

Welsh Government response to questions for consultation:

1. Do you agree with renewing the Block Exemption? Please explain and provide reasons for your answer.

We agree that the renewal of the Block Exemption (BE) is required to assist the Welsh Government to deliver relevant policies contained within our National Transport Plan (NTP), including:

- IT2: Work with public transport operators to deliver integrated ticketing
- IT2a Pilot integrated ticketing approaches in specific locations and use evidence to inform a wider rollout
- IT2b Continue to develop integrated multi-modal multi-operator ticketing All Wales Entitlement Card
- CCRM7 Smart Ticketing-implement smart ticketing 'Pay as you Go' product
- BCT7b A fares policy that is easy to understand

The BE provides a mechanism to engage with those stakeholders required to deliver these elements, whilst still allowing competition legislation to operate.

2. Do you consider the continuation of the Block Exemption to be necessary to deliver integrated ticketing schemes that are beneficial to consumers?

We consider the continuation of the BE to be an essential tool to facilitate negotiation and delivery of integrated ticketing schemes. In our experience, there would be limited (if any) meaningful engagement with stakeholders without the BE, principally due to their concerns of contravening competition legislation.

The BE supports the powers available under Section 135 of the Transport Act (2000), which relate to the establishment of Joint and Through Ticketing Schemes that are in the best interests of the public.

3. Would consumer choice, in particular the variability and suitability of ticketing options, be significantly reduced without the Block Exemption?

Given our comments in sections 1 and 2, we consider it likely that some of the existing multi-operator and through ticket schemes would be withdrawn without the BE. This would reduce choice for users, with potential detriment to the attractiveness of the public transport network.

We would also note that the BE does not preclude operators offering their own products, enabling users to choose the most suitable product for their trip. For example an MIT may provide users with a greater choice of service providers, albeit at a greater price, than a return ticket only valid on a single operator.

4. If the Block Exemption was not renewed how would that influence your operations? Please provide examples and an indication of the likely costs to your business and the potential implications for the transport sector more widely.

The Welsh Government currently provides financial support to the transport sector for socially necessary services; therefore the ability of the industry to grow the market (and commercial revenue) through initiatives such as integrated ticketing, has the potential to reduce the burden on public sector finances. It is not possible to quantify the potential impact at this stage.

The multi-operator environment in Wales increases the requirement to offer the travelling public the ability to transfer seamlessly between vehicles/services to maximise the reach of the public transport network. The ability to provide integrated ticketing products is a key influence on the propensity to use public transport;

Given our response to previous questions, we feel the withdrawal of the BE would have an adverse impact on the ability of the public transport network to meet user requirements.

5. Have there been any adverse consequences from the application of the Block Exemption? Please provide examples and details.

We are not aware of any adverse consequences from the application of the BE.

6. Has the current Block Exemption prevented any developments in the last five years that could have benefited consumers? Please provide details of the proposed development and how the Block Exemption has prevented this.

We are not aware of any adverse consequences from the application of the BE.

7. Do you encounter any difficulties in applying the Block Exemption rules? Please explain and provide specific examples.

We are not aware of specific difficulties in applying the BE rules.

8. We would welcome views on whether a longer duration for the Block Exemption would be desirable. Please outline the reasons for your answer highlighting any cost implications and associated risks of your preferred options (see Chapter 4 above).

We welcome the proposal to extend the duration of the BE to ten years (from the previous 5 year exemption) as this provides increased confidence for the industry regarding ticket scheme longevity.

We do not envisage any additional costs associated with the extension, indeed there is likely to be a greater risk of increased costs with a shorter duration exemption if this results in changes to scope or requirements midway through a ticketing scheme (potential withdrawal, advertising, etc).

We appreciate there remains a requirement for periodic review to ensure the exemption is still appropriate and fit for purpose, particularly in response to future technological change.

**9. Do you agree with the assessment outlined in Chapter 5 of this consultation?
Please provide further explanation and information to support your answer.**

In general we agree with the assessments contained in Chapter 5. We would however, raise an additional consideration under para 5.15 and 5.16. Whilst we agree some passengers will expect a price differential, new / inexperienced users, may be less familiar with the de-regulated environment. The variability of fares can lead to confusion or the perception of being 'incorrectly' charged. This is a particular issue on those operators with an exact fare policy, as passengers may not have the correct change and/or additional funds to mitigate this variability. As a result we would be keen for the CMA to consider some relaxation of price fixing for MIT's.

In addition we have highlighted some areas where we would welcome representations:

(a) We would welcome examples where MIT schemes have been abandoned or not commenced because of the requirements that revenue lies where it falls. We would also welcome proposals of other possible revenue share options that would satisfy section 9(1) conditions and under what conditions these would apply, for example where operators only overlap to a limited extent because their services mostly operate at different times of the day. (See paragraphs 5.17 to 5.20)

We have experienced a reluctance of some operators to participate in 'lies where it falls' schemes where passenger demand is 'tidal', with the perception the majority of passengers will initially board a competitors service. This is a particular issue in some valleys communities, where travel to work patterns are significantly higher towards the main employment centres. This is also an issue where a competing operator has a higher service frequency along a given corridor as there is a greater probability of initially boarding their service.

In respect of revenue sharing agreement options, we have held a number of high level discussions to ascertain operators' appetite for alternative apportionment arrangements. Whilst there is a general willingness to consider alternatives, this often constrained by their relative business models and operating costs. For example, apportionment based solely on passengers carried does not fully reflect differences in operating costs (number of kilometres operated, fleet type etc).

As a result it has proven difficult to progress discussions which require a universal single calculation factor. It is our view, that a combination of factors will be required to provide an equitable apportionment. This could include an element of 'lies where it falls' for selling the ticket, with an element based on kilometres / passengers carried. Whilst this potentially increases complexity, it provides an opportunity to mitigate some operators concerns of an equitable apportionment regime.

(b) Whether in relation to capped tickets there are any practical obstacles to redistributing revenue collected to the relevant operator on a revenue foregone basis for smart ticket sales which fall below the capped price. If so, what revenue allocation would be appropriate? (See paragraphs 5.36 to 5.38)

We endorse the CMA view that customers using smart products continue to purchase tickets on a 'pay as you go basis until they reach the cap price at which point the MTC apportionment would be triggered; thus there should not be a requirement to apportion below the cap price.

There is however a requirement to clarify this with the travelling public and ensure they are aware of this procedure.

(c) Whether barriers are likely to arise for smart ticketing and the extent to which they could prevent participation in the schemes. (See paragraphs 5.42 to 5.44)

The key consideration regarding smart ticketing technology is the potential cost of implementation (capital and ongoing revenue / transaction costs). This is a particular concern for SME's whose business models may not be conducive to these additional costs. This is likely to prevent some operators from participating in the scheme, without some form of support. We are however mindful of State Aid requirements that require careful considerations before determining whether such support could be legally provided.

The timeliness of data transfer will also provide a practical limitation on the ability of smart ticketing to assist integrated ticketing. For example the ability to provide a daily price cap is dependent on the flow of information from all operators to identify when the cap threshold is reached. There are a large number of operators in Wales who utilise module based Electronic Ticket Machines, which are not connected in Real Time; therefore data may not be available for 24-48 hours after transaction. Whilst this is suitable for single operator products, it is not conducive to complex capping, without the requirement for additional retrospective transactions to correct a customers account.

10. We consider that it is possible for new ticketing technology and products to be accommodated within the current Block Exemption (subject to clarification through revisions to the Guidance Document). Have there been any developments, in particular in ticketing technology and products, in the last five years or are any expected over the next five years that affect the Block Exemption and would require, in your view, a change in its terms? Please explain and provide specific examples.

We are not aware of any technology developments that would require changes to the block exemption. In our view these developments will provide a richer source of data to inform development, and assess customer participation / travel habits.

11. Please provide any other information and/or views that you consider relevant for the CMA's review of the Block Exemption. Are there in your view other recommendations that the CMA should consider? For example, are there variations to the scope of the Block Exemption that have not been considered in this consultation document? Please provide any relevant evidence that you have to support your views.

The consultation document raises a number issues relating to technological developments that have taken place since the last exemption was granted. We do not have any additional considerations that we wish to raise.