EXPLANATORY MEMORANDUM ON EUROPEAN UNION DOCUMENT

COMMUNICATION FROM THE COMMISSION IMPLEMENTATION OF THE EUROPEAN ELECTRONIC TOLL SERVICE

Submitted by the Department for Transport 17 October 2012

SUBJECT MATTER


2. The requirements of this Directive are transposed in the UK by The Road Tolling (Interoperability of Electronic Road User Charging and Road Tolling Systems) Regulations 2007 (No.58). The above two paragraphs do not form part of the Commissions report but are provided as background information.

3. The European Commission Decision 2009/750/EC on the definition of the EETS and its technical elements entered into force on 8 October 2009. This Decision, developed in collaboration with Member States, sets out the general requirements necessary to achieve the desired interoperability between EETS Providers’ and Toll Chargers’ equipment and procedures.

4. The purpose of EETS is to achieve the interoperability of all electronic road toll systems in the EU in order to avoid the proliferation of incompatible systems, which may compromise both the smooth operation of the internal market and the achievement of transport policy objectives. It would mean that the vehicle’s owner would only have to pay one organisation for all electronic tolls.

5. Toll domains which operate infrastructure in scope of the directive and use in-vehicle tolling systems have to be compatible with EETS standards and accept payments of the toll from a vehicle with an EETS system on-board.

6. An organisation has to apply to the Member State in which they operate to become an EETS provider. It was assumed by the Commission that there will be multiple EETS providers and there would be competition between the different EETS providers as the EETS technology would be compatible with all EETS compliant schemes across all member states.

7. Under the Directive member states by 2010 were meant to produce an electronic register of tolling road infrastructures that fall within scope of the
directive. In addition by October 2012 the process to register as an EETS provider must be set out by the member state and a conciliation body must be set up to resolve disputes between EETS providers and Toll Chargers.

8. The Commission's Communication reports on the steps that Member States have taken in implementing EETS and assessing the level of compliance, concluding that the majority of Member States including the UK have not fully complied with their obligations. The Commission sets out its rationale for implementing EETS, the further actions it wants Member States to take, and actions the Commission itself will take to assist Member States in the implementation of EETS.

9. The Communication details the Commission's concerns that although Member States, including the UK, have produced the required electronic registers of toll domains, most Member States, including the UK, still have to set out how to register as an EETS and set up a Conciliation Body. It sets out some Member States' concerns about implementing an EETS, the actions the Commission wants Member States to take, and actions the Commission will take to assist Member States in the implementation of EETS.

10. To aid Member States in setting up a Conciliation Body the Commission is publishing a guidance note on how a Conciliation Body will ensure that disputes between toll domains and EETS are resolved fairly and EETS providers have fair and non-discriminatory contracts with toll domains.

11. The Commission notes that some progress has been made in implementing European Commission Decision 2009/750/EC. This includes:
   - Toll chargers producing conditions for delivering an EETS on that particular infrastructure;
   - A number of national authorities have set up 'the Stockholm group', to aid implementation of EETS (the UK is a member of the group);
   - European standards organisations have progressed the fields of electronic fee collection and EETS standardisation.

12. The Commission is going to monitor the implementation of EETS by Member States, including:
   - Ensuring Member States set up EETS Conciliation Bodies and launching infringement procedures where appropriate,
   - Encourage regional EETS schemes to be set up so that practical issues can be resolved before a European-wide implementation of EETS.

SCRUTINY HISTORY

13. The proposal that resulted in Directive 2004/52/EC was the subject of EM 8893/03. The House of Commons European Scrutiny Committee considered the EM on 9 July 2003. The Committee recommended that the document was politically important and did not clear it (Report 29, Session 2002/03, 24546).
The House Lords Select Committee on the European Union referred the EM to Sub-Committee B at the 1146th sift 17 June 2003. The Chairman wrote to the Minister on 1 July 2003 holding the document under scrutiny.

14. Ministerial letters were sent to the Chairman of the Commons European Scrutiny Committee on 11 September 2003 and 17 November 2003. The Committee considered these at its meeting on 3rd December 2003. The Committee recommended that the document was politically important and should be debated in Standing Committee (Report No1, Session 2003/04). The document was cleared by the debate on 2 February 2004. A further Ministerial letter was sent to the Chairman on 27 January 2004 to bring the Committee up to date with developments.


MINISTERIAL RESPONSIBILITY

16. The Secretary of State for Transport.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

17. Tolling on transport infrastructure is a devolved matter although there are currently no EETS toll domains outside England. The Scottish Government, Welsh Assembly Government and the Northern Island Executive have an interest in EETS if they were in the future to consider implementing transport tolling infrastructure. The devolved administrations have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

18. There are no legal or procedural issues. This is not a proposal for legislation.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

19. This does apply to EEA member states.

SUBSIDIARITY

20. This Communication is not a legislative proposal, and there are no subsidiarity issues directly flowing from it.
POLICY IMPLICATIONS

21. Currently in the UK the toll domains in scope of the directive are the M6 toll and Dartford and Severn bridges.

22. The Department for Transport has published a national register of toll domains\(^1\). The toll domains have also published EETS toll domain statements.

23. The Department for Transport has yet to establish a conciliation body for EETS and has also not created a process for registration of UK based service providers who want to obtain the status of an EETS provider.

24. The UK Government notes the view of the Commission that a first step towards an EU EETS is a regional scheme in member states where there is a large amount of traffic on the trans-European network so that the practical issues can be resolved before wider implementation. The UK Government considers this will resolve outstanding issues and enable the full implementation of EETS.

25. The UK Government remains concerned about the balance of costs and benefits for toll domains in the UK becoming EETS compliant. Careful implementation will be required to ensure the directive does not impose any excessive burdens on road users.

26. Once the European Commission has published its guidance note on how a conciliation body should work the UK government will work towards establishing a conciliation body for EETS.

CONSULTATION

26. The Department for Transport held a public consultation between 18 July 2006 and 17 October 2006 on the Road Tolling (interoperability of electronic road user charging and road tolling systems) Regulations 2007 No 58.

27. As this report makes no recommendation for legislative changes the Department considers there is no need for a further consultation.

IMPACT ASSESSMENT

28. No Impact Assessment has been produced for this report as a regulatory impact assessment was produced when the requirements of this Directive were transposed in the UK by The Road Tolling (Interoperability of Electronic Road User Charging and Road Tolling Systems) Regulations 2007 (No.58).

FINANCIAL IMPLICATIONS

\(^1\) http://www.dft.gov.uk/publications/uk-ects-register
29. There may be minor administration financial implications in setting up and operating the conciliation bodies as identified in the original Impact Assessment.

TIMETABLE

30. Not applicable.

Stephen Hammond
Parliamentary Under Secretary of State
Department for Transport