OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on the Environment, Public Health and Food Safety


Draftsman: Andreas Schwab
SHORT JUSTIFICATION

Your draftsperson in principle welcomes the Commission proposal for a Directive of the European Parliament and of the Council on the promotion of clean and energy efficient road transport vehicles as this can be regarded as an opportunity to promote clean and energy efficient products. He recognises that this proposal presents an improvement over previous proposals and he particularly welcomes the technology neutral approach.

The draftsperson disagrees however with the Commission proposal to make the green and energy efficient public procurement criteria mandatory. He considers that the proposed introduction of mandatory criteria in public procurement, even though the intention in this case is laudable, does not necessarily sit well with fundamental principles of Community public procurement law, and may risk setting an unwelcome precedent. He therefore proposes leaving it up to the contracting authorities of Member States to choose when to apply such criteria, which does not preclude sending a strong message to contracting authorities and entities encouraging them to introduce these environmental criteria for the type of procurement at stake.

For clarity, the draftsperson also calls for a clear reference to be made in this proposal to the applicable monetary thresholds of public procurement Directives 2004/17/EC and 2004/18/EC, as the Commission proposal makes no direct reference to applicable minimum thresholds above which these new rules apply.

In accordance with the Interinstitutional Agreement on better law-making, the draftsperson proposes a recital encouraging Member States to draw up their own tables illustrating the correlation between this Directive and the transposition measures, and make them public.

As the proposal particularly affects the commercial vehicles sector (e.g. specialised trucks and buses for operational support and infrastructure maintenance, cleaning machines), the draftsperson proposes an exemption of certain vehicles from the scope as these have individual designs and equipment and their energy consumption therefore varies from that of other vehicles.

Your draftsperson points out that the impact assessment for this proposal is incomplete with regard to e.g. the expected costs, the scientific evidence that backs up the link made between the internalisation of external costs into concrete numbers and furthermore does not take into consideration existing standards such as the EURO standards. He therefore calls upon the Commission to assess the effects and the methodology of this Directive on a 2-year basis and, in this context, to take into consideration e.g. climate impact from renewable fuels and new developments with regard to the EURO standards (the forthcoming EURO VI legislation).

Given the very tight timetable for adoption of the opinion, dictated by the lead Committee's timetable, your draftsperson also reserves the right to propose further amendments on these points at a later stage in the procedure.

AMENDMENTS
The Committee on the Internal Market and Consumer Protection calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1
Proposal for a directive
Recital 9

Text proposed by the Commission

(9) The CARS 21 High Level Group report of 12 December 2005 supported the Commission's initiative on the promotion of clean and energy-efficient vehicles, on condition that a technology-neutral and performance-based approach involving vehicle manufacturers, oil or fuel suppliers, repairers, customers or drivers and public authorities is taken.

Amendment

(9) The CARS 21 High Level Group report of 12 December 2005 supported the Commission's initiative on the promotion of clean and energy-efficient vehicles, on condition that a technology-neutral and performance-based integrated approach involving vehicle manufacturers, oil or fuel suppliers, repairers, customers or drivers and public authorities is taken.

Amendment 2
Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Clean and energy efficient vehicles initially have a higher price than conventional ones. Creating sufficient demand for such vehicles should ensure that economies of scale can lead to cost reductions.

Amendment

(11) Clean and energy efficient vehicles initially have a higher price than conventional ones. Creating sufficient demand for such vehicles should ensure that economies of scale lead to cost reductions and an economy based on renewable energies.

Amendment 3
Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

(11a) This Directive addresses the need to provide additional support for public authorities through financial incentives
and incentives relating to information and education.

Justification

Public authorities need additional support, funding and other incentives to implement preferred greener options. Guidance should be provided on the way forward so that procurement officers have a fuller understanding of the overall performance, efficiency, availability and ease of use of the different vehicle/fuel types under consideration. This would help avoid wasting limited resources and public money and allow procurement managers to make more informed choices about new vehicle technologies.

Amendment 4

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) When fulfilling the requirement to take energy and environmental impacts into account by setting technical specifications, contracting authorities, entities and operators are free to set specifications of a higher level of energy and environmental performance than laid down in EU legislation, taking account for example of future EURO standards.

Justification

In the proposal there are inconsistencies between existing and forthcoming legislation (EURO VI), e.g. in relation to the definition of mileage. The authorities concerned should therefore be able to take into consideration existing and forthcoming European standards.

Amendment 5

Proposal for a directive
Recital 16

Text proposed by the Commission

Amendment

(16) Mandatory application of criteria for the procurement of clean and energy efficient vehicles does not preclude the inclusion of other relevant award criteria. It also does not prevent the choice of retro-

(16) The environmental criteria set out in this Directive do not prevent the choice of retro-fitted vehicles upgraded for higher environmental performance.
fitted vehicles upgraded for higher environmental performance.

Justification

The mandatory environmental criteria envisaged do not fit in well with the public procurement Directives 2004/17/EC and 2004/18/EC. Contracting authorities should be free to choose which criteria they specify in tender documentation and continue to be able to award on the basis of the most economically advantageous tender (MEAT) or the lowest price, applying the proposed environmental criteria on a voluntary basis.

Amendment 6

Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission Amendment

(19a) In accordance with point 34 of the Interinstitutional Agreement on better law-making¹, Member States should draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and make them public.


Justification

For further transparency in implementation.

Amendment 7

Proposal for a directive
Recital 19 b (new)

Text proposed by the Commission Amendment

(19b) Priority should be given to vehicles with alternative fuels that lead to clean road transport and a significant improvement in air quality. Therefore the Commission and the Member States should promote the development of
hydrogen-powered motor vehicles.

Justification

We should this as an opportunity to promote clean energies such as hydrogen. It is imperative that we encourage the development of this technology.

Amendment 8
Proposal for a directive
Recital 19 c (new)

Text proposed by the Commission

(19c) The Member States should involve municipalities and regions in further efforts to implement, follow up and evaluate the provisions of this Directive.

Justification

Participation at all level of government is needed for better implementation.

Amendment 9
Proposal for a directive
Recital 19 d (new)

Text proposed by the Commission

(19d) The Member States and the Commission should focus on the promotion of hydrogen as the fuel of the future. Hydrogen is a clean way of powering vehicles, and its use should contribute to the creation of a pollution-free economy, as vehicles propelled by hydrogen produce neither carbon-based pollutants nor emissions of green-house gases from the exhaust pipe,

Justification

We should this as an opportunity to promote clean energies such as hydrogen. It is imperative that we encourage the development of this technology.
Amendment 10
Proposal for a directive
Article 1

Text proposed by the Commission
This Directive requires the inclusion of operational lifetime costs of energy consumption, CO\textsubscript{2} emissions, and pollutant emissions as award criteria in the procurement of road transport vehicles, by contracting authorities or contracting entities within the meaning of Directives 2004/17/EC and 2004/18/EC or as criteria for the purchase of such vehicles by operators under contract, licence, permit or authorisation granted by public authorities, in order to promote clean and energy efficient vehicles.

Amendment
This Directive requires contracting authorities and contracting entities within the meaning of Directives 2004/17/EC and 2004/18/EC, as well as certain operators under contract, license, permit or authorisation granted by public authorities, to take account, on a voluntary basis, of the operational lifetime costs of energy consumption, CO\textsubscript{2} emissions and pollutant emissions when procuring road transport vehicles, so as to promote clean and energy efficient vehicles.

Justification
The mandatory environmental criteria envisaged do not fit in well with the public procurement Directives 2004/17/EC and 2004/18/EC. Contracting authorities should be free to choose which criteria they specify in tender documentation and continue to be able to award on the basis of the most economically advantageous tender (MEAT) or the lowest price, applying the proposed environmental criteria on a voluntary basis.

Amendment 11
Proposal for a directive
Article 2

Text proposed by the Commission
Article 2

Procurement of clean and energy efficient vehicles
1. Member States shall ensure that, no later than from the date referred to in Article 7(1), the contracting authorities or contracting entities within the meaning of Directives 2004/17/EC and 2004/18/EC use the methodology defined in Article 3, whenever they apply operational lifetime costs for energy consumption, CO\textsubscript{2}.

Amendment
Article 2

Scope
1. This Directive shall apply to contracts for the procurement of road transport vehicles by:
emissions, and pollutant emissions as award criteria for the procurement of road transport vehicles.

(a) contracting authorities and entities under an obligation to apply the procurement rules set out in Directives 2004/17/EC and 2004/18/EC, in accordance with the applicable thresholds set out in those Directives;

(b) operators for the discharge of public service obligations under a public service contract within the meaning of Regulation (EC) No 1370/2007 in excess of a threshold which shall be defined by Member States not exceeding the thresholds set out in Directives 2004/17/EC and 2004/18/EC.

2. Member States shall ensure that, no later than from 1 January 2012, all public procurement of road transport vehicles by contracting authorities or contracting entities within the meaning of Directives 2004/17/EC and 2004/18/EC includes operational lifetime costs for energy consumption, CO₂ emissions, and pollutant emissions of road transport vehicles as award criteria, following the methodology defined in Article 3.

3. Member States shall ensure that, no later than from 1 January 2012, all purchase of road transport vehicles for the provision of public passenger transport services under licence, permit or authorisation granted by public authorities includes operational lifetime costs for energy consumption, CO₂ emissions, and pollutant emissions of road transport vehicles as criteria, following the methodology defined in Article 3.

Justification

A clear link needs to be drawn between this proposal and the classic public procurement directives (2004/17 EC and 2004/18 EC). Additionally, the Commission proposal makes no
reference to minimum monetary thresholds above which the rules apply. Furthermore, an exemption for certain vehicles from the scope is required as these have individual designs and equipment and their energy consumption therefore varies from that of other vehicles.

Amendment 12

Proposal for a directive
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Definitions

For the purposes of this Directive:
- 'Contracting authorities' shall mean contracting authorities as defined in Article 2(1)(a) of Directive 2004/17/EC and in Article 1(9) of Directive 2004/18/EC;
- 'Contracting entities' shall mean contracting entities as referred to in Article 2(2) of Directive 2004/17/EC;
- 'Road transport vehicle' shall mean a vehicle covered by the vehicle categories listed in Table 3 in the Annex.

Justification

The Commission proposal would benefit from a separate section detailing relevant definitions.

Amendment 13

Proposal for a directive
Article 3 – title

Text proposed by the Commission

Amendment

Energy and environmental costs as award criteria in the procurement of vehicles

Procurement of clean and energy efficient vehicles
1. For the purposes of this Directive, operational lifetime costs for energy consumption, CO₂ emissions, and pollutant emissions linked to the operation of the vehicles under procurement shall be monetised and calculated following the methodology set out in points (a), (b) and (c).

(a) The lifetime cost of the energy consumption for the operation of a vehicle shall be calculated using the following methodology:

– the fuel consumption per kilometre of a vehicle according to paragraph 2 of this Article shall be converted into energy consumption per kilometre, using the conversion factors of Table 1 in the Annex for the energy content of the different fuels;

– a single monetary value per unit of energy shall be used. This single value shall be the lower of the cost per unit of energy of petrol or diesel before tax when used as a transport fuel;

– lifetime cost of the energy consumption for the operation of a vehicle shall be calculated by multiplying the lifetime mileage according to paragraph 3 by the energy consumption per kilometre according to the first indent of this paragraph, and by the cost per unit of energy according to the second indent of this paragraph.

(b) The lifetime cost for the CO₂ emissions of the operation of a vehicle shall be calculated by multiplying the lifetime mileage according to paragraph 3 by the CO₂ emissions in kilograms per...
kilometre according to paragraph 2, and by the cost per kilogram taken from Table 2 in the Annex.

(c) The lifetime cost for the pollutant emissions of the operation of a vehicle shall be calculated by adding up the lifetime costs for emissions of oxides of nitrogen, non-methane hydrocarbons, and particulate matter. The lifetime cost for each pollutant shall be calculated by multiplying the lifetime mileage according to paragraph 3 by the emissions in grams per kilometre according to paragraph 2, and by the respective cost per gram taken from Table 2 in the Annex.

(First part of this amendment comes from the Article 2 of the Commission proposal)

Justification

This amendment clarifies the application of the Commission proposal to make it consistent with the existing EU public procurement rules.

Amendment 15

Proposal for a directive
Article 3 – paragraph 1 a (new)

Text proposed by the Commission

1a. The energy and environmental impacts to be considered shall include at least the following:

a) energy consumption;

b) CO₂ emissions;

c) emissions of pollutants, as defined in the Annex.

In addition to the energy and environmental impacts referred to in the first subparagraph, contracting authorities, contracting entities and operators may also consider including other environmental impacts linked to the operation of the vehicles under procurement.
Justification

This amendment clarifies the application of the Commission proposal to make it consistent with the existing EU public procurement rules.

Amendment 16

Proposal for a directive
Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The requirements of paragraphs 1 and 1b shall be met by means of one of the following options:

(a) by setting, in the tender documentation for the procurement of road transport vehicles in respect of the environmental criteria, technical specifications based, where possible, on European standards such as EURO emission classes for energy and on environmental performance; or

(b) by including energy and environmental criteria, as defined in Article 4, in the contract award criteria.

In cases where these impacts are monetised for inclusion in the award decision, Member States may apply the following provisions on a voluntary basis:

(a) the lifetime cost of the energy consumption for the operation of a vehicle shall be calculated using the following methodology:

– the fuel consumption per kilometre of a vehicle under paragraph 2 shall be converted into energy consumption per kilometre, using the conversion factors set out in Table 1 in the Annex for the energy content of the different fuels;

– a single monetary value per unit of energy shall be used. This single value shall be the lower of the cost per unit of energy of petrol or diesel before tax when used as a transport fuel;

– the lifetime cost of the energy
consumption for the operation of a vehicle shall be calculated by multiplying the lifetime mileage under paragraph 3 by the energy consumption per kilometre under the first indent of this subparagraph, and by the cost per unit of energy under the second indent of this subparagraph;

(b) the lifetime cost of the CO$_2$ emissions of the operation of a vehicle shall be calculated by multiplying the lifetime mileage under paragraph 3 by the CO$_2$ emissions in kilograms per kilometre under paragraph 2, and by the cost per kilogram under Table 2 in the Annex;

(c) the lifetime cost of the pollutant emissions of the operation of a vehicle shall be calculated by totalling the lifetime costs of emissions of oxides of nitrogen and non-methane hydrocarbons and particulate matter. The lifetime cost of each pollutant shall be calculated by multiplying the lifetime mileage under paragraph 3 by the emissions in grams per kilometre under paragraph 2, and by the respective cost per gram under Table 2 in the Annex.

(Points (a), (b) and (c) of the second subparagraph come from Article 3, paragraph 1 of the Commission proposal)

Justification

This amendment clarifies the application of the Commission proposal to make it consistent with the existing EU public procurement rules.
## PROCEDURE

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<th>Title</th>
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<td>Committee responsible</td>
<td>ENVI</td>
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<td>Opinion by Date announced in plenary</td>
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<td>Drafts(wo)man Date appointed</td>
<td>Andreas Schwab 6.5.2008</td>
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<td>Date adopted</td>
<td>16.6.2008</td>
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<td>Colm Burke, Giovanna Corda, Jan Cremers, Manuel Medina Ortega, Anja Weisgerber</td>
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<td>Substitute(s) under Rule 178(2) present for the final vote</td>
<td>Dragoş Florin David</td>
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