

**ASECAP POSITION PAPER
ON THE DRAFT INTERPRETATIVE GUIDELINES
ON ARTICLES 6 & 7 OF DIRECTIVE (EU) 2019/520**

The European Commission (DG MOVE) has proposed *Draft Interpretative Guidelines on Articles 6 & 7 of Directive (EU) 2019/520* to harmonise remuneration and contractual relations between Toll Chargers (TCs) and EETS Providers (EPs) within the European Electronic Toll Service (EETS) framework. ASECAP welcomes the Commission's efforts to improve **consistency, predictability and transparency** in EETS operations. However, the final text must ensure **contractual neutrality, cost proportionality, and fair burden-sharing**, avoiding any transfer of financial or operational risks to toll chargers or non-EETS users. ASECAP Would like to highlight the points hereafter:

1. Contractual Neutrality and Legal Certainty

- The *Domain Statement* should remain the **sole authoritative source** for all obligations and remuneration principles between TCs and EPs.
- Bilateral contracts may elaborate technical or operational details (KPIs, data exchange), but should not introduce new or amended clauses.

2. Cost Allocation (Article 21)

- EETS-related costs (accreditation, testing, integration) must not be transferred to toll tariffs or concessionaires.
- In availability-based models, these costs remain with the **granting authority** as the legal toll owner.
- The proposal to integrate EETS costs into tolls should be removed to preserve **cost neutrality** and **non-discrimination**.

3. Transparency and Confidentiality

- Information disclosure should be limited to audit or conciliation contexts and remain subject to confidentiality safeguards.

4. Specific Considerations for DSRC Systems

Most recommendations of the Commission's Remuneration Study focus on **GNSS-based systems**, overlooking the operational reality of **DSRC tolling**, still dominant for light vehicles in Europe for cost and privacy reasons.

Key differences:

- In GNSS systems, EPs manage most operational costs.
- In DSRC systems, EPs act mainly as ID and billing partners, while TCs bear most system and customer-related costs.
- DSRC OBUs are low-cost and often paid for directly by users.

Applying GNSS-oriented remuneration formulas to DSRC domains would:

- Underestimate real costs for new entrants,
- Create **discriminatory effects**,
- Risk **double remuneration** of OBUs,
- Lead to **legal disputes** over the interpretation of multi-component fee formulas.

5. Complexity Factor and Synergy Considerations

In the transition from the *DG MOVE Remuneration Study* (May 2025) to the draft Guidelines, the **Complexity Factor** has been only partially retained.

Point 23 acknowledges that *“EETS providers have to adapt to the requirements of each domain statement. The complexity of this task results in specific costs which have to be acknowledged.”*

However, it **omits the synergy aspect** identified in the Study — namely, the potential economies of scale and scope that EETS providers achieve when operating across multiple domains.

Both factors must be considered jointly to ensure **balanced and realistic remuneration** reflecting actual cost structures.

6. Legal and Interpretative Boundaries

- The Guidelines, as interpretative tools, must **not alter the commercial freedom** or autonomy of the parties.
- Article 7(2) of Directive 2019/520 requires remuneration to be *transparent, non-discriminatory, and identical for all EETS providers*, without imposing uniform formulas.
- Precision in Domain Statements should not exclude necessary **contractual details** or **technical specifications**.

Key Recommendations

ASECAP calls on the European Commission to:

1. **Ensure cost neutrality** – exclude EETS-related costs from toll tariffs.
2. **Recognise DSRC specificities** – allow flexible, simplified remuneration formulas.
3. **Integrate both complexity and synergy factors** in remuneration assessments.
4. **Preserve contractual autonomy** and avoid prescriptive formulas.
5. **Affirm the Domain Statement** as the single reference for remuneration rules.
6. **Balance transparency with confidentiality**, protecting commercially sensitive data.

Conclusion

ASECAP supports the Commission’s goal of harmonisation and fairness in EETS operations.

Yet, a balanced framework must **respect the diversity of European tolling systems**, maintain **neutrality and proportionality**, and safeguard **the contractual balance** between Toll Chargers and EETS Providers — essential conditions for a sustainable and efficient European tolling ecosystem.