



Department
for Transport

Consultation on implementation of the Competition Commission remedies on bus registration

March 2014

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR
Telephone 0300 330 3000
Website www.gov.uk/dft
General enquiries: <https://forms.dft.gov.uk>

OGL

© Crown copyright 2014

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos or third-party material) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Contents

Executive summary	4
Introduction	4
Who should read this document	5
How to respond	6
Freedom of Information	6
1. Implementing the Competition Commission remedies	7
Background	7
Existing rules	8
14 day pre-notification period	8
90 day notice period for variations to services.....	11
Restricting changes to applications and short-notice applications	14
Frequent services	16
2. Electronic Bus Service Registration	21
What will happen next?.....	23
Annex A: Impact Assessment: 14 days and 90 days remedies	24
Annex B: Impact Assessment: restricting registrations / short notice	25
Annex C: Impact Assessment: frequent services	26
Annex D: Consultation questions.....	27
Annex E: Consultation principles	32

Executive summary

Introduction

1. In December 2011 the Competition Commission (CC) concluded its local bus services market investigation. The CC found that there is a lack of sustained head-to-head competition between bus operators in many local markets and also a lack of potential competition. The CC recommended to the Government a series of remedies to help open up the market for commercial bus services mainly focusing on multi-operator ticketing and operator behaviour.
2. Four of the operator behaviour remedies necessitate changes to the existing legislation setting out the rules for the registration of local bus services. The Government's response, March 2012, made a commitment to develop secondary regulations to give effect to the following:
 - an extra 14-day pre-notification period during which local transport authorities may review and discuss a registration application with the operator;
 - a minimum standard notice period of 90 (as opposed to the current 56) days following acceptance of a change to an existing service registration;
 - a restriction on making changes to any registration application during any notice period except by making a short-notice application and alignment of the reasons for any short-notice application to those used in Scotland; and
 - a requirement that operators specify the frequency of services currently registered as 'frequent' (those with six or more services per hour) with a default band, so only frequencies in excess of this need to be detailed.
3. The CC gave the Government some flexibility in how the remedies are implemented. This consultation seeks views on the Government's preferred approach to implementing the four operator behaviour remedies that can be achieved through secondary legislation.

4. This consultation does not cover the operator behaviour remedies that would require changes to primary legislation. The Government's response to the CC said that we would explore by the end of this Parliament opportunities to bring forward the necessary primary legislation. A suitable legislative opportunity has yet to arise.
5. DfT will continue to work to ensure the bus market operates efficiently and that the funding provided supports Government objectives.
6. This consultation outlines the proposals in respect of England and Wales. The Welsh Assembly Government are aware of the proposals and we will work with them when finalising the legislation following consultation. Bus registration is a devolved matter in Scotland.
7. The consultation also seeks views on making bus registration digital by default and how to make the Electronic Bus Service Registration (EBSR) system more easily accessible to small and medium operators.

Who should read this document

8. This consultation document will be of interest to:
 - Bus operators
 - Local authorities
 - Passenger Transport Executives
 - Passenger representative groups
 - EBSR software providers

How to respond

The consultation period began on Tuesday 11 March 2014 and will run until Tuesday 6 May 2014. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at www.gov.uk/dft or you can contact Laura Teale if you need alternative formats (Braille, audio CD, etc.).

Please send consultation responses to:

Laura Teale
Department for Transport
2/14 Great Minster House
33 Horseferry Road
London SW1P 4 DR
buses@dft.gsi.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

1. Implementing the Competition Commission remedies

Background

- 1.1 The local bus market outside of London has been deregulated since 1986 with approximately 80% of services operating commercially with the remainder being tendered by local authorities. Competition on commercial services is expected to take place 'on-the-road' where any bus operator can run a service on any route. Operators are expected to compete on fares and service quality. Competition on tendered services takes place 'off-the-road' with operators competing to win contracts to run services from local authorities.
- 1.2 The Office of Fair Trading (OFT) announced on 7 January 2010 that it would be referring local bus services to the Competition Commission (CC). The OFT said it had found evidence that limited competition between operators tended to result in adverse effects on competition such as higher prices and lower quality for passengers.
- 1.3 The final report of the CC market investigation was published on 20 December 2011. In its report, the CC confirmed that there is a lack of sustained head-to-head competition between bus operators in many local markets and also a lack of potential competition. In their view this can result in a combination of higher fares, fewer services and lower quality services. They estimated that, overall, the annual detriment to consumers and taxpayers caused by the lack of competition was considerably in excess of £70 million a year and could be as much as £305million per annum.
- 1.4 One of the main reasons was:
 - There are particular barriers to both new entrants into the market and incumbents that wish to expand into new areas of the market – particularly large-scale expansion – including the threat of retaliatory and predatory behaviour.

- 1.5** The CC recommended a range of remedies, including a set relating to operator behaviour. Four of these necessitate changes to the existing legislation setting out the rules for the registration of local bus services. The Government's response, made a commitment to develop secondary regulations to give effect to these remedies.

Existing rules

- 1.6** Currently, an operator wishing to register a local bus service must give the appropriate traffic commissioner at least 56 days' notice of the start of the service. Variations to the service must also be registered at 56 days' notice, although there are some circumstances in which shorter notice could be accepted at the Traffic Commissioners discretion. An operator wishing to withdraw a service must also give 56 days' notice, leading to the registration being cancelled. Traffic commissioners have no power to refuse a registration application that is properly constituted (i.e. is submitted by a licensed operator and contains all the necessary information).
- 1.7** Normally, registration details must include the route and timetable of the service. Where a service has six or more buses an hour it is classed as frequent and in those cases a timetable is not needed, just a statement that it is frequent. An operator of a frequent service can increase the number of buses on the route without making a variation application to the Traffic Commissioner.

14 day pre-notification period

- 1.8** This remedy would require operators to give the relevant local authority(ies) 14 days notice of any new local bus service registration or change to an existing service (including a cancellation) prior to the submission of the application to the Traffic Commissioner. Currently, local authorities are informed of local bus service registration applications at the same time as the Traffic Commissioner, 56 days in advance of any changes coming into effect. Local authorities already receive such pre-notification in Scotland.
- 1.9** The CC identified that:
- the extra visibility to local authorities could discourage anticompetitive reactions by an incumbent operator to a new entrant;

- the remedy would help local authorities in assessing the need to support services that were to be withdrawn and might need to be tendered in future.

1.10 The measure would also:

- provide an opportunity for errors or discrepancies in applications to be dealt with before they are submitted to the Traffic Commissioners;
- allow local authorities to discuss potential concerns about a registration with the operator (for example, if a registration was thought likely to breach a traffic regulation condition);
- provide more scope for local authorities and Traveline to ensure that the travelling public are given reliable, up-to-date information about services in their areas.

1.11 The CC felt that a set of guidelines for local authorities would be helpful and that these should include guidance on the treatment of confidential information. They considered that these would be best developed by the Traffic Commissioners and local authorities.

1.12 The Department is intending to implement this remedy as proposed by the CC. A requirement would be placed on operators to deliver or send to each relevant authority a draft of the proposed application no later than 14 days before the date on which the application for registration, variation or cancellation of a registration is made. As is currently the case the operator would then be required to deliver or send a copy of the application made to the Traffic Commissioner to each relevant authority no later than the date on which it is made.

Question 1:

The impact of this remedy is considered in the impact assessment at Annex A. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department has made various assumptions in calculating the impact and would welcome evidence on:

- the proportion of routes that can be changed with 70 days' notice (56+14 days) at no extra cost (we implicitly assume that all PTE areas have a code of service stability in place and therefore wouldn't incur any costs from this change in regulation) – is this a fair assumption?). Overall, we assume that 91% of operators are able to give 14 days' notice without any additional costs. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence;
- the proportion of lost commercial kms that is typically replaced by local authorities? We assume an average of 21% is replaced by local authorities. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence;
- the percentage reduction in the cost of emergency tender contracts that an additional 14 day period would allow? We assume that the extra time given to local authorities to engage in the procurement of tenders will reduce costs by 10%. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

90 day notice period for variations to services

- 1.13** The CC proposed that when applying to vary an existing service the standard 56 day notice period that operators must give to a Traffic Commissioner would be extended to 90 days. Increasing the time it takes for an incumbent operator to respond to a new entrant or expanding competitor should reduce the barriers to entry and expansion identified by the CC, and increase the likelihood that head-to-head competition would be sustained.
- 1.14** The CC report identified that operators could seek to circumvent this remedy by cancelling and then re-registering a service, or by registering a new service adding incrementally to the existing service, thereby being subject to the 56 day notice period. They ruled out applying the 90 day notice period to all registrations which would prevent this as they thought it could have the undesirable effect of increasing barriers to entry on route. Instead they suggested that guidance from the Traffic Commissioners could be helpful to identify instances when a variation should be made.
- 1.15** The Department has concerns over the ability of guidance to be clear and precise enough to adequately address the circumvention risk. Defining what should properly be registered as a new service and what should be registered as a variation is unlikely to be easy. For example, it could be argued that an extension or off-shoot of an existing service could be either a variation of an existing service or a new registration. Any guidance based on identifying to what extent one route overlaps another would also be difficult for Driver and Vehicle Standards Agency (DVSA) staff to apply particularly in relation to paper applications.
- 1.16** The CC refers to the Traffic Commissioners being able to use existing powers to take action against an operator if they breached the rules as it would be running an unauthorised service. However, Traffic Commissioners have no power to refuse a registration application that is properly constituted. As there is nothing in legislation preventing an operator from cancelling and re-registering a service, in the Department's view existing powers could not be used to take action against an operator for running an unauthorised service.
- 1.17** Given the Department's significant concerns over the effective deliverability of the CC remedy, as an alternative the Department considered a 70 day notice period for all service

registrations. This would be in addition to the 14 days pre-notification period for local authorities. This option would remove the circumvention risk, by applying the extended notice period to all registration applications.

- 1.18** As the extended notice period would apply to all registrations rather than just variations, the Department considered a notice period of 70, rather than 90 days. This is the half-way point (rounded down to the nearest week) from the current 56 days to the 90 days proposed by the CC. Analysis of this option showed that it would secure similar competition benefits to the 90 day notice period for variations, by increasing the time it takes for an incumbent operator to respond to a new entrant. There would also be greater benefits to passengers and local authorities and less costs to operators. See Impact Assessment at Annex A for detailed information.
- 1.19** The Department is proposing that the legislation would be amended to change the existing 56 days notification period to 70 days for all service registrations.

Question 2

Do you agree with the Department's proposal to implement a 70 day notice period for all registrations, rather than a 90 day notice period just for variations? If not, what would you propose and why, and how would you address the circumvention risk of an operator cancelling and re-registering a service?

Question 3

If you propose that the circumvention risk can be removed through guidance, how would you define what should be registered as a variation and what should be registered as a new service?

Question 4

The impact of this remedy is considered in the impact assessment at Annex A. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department has made various assumptions in calculating the impact of the options and would welcome evidence on:

- the percentage reduction in the cost of emergency tender contracts that the additional notice period would allow? We assume that the extra time given to local authorities to engage in the procurement of tenders would reduce costs by 10%. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- some local authorities may have a Code of Conduct on Service Stability (CoCSS) that requires operators to notify local authorities 14 days before making an application to the Traffic Commissioner. However, other local authorities may currently have a CoCSS but may decide it is no longer necessary given the new notice period. It is assumed that 20% of local authorities would have a Code of Conduct on Service Stability in addition to a 70-day notification period to TCs. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- percentage of operators already giving 14 days' notice to local authorities? We assume 56% and implicitly assume that all PTE areas have a code of service stability in place. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence

Restricting changes to applications and short-notice applications

1.20 There are two parts to this remedy:

- a restriction on making changes to any registration during any notice period except by making a short-notice registration; and
- the removal of the ability for an operator to apply for a short-notice application in instances where the service timetable is to be changed by no more than 10 minutes earlier or later.

1.21 The first part of this remedy would prevent an operator from making changes to any registration during an existing notice period except by making a short-notice registration. The CC concluded that doing this would prevent operators from making 'tit-for-tat' reactions to their competitors' changes, whilst still giving them the flexibility of making changes to the registration for legitimate reasons through a short-notice application at the discretion of the Traffic Commissioner. The aim is to avoid the following situation.

"Having given 14 days' notice to the local authority, an entrant registers a new service and gives 70 days' notice to the Traffic Commissioner. In response, the incumbent, having given 14 days' notice to the local authority, registers a change to take place in 70 days. This registration prompts the new entrant to make a change to its original application. This application to change the service is submitted before the operator has started running the originally registered service. The incumbent may then react to this before the change to its own service takes place and so on."

1.22 The Department is proposing to implement this remedy by providing in legislation that an application would not be accepted during any existing notice period. In practice DVSA would simply hold the application until it can be formally accepted once the notice period of the first application had lapsed. An alternative option would be for the legislation to make a subsequent variation application during an existing application period invalid. However, the first option would be easier for DVSA to administer, as it would avoid having to return invalid applications and refund the application fee.

- 1.23** The second part of the remedy would mean that operators would no longer be able to apply to the Traffic Commissioner for a short-notice registration in instances where the service timetable was to be changed by no more than 10 minutes earlier or later. The CC concluded that removing the ability to make a short-notice application in such circumstances would reduce the scope for circumvention of the remedies extending the registration notice periods. Operators do not have this short-notice option in Scotland.
- 1.24** The ability to make a short notice application in instances where the timetable is changed by no more than 10 minutes earlier or later would be removed from the legislation. Short-notice applications could still be made in instances where the level of service is not significantly affected and the adjusted timings are required to adapt the service to a variation in a connecting rail, ferry or air service.

Question 5

Are there any unintended consequences of delaying acceptance of a further registration until the first notice period has lapsed?

Question 6

The impact of this remedy is considered in the impact assessment at Annex B. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department would welcome evidence on:

- the number of successful short-notice applications that are made annually, and the percentage of those that are currently for changes of no more than 10 minutes earlier or later. We have made no assumptions in the IA on the questions above and we would welcome evidence in order to monetise the impacts of this recommendation. Please tell us what assumptions you think should be used and provide us with the evidence.
- it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

Frequent services

- 1.25** The CC found that existing rules for registering ‘frequent services’ (i.e. those that run 6 or more times per hour), which simply requires a statement of fact to be made, allowed operators to flood a route with buses in response to a competitor’s entrance to the market without having to make an application to the Traffic Commissioner. To prevent this from happening, the CC proposed that operators should have to be more specific about the number of services they expected to run under the ‘frequent services’ category when registering a new service or varying an existing service.
- 1.26** Under the new rules the default band for frequent services would be 6-8 buses per hour. If the frequent service operated above this default frequency band for all or part of the day, under the new rules an operator would be required to specify which frequency band the service would operate in for each hour of the day. Where a service followed a timetable for part of the day and was classed as a ‘frequent service’ in peak periods the application would have to identify which band(s) the frequent part(s) of the service fell in. If an operator wished to vary the number of buses outside of the identified band, they would have to make an application to the Traffic Commissioner and comply with the required notice periods.
- 1.27** The CC provisional remedies suggested fixed bands, but in light of feedback decided that having overlapping bands would be a sensible approach where by an operator is able to nominate any band provided that it was no more than three buses wide. However in developing the associated impact assessment a possible risk of gamesmanship was identified with the overlapping band approach.
- 1.28** Operators could choose their band on the basis of being able to increase bus frequency by 2 (i.e. go from bottom of a band to the top). Whilst this is not a significant increase in frequency, it could mean there would be less of an improvement in competition than having fixed bands. Overlapping bands are also likely to be more complex to administer than fixed bands, as there is a greater risk of misunderstanding when registering services particularly where the service interval fluctuates between bands throughout the day.

- 1.29** For the above reasons the Department is proposing fixed bands of:
- 6-8 buses per hour;
 - 9-11 buses per hour; or
 - 12+ buses per hour.
- 1.30** A third option was identified in the impact assessment whereby operators would be required to specify in the application whether the service would operate in the default 6-8 per hour band or 9+. The number of services would not need to be specified in more detail than this. Whilst the costs of this approach would be less for operators the benefits would not be as great as there would be less protection for new entrants as operators already running 9+ services would still be able to flood the route without recourse to the Traffic Commissioner. Therefore, we are not proposing this option.
- 1.31** The amended legislation would introduce a definition of a frequent service and the interval bands. The interval bands would be 6-8; 9-11; and 12 or more. To avoid operators bunching services it is proposed that a minimum interval between buses would also be stated. So for 6-8 buses the service interval between buses must not exceed 10 minutes, for 9-11 buses the service interval must not exceed 8 minutes, for 12 or more buses the service interval must not exceed 6 minutes. As now operators would be required to make a statement of fact that it is a frequent service and in the case of services falling within service interval bands 9-11 and 12 or more a statement of which interval band the service would operate within.
- 1.32** As the Department set out in its response to the CC's provisional decision on remedies the new frequency bands would be enforced as per the existing approach to punctuality enforcement.

Question 7

Do you agree with the Department's proposal to introduce fixed bands? If not, please explain what is your preferred option and why?

Question 8

The impact of this remedy is considered in the impact assessment at Annex C. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department would welcome evidence on:

- the monetised costs to operators of identifying their frequent services and informing DVSA of which ones fall outside of the default band and which band they fall in (see paragraphs 1.33 to 1.35);
- the monetised costs of a software upgrade for EBSR users (see paragraphs 1.36 to 1.39);
- the cost for operators that do not use EBSR to upgrade their IT system to comply with the new definition of frequent services. We have not currently monetised this as we didn't have enough data to include monetisation, please tell us what assumption you think should be used and provide us with the evidence.
- for each of the three policy options – how often do you think operators would have to change their frequency band annually as a proportion of total frequent services? We currently assume that under policy option 1, 3% of total frequent services would have to be re-registered into a different band annually. Under policy option 2 and 3 it is assumed that 7.5% of total frequent services would have to be re-registered into a different band annually. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- the total number of frequent services in England? We currently assume that there are 518 frequent services in England (from the CC report). If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- it has been assumed that the change in frequency registrations will have little impact on small and micro businesses as medium and large businesses run the majority of frequent bus services. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

Existing frequent service registrations

- 1.33** The legislation implementing this remedy would not be retrospective. Action needs to be taken to bring all the existing 'frequent' registrations in line with the new rules. For services registered prior to the amending Regulations coming into force in October 2014 it is proposed that a one-off exercise would be undertaken to identify those services that are classed as frequent for all or part of the day. Where the identified service runs more frequently than the default band of 6-8 buses per hour the operator would be asked to inform DVSA of which band the service falls within. If the band changed at different parts of the day, details would be needed for each hour of operation. DVSA would then update the records without the need for the operators to re-register their services.
- 1.34** DVSA existing systems are unable to identify which operators currently run services that are wholly frequent or have an element of frequent in the service. This leaves two options:
- DVSA could write to all operators asking that they identify their services that are classed as frequent for all or part of the day and then for each service inform DVSA of which band(s) it falls in.
 - DVSA could go through all 22,000 registrations to identify services that are classed as frequent for all or part of the day and then write to the relevant operators asking them to identify for each service which band(s) it falls in and inform DVSA.
- 1.35** For DVSA to go through all 22,000 applications to identify frequent services does not seem to be the most efficient option. Operators have a detailed knowledge of the services they operate and would still need to check their records to identify which bands their frequent services would fall in, so there would be a duplication of effort. The Department is proposing the first option as it should be easier and quicker for operators to identify their frequent services.

Question 9

Do you agree that operators are best placed to identify their services that are frequent services? If not, please explain why.

Implications for Electronic Bus Service Registration

- 1.36** The implementation of this remedy would also have costs for the users of the Electronic Bus Service Registration (EBSR) system. This is because those using the system would need to be able to enter the frequency band within which the service falls. The costs for enabling this would depend on the solution used.
- 1.37** A workaround could be introduced using the current system whereby the applicant would have to state in an existing free text box or in a separate statement attached to the file which frequency band applies. This would restrict costs to the extra administrative costs of entering the information and costs to DVSA of checking that the information has been supplied. Alternatively, the software could be updated to include a new element for frequency band.
- 1.38** Such software is generally part of the scheduling systems supplied commercially by system providers to public transport operators and the timetable databases supplied commercially to local transport authorities. This would result in costs to operators preparing EBSR files for submission and local authorities downloading EBSR data who would need to upgrade their software. The cost could be in the high £tens of thousands or possibly low £hundreds of thousands.
- 1.39** Whilst the workaround solution is not perfect, as the Department does not want users of EBSR to be deterred from using the system, it is the proposed option in order to keep costs to a minimum.

Question 10

Do you agree with the Department's proposal to adopt a workaround to the EBSR system to record the frequency? If not, please explain how you think the issue should be resolved.

2. Electronic Bus Service Registration

- 2.1** The Government's digital strategy sets out the aim to become digital by default. The Electronic Bus Service Registration system (EBSR) meets this aim, but despite being introduced in January 2008, only 20 % of existing registrations are made using EBSR, the rest are paper based. EBSR brings benefits to operators, local authorities and passengers in terms of reduced administrative costs, ease of updating local travel information and improvement in the completeness and timeliness of bus route / timetable information. However, market forces have not resulted in more significant uptake.
- 2.2** The Department is taking the opportunity of this consultation on the bus registration remedies, which is of interest to users and non-users of EBSR and EBSR software suppliers, to set out its ambition to move to a fully electronic registration system over the next 2-3 years and to invite views on how to make that happen.
- 2.3** To use EBSR, specific software is required to create a TransXChange file. TransXChange is an industry standard format which is used across the UK to pass data between relevant parties. For small and medium sized operators the cost of the software may prove to be disproportionately costly if the operation is not large enough to justify the outlay. Most large operators use scheduling software that can handle TransXChange but so far only Stagecoach, Arriva and EYMS use EBSR.
- 2.4** The Department is keen therefore to receive suggestions as to how to make EBSR more easily accessible to small and medium operators.
- 2.5** A differential between the registration fees for EBSR and paper applications would not be helpful in this respect as it would be the smaller and medium operators that do not have the ability to use EBSR who would end up paying the higher fee. A solution is needed that makes the software accessible to them.

- 2.6** One possible approach can be seen in Norfolk where the County Council has developed an on-line Electronic Bus Service Registration solution enabling small bus operators to register services electronically. However, this has not been replicated elsewhere.
- 2.7** It would also be possible for DVSA to develop a similar on-line EBSR tool for small operators to create a registration.
- 2.8** Another solution could be for Traveline to act as an “agent” for operators that do not have the specific scheduling equipment required to create the necessary TransXChange data file. The file would be generated from the timetable data created by Traveline for journey planning purposes. Traveline would produce the data file for operators who would then submit it online to DVSA. This is just an initial suggestion and has not been worked up in detail.

The Department would welcome views on:

- potential barriers to the full roll out of EBSR in the next 2-3 years and how those barriers might be addressed;
- potential solutions to make the software accessible to small and medium operators; and
- whether Traveline acting as an agent for operators without TransXChange-compliant scheduling equipment is worth exploring.

What will happen next?

A summary of responses, including the next steps, will be published within three months of the consultation closing on www.gov.uk. Paper copies will be available on request.

Annex A: Impact Assessment: 14 days and 90 days remedies

Published as standalone document on website.

Annex B: Impact Assessment: restricting registrations / short notice

Published as standalone document on website.

Annex C: Impact Assessment: frequent services

Published as standalone document on website.

Annex D: Consultation questions

14 day pre-notification period

Question 1: The impact of this remedy is considered in the impact assessment at Annex A. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department has made various assumptions in calculating the impact and would welcome evidence on:

- the proportion of routes that can be changed with 70 days' notice (56+14 days) at no extra cost (we implicitly assume that all PTE areas have a code of service stability in place and therefore wouldn't incur any costs from this change in regulation) – is this a fair assumption?). Overall, we assume that 91% of operators are able to give 14 days' notice without any additional costs. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence;
- the proportion of lost commercial kms that is typically replaced by local authorities? We assume an average of 21% is replaced by local authorities. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence;
- the percentage reduction in the cost of emergency tender contracts that an additional 14 day period would allow? We assume that the extra time given to local authorities to engage in the procurement of tenders will reduce costs by 10%. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

90 day notice period for variations

Question 2: Do you agree with the Department's proposal to implement a 70 day notice period for all registrations, rather than a 90 day notice period just for variations? If not, what would you propose and why, and how would you address the circumvention risk of an operator cancelling and re-registering a service?

Question 3: If you propose that the circumvention risk can be removed through guidance, how would you define what should be registered as a variation and what should be registered as a new service?

Question 4: The impact of this remedy is considered in the impact assessment at Annex A. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department has made various assumptions in calculating the impact of the options and would welcome evidence on:

- the percentage reduction in the cost of emergency tender contracts that the additional notice period would allow? We assume that the extra time given to local authorities to engage in the procurement of tenders would reduce costs by 10%. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- some local authorities may have a Code of Conduct on Service Stability (CoCSS) that requires operators to notify local authorities 14 days before making an application to the Traffic Commissioner. However, other local authorities may currently have a CoCSS but may decide it is no longer necessary given the new notice period. It is assumed that 20% of local authorities would have a Code of Conduct on Service Stability in addition to a 70-day notification period to TCs. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- percentage of operators already giving 14 days' notice to local authorities? We assume 56% and implicitly assume that all PTE areas have a code of service stability in place. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

- it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

Restricting changes to applications and short-notice applications

Question 5: Are there any unintended consequences of delaying acceptance of a further registration until the first notice period has lapsed?

Question 6: The impact of this remedy is considered in the impact assessment at Annex B. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department would welcome evidence on:

- the number of successful short notice applications that are made annually, and the percentage of those that are currently for changes of no more than 10 minutes earlier or later. We have made no assumptions in the IA on the questions above and we would welcome evidence in order to monetise the impacts of this recommendation. Please tell us what assumptions you think should be used and provide us with the evidence.
- it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

Frequent services

Question 7: Do you agree with the Department's proposal to introduce fixed bands? If not, please explain what is your preferred option and why?

Question 8: The impact of this remedy is considered in the impact assessment at Annex C. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department would welcome evidence on:

- the monetised costs to operators of identifying their frequent services and informing DVSA of which ones fall

outside of the default band and which band they fall in (see paragraphs 1.33 to 1.35);

- the monetised costs of a software upgrade for EBSR users (see paragraphs 1.36 to 1.39);
- the cost for operators that do not use EBSR to upgrade their IT system to comply with the new definition of frequent services. We have not currently monetised this as we didn't have enough data to include monetisation, please tell us what assumption you think should be used and provide us with the evidence.
- for each of the three policy options – how often do you think operators would have to change their frequency band annually as a proportion of total frequent services? We currently assume that under policy option 1, 3% of total frequent services would have to be re-registered into a different band annually. Under policy option 2 and 3 it is assumed that 7.5% of total frequent services would have to be re-registered into a different band annually. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- the total number of frequent services in England? We currently assume that there are 518 frequent services in England (from the CC report). If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- it has been assumed that the change in frequency registrations will have little impact on small and micro businesses as medium and large businesses run the majority of frequent bus services. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.

Question 9: Do you agree that operators are best placed to identify their services that are frequent services? If not, please explain why.

Question 10: Do you agree with the Department's proposal to adopt a workaround to the EBSR system to record the frequency? If not, please explain how you think the issue should be resolved.

Encouraging uptake of EBSR

Views are also being sought on:

- potential barriers to the full roll out of EBSR in the next 2-3 years and how those barriers might be addressed;
- potential solutions to make the software accessible to small and medium operators; and
- whether Traveline acting as an agent for operators without TransXChange-compliant scheduling equipment is worth exploring.

Annex E: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk