

 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Changes to bus service registration requirements to improve competition in the bus market	
Lead Department/Agency	Department for Transport	
Stage	Consultation	
IA Number	Dft00238	
Origin	Domestic	
Expected date of implementation (and SNR number)	October 2013 (SNR No6)	
Date submitted to RPC	20/09/2013	
RPC Opinion date and reference	11/10/2013	RPC13-Dft-1875
Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is fit for purpose. The proposal is to reduce the threat of post-entry anti-competitive behaviour by incumbent operators, which deters operators from entering and expanding into a market. Given the stage of the proposals, the IA provides a good analysis of the costs and benefits to bus operators, potential competitors, local authorities and passengers. Although a small and micro business assessment (SAMBA) is not required in this IA, as the proposals come in before April 2014, the IA would benefit from providing further comments on impacts on small business operators.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p>The local bus market outside of London is deregulated, with competition expected to take place on bus routes. However, a Competition Commission inquiry found that there was insufficient competition in the local bus market, leading to adverse effects of competition such as high fares and poor services. They found that existing rules for notifying the Traffic Commissioner of changes to local bus service registrations did not prevent adverse effects on competition in the bus market. Specifically, the current rules allow incumbent bus operators to create overcapacity and manipulate timetables in response to a rival's entrance, inducing its exit from the market. This form of competition can act as a barrier to entry and expansion into a market. Additionally, the current short notice period local authorities receive when an operator cancels a service, means there is less competition in the tendering of replacement services. Government intervention is necessary to ensure that competition in the local bus market is fair and sustainable.</p> <p>What are the policy objectives and the intended effects?</p> <p>The policy aims to reduce the threat of post-entry anti-competitive behaviour by incumbent operators, which deters operators from entering and expanding into a market. The policy should therefore introduce greater competition into the local bus market that is likely to be sustained. An additional objective is to tackle the tight</p>		

timescales currently faced by local authorities as a result of the current notice period of 56 days. Ensuring local authorities have sufficient time to procure replacement services should lead to a more competitive market for tenders.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base).

The Competition Commission considered the need for regulation as part of its inquiry into the market for local bus services. It took evidence from a range of interested parties to consider what actions, if any, were needed. It concluded that the adverse effects on competition from predatory behaviour were significant enough to justify the introduction of regulation. After considering various forms of regulation, including introducing a new regulatory body to determine when an operator behaved inappropriately, the Competition Commission decided simple universal rules were the most effective way of addressing the adverse effect on competition. The following policy options will be considered in this Impact Assessment:

Policy option 1 – Introducing regulations requiring operators to give local authorities 14 day notice of a local bus service registration before it is submitted to the Traffic Commissioner

Policy option 2 – Extending the current 56-day notice period to 90 days for applications to vary bus services

Policy option 3 – Extending the current 56-day notice period to 70 days for all bus service applications

Policy option 4 – A combination of policy options 1 and 2

Policy option 5 – A combination of policy options 1 and 3

Option 5 is the preferred option as we believe best balances the need to prevent AEC in the bus market, whilst not reducing market flexibility.

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options.

The policy aims to prevent anti-competitive behaviour by bus operators by introducing a delay before routes can be changes. This will make it more difficult to incumbents to drive new entrants out of the market by temporarily laying on additional services as a loss. The policy is the result of recommendations by the competition commission. The IA provides a very good analysis of the costs, benefits and impact to bus operators, potential competitors, local authorities and passengers given the stage of the proposals.

Comments on the robustness of the Small & Micro Business Assessment (SAMBA)

The proposals regulate business but come into force before 1 April 2014 and therefore the SAMBA is not applicable. However, the IA states that there are no plans to exempt small operators as it does not largely affect smaller firms. The IA would benefit from a greater discussion on the impact of small firms and of any ways these might be mitigated.

Comments on the robustness of the OITO assessment.

The IA says “*This measure is within the scope of OITO and is an ‘IN’ for these purposes. The costs are mainly to bus operators but the benefits should help to increase competition within the local bus market by reducing entry barriers resulting from predatory behaviour which in turn should improve service and price stability, benefitting passengers who are negatively affected by unanticipated price changes and delays from out of date timetables.*” The evidence presented provides a reasonable assessment of the likely direction of impact of the policy consistent with the current Better Regulation Framework Manual (paragraph 1.9.10). However the Department should consider whether some or all of the costs fit within the definition of ‘pro-competition’ set out in the Better Regulation Framework Manual (1.9.14) and should therefore be treated as zero net cost. The evidence supporting the estimated Equivalent Annual Net Cost to Business will have to be strengthened so that it can be validated at final stage.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal line extending to the right from the end of the signature.

Michael Gibbons, Chairman