



URBAN TRANSPORT GROUP

Consultation response

The Public Transport Ticketing Schemes Block Exemption: draft guidance

Competition and Markets Authority

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1. Introduction

- 1.1. The Urban Transport Group (UTG) represents the seven largest city region strategic transport bodies¹ in England, which, between them, serve over twenty million people in Greater Manchester, London, the Liverpool City Region, the North East Combined Authority area, the Sheffield City Region, the West Midlands conurbation and West Yorkshire. Nottingham City Council, the West of England Partnership and Strathclyde Partnership for Transport (SPT) are associate members of the UTG. Our members plan, procure, provide and promote public transport in some of Britain's largest city regions, with the aim of delivering integrated public transport networks accessible to all.
- 1.2. We have long called for improved guidance to the Ticketing Block Exemption and therefore welcome the publication of updated draft guidance and the opportunity to respond to this consultation.

2. Response

Chapter 2. Overview of the legal framework

Question 1: This section has been shortened and simplified to make the guidance more user-friendly:

A) Do you consider that this section (read in conjunction with the rest of the guidance, in particular Appendix B) is providing you with appropriate level of detail?

- 2.1. We welcome the shortening and simplification of this section and feel that it provides an appropriate level of detail.

Chapter 3. The scope of the block exemption

Question 2: This section has been expanded to set out what is meant by 'substantially the same'. We use examples and route maps to illustrate the points:

A) Do you think it is clear what is meant by 'substantially the same'?

- 2.2. The revised draft is a clear improvement on current guidance, and makes it fairly clear that area-wide multi-operator tickets in large urban areas would almost certainly qualify as MTCs.
- 2.3. However, as the draft itself points out "common sense and local knowledge will play an important role when operators are making this assessment". This seems like a reasonable statement though we would encourage the CMA to keep this section under review and to add in any further clarifications required or new examples in light of queries from authorities/operators or from CMA investigations.

¹ With the exception of Transport for London, these bodies were formally known as Passenger Transport Executives (PTEs) and the UTG was previously known as the Passenger Transport Executive Group. In recent years, some PTEs have been abolished with their functions transferred onto successor bodies, such as Combined Authorities. The new name for our group reflects these changes.



B) Do you find the examples and route maps helpful?

2.4. Yes.

C) Is the information required to make an assessment easily available?

2.5. Network information (the location of stops and routes, plus timetable information) is generally available to transport authorities, who receive it from operators as part of the service registration process (see point 14 of this document https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/193690/Local_PSV_Service_Registrations_Nov_08_PSV_353A_.pdf). Most large authorities then process this information and add it to geographic information systems which enable networks to be analysed and passenger information to be generated.

D) Do you have any suggestions to make this section clearer?

2.6. As stated under (a), we would encourage the CMA to keep this section under review and to add in any further clarifications required or new examples in light of queries from authorities/operators or from CMA investigations

E) Do you have any further comments on this section?

- 2.7. Many ticketing scheme agreements tend to have direct involvement from local authorities, and this could be more directly recognised in the document.
- 2.8. We welcome the clarification, in paragraphs 3.4 and 3.5, on the definition of what constitutes a ticket and, in particular, the inclusion of all potential smart variants.

Question3: This section reflects changes to the definition of MTC in the block exemption. We explain what is meant by ‘in practice, not substantially used as an MIT or TT’. We use examples and route maps to illustrate points:

A) Do you think that it is clear what is meant by ‘in practice, not substantially used as an MIT or TT’?

2.9. Whilst the draft guidance is clearer than the current document, arguably too much is still open to interpretation and additional examples would be beneficial.

B) Do you find the examples and route maps helpful?

- 2.10. The route maps are very helpful, but only cover very basic scenarios. For example, when looking at the through ticket illustration, what would happen if route B was replaced by a number of different routes, or if passengers were taking multiple different routes out of the town centre rather than simply route D?
- 2.11. We would suggest adding in an illustration showing an example of a scheme that was not substantially used as either an MIT or TT.



C) *Is the information required to make an assessment easily available? If not, please explain what the obstacles are and what alternatives might be used instead.*

2.12. Transport authorities do not hold, by default, detailed ticketing held by individual operators. In most cases, transport authorities carry out dedicated passenger surveys to infer average passenger journey patterns but this may not be statistically representative for small groups of routes. In some cases, smartcard ticketing systems can provide a better source of information but ownership of the underlying data may sit across different stakeholders (transport authorities and operators), which may make it difficult for any single stakeholder to carry out an assessment on their own.

D) *Do you have any suggestions to make this section clearer?*

2.13. There is no map under the example of a scheme that is not substantially used as an MIT or TT.

E) *Do you have any further comments on this section?*

2.14. Without the availability of smart ticketing data held by a transport authority, it may be difficult to undertake a detailed assessment as it would require all operators to provide route specific data. Also, for schemes where the Local Authority does not act as arbitrator, sharing of data at this level between operators may indirectly impact on competition and as such it is unlikely that operators would want to share it. For example, it could mean revealing one operator's most popular routes to a rival that could, on the basis of that information, decide to introduce its own services on those routes.

Chapter 4. Legal conditions and obligation for schemes covered by the block exemption

Question 4: This section has not been changed substantially:

A) *Do you consider that the examples are relevant?*

2.15. The examples cover a wide range of situations and are generally relevant.

B) *Would any of the examples cause you concern?*

2.16. Point (1) in the first example (box 3) is of potential concern in relation to what would constitute an unreasonable cost. In particular, would a requirement for operators to purchase smart enabled ticketing machines be classed as an unfair barrier?

2.17. More specifically, where an MTC scheme is supported by the ITSO smartcard standard and operators already own non-compliant ticket machines, would the additional investment be considered discriminatory?

2.18. For what it's worth, our view in this scenario is that the implementation of a fully integrated public transport network (which delivers economic and social benefits which are recognised by the very existence of the Ticketing Block Exemption) may require a degree of investment by all operators in technology based on accepted common standards (with ITSO being a case in point). We would therefore not see this as discriminatory.



2.19. However, we feel that this section could benefit from greater clarity.

C) *Would you like to add further examples?*

2.20. Not in addition to the point made in relation to 4(b).

Question 5: In this section we have introduced some examples:

A) *Do you consider that the examples are relevant?*

2.21. The examples are clear and relevant.

B) *Would any of the examples cause you concern?*

2.22. No.

C) *Would you like to add further examples?*

2.23. No.

Question 6: In this section we have introduced some examples.

A) *Do you consider that the examples are relevant?*

2.24. Paragraph 4.10 is fairly self-explanatory but the examples provide further clarity.

B) *Would any of the examples cause you concern?*

2.25. No.

C) *Would you like to add further examples?*

2.26. It would be useful to add a reference to a case whereby timetables were fixed for a long-distance add-on or a TT as this would be a potentially more complicated scenario.

Question 7: In this section we have added more explanation and introduced some examples of information which can and cannot be exchanged.

A) *Does this draft help you to understand what information you can and cannot exchange?*

2.27. We welcome the greater detail of explanation and the examples given but would seek further clarity with regards to the exemption set out in paragraph 4.19. This appears to suggest that an MTC scheme can exchange all of the information set out in the five examples if it is only viewed by an independent administrator such as a Local Authority. If this is the case, it could be made clearer through an example.

B) *Do you consider that the examples are relevant? Are there any omissions or points which would cause difficulty in operating the schemes effectively? Please give details of the nature of information exchanged and why it is necessary for the effective operation of the scheme.*

2.28. The examples are relevant.



2.29. There is potentially a problem operating the scheme in relation to the sharing of information about the costs of operations or investments, as it might be that a Local Authority funds some of this spending to enable operators to enter the scheme and is required to place the information in the public domain.

2.30. This should not cause an obstruction to potential schemes developing.

C) Would you like to add further examples?

2.31. It might be useful to add a list of positive examples as to where it would clearly be allowed for data to be shared.

D) Do you have any further comments on this section?

2.32. There are potential dis-benefits from the lack of ability to share performance data. Investment decisions by Local Authorities are made separately from operational and business decisions by operators but there can be benefits when the sharing of business/operational information leads to a more coordinated and informed approach to local authority investment, which can in turn improve bus performance and potentially make for a more competitive environment overall. This is being considered through the Buses Bill, and could potentially have implications for the text of the guidance.

Question 8: This section is largely unchanged:

A) Do you consider that the example is still relevant? If not please explain why and provide an alternative example.

2.33. The example is still relevant and we have no further comments.

B) Would you like to add further comment on this section?

2.34. No.

Question 9: We have changed this section slightly to make it clearer:

A) Do you have any comments on this section?

2.35. The single example given is very specific, and the section would benefit from broader examples.

2.36. We would ask for further clarification on the meaning of paragraph 4.35. One reading of it would suggest that an MIT scheme that has an agreed common fare would fail the assessment within section 9(1). However, we believe that this would only fail the assessment if it was to result in the elimination of substantial competition; and on that basis, a small localised scheme on an individual route where no other operators compete should have minimal impact on wider competition and as such it may pass the assessment. Further clarity would be greatly appreciated here.



Question 10: In this section we have provided more clarification on agreeing the price of MTCs and we have added a revenue share example:

A) Do you consider that the guidance on agreeing prices is helpful?

2.37. The added explanation on price setting is helpful.

2.38. However, the guidance seems to be inconsistent with the recommendations of the Competition Commission's review of the Local Bus Market in 2011, which set out the following recommended formula for pricing MTC schemes:

Multi-operator ticket fare = average or median single fare x estimated usage x discount
for multi-operator journeys

2.39. This formula is not referenced within the draft consultation document at all. Does the CMA endorse the formula?

B) Would any of the examples cause you concern?

2.40. No.

C) Would you like to add further examples?

2.41. Concrete examples of where different revenue apportionment methods might be most appropriate would be a welcome addition as it would foster agreement between operators.

Chapter 5. Agreements falling outside the block exemption

Question 11: In this section we have introduced an example of a section 9(1) self-assessment to give an indication to operators that wish to develop MIT-type schemes which fall outside the block exemption of the kinds of factors which could be relevant.

A) Do you consider that the example here is helpful? Or do you think that there are still areas which need more guidance?

2.42. Yes.

B) Do you have any further comments on this section?

2.43. No further comments.