

# PRESS RELEASE

Paris, December 5<sup>th</sup> 2023

## The French Transport Regulatory Authority (ART) calls for a fairer distribution over time of the burden of financing the Montpellier Western circumvention project (COM)

*On October 26<sup>th</sup>, 2023, the French Transport Regulatory Authority (ART) issued an advisory opinion on the draft for the 20<sup>th</sup> amendment to the concession contract of the French motorway company Autoroutes du sud de la France (ASF), for the financing of the Montpellier Western circumvention project (COM). ART recommended that, in the absence of a toll on the COM, the infrastructure should be amortized over a longer period, thereby halving the toll increase required to finance it.*

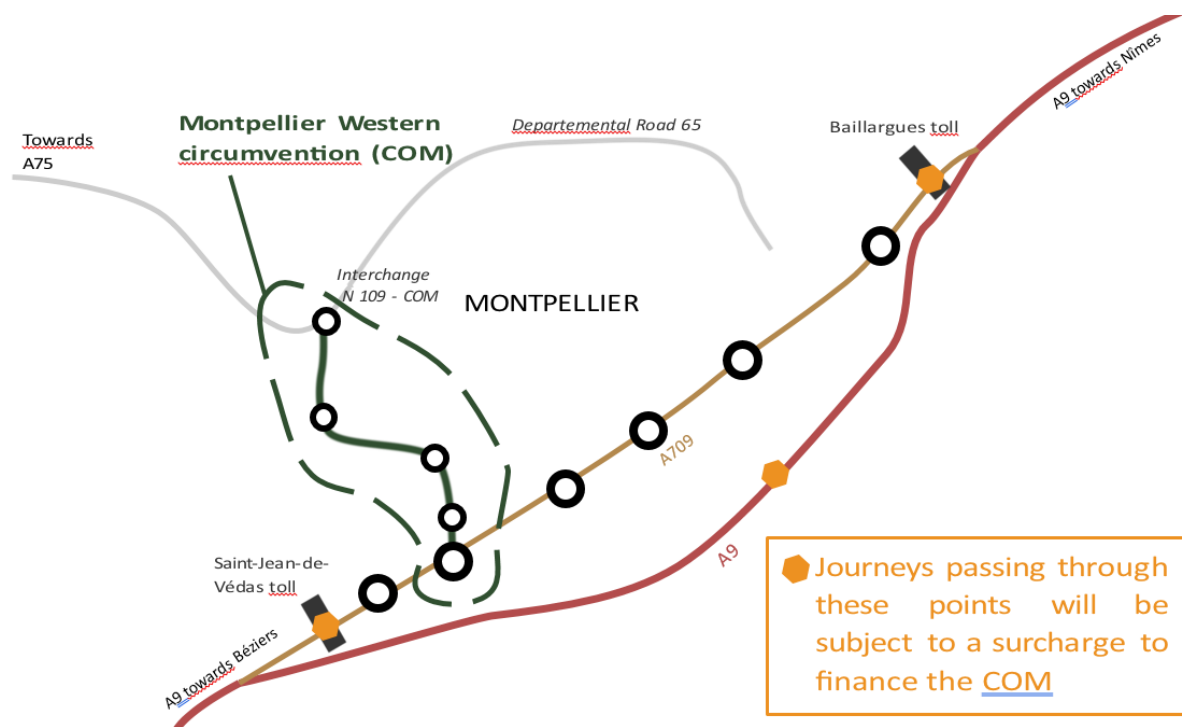
### THE FRENCH COUNCIL OF STATE CANCELLED THE PROJECT'S PREVIOUS FINANCING ARRANGEMENTS, WHICH WERE DEEMED NOT TO COMPLY WITH THE LAW ON TOLLS

The eighteenth amendment to ASF's concession contract provided for the company to develop the COM in return for several toll increases on the entire network under concession to ASF.

In an opinion issued on October 28<sup>th</sup>, 2021, ART noted that the proposed financing arrangements for the COM did not comply with toll law. In particular, it stated that the decision to finance the COM, a highly localized operation, by a general increase in the tariffs applicable to the concession, while the development itself remained toll-free, was not compatible with the nature of the toll as a fee for service rendered.

Following an appeal lodged by a concession user, the Council of State (France's highest administrative authority) overturned the corresponding tariff provisions: pointing out that the vast majority of users participating in the financing of the COM would not have benefited from it. The Council of State ruled that the financing methods adopted failed to respect the rule of proportionality between the amount of the tariff and the value of the service rendered.

In this context, the draft of the twentieth amendment aims to reduce the scope of users contributing to the financing of the infrastructure: toll surcharges will be limited to journeys using the full-lane barriers of the A709 motorway (Baillargues and Saint-Jean-de-Védas) and to those using the A9 motorway near Montpellier.



Site plan of the COM

## TO REDUCE THE INCREASE IN TOLL CHARGES REQUIRED TO FINANCE THE PROJECT, ART RECOMMENDS THE INTRODUCTION OF A RELIEF MECHANISM

The new fare structure continues to deviate from a "user pays" logic for two reasons.

Firstly, a significant gap remains between the users who finance the infrastructure and those who use it. Indeed, the envisaged fare structure will lead to a situation where 86 % of the trips financing the COM will not use it. However, as the COM has not been tolled, it is not possible to significantly reduce this gap. Even if the surcharge was applied only to journeys using the full-lane barriers of the A709 motorway, the proportion of journeys financing the COM without using it would still be substantial, at 78 %.

Secondly, the proposed charging structure would mean that users over the next ten years would have to fund the entire cost of the COM, even though the infrastructure will last much longer. Financing methods that distribute the burden of financing more equitably between today's users and those of tomorrow should be considered. In particular, the payment of a balance to the concessionaire at the end of the contract would enable the COM to be amortized over a longer period, without extending ASF's contract. This would halve the contribution required from today's users.

### For further details (in French):

- [L'avis n° 2023-049 du 26 octobre 2023 relatif au projet de vingtième avenant à la convention passée entre l'État et la société des Autoroutes du Sud de la France \(ASF\) pour la concession de la construction, de l'entretien et de l'exploitation d'autoroutes, approuvée par décret du 7 février 1992 et au cahier des charges annexé à cette convention](#)
- [La décision n° 462752 du 27 janvier 2023 du Conseil d'État](#)
- [L'avis n° 2021-056 du 28 octobre 2021 relatif au projet de dix-huitième avenant à la convention passée entre l'État et la société des Autoroutes du Sud de la France \(ASF\) pour la concession de la construction, de l'entretien et de l'exploitation d'autoroutes, approuvée par décret du 7 février 1992 et au cahier des charges annexé à cette convention](#)

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### About the French Transport Regulatory Authority (ART)

Since 2010, the French railway sector has had an independent authority to accompany its gradual opening to competition: the Autorité de régulation des activités ferroviaires (Araf). Law 2015-990 of 6 August 2015 on growth, activity and equal economic opportunity extended the regulator's powers to road activities - coach transport and motorways. On 15 October 2015, Araf became the Autorité de régulation des activités ferroviaires et routières (Arafer), with the mission to contribute to the proper functioning of public service and competitive activities for the benefit of rail and road transport customers.

With competence for the regulation of airport charges since 1 October 2019, Arafer became the Transport Regulatory Authority (ART) on that date. Lastly, Law No. 2019-1428 of 24 December 2019 -mobility act- extended ART's powers and missions to the opening up of mobility and ticketing data, as well as to the regulation of infrastructure manager activities and security activities carried out by RATP in Île-de-France. Its opinions and decisions are adopted by a college of five independent members chosen for their economic, legal or technical skills in the field of digital services or transport, or for their expertise in competition matters. It is chaired since 4th August 2022 by Philippe Richert, Vice-President and Acting President.