

STAGECOACH GROUP - RESPONSE TO CMA DRAFT GUIDANCE ON BLOCK EXEMPTION

General Comments:

1. Stagecoach is pleased that the Block Exemption for ticketing schemes (BE) has been renewed by the CMA from 29 Feb 2016.
2. You have not included any guidance nor considered anywhere within the Guidance the point we made (Para 7 in our CR) regarding geographic boundaries of MTC's:

This does not, however, deal with geographic areas as each single operator may have different areas in which their tickets are valid. For a MTC, there is a balance to be struck between drawing an area of validity too wide (so as to contain all the single operator areas) which could lead to a higher price, and too small an area (to encompass only the area of overlap of the operators) where, although the price may be lower, the ability to really make use of the network provided by the included operators is diminished. Whilst we do not have any solutions to this, nor do we think a prescriptive solution is desirable given the structures of the bus market in different areas, we think some guidance should be provided as part of a revised Block Exemption to highlight this issue.

3. In para 4.62 we think you should clarify the consequences of the CMA cancelling the BE for a particular scheme, in particular, would you confirm that operators would not be penalised for inadvertently participating in a scheme that was found to be non-compliant.

Specific CMA Questions:

SHORT GUIDE

- We are content with the Short Guide in terms of both its clarity and level of detail.

BLOCK EXEMPTION

- Q1 We are content with this chapter in terms of both its clarity and level of detail.
- Q2 a) We do not consider that you have provided sufficient clarity around the term "substantially the same". In para 3.27, you state that the CMA cannot "give a definitive formula which will enable operators to determine whether any particular routes are substantially the same". Yet, in para 3.32, a figure of 80% is provided in relation to a similar concept, in this case, of "substantial use". Some metric, with even a range of values, would be helpful for operators.

- Q2 b) Yes these are very helpful.
- Q2 c) Yes but see comments at Q2 a) above.
- Q3 a) The examples and the use of a definitive % threshold makes this much clearer.
- Q3 b) Yes these are very helpful.
- Q3 c) Most of our schemes would be MTC's and it is clear how to assess these.
- Q4 a) Yes but see Q4 c) below.
- Q4 b) The use of subjective terms such as "sufficient functionality" and "excessive" in (1), "as soon as reasonably practicable" in (2), "effective" and "unreasonable" in (3) would benefit from some clarity / further definition.
- Q4 c) you could include other reasons given your comment that the list is "not exhaustive" – this suggests that you have other potential areas in mind.
- Q5 a) & b) Yes but this section needs to include a rider that some of these conditions can be over-ridden in a Quality Partnership scheme (QP).
- Q5 c) as Q4 c) above.
- Q6 a) & b) Yes - in this case, footnote 14 clarifies the potential effect of QP or other legislation.
- Q6 c) as Q4 c) above.
- Q7 a) this section is very clear.
- Q7 b) the examples are clear and relevant.
- Q7 c) We do not think further examples are required.
- Q8 a) The example is very clear and helpful to operators.
- Q9 a) We do not have any comments on this section.
- Q10 a) This section is helpful but it is not clear, without further detail, how an operator(s) can determine whether a proposed MTC price is "uncompetitive". Some examples as to what might constitute "competitive"/"uncompetitive" and some metric/values would materially assist. As MTC's form the bulk of ticketing scheme tickets and revenues, this is a critical area to provide guidance. The pricing of such tickets, given your insistence that they cannot be linked to individual operators' prices, can be problematic and could be an area where it is easy to fall foul of the BE unknowingly.
- Q10 b) As indicated above, section 4.41 causes some concern without further guidance.
- Q10 c) Further examples of pricing, in particular, would be very helpful.

- Q11 a) The guidance appears reasonably comprehensive though there are few such tickets in operation.

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