolution since the last report.

3. For the evaluation of the quality of the parts of the road network on which tolls or user charges are applied, Member States shall use key performance indicators. As a minimum, the indicators shall relate to:

- (a) the quality of road surface;
- (b) road safety;
- (c) the level of congestion.

4. Within three years after [the entry into force of the revised Directive], the Commission shall adopt an implementing act in accordance with the advisory procedure referred to in Article 9c(2), to define a harmonised set of indicators.

5. Within six years after [the entry into force of the revised Directive], the Commission shall publish a report based on the application by Member States of the indicators referred to paragraph 4.";

(18) The Annexes are amended as follows:

(a) Annexes 0, IIIa, IIIb and IV are amended as set out in the Annex to this Directive.

(b) Annexes V, VI and VII are added as set out in the Annex to this Directive.

#### *Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 3*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### *Article 4*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*