

**Author**

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**Role**

Chairman/Managing Director, TravelMaster Limited

**Status of role**

Independent Administrator

**Area of Scope/locus**

Administrator of MTC Products in South Yorkshire and parts of the Sheffield City Region.

Question/para	Ref	Comments
\$3.4		It might be preferable to use the legal term for that sold by an MTC business – <b>‘it is a token, sold to the user, which Service Providers will accept as consideration for allowing the user to avail him/herself to travel on its bus/tram/train.’</b>
\$3.5		Arguably a smartcard is a ‘ticket’, particularly if it only bears a single day product. Using ‘token’ overcomes any ambiguity.
Box 1 E.g. 1 3.28 and post		It is not immediately clear that it is acceptable for the actual use of the MTC to enable users to use any of the buses on the putative route only notwithstanding that the MTC does meet the rest of the test relating to availability of (many) other routes. Such use is common by commuters and clarity on the point would be beneficial.
Question 2	a	Yes but I believe that the point above needs to be adopted to demonstrate that notwithstanding significant use as example A the availability of other routes satisfies the Test whether used or otherwise.
	b	Very much so for those embarking on such a development especially.
	c	Clarity as a required
	d	No, it is an exemplary means of making the point.
	e	No
3.32		I think that drilling down to this level is unhelpful. Simply because a significant number (no definition!) may use a product as indicated that should not vitiate that product as that would not be in the interests on the significant other users who use the product differently but including those routes. There is considerable pressure from LTAs in particular to ‘simplify’ fare options and hiving out routes/usage to MIT status can be very unhelpful. The ‘Test’ must surely relate to the total options conveyed by the product not a narrow selection of them so long as the other options are genuine, evidenced by a substantial measure of users this availing themselves and not simply a ‘wrapper’ for an MIT in all but name.
Box 2 E.g. 1		Care needs to be exercised here to ensure that the MTC is not neutered by a vague reference to “minimal”. It is inevitable in some towns that there will be a tendency for certain origins and destinations to be more significant than others BUT it cannot be stated that the <i>same</i> passengers <i>only</i> make such journeys as they may vary their travel patterns on other days/for other purposes.
Q3	a	No, as stated the clauses make an heroic judgement that the <i>same</i> passengers <i>only</i> do this whereas many will make other journeys using the example routes as well – and which would not be covered by an MIT. The Block Exemption Guidance must take a broader view on total travel opportunities for actual user. To do otherwise <b>(a)</b> Imposes a duty and cost on Administrators to try to establish actual use at passenger level to assess compliance and <b>(b)</b> <b>This</b> is a very difficult message to convey to would be users who may well do different journeys on certain days and therefore be obliged to purchase different ticket products at significantly greater cost. This is totally unnecessary as few MTCs would be built solely around your examples. It would be preferable to simply remove these strictures where the MTC product covers a much greater array of services.
	b	The map itself is very useful but the words impractical as set forth. Such a narrow and prescriptive test is confusing to users and would have the effect of giving the impression that the law is an ass.
	c	As above

	d	There needs to be a reassessment as to what an MTC actually is and that should not be clouded by an unspecified volume of people using it in one way to the disadvantage of other travellers. I would suggest that the figure to establish what is, or is not, an MIT needs to be set very high – of the order of 80% with an ability to take into account local circumstances which create such an anomaly rather than operator intent.
	e	No, this relatively fundamental issue should be reassessed and then the proposed words be considered by a small number of Administrators to take into account these ‘unintended consequences’.
<b>Box 3</b>		This goes to the heart of a very critical issue for administrators in so much as smartcards cannot be used on the vehicles of such operators. The law imposes many other burdens on smaller operators wishing to enter the market and it is perverse that modern ticketing equipment should not be mandatory given the policy of both the Department for Transport, (‘Smart Cities’ Project) and HM Treasury <b>(a)</b> It will be difficult to deliver that and <b>(b)</b> It would create a different barrier to entry as such operators would not be able to accept products and thus earn revenue to join or remain in the industry. It is inevitable that new forms of payment, (not smartcards buy –say - EMV/ApplePay and similar facilities), will be introduced in the first five years of the new TSBE’s period of validity
<b>Box 3 § 3</b>		<b>(3a)</b> It might be beneficial to limit the period of notice to be ‘not in excess of the period of notice’ imposed upon an Operator by the Transport Act 1985 to cancel a service registration. This would be clearer and more beneficial to smaller parties given that as drafted there is still undue scope for unreasonable periods to be set locally. It also allows for any future changes under ‘Devolution’ whilst also noting that the notice period is significantly different in Scotland compared to that England and Wales. <b>(3b)</b> No exit fee should be permitted other than the operator transferring any funds due to the Scheme promptly and delivering up – in good and usable condition any equipment/media/other items provided to it – promptly at the Offices of the Scheme Administrator or other designated place more suited to the item being returned. For example an administrator might supply smartcards for the use of the operator which could be delivered to an office or, where equipment is provided, to the trade premises of a contractor nominated to supply/install such equipment. Heavy equipment delivered to the ‘nth’ floor of a block of offices is quite unreasonable.
<b>Box 3 § 4</b>		Such imposts should be specified to be a ‘top slice’ from a pool of revenue relevant to the expense on the basis of the ‘widows’ mite ‘. ‘Relevant Expense’ could be marketing of a particular product which it would be unreasonable to allocate to those operators who would not benefit by such and therefore it should be a charge upon those who may and subject to the Governance arrangements to ensure that such operators have some means of involvement either by a Trade Association or an operator ‘elected’ by like operators to represent all such operators.
<b>Q4</b>		<b>(a)</b> Whilst these examples have relevance they should be adjusted to reflect reality and not to create self-defeating unintended consequences as noted above. Whilst it difficult to reconcile Government Policy with such issues, these are the real yet immovable developments which must be accepted. This is no different from compliance with the Public Service Vehicles Accessibility Regulations 2000/2003 which is mandatory, three stages were envisaged of which the final stage comes into effect from January 1 <sup>st</sup> 2017. This will exclude any double deck bus with a ‘step entrance’ from being used on a Registered Local Bus Service entirely – the impact of which will bear down upon small operators disproportionately. <b>(b)</b> As noted above against the specific clauses.
<b>Q5</b>		<b>(a)</b> Yes!
		<b>(b) Box 4 Point 2.</b> This does import certain concerns by the manner in which it is drafted. Once an MTC price is set by any appropriate methodology, that inevitably sets a maximum price for any single operator fare

		<p>viz:</p> <ul style="list-style-type: none"> <li>• Let existing operator A have a day return fare of £3.70 for a specific journey</li> <li>• Let existing operator B have a day return fare of £3.75 for the same journey</li> <li>• Consequently, the MTC company fixes a day ticket price at £3.90 being an appropriate rate for such a product. Assume that this fare has been set in an objective way by the operator group managing the MTC portfolio. <ul style="list-style-type: none"> <li>○ Let it also be assumed that that the MTC products comply in all ways with the legal characteristics for such a product.</li> </ul> </li> <li>• Then operator C comes along and proposes to start a further service along the same line of route with added-value features such as leather seats, tables or whatever. It therefore cannot charge more than £3.90 as its equivalent day return fare, else passengers opt for the MTC being cheaper.</li> <li>• <input type="checkbox"/>A <input type="checkbox"/> An MTC administrator <input type="checkbox"/> I <input type="checkbox"/> would be very unlikely to suggest that the MTC price be increased simply to give operator C headroom to charge more than £3.89 for its Day Return fare. How does that sit in relation to Chapter 7?</li> </ul>
		<p><b>(c)</b> No, I would suggest that having further examples would create a frame work to become the arbiter of right versus wrong instead of the Article itself.</p>
<b>Q6</b>		<p><b>(a)</b> In principle these examples are fine but again the same point arises as in Question 5 Whilst the MTC does not intend to deter an operator from adding more or a new service it does in effect set a maximum price to all practical purposes. These issues might be better were the Guidance to acknowledge these realities and draw on the established rule that the prices of no one operator may dictate the price of an MTC. So therefore, neither duty nor requirement to accede to any operator demanding that the price of the MTC be increased is imposed. To that extent there is potentially an issue which can readily be addressed by acknowledging this point and by cross referencing it to the earlier and established principle that no one operator is able to dictate an MTC price simply to enable it to compete as envisaged in the Article example. Clause 4.41 refers on this general matter.</p> <p><b>(b)</b> I would suggest that having further examples would create a frame work to become the arbiter of right versus wrong instead of the Article itself.</p>
<b>Q7</b>		<p><b>(a)</b> Yes, save that it would be more logical and of greater service to those establishing a new MTC Were the reference to 'in the public domain' were in the rubric rather than in the body of one element of one element of the section.</p> <p><b>(b)</b> As an extremely experienced manager of a reasonably large MTC Scheme I am of the view that the clause as drafted is sufficiently clear to indicate the general thrust of the issue. I think that a reasonably informed newcomer to such things should also find this to be acceptable. Whether that is entirely true of a public sector administrator, (such as an employee of the LTA), acting as the impartial administrator is perhaps a concern. That said such a document cannot be founded on that general concern alone. I have no concerns about this and so the second element of point (b) is not a concern</p> <p><b>(c)</b> No, I would make the same point as in the two previous questions, that the section is of sufficient clarity that further examples would import their own concerns.</p> <p><b>(d)</b> No!</p>
<b>Q8</b>		<p><b>(a)</b> Very much, a model of clarity in all respects.</p> <p><b>(b)</b> None required.</p>
<b>Q9</b>		<p><b>(a)</b> Whilst I have relatively involvement in TTs, I believe this to be fine.</p>
<b>4.41</b>		.

<p><b>Q10</b></p>	<p><b>(a)</b>  <b>No! \$4.41</b> I am of the view that this review by the administrator is best completed prior to the MTC price being set to avoid (a) A need to revisit the issue and (b) taking note of the strictures of the Monopolies and Mergers Commission’s Report of 2011 in respect of MTC pricing. To me that Report and the voluntary compliance it called for in the absence of any implementation proposals remain a very effective means of getting the correct price at the outset. I would certainly consider it to be far more difficult to revisit a price than it is to set the appropriate one in the first instance.</p> <p><b>(b)</b>  <b>Yes.</b> A more fundamental concern is an apparent proposal to disconnect passenger distance from the passenger volume to give a distribution based upon one or the other. I believe that in bigger and more sophisticated schemes in Metropolitan areas (i.e. those of PTEs/former PTEs under City Region developments. This approach will almost always favour the large operators at the expense of small niche operators who in my experience tend to have longer average journey lengths. This arises as the larger operators tend to have a monopoly of short riding passengers in the central area. Thus a disproportionate gain is enjoyed by the larger operator at the expense of any niche operator or even a more significant medium size operator might enjoy. Such smaller operators would be in difficulty in changing this as a result of weighted voting even in a properly conducted MTC Management Board. Thus a large operator could effectively a material barrier to entry.</p> <p>Technology is advancing very fast and within a few months it will prove possible to gather journey length data without recourse to surveys or Reverse Journey Matching. I am moving towards implementing a pilot to prove the concept in a very few months, probably autumn to avoid the holiday season. Transport for the North is also very interested in this and I would therefore urge you NOT to break this link for larger Schemes which inevitably have sophisticated management process to enable this link to be calculated with ease. As you note this approach could be considered disproportionate for smaller schemes and it is for those only that is such flexibility appropriate.</p> <p><b>(c).</b>  The examples are fine but it is the fundamental principle of disconnecting distance from volume which I believe from experience is fatally flawed.</p>
<p><b>\$4.48 et seq.</b></p>	<p>This section is fine and the words easy to understand.</p>
<p><b>\$4.63</b></p>	<p>You state that “broadly one or more passengers travel less than 15 miles...” If it is proposed that this apply to each service within a ticketing area I would suggest that:</p> <p><b>(a)</b>  It would be onerous for even an Independent Administrator to review this – and would involve an operator potentially having to open its books to a greater extent than is realistic in terms of effort.</p> <p><b>(b)</b>  The existence of local services which use urban motorways is quite significant. These generally carry passengers from dormitory areas to the central commercial district. These tend not to be used for local journeys by their nature and thus there is a significant prospect of these not meeting this requirement. They are clearly neither tourist services nor charters and are eligible for use by those with entitlement to ENCTS products against which a reimbursement is provided by the LTA. I would therefore suggest that this clause be reworked to ensure that such services are not excluded from validity in a product which could be used by other parallel services which might take a more circuitous route designed to carry intermediate passengers yet having the same origin and destination as the putative ‘non-stop’ service.</p>
<p><b>5.5</b></p>	<p>This should be reworded such joint marketing of MTC products by two or more operators within the wrapper of MTC availability. Such an operator might individually include its own products alongside this but it would seem unlikely that competition would be adversely affected.</p>
<p><b>Q11</b></p>	<p><b>(a) &amp; (b)</b>  Whilst an MTC Scheme Administrator is unlikely to become involved with many MITs other than in a capacity as an ‘expert’ giving advice to those proposing such a product be created the self-tests are a very good move to bring clarity to an area in which I have known plcs to fall foul of the MIT rules at the behest of the LTA which preferred to avoid such niceties.</p>

end