

Inception Paper

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Road package: ensure fair competition between transport modes

Summary

A road package has been announced by the European Commission for 2016. CER urges the Commission to give road pricing high priority, with a move to mandatory distance-based tolling, at least for trucks and coaches. Moreover, EU social rules for the road sector and their enforcement should be strengthened to allow fair competition between road and other transport modes, such as rail. Addressing these issues is consistent with Transport White Paper key objectives.

1. Introduction

The European Commission announced, in spring 2015, a road package for 2016. It would include legislative and non-legislative initiatives and rest on three pillars: 1) road infrastructure pricing, 2) market access in the road sector, 3) social and safety aspects. According to Commission statements, the package will be published in late 2016.

Railways are a competitor to road, but also a cooperation partner (road-rail combined transport). As such, European railways will be indirectly affected by the road package. Therefore, CER considers it appropriate to take a view on it. While little detail is known about the road package at present, CER wishes to highlight a few key points and principles that should apply for **more fairness in the competition between road and rail** in Europe. Fair intermodal competition would also help pursue the Transport White Paper objective of a **modal shift to rail**.

2. Distance-based road pricing and 'polluter pays'

In the Transport White Paper, initiative 39 ("Getting prices right and avoiding distortions"), the Commission has set itself a direction in 2011 that it should now follow through: full and mandatory internalisation of external costs (incl. wear and tear) for both rail and road.

According to the 2011 revision of the so-called 'Eurovignette' Directive (1999/62/EC, then 2011/76/EU), Member States can use distance-based tolls or time-based 'vignettes' for road pricing. CER proposes to quickly **move towards distance-based road pricing** across the EU, thus to phase out time-based charges. The latter are an inefficient way of implementing the principles of **'user pays' and 'polluter pays'**, which the Commission says it supports.¹ For they give no incentive to road users to consider their external costs, such as road wear and tear, congestion, air pollution, noise and accidents. By contrast, distance-based tolling allows the internalisation of such costs, which is a necessary condition for the socially optimal (or 'efficient') provision of transport. Prioritising distance-based charging for road is explicitly requested in the resolution (point 8) of the European Parliament of 9 September 2015 on the implementation of the 2011 White Paper on Transport.

Without distance-based tolling of road use, competition is distorted between road and other modes, such as rail. Railway operators do pay, to rail infrastructure managers, a price per distance, everywhere in the EU. These track access charges cover at least the direct costs to the infrastructure.² While 100% of the EU rail network is subject to such charges, currently only around 1% of roads are tolled.

Each transport mode should pay distance-based tolls to cover at least its short-run marginal costs, including those of wear and tear, congestion, accidents and – in line with the polluter-pays principle – **including those of CO₂, air pollution and noise**. The Commission should firmly anchor this principle in its forthcoming proposals and give guidelines to Member States on how to implement it for road usage.

¹ See, for example, the Commission's Work Programme 2016 (available [here](#)), saying on p. 7: "We will be promoting the use of non-discriminatory road charging schemes based on the polluter-pays and user-pays principles".

² See Directive 2012/34/EU ('Recast'), articles 31(3) and 32(1).

Due to the high price sensitivity of freight transport, there is particular urgency to **make distance-based marginal-cost tolling mandatory for trucks at least**. Otherwise, rail freight would continue suffering from distorted competition, making unattainable EU policy objectives such as the shift of 30% of road freight over 300 km to other modes by 2030 (Transport White Paper), or the 40% reduction of greenhouse gas emissions between 1990 and 2030. The Commission should **review the 'Eurovignette' Directive** and present a legislative proposal on truck tolling, as recently requested by a group of MEPs.³

The MEPs point out that in 2013, when evaluating truck tolling in Europe, the Commission drew positive conclusions:

- Truck tolling has increased the efficiency of freight and logistics and there has been a reduction in the vehicle-km travelled through better logistic organisation.
- Truck tolling has driven the uptake of the cleanest and most modern trucks.
- The existing distance-based charging schemes have created a steady and predictable flow of revenues.
- Road charging for trucks as implemented has not had a negative impact on the competitiveness of the EU's freight and logistics industry.

To help **achieve the EU's climate and energy goals**, the MEPs ask the Commission to swiftly make a legislative proposal amending the 'Eurovignette' Directive – to phase out time-based vignettes, proceed towards full and mandatory internalisation of external costs and differentiate tolls based on the energy efficiency or CO₂ emissions of trucks.

CER believes that, in order to swiftly make competition between road and rail fairer, it is urgent to introduce, besides truck tolling, also mandatory distance-based **tolling for coaches** (long-distance buses). More generally, tolling passenger road transport is required in pursuing the EU policy objective that by 2050 the majority of medium-distance passenger transport should go by rail (Transport White Paper).

Revenues raised by charging for the external costs of road usage should not be earmarked for road construction. Instead, to the extent that they are not spent to compensate those who bear the costs, they **should be used to further develop cleaner transport modes**.

CER is urging the Commission to give the issue of road pricing due consideration and high priority in the road package.

3. Working conditions of truck and bus drivers

Competition between road and other transport modes is also distorted by sometimes poor working conditions of truck and bus drivers. EU social rules are sometimes not entirely clear or overly complex, and too often they are not effectively enforced on roads by Member States.

³ See www.euractiv.com/sections/transport/meps-demand-commission-propose-tolls-trucks-curb-co2-emissions-319677, on the MEPs' letter to Transport Commissioner Violeta Bulc, dated 18 November 2015.

It is therefore important to

- **clarify, simplify and harmonise** certain rules on working conditions
- close legal loopholes (e.g. bogus self-employment) and address the issue of letterbox companies
- address subcontracting, especially with joint liability for compliance
- **ensure that working rules are effectively enforced** by Member States, with proper monitoring and country-by-country reporting by the Commission
- ensure that state-of-the-art technology is used effectively to support this, incl. cross-national exchange of data (on transport undertakings, infringements etc.)
- ensure interoperability of on-board control devices with the IT systems of enforcement officers of the different Member States
- fully implement the European Register of Road Transport Undertakings (ERRU)

Switching to electronic documents and the introduction of the digital tachograph should be accelerated. Weekly 'rest' should include only hours spent away from the vehicle, not hours spent in or close to it. Regarding cabotage⁴, the applicable national labour law for drivers should be determined by the habitual place of work, not of legal residence.

4. Consistency across modes and policy areas, better enforcement

The Road Package should be **consistent with the Transport White Paper**, Europe's 2030 climate and energy framework (including the COP21 commitments) and the Union's objectives for digitalisation and social development. The EU should pursue a transversal policy approach, both in infrastructure pricing and in social standards, to ensure cross-modal consistency and fair competition between transport modes.

One example for the **need for cross-modal consistency: passenger rights**. While rail is liable for delays in case of *force majeure*, other transport modes are not. Fair competition would require applying the same exemption to all modes.

The Commission should carefully examine whether an **EU transport or road agency**, tasked to simplify, harmonise and monitor control processes while avoiding overregulation, could be an effective way of **better enforcing EU legislation in transport**, be it on working conditions, infrastructure pricing or other issues related to the single transport market.

⁴ Cabotage is defined in Regulation 1072/2009 as "national carriage for hire or reward carried out on a temporary basis in a host Member State". It is restricted to three cabotage operations in the seven days following an international carriage.

About CER

The Community of European Railway and Infrastructure Companies (CER) brings together more than 70 railway undertakings, their national associations as well as infrastructure managers and vehicle leasing companies. The membership is made up of long-established bodies, new entrants and both private and public enterprises, representing 73% of the rail network length, 80% of the rail freight business and about 96% of rail passenger operations in EU, EFTA and EU accession countries. CER represents the interests of its members towards EU policy makers and transport stakeholders, advocating rail as the backbone of a competitive and sustainable transport system in Europe. For more information, visit www.cer.be or follow us via Twitter at @CER_railways.

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