



# Private Life Implications of Electronic Road Tolling: Legal Safeguards

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# ■ Introduction

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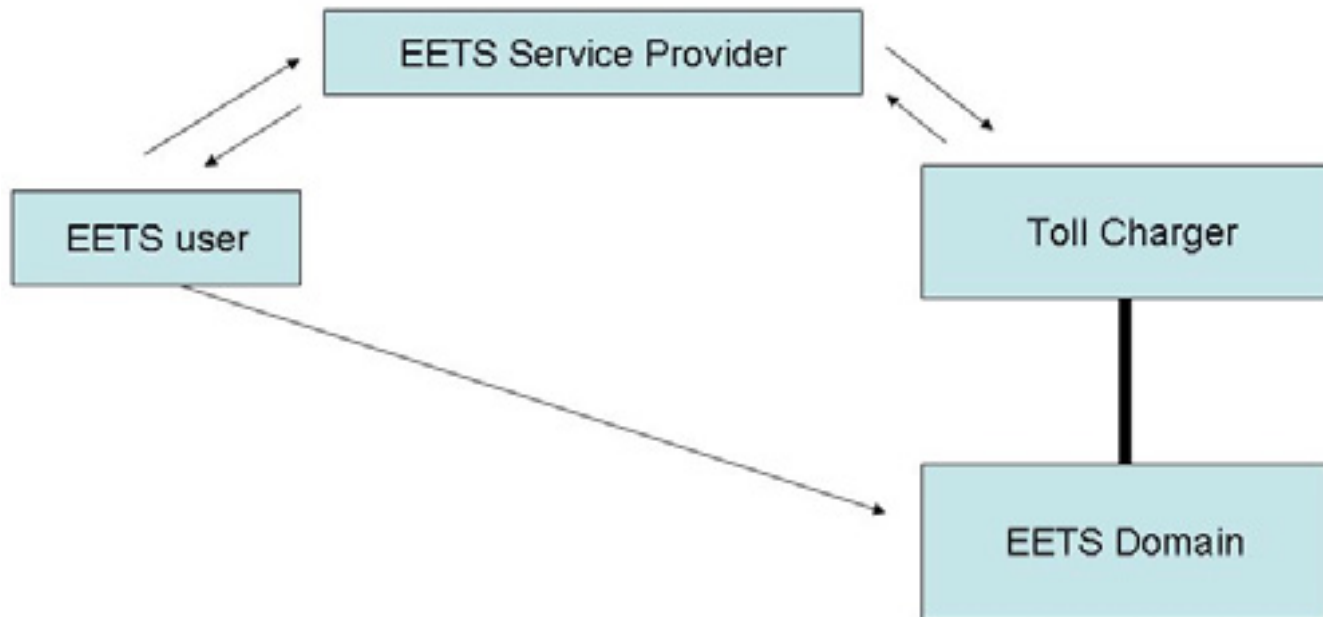
- Subject: Legal safeguards against abuse of road tolling data
- Technical safeguards might be overcome
  - Hacking
  - Downloading of data to PC (Kilometerprijs NL)
- Once the data is presented in court as evidence, only the law offers protection against abuse

# Electronic Toll Collection and Private Life

- Electronic Toll Collection allows to tracking in various degrees
- Three main categories
  - Zone-based (London, Stockholm)
  - Point-to-point (France, 407 Expressway)
  - Pay-as-you-drive (Kilometerprijs NL)

# ■ European Electronic Toll Service

- One service for all electronic toll collections in EU



# ■ European Electronic Toll Service

- Directive 2004/52/EC
  - Ceremonial reference
- Commission Decision C(2009)7547
  - Details 2004/52/EC
  - Invoice: time, location, user-specific composition (default)
  - Toll Charger chooses data set
    - Broad margin of appreciation

# ■ Proposal ITS Directive COM (2008)887

- Framework Directive for ITS, provision on data protection
- Several amendments
  - Use of anonymous data as much as possible
  - Data minimization
  - Prohibition on secondary use
- Critique EDPS
  - Too broad and inadequate data protection provisions
  - Threat not addressed = Interconnection of databases

# ■ Use of ITS-Data by Law Enforcement

- Tends to fall outside of EU regulation (public security)
- Barriers to use: secondary use
  - Incompatible goal (taxation vs. Law enforcement)
  - Criminal procedure law: special investigation method
    - Prior mandate required for tracking
    - Data already collected
  - But: data available = subject to seize (cf. telephone records)
    - no active collection

# Open Issues

- Offer choice of anonymous tolling?
  - 407 expressway
    - Anonymous payment
    - Anonymos enforcement
- Use of data by law enforcement
  - Legal intervention preferable (2 issues)
    - Already collected data
    - Legitimate use of tolling equipment

# ■ Conclusion

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- Apparently no satisfactory legal safeguards
  - Criminal procedure law applies but debated consequences

# ■ Thank you for your attention!

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