Consultation Response

UTG response to BEIS consultation on public transport ticketing scheme block exemption: call for evidence

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1. Introduction

The Urban Transport Group (UTG) represents the seven largest city region strategic transport bodies in England, which, between them, serve over twenty million people in Greater Manchester (Transport for Greater Manchester), London (Transport for London), the Liverpool City Region (Merseytravel), Tyne and Wear (Nexus), the Sheffield City Region (South Yorkshire Passenger Transport Executive), the West Midlands (Transport for West Midlands) and West Yorkshire (West Yorkshire Combined Authority).

We also have the following associate members: Tees Valley Combined Authority, Strathclyde Partnership for Transport, West of England Combined Authority (WECA), Nottingham City Council and Translink. However this response is on behalf of our full members only.

Our members plan, procure, provide and promote public transport in Britain's largest city regions, with the aim of delivering integrated transport networks accessible to all.

2. Response to questions

1. What are the benefits of integrated ticketing schemes? To what extent do consumers enjoy a fair share of these benefits?

2.1. The existence of the Public Transport Ticketing Block Exemption has allowed the establishment of multi-operator and multi-modal ticketing schemes across the country. These integrated ticketing schemes ensure that passengers can interchange between different operators without having to pay separate fares to each operator. Individual companies' routes do not always match up with passengers' origins and destinations, meaning that an affordable use of the services of more than one company can be vital in enabling journeys to work, education, and wider opportunities. With 77% of jobseekers in British cities outside London not having regular access to a vehicle, the bus provides a vital lifeline to many in society. As many as one in ten bus commuters would be forced to look for another job, or give up work all together, if they could no longer travel by bus[1].

2.2. The success of integrated ticketing schemes is highlighted by their high market share. For example, in West Yorkshire multi-operator Mcard tickets make up around 10% of bus trips in the region. This is achieved despite the relatively high premium that operators can still agree to charge for these tickets over and above their own single operator products.

2.3. Integrated ticketing schemes provide significant benefits to passengers and society at large, which include:

- Makes public transport more affordable than it would otherwise be and thus opens up access to opportunity for low-income households (who are most reliant on bus services in particular).
- Makes public transport simpler and easier to use which in turn improves its competitive position in relation to car use. This brings with it wider social, economic and environmental benefits – including less traffic congestion, better air quality and reduced carbon emissions.

[1] Urban Transport Group, (2019), The cross-sector benefits of backing the bus, The cross-sector benefits of backing the bus | URBAN TRANSPORT GROUP

- Lower operating costs for public transport, in particular bus, due to reduced boarding times.
- It is in line with the aims of the National Bus Strategy, Bus Back Better, which on integrated ticketing says: "*our ambition is for an integrated ticketing approach to allow you to buy a through journey for local bus, rail and metro with a single tap on your smartphone".* Bus Back Better places a new emphasis on simplifying complex ticketing arrangements, ensuring that passengers can choose the best option for them, and being able to access multi-operator tickets: "*Passengers should not have to buy a new ticket when changing buses. Easy through ticketing should be available between bus operators and other transport modes*". In our view the Block Exemption is a necessary building block in order to achieve the ambitions that both local and national Government has for better and more integrated public transport ticketing.

2. How effective has the Block Exemption been at encouraging integrated ticketing schemes? Please provide examples and reasons for your answer.

2.4. All members of UTG have successful multi-operator or multi-modal tickets available. The Block Exemption has been essential in enabling the development and retention of these products. For example, in West Yorkshire these products make up 10% of bus trips in the region. This is despite the difficulties posed by operators promoting their own lower cost operator-specific tickets.

2.5. In our 2010 response on the "Public Transport Ticketing Schemes Block Exemption Review (OFT), we agreed with the OFT's view that "*individual operators are unlikely to have an incentive to join (MTC) schemes in the absence of a block exemption due to concerns that the agreement could risk infringing competition law with the associated risk of exposure to enforcement action under the Act, including financial penalties*". This continues to be the case, with the Block Exemption providing operators with a clear route to agreeing multi-operator ticketing schemes both with local transport authorities and other operators. Requiring analysis of whether such schemes and agreements are individually exempt would be materially more difficult for operators to determine, and therefore the Block Exemption makes the barrier to agreement of such arrangements materially lower.

3. Has the Block Exemption given operators confidence to invest in appropriate systems and technology to deliver multi-operator, including multi-modal, products?

2.6. Multi-operator tickets exist in all our member areas, showing that operators have had the confidence to invest in appropriate systems and technology to deliver these products. The Block Exemption has given operators the confidence that such infrastructure would be used. In addition, the greater certainty that such ticketing arrangements are capable of being implemented gives confidence for local authorities in investing in the supporting infrastructure for these systems and improves the business case for doing so.

4. Are you aware of or have you experienced any difficulties in applying the Block Exemption criteria? To what extent does this vary across modes of transport?

2.7. UTG are not aware of any specific circumstances where the application of the Block Exemption has caused difficulties. However, it is possible that this is partly due to areas only implementing schemes that they know fall within the Block Exemption. For the reasons set out below, the current Block Exemption may not facilitate some newer ticketing schemes, including new modes of transportation, and therefore such schemes may not have progressed in the past, due to the greater analysis of the impact of competition law required.

5. Has the Block Exemption inhibited any developments in the last five years that could have benefited consumers? Please provide examples and reasons for this.

2.8. As noted above, whilst we are not aware of specific examples where this has been the case, there are constraints within the current Block Exemption through what it does not directly facilitate. In particular it pre-dates the concept of Mobility as a Service (MaaS) subscription models for access to a diverse range of transport modes (including new modes such as e-bikes and e-scooters).

2.9. It is possible that the development of such products has been hampered already. The risk of this happening in the next five years will grow.

6. Do you consider that the Block Exemption will encourage the use of integrated ticketing schemes which involve new modes of transport, such as Mobility-as-a-Service ticket types, or public bicycle or e-scooter hire schemes?

2.10. The Block Exemption, and the existing multi operator and multi-modal ticketing, that it underpins, sets a precedent for coordinated ticketing across operators and modes. It also provides the legal basis for the mechanisms that sit behind the ticket products. Building on this base is the best way forward to allow for other modes to be added (such as bike rental) and other providers (such as for MaaS).

2.11. Whilst we only see how this can encourage and facilitate the use of integrated ticketing schemes with new modes of transport, the wording of the Block Exemption should be updated to make specific provision for such arrangements, and do so on a basis which facilitates not only the current range of additional services that are starting to be made available on an integrated basis, but also any future modes that could be devised during the term of the next extension. It should be possible for existing Block Exemption compliant schemes to be extended to cover use of e-mobility solutions and other future modes of personal and public transport, within the terms of the Block Exemption. It may also be helpful to more expressly cover the applicability of the Block Exemption to MaaS type subscription services so that it is clear what reimbursement arrangements between operators are appropriate.

7. Are you aware of, do you foresee or have you encountered any difficulties in applying the Block Exemption criteria in relation to new modes of transport?

2.12. The Block Exemption should more expressly cover a wider range of modes of transport, and given the developments that we have seen in integration of personal transport modes such as e-bike and e-scooter in the last five years it would be helpful to expressly address these modes. Many of our members promote multi-modal tickets, which cover bus and rail, and in some cases also include a mixture of light rail/underground or ferry, all of which are expressly covered by the current Block Exemption. However, the Block Exemption's conditions for its application over time as more new modes emerge should be reviewed to ensure that it can remain fit for purposes covering these modes, In particular given that the payment models for these modes is often time, rather than distance-based, and the distances covered will often necessarily be lower than for public transport modes. Given the potential for new modes of transport to be introduced over the next 5 years, it may be advisable for the Block Exemption to specifically facilitate different modes, rather than aiming to specify all modes covered.

8. Have developments in transport services, including the development of new transport services such as Mobility-as-a-Service, impacted on the effectiveness of the Block Exemption at encouraging integrated ticketing schemes?

2.13. The potential for Mobility as a Service arrangements does not impact on the effectiveness of the Block Exemption in encouraging integrated ticketing schemes. Indeed, the existence of integrated ticketing schemes may make it easier for MaaS services to be offered on top of such existing ticketing arrangements more easily. However, it may be helpful for the Block Exemption to specifically cover arrangements where a single subscription price potentially covers a range of associated services, which may include both competing and complementary services, so that such arrangements can be implemented easily and within the Block Exemption.

9. Has the Block Exemption prevented agreements establishing ticketing schemes from containing unnecessary restrictions on competition? If not, please provide examples.

2.14. On the contrary, we believe that the exemption is vital in establishing schemes, and that schemes could disappear without it.

2.15. The exemption facilitates the legal mechanisms for how you deal with schemes, such as revenue apportionment, reimbursement, and how these arrangements impact on competition, and as noted above therefore has facilitated entry into agreements for schemes. We are not aware of any examples of unnecessary restrictions.

10. Has the Block Exemption led to a reduction in competition between transport operators in any aspect other than the pricing of multi-operator tickets and the sharing of revenue from those tickets (e.g., quality, reliability, flexibility)?

2.16. We do not believe that the Block Exemption has led to a material reduction in competition between operators. It remains the case in the transport market outside of London that generally, operators are free to register services and set their own timetables as well as their own ticketing products, even where there is an over-arching multi-operator ticket scheme, and where such schemes are in place, there remains an incentive on operators to compete on quality and other elements, to the extent that customers choose to make use of multi-operator tickets.

11. To what extent could integrated ticketing schemes be encouraged by a system which imposes less regulation than the Block Exemption?

2.17. As noted above, there may be a range of circumstances where a Block Exemption that allowed for a wider range of ticketing arrangements which were still held to fall under the

Block Exemption may enable forms of integrated ticketing scheme which were less specifically regulated, and provided wider benefits than those enabled by the current Block Exemption. For example, Bus Back Better includes aspirations for "*common tickets, pass and daily capping … available on all services irrespective of operator at little or no premium to single-operator fares*". Providing clarity as to the basis which this could be provided within the Block Exemption including any specific regulation which would be necessary to provide comfort that such arrangements should be exempt would better facilitate discussions between operators and local transport authorities in meeting these objectives of the government and therefore would be a helpful addition either to the Block Exemption, or to guidance if it was felt that the Block Exemption already fully implemented this.

12. Have legislative changes such as the Bus Services Act 2017 (or other changes in the transport market), impacted on the effectiveness of the Block Exemption?

2.18. We do not believe that these changes have impacted on the effectiveness of the Block Exemption.

2.19. The introduction of the national bus strategy and the movement towards enhanced partnerships and franchising provides an opportunity to review ticketing arrangements. Bus Back Better sets out that:

> "As service patterns and networks are reset, there is no better time to simplify fares and ticketing or address the traffic bottlenecks which can reduce operating costs on key routes".

2.20. Although new governance arrangements may be put in place, we believe that the Block Exemption will still be central in delivering on key ticketing aims.

2.21. First, even when you have a ticketing scheme in place there is still a need to set out the mechanics of how you deal with the implications of that scheme from a legal perspective. With regards to multi-operator tickets this covers how revenue is distributed between the operators.

2.22. Second, these mechanisms can themselves have implications for the impact on competition of specified requirements and we would normally assess these against the block exemption as it is those reimbursement arrangements which have the potential to impact competition.