

MANAGING SOCIAL AND POLITICAL RISK ON TOLL ROAD CONCESSION PROJECTS

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Road tolling is not a new concept in the world. Records indicate that toll was being collected in the 7th century BC. Tolls used to be seen as an additional tax, but they have increasingly been used to recover investments in and fund the operations and maintenance of new and existing road infrastructure. The purpose of this investment is simply to facilitate trade, enabling people and their goods to travel more efficiently. Over the centuries and across the world, the practice of user-pay principle and charging for the use of a road has increasingly been implemented.

We believe the acceptance of the user-pay principle is becoming increasingly difficult. This change in tolling practice did not come without its challenges.

The process of changing the road user's view from tolling being an added tax, to the user-pay principle, with the experienced added value, has become a major challenge in developing toll road concessions. In some countries, the development of toll road concessions has become a controversial and a political playing field that has caused many good, and much needed infrastructure projects to be challenged and delayed, and even abandoned.

Political and social risk over recent years has become increasingly a significant factor to consider on toll concession projects. Governments, funders and operators are becoming concerned and cautious, as resistance to tolling and concession contracts are noticed in different places around the world. The added focus of toll opposition to the negative impacts of toll roads, has increasingly lead to unbalanced and negative perceptions and publicity. This is not what investors and lenders want to be associated with. The fact is that the stakeholders increasingly expect an inclusive and transparent participation process during the conceptual phases of such projects. In this sense we define the stakeholders as governmental departments at all levels and of all applicable divisions, road users, affected communities and individuals, labour, politicians, contractors, suppliers, the media, etc.

In studying the difficulties implementing authorities are experiencing with toll concession projects, it seems that political and social processes are often regarded as a mere formality. It takes on the characteristics of "telling", instead of "selling" to the stakeholders and involving them throughout the process. Governments and implementing authorities should never assume that, because of the support of lawfully and officially mandated processes, they may proceed without their constituency's participation and involvement. The requirement for inclusive and credible public and community participation cannot and should not be underestimated. Further complicating those aspects are unrealistic expectations created by politicians, often wanting the infrastructure to be delivered during their terms, as well as internal governmental conflicts due to insufficient political and governmental alignment.

Public participation refers to the sharing of information, including all benefits, obligations and concerns amongst all stakeholders of a project, to enable them to have a direct impact on the decision-making processes and outcomes of such a project. The information under discussion between the stakeholders should include the intended infrastructure, impact assessments, positions of tolling points, decision-making and approval processes, funding, alternative routes, designs, tariffs and affordability, discounts and exemptions, benefits, operations (road and incident management), corruption and fraud prevention, auditability of toll transactions, etc. The list is extensive and unique for every project and each demographic, and should be dealt with transparently and thoroughly.

The objectives of public participation on a project should be to:

- Establish a participatory forum, identify those interested and affected parties and agree a means of effective communication between stakeholders.
- Encourage those persons or organisations, who have the right to be consulted an adequate and credible opportunity to openly be heard at the formative stage of a project.
- Ensure sustainable and continuous development with interactive planning and forecasting.
- Promote and improve the public's knowledge, awareness and understanding.
- Manage risk, conflicting interests and internal politics amongst stakeholders.
- Marketing of the project

These objectives shall not be achieved unless the process is implemented and managed with principles of pro-active, credible and inclusive consultation, access to decision-makers and information, shared responsibility, responsiveness to inputs, integrity, transparency and honesty, coupled with attentive and effective communication. The public should be very clear on which decisions and processes can or cannot be influenced or changed.

It is important, with reference to the principle of inclusivity, to note the suggested processes for public participation. The process should firstly commence with inter-departmental sessions within government. It has been seen and experienced that different levels and divisions of government departments are not included or informed during the preparatory stages causing delays and internal bureaucracy during implementation. An environmental and social impact assessment shall contribute largely to planning this process. Concurrent with the inclusive participatory process within government, the developers should seek and identify all impacted, affected and interested stakeholders, profiling their leadership, internal community dynamics, groupings, politics, structures and issues of importance before the embarking on the public participation process. Once so informed the developer would be in a position to invite the participation through the media, public meetings, the business sector, focus and representative groups i.e. churches, schools, associations, etc. In short, when the Developer approaches the stakeholders, they should be thoroughly prepared and informed

The timing of various aspects and details of participation is also relevant. For example, announcing the intended toll tariffs, is inevitably one of the contentious issues on toll road projects. The public is fully aware of the nature of preparatory financial modeling in this regard and that tariffs (or very close estimates) are being factored in from a very early stage of the project, well before financial close. Withholding the intended toll tariffs (even estimates) from communities only creates suspicion.

It is dangerous to commence with the participation process too late or too far down the decision-making process, as urgency and rushing to make deadlines creates further suspicion with the resulting resistance to the process. The stakeholders need to know that the opportunity to influence decisions and outcomes, still realistically exists.

The participation platforms must be kept manageable. Large public meetings do not allow for the above interaction, and if not well prepared and effectively chaired, often lead to stakeholders instigating each other without meaningful and constructive engagement with the developers, Governments and implementing authorities. These bodies should never assume that they are officially mandated and have issued laws enabling them to proceed without consulting their constituencies. To avoid multiple large public meetings, it is recommended that the developer convenes and manages focused groups and platforms where details of aspects can be identified, analysed and addressed.

The content of the public participation process includes project impacts, community interfacing, realistic mitigation measures, and as much detailed project information and material as possible. This

inevitably leads to more meaningful stakeholder participation. The community is not only interested in participation in the decision-making process, but participation in terms of employment, sub-contracting and the development of sustainable community capacity, capabilities and competencies. It is often a positive principle to establish a rule that “local” communities shall share in the project benefits and receive preferential treatment in the above. It enhances community support and ownership of such a programme. It is the ideal opportunity for local small and medium business development and participation.

It is important to realise that the “community” is never an ignorant “rural” entity that can be manipulated with selected information. The community consists of equally qualified and informed professionals that shall not be easily convinced of any unsubstantiated impacts, decisions or proposed mitigating measures. In addition, on toll road concession projects, it is very important to not only focus on engineering excellence, but to expand this to include the addressing of the community impacts and operating excellence contributing to superior service for the end-user.

Project developers should especially take cognisance of the dangers of low interest in public participation, low levels of interaction and the distractions of local conflict and politics. This non-participation does not indicate support. The suggested initial community profiling would assist in identifying and understanding underlying and internal community issues and assist in not allowing such conflicts to be acted out on the project or by means of the project

When shall public participation be regarded as sufficient or adequate? In the toll industry we would suggest that it will be impossible to achieve a one hundred percent participation, buy-in and support for a toll road development. History has shown that tolling a road, particularly with an existing route, is usually a political, emotional and generally controversial concept. A further complicating factor is that parties will question the credibility of the process if their requests or opposing position is not taken into consideration or addressed. A decision on how far, or how much, can therefore only be taken when preparing the public participation strategy and actions for a project, and initial feedback has been received.

Toll road concessions are no longer regarded as medium term, safe investments and a fair process of funding infrastructure development. Investors and lenders are increasingly becoming aware that these projects are often politically charged and controversial. Public, including community, participation, cannot be underestimated and needs to be inclusive, enabling, credible and done with integrity well in advance of developing and implementing toll road infrastructure projects. The process needs to precede any final irrevocable decisions that have a material impact on any of the stakeholders. The process needs a strategic and structured approach with a well prepared stakeholder participation framework and consultation strategy.

The managing social and political risk on toll projects is therefore, in our opinion, an essential element of the development that needs to be addressed at the same level of importance and priority as the engineering and financial components of project development.