

Public Transport Ticketing Schemes Block Exemption Review

Consultation on the CMA's
proposed recommendation to
the Secretary of State

OGL

© Crown copyright 2024



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated.

To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Contents

1. About the Consultation.....	3
Introduction	3
Scope of this consultation	5
Consultation process.....	6
2. Recent developments and the PTTSBE	7
Recent developments	7
Overview of the PTTSBE	10
Recent developments and the PTTSBE.....	12
3. Assessing whether the PTTSBE remains appropriate	14
Context.....	14
Factor 1: Sufficient certainty on the application of the section 9 exemption	14
Factor 2: Enhanced need for cooperation	18
Factor 3: Sufficient benefits brought by a block exemption compared to self- assessment under the CA98.....	19
Factor 4: Alternatives not available	23
General recommendation.....	23
4. The PTTSBE: Does it need to be varied?	25
Definition of ‘ticket’	25
Zonal bus tickets	26
‘Trunk’ bus services	27
Other provisions	27
5. Duration of the PTTSBE	32
General recommendation.....	34
Variation of the PTTSBE.....	34
Duration of the PTTSBE.....	36

1. About the Consultation

Introduction

- 1.1 The purpose of this consultation is to seek views on the CMA's proposed recommendation to the Secretary of State for Business and Trade (the Secretary of State) as to whether there is a continuing need for the Public Transport Ticketing Schemes Block Exemption (PTTSBE),¹ with or without further amendments, or whether it should be allowed to expire at the end of its current term on 28 February 2026.
- 1.2 The PTTSBE automatically exempts certain types of agreements establishing public transport ticketing schemes ('ticketing schemes') from certain aspects of competition law insofar as they meet certain conditions set out in the PTTSBE. It was introduced on the basis that certain ticketing schemes between public transport operators, which may also include local authorities, were likely to meet the four conditions for exemption from the Chapter I prohibition.
- 1.3 The Competition Act 1998 (CA98) prohibits anticompetitive agreements between businesses (known as the Chapter I prohibition).² The prohibition applies to agreements and concerted practices between undertakings and to decisions by associations of undertakings (eg trade associations), which have as their object or effect the prevention, restriction or distortion of competition within the UK and which may affect trade within the UK.
- 1.4 However, section 9(1) of the CA98 provides that an agreement is exempt from the Chapter I prohibition if it:
 - (a) contributes to
 - (i) improving production or distribution, or
 - (ii) promoting technical or economic progress;
 - (b) while allowing consumers a fair share of the resulting benefit; and
 - (c) does not

¹ [The Competition Act 1998 \(Public Transport Ticketing Schemes Block Exemption\) Order 2001](#), as amended by: [The Public Transport Ticketing Schemes Block Exemption \(Amendment\) Order 2005](#); [The Public Transport Ticketing Schemes Block Exemption \(Amendment\) Order 2011](#); [The Enterprise and Regulatory Reform Act 2013 \(No. 2\) Order 2014](#); and, [The Public Transport Ticketing Schemes Block Exemption \(Amendment\) Order 2016](#).

² The Chapter I prohibition is set out in section 2 of the CA98.

- (i) impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives; or
 - (ii) afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products in question.
- 1.5 An agreement may be individually recognised by a competition authority or a court as meeting the conditions for exemption in section 9(1) of the CA98. In addition, certain types of agreement will be automatically exempt if they meet conditions set out in a ‘block exemption’ regulation or order applicable to that category of agreements.
- 1.6 Block exemptions have several benefits for businesses. First, they provide legal certainty to businesses as they enable them to know in advance how to ensure that their agreements comply with competition law. Second, they avoid placing on businesses the burden of individually scrutinising a large number of agreements that are likely to satisfy the requirements for exemption under section 9(1) of the CA98 (the section 9 exemption). Third, the existence of a block exemption also ensures consistency of approach by providing a common framework for businesses to assess their agreements against the Chapter I prohibition.
- 1.7 Block exemptions also bring about efficiencies by removing the need for the CMA to scrutinise agreements likely to be benign, thereby enabling it to concentrate its resources on other matters that are more likely to give rise to significant competition concerns. In this regard, the various conditions in block exemptions are designed to ensure that exempted agreements will not give rise to significant competition concerns.
- 1.8 The CMA formally launched its review of PTTSBE in February 2024. Based on the assessment of the PTTSBE that has been carried out, the CMA is proposing to recommend the continuation of the PTTSBE to the Secretary of State.
- 1.9 As part of that review, the CMA has gathered views from stakeholders on the operation of the PTTSBE. This has included a call for inputs³ and meetings with a number of key representative organisations connected to the public transport industry.⁴ The review has also included desktop research and

³ [Public Transport Ticketing Schemes Block Exemption: call for inputs.](#)

⁴ These include: Confederation of Passenger Transport, First Bus, the Oxford Bus Company and the Rail Delivery Group. We have also met various Government departments and agencies, including the Department for Transport, the Local Government Association, Transport Scotland and Transport for Wales.

revisiting the reviews carried out by the CMA in 2015⁵ and its predecessor, the Office of Fair Trading (OFT), between 2003 and 2010, and the Post Implementation Review undertaken by the Department of Business, Energy and Industrial Strategy in 2022.⁶

- 1.10 In the light of our draft recommendation, we are also proposing to revise the CMA's 2016 guidance on the PTTSBE, Public transport ticketing schemes block exemption guidance (CMA53)⁷ (the Guidance Document) to take account of any changes we make to the PTTSBE as well as legislative changes in relation to public transport ticketing and product developments from the rise of smart and contactless tickets.

Scope of this consultation

- 1.11 This consultation document seeks views in accordance with section 8(1) of the CA98 on the CMA's proposed recommendation to the Secretary of State to extend the PTTSBE without fixed duration under section 8(3) of the CA98.⁸ As outlined in more detail below, this document includes consultation questions that we ask stakeholders to consider when providing their views on the CMA's proposed recommendation.
- 1.12 Section 2 provides a high-level overview of recent developments in transport services and provides background on the PTTSBE. Sections 3 to 5 provide detail on the CMA's recommendations on whether the PTTSBE should be extended and varied. Section 6 includes the questions on which we are seeking stakeholder feedback, with these split into 'policy' and 'impact' questions.
- 1.13 Responses to the policy questions will inform our final recommendation to the Secretary of State. The responses to the impact questions may be used to inform the Department for Business and Trade's (DBT) preparation of an analytical appraisal and evaluation of the PTTSBE, in line with Better Regulation Framework principles.

⁵ [Public transport ticketing schemes block exemption: statutory review.](#)

⁶ [Public Transport Ticketing Schemes Block Exemption - BEIS Post Implementation Review.](#)

⁷ [Public transport ticketing schemes block exemption guidance: CMA53.](#)

⁸ Section 8(4) of the CA98 applies the procedure in section 8(1) to recommendations of the CMA under section 8(3). Therefore, before making a recommendation under section 8(3), the CMA must publish details of its proposed recommendation in such a way as it thinks most suitable for bringing it to the attention of those likely to be affected; and consider any representations about it which are made to it.

Consultation process

How to respond

- 1.14 We are publishing this document in order to consult on our provisional recommendation to the Secretary of State. Responses to this consultation should be sent by email to the address provided below. Please provide supporting evidence or examples for your views, where possible.
- 1.15 When responding to this consultation, please state whether you are responding as an individual or are representing the views of a group or organisation. If the latter, please make clear who you are representing and their role or interest in the PTTSBE.
- 1.16 In accordance with our policy of openness and transparency, we will publish non-confidential versions of responses on our webpages. **If your response contains any information that you regard as sensitive and that you would not wish to be published, please provide at the same time a non-confidential version for publication on our webpages which omits that material and an explanation of why you regard the omitted material as sensitive.**
- 1.17 Further details on the Government's consultation principles and the CMA's use of personal data are included in Annex A of this document.

Duration

- 1.18 The consultation will run for 5 weeks, from 20 September 2024. Responses should be submitted by email by 5:00pm on 25 October 2024 and should be sent to: pttsberreview@cma.gov.uk.

Next steps

- 1.19 Following this consultation, the CMA will prepare its final recommendation to the Secretary of State.
- 1.20 The CMA will publish the final version of the recommendation to the Secretary of State on its webpages at <http://www.gov.uk/cma>. The CMA will also publish the responses received during the consultation (with any confidential information redacted). These documents will be available on our webpages and respondents will be notified when they are available.

2. Recent developments and the PTTSBE

Recent developments

- 2.1 Since the PTTSBE's renewal in 2015, the CMA has identified several developments in the provision of local bus services that may have an impact on the role of the PTTSBE (as discussed below).
- 2.2 The CMA is aware that further changes to the legal framework that applies to the provision of transport services are likely to be implemented in the future.⁹ Those changes remain at an early stage of development and their possible impact on the PTTSBE is unclear. They have not therefore been considered by the CMA in its assessment of the PTTSBE other than to reflect on the need to take them into account in future reviews.

England

- 2.3 In England, the Bus Services Act 2017 provided Local Transport Authorities (LTAs)¹⁰ with new powers to improve local bus services through franchising schemes and new types of partnership schemes with operators such as Enhanced Partnerships.
- 2.4 Under franchising schemes, LTAs determine the network of services which are provided and offer contracts for specific routes, parts of the network or the network as a whole. Franchising powers are currently only available to Mayoral Combined Authorities¹¹ but can be provided to LTAs through secondary legislation (with the possibility that such secondary legislation may be made in the future).¹²
- 2.5 An Enhanced Partnership (EP) is a statutory arrangement in which the LTA can specify certain requirements, for example, requirements as to the

⁹ Following the 2024 General Election, the King's Speech included a number of Bills that will affect UK transport services: Passenger Railway Services (Public Ownership) Bill (which will amend rail legislation to make a public sector operation the default), Better Buses Bill (which will reform bus services and franchising, including allowing local control and supporting public ownership) and Railways Bill (which will reform rail services, including establishment of the Great British Railways (GBR) and allow rail contracts to be taken into public ownership at the end of contracts).

¹⁰ In England, an LTA is a county council, a council of a non-metropolitan district (comprised in an area for which there is no county council), an Integrated Transport Authority, a combined authority, or a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023. See section 108(4) of the Transport Act 2000.

¹¹ A 'Mayoral Combined Authority' is a combined authority for which the Secretary of State has made an order providing that there is to be a mayor; see section 107A of Local Democracy, Economic Development and Construction Act 2009.

¹² Section 123A of the Transport Act 2000.

frequency or timing of certain services or other requirements as to the standard of services to be provided and requirements as to the pricing of multi-operator ticketing.¹³ EPs are distinct from franchising schemes because services continue to be operated by commercial bus operators, but under requirements to meet the standards set by the LTA. When introducing an EP, LTAs are subject to a bespoke transport-specific competition test in place of the Chapter I prohibition.¹⁴

- 2.6 Once an LTA has established an EP, a bus operator must give an undertaking that it will comply with the standards of service set by that EP as a condition for being registered as a provider of local bus services.¹⁵ However, EPs do not exclude the commercial initiative of operators to decide what services to offer. For example, operators remain free to determine how they change their respective timetables to meet a frequency limitation imposed by an EP and how they work with other operators (for instance, through coordinating their timetables) to comply with such a limitation.
- 2.7 In England, 76 (out of 79) LTAs have made and published EPs, and three Mayoral Combined Authorities have chosen to implement franchising schemes (Greater Manchester, Liverpool City Region and West Yorkshire). In addition, Cambridgeshire and Peterborough Mayoral Combined Authority have launched a bus franchising consultation and South Yorkshire and West Midlands Mayoral Combined Authorities are currently considering implementing a franchising scheme.

Scotland

- 2.8 In Scotland, the Transport (Scotland) Act 2019 introduced powers for LTAs in Scotland to improve the delivery of local bus services in their areas, including local services franchising and Bus Services Improvement Partnerships (BSIPs).¹⁶
- 2.9 Local services franchising involves LTAs in Scotland putting in place an overarching franchising framework under which they can enter into separate franchise agreements with local bus operators. A proposed franchising

¹³ Section 138C of the Transport Act 2000.

¹⁴ Section 153 of and Schedule 10 to the Transport Act 2000. Paragraphs 8.25 to 8.60 of the Department for Transport's [The National Bus Strategy Delivering Bus Service Improvement Plans using an Enhanced Partnership: Guidance](#) provides guidance to LTAs on the application of the bespoke competition test.

¹⁵ The Bus Services Act 2017 amended the Transport Act 1985 to include this condition; see section 6D of the amended Transport Act 1985.

¹⁶ In Scotland, an LTA is defined as either a council for a local government area or the Strathclyde Passenger Transport Authority. See section 82(1) of the Transport (Scotland) Act 2001.

framework must be approved by a panel convened by the traffic commissioner before an LTA can implement it.¹⁷

- 2.10 BSIPs, similar to EPs in England, are a statutory partnership in which LTAs in Scotland can specify a range of standards, such as frequencies on certain routes or maximum fare levels. BSIPs involve LTAs in Scotland formulating a plan (called a ‘partnership plan’) with the bus operators in their area and then deciding on how best to implement it through supporting schemes (partnership schemes). Where an LTA in Scotland introduces a BSIP, they need to satisfy a bespoke competition test.¹⁸
- 2.11 LTAs in Scotland have had powers to pursue either franchising or BSIPs since 4 December 2023¹⁹ with further substantive regulations only recently coming into force.²⁰ Currently, only the Strathclyde Partnership for Transport has indicated that it will pursue franchising and has consulted on its Regional Bus Strategy.²¹ There are currently no BSIPs in operation but a number of LTAs are in the process of implementing or planning to implement BSIPs.

Wales

- 2.12 In Wales, the Transport Act 2000 allows LTAs²² to enter into Quality Contracts Schemes (QCSs) which enable them to specify what bus services are provided in an area.²³ However, there currently are no QCSs in Wales as the relevant legislative provisions have not been commenced.
- 2.13 In March 2020, the Welsh Government introduced the Bus Services (Wales) Bill that would have enabled LTAs in Wales to introduce ‘Welsh Partnership Schemes’ and ‘Welsh Franchising Schemes’.²⁴ The Bill was subsequently

¹⁷ Section 13J of Transport (Scotland) Act 2001.

¹⁸ Section 37 of the Transport (Scotland) Act 2001.

¹⁹ See the Schedule to [Transport \(Scotland\) Act 2019 \(Commencement No. 7\) Regulations 2023](#).

²⁰ The following regulations came into force on 1 April 2024: [The Bus Services Improvement Partnerships and Local Services Franchises \(Provision of Information\) \(Scotland\) Regulations 2023](#) (enabling LTAs in Scotland to require bus operators to provide certain information in connection with franchising schemes and BSIP) and [The Bus Services Improvement Partnerships \(Objections\) \(Scotland\) Regulations 2024](#) (specifying the process for operators to object to BSIPs and franchising schemes). The Scottish Government has also recently laid before the Scottish Parliament [The Bus Services Improvement Partnerships \(Multi-operator Travel Cards\) \(Scotland\) Regulations 2024](#) which define the term ‘multi-operator travel card’ for the purpose of a BSIP and are scheduled to come into force on 8 November 2024.

²¹ See [Strathclyde Regional Bus Strategy](#). Strathclyde Partnership for Transport are currently reviewing consultation responses and the outcomes will be reported later in 2024.

²² In Wales, an LTA is defined as a county council or county borough council in Wales. See section 108(4) of the Transport Act 2000.

²³ Sections 124 to 134B of the Transport Act 2000 have only been partially commenced.

²⁴ For further detail of the Bill, see [Bus Services \(Wales\) Bill](#).

withdrawn due to the impact of Covid-19 and EU transition.²⁵ The Welsh Government has since published a white paper that recommends requiring the franchising of bus services across Wales.²⁶ In collaboration with Transport for Wales, the Welsh Government has presented a roadmap report for bus franchising. This report includes a timeline with key milestones to be achieved between 2024 and 2035, with relevant legislation expected to be passed in 2025 and franchising rolled out from 2026.²⁷

Northern Ireland

2.14 The CMA is not aware of any developments impacting the role of the PTTSBE in Northern Ireland.

Overview of the PTTSBE

2.15 The PTTSBE automatically exempts certain types of agreement establishing public transport ticketing schemes ('ticketing schemes') from the Chapter I prohibition insofar as they meet certain conditions set out in the PTTSBE.

2.16 The aim of the PTTSBE is to give companies confidence that their ticketing schemes are legal under the Chapter I prohibition without needing to self-assess against the conditions of the section 9 exemption. It was introduced on the basis that certain ticketing schemes between public transport operators, which may also include local authorities, were likely to meet the conditions of the section 9 exemption.

2.17 Broadly, a 'ticketing scheme' is a written agreement between public transport operators, allowing for passengers to purchase tickets that can be used on the services of more than one of the participating operators.²⁸ For the purposes of the PTTSBE, a ticketing scheme may include different modes of transport (bus, train, tram, metro, ferry and, in limited circumstances, air).²⁹

2.18 To fall within the scope of the PTTSBE, ticketing schemes must fall into one of five categories of scheme. Further details on the types of ticket falling in each

²⁵ See [Withdrawal of Bus Services \(Wales\) Bill](#).

²⁶ See [One network, one timetable, one ticket: planning buses as a public service for Wales](#).

²⁷ [Bus reform for Wales: our roadmap to franchising | GOV.WALES](#).

²⁸ Article 4(2) of the PTTSBE provides a precise definition of a 'public transport ticketing scheme' and with reference to the five categories of schemes discussed in paragraph 2.18 of this Consultation.

²⁹ The PTTSBE applies principally to ticketing schemes for the supply of 'local public transport services,' which are defined by Article 3 of the PTTSBE as including bus services (except tourist services), and road, railway, tramway and inland waterway services (except where those services are long distance, chartered or tourist services). The PTTSBE also applies to ticketing schemes that allow passengers to purchase an add-on to a ticket for a 'connecting service,' which includes road, tramway, railway, inland waterway or air services.

category, including worked examples, are included in the Guidance Document.³⁰ The five types of ticketing schemes are summarised in broad terms in the following table:

Type of scheme	Description
Through ticket (TT)	A ticket for a single or return journey on more than one operator's services, where the operators do not compete on running services for the same part of the route.
Multi-operator individual ticket (MIC)	A ticket for a single or return journey on more than one operator's services, where the operators offer competing services for the same route.
Multi-operator travel card (MTC)	A ticket which offers multiple journeys (at least three) on different operators' services across a number of different routes which are not substantially the same.
Short-distance add-on	An MTC which is an extension to a journey on a local public transport service, where operators do not compete on running services for the same part of the route.
Long-distance add-on	A single operator local service ticket, an MTC or TT which is an extension to an individual long-distance journey (which is fifteen miles or more) on one or more connecting services.

2.19 To benefit from the PTTSBE, public transport operators must implement their agreement in line with the conditions set out in the PTTSBE.³¹ The conditions that a ticketing scheme must satisfy differ between each of the categories.³² If an agreement meets the conditions of the PTTSBE, it benefits from an automatic exemption. Parties to an agreement need to satisfy themselves that the agreement meets the conditions set out in the PTTSBE and be in a position to prove this.³³

³⁰ See paragraphs 3.3 to 3.21 of the Guidance Document.

³¹ Article 5 of the PTTSBE provides that it has effect subject to the conditions and obligations specified in Articles 6 to 17 (which set out the conditions to qualify for exemption). For further explanation, see Part 4 of the CMA's PTTSBE Guidance.

³² Articles 6 to 9 of the PTTSBE set out general conditions that apply to all public transport ticketing schemes and Articles 11 to 16 set out specific conditions that only apply to certain categories of ticketing schemes.

³³ See paragraph 2.12 of the Guidance Document.

- 2.20 The PTTSBE was first introduced in 2001 and its duration has been extended several times. Most recently, the CMA reviewed the PTTSBE in 2015 and recommended to the then Secretary of State for Business, Innovation and Skills that it should be renewed for a further ten-year period until 28 February 2026.³⁴ The CMA also recommended the definition of MTCs be simplified and the requirement that tickets be purchased in a single transaction be removed.
- 2.21 The Secretary of State accepted the CMA's recommendation and exercised his powers under the CA98 to make an order amending the PTTSBE and extending the duration of the PTTSBE to 28 February 2026 as recommended by the CMA.

Recent developments and the PTTSBE

- 2.22 In its review, the CMA has considered the possible impact of the recent developments, outlined above, on the PTTSBE.
- 2.23 Under franchising schemes, the bus route, services, timetables and frequencies as well as any service quality standards will be determined entirely by the franchising authority. Once a scheme has been introduced, no other operators can run bus services within the area unless the authority has given its approval.³⁵ Where bus services are organised by LTAs through franchise schemes, there may be less scope for operators to enter into agreements with one another to establish ticketing schemes, as ticketing will be centrally organised by the LTA. Accordingly, the implementation of franchising schemes may affect the extent to which local bus operators rely on the PTTSBE.
- 2.24 The outcomes required by an EP or BSIP may mean that local bus operators need to enter into agreements in order to deliver those outcomes, which may include introducing ticketing schemes. For example, two or three operators on a route may need to coordinate timetables to achieve the route frequency required by the EP or BSIP. For these agreements, where they are certified by LTAs as contributing to the improvement of bus service provision, the Chapter I prohibition is disapplied, and replaced by a separate prohibition.³⁶
- 2.25 Where local bus operators enter into an agreement pursuant to an EP or BSIP, the agreement will be exempt from the separate prohibition if it satisfies

³⁴ See paragraphs 6.1 of the [Final report and recommendations to the Secretary of State](#).

³⁵ Section 123A(5) of the Transport Act 2000; 13A(4) of the Transport (Scotland) Act 2001.

³⁶ For EPs, see paragraph 20 of Schedule 10 to the Transport Act 2000; for BSIPs, see paragraph 19 of the Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023.

a bespoke competition test.³⁷ The bespoke competition test requires that an agreement:

- (a) contributes to the attainment of one or more of the bus improvement objectives;
- (b) does not impose restrictions which are not indispensable to the attainment of those objectives; and
- (c) does not give the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the services in question.

2.26 The CMA expects ticketing schemes to be introduced under EPs and BSIPs as they roll out. Where a scheme is established by local bus operators under an EP or BSIP, they are subject to the bespoke competition test, and are not subject to the conditions of the PTTSBE.³⁸ The disapplication of the Chapter I prohibition for certain agreements under EPs or BSIPs and the bespoke competition test issue may affect the extent to which the PTTSBE continues to be relied upon by local bus operators.

2.27 The impact of franchising schemes, EPs and BSIPs is considered as part of the CMA's assessment of the ongoing relevance of the PTTSBE in the following section.

³⁷ For EPs, see paragraph 22 of Schedule 10 to the Transport Act 2000; for BSIPs, see paragraph 21 of the Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023.

³⁸ Paragraph 3.12 of the CMA's [Bus Enhanced Partnerships: Advice for Local Transport Authorities](#) states that '[w]hilst the CMA considers that any new or existing ticketing scheme which fulfils the criteria of the [PTTSBE] will automatically pass the [bespoke competition test], ticketing schemes introduced under an EP need not abide additionally by the rules and restrictions of the [PTTSBE].'

3. Assessing whether the PTTsBE remains appropriate

Context

- 3.1 This review of the PTTsBE takes into account previous work undertaken by the CMA and OFT. We have also been conscious during our review of the recent developments discussed above and broader Governmental transport policy.³⁹
- 3.2 For the purposes of this review, the CMA has assessed whether a sector-specific block exemption remains appropriate by reference to the following four factors:
- (a) There remains sufficient certainty that public transport ticketing schemes are agreements that are likely to be exempt from the Chapter I prohibition by meeting the conditions of the section 9 exemption.
 - (b) The category of agreements are ‘special’ in that, in comparison with other agreements, they require an enhanced need for cooperation for them to be concluded and implemented.
 - (c) There are sufficient benefits brought by a block exemption compared to self-assessment under the CA98.
 - (d) Alternative, reasonable and practicable arrangements cannot be concluded that would create even greater benefits to consumers or that would otherwise be more appropriate.
- 3.3 The following section considers the application of those factors in relation to public transport ticketing schemes. In considering each of these factors, we have considered the implications of the recent developments on the transport sector in general, as discussed in section 3 above.

Factor 1: Sufficient certainty on the application of the section 9 exemption

- 3.4 For the section 9 exemption to apply to a particular agreement, the following conditions must all be fulfilled:
- (a) The agreement must contribute to improving the production or distribution of products or contribute to promoting technical or

³⁹ For example, [Getting Britain Moving: Labour's Plan to Fix Britain's Railways](#).

economic progress. The attainment of these objectives will be referred to as 'efficiencies.'

- (b) Consumers must receive a fair share of the resulting benefits.
- (c) The restrictions must be indispensable to the attainment of the efficiencies.
- (d) The agreement must not afford the parties the possibility of eliminating competition in respect of a substantial part of the products concerned.

3.5 The following section sets out in *general* terms whether public transport ticketing schemes are *likely* to satisfy the conditions of the section 9 exemption. This reflects the legal basis on which the CMA may recommend to the Secretary of State that a block exemption be made.⁴⁰

3.6 Having set out the potential effects of public transport ticketing schemes in general terms, the CMA considers whether it has sufficient certainty, based on the available information, on the application of the section 9 exemption.

Efficiencies

3.7 In 2015, the CMA concluded that public transport ticketing schemes contribute to improving production or distribution, or promoting technical or economic progress.⁴¹ The CMA's previous review identified that ticketing schemes covered by the PTTSBE potentially deliver the following benefits for passengers, operators and other consumers:

- (a) better quality bus services and improved transport networks;
- (b) flexibility of choice on specific routes;
- (c) increased geographical coverage of services for passengers by linking routes of operators; and
- (d) increased patronage on public transport.⁴²

3.8 During the CMA's recent engagement undertaken as part of its review, stakeholders identified both better quality bus services and improved transport

⁴⁰ Under section 6(1) of the CA98, the CMA may recommend a block exemption if agreements which fall within a particular category of agreement are, in the opinion of the CMA, likely to be exempt agreements (meaning agreements which are exempt from the Chapter I prohibition as a result of section 9.

⁴¹ Paragraphs 2.11 to 2.12 of the Final report and recommendations to the Secretary of State.

⁴² Paragraph 2.7 of the Final report and recommendations to the Secretary of State.

networks as benefits of public transport ticketing schemes.⁴³ Some stakeholders also identified the separate benefit of flexibility of choice on specific routes.⁴⁴ While they did not explicitly raise the other benefits identified in the CMA's previous review, there is no evidence to suggest that these benefits no longer arise under such schemes. In addition, stakeholders also suggested that public transport ticketing schemes may have environmental benefits. For example, First Bus, in its response to the CMA's call for inputs, advised that the PTTSBE encourages consumers to travel by public transport which reduces emissions from other forms of transport (such as cars).⁴⁵

3.9 Some stakeholders also highlighted that the PTTSBE facilitates multi-modal travel, which EPs, BSIPs and franchising arrangements (discussed in the previous section) are unable to facilitate because they only apply to bus services.⁴⁶ Multi-modal ticketing schemes enable consumers to purchase a single ticket that is valid on different modes of transport (eg bus, rail and tram).⁴⁷ In its response, one stakeholder explained that multi-modal ticketing schemes 'overwhelmingly benefit passengers' by providing 'an end-to-end public transport option.'⁴⁸ Separately, the CMA was advised that consumers benefit from purchasing multi-modal tickets as they are easier and more cost effective than buying individual tickets for separate modes of transport.⁴⁹

3.10 Based on the evidence that the CMA has reviewed, the CMA provisionally considers that public transport ticketing schemes continue to provide the efficiencies identified above. It has seen no evidence that the efficiencies provided by such schemes have been affected by the recent developments discussed in the previous section.

⁴³ *Network One Ticketing response to CMA's PTTSBE call for inputs*, page 4, *Oxford Bus Company response to CMA's PTTSBE call for inputs*, page 1, *TravelMaster response to CMA's PTTSBE call for inputs*, page 3 and *Office of Rail and Road's response to the CMA's PTTSBE call for inputs*, paragraph 5 and 6.

⁴⁴ *Network One Ticketing response to CMA's PTTSBE call for inputs*, page 4, *First Bus response to CMA's PTTSBE call for inputs*, page 3 and *Peninsula Transport Sub-National Transport Body response to CMA's PTTSBE call for inputs*, page 1.

⁴⁵ *First Bus response to CMA's PTTSBE call for inputs*, page 3

⁴⁶ *First Bus response to CMA's PTTSBE call for inputs*, page 3.

⁴⁷ For example, the System One Travel scheme enables passengers to travel on services provided by buses, trams and trains throughout Greater Manchester; see *Confederation of Passenger Transport response to CMA's PTTSBE call for inputs*, page 2.

⁴⁸ *Rail Delivery Group response to CMA's PTTSBE call for inputs*, page 3

⁴⁹ *TravelMaster response to CMA's PTTSBE call for inputs*, page 2.

Consumers must receive a fair share of the resulting benefits

- 3.11 In 2015, the CMA concluded that the ticketing schemes covered by the PTTSBE allow consumers a fair share of the resulting benefit.⁵⁰
- 3.12 As part of its review, the CMA's asked transport operators and authorities, and organisations connected to the transport industry whether consumers continue to receive a fair share of the benefits associated with public transport ticketing schemes. Stakeholders identified the following benefits of public transport ticketing schemes that consumers receive:
- (a) *Choice*: Consumers have an increased choice in terms of both the number of operators and services and form of transport they can use.⁵¹
 - (b) *Affordability*: Tickets purchased as part of public transport ticketing schemes are normally less expensive than the cost of buying multiple individual tickets.⁵²
 - (c) *Convenience*: Consumers can purchase a single ticket that is valid on multiple operators rather than purchasing multiple tickets for different operators.⁵³
- 3.13 On the basis of its review, the CMA provisionally considers that consumers continue to receive a fair share of the benefits generated by the ticketing schemes covered by the PTTSBE. The CMA has seen no evidence that consumer benefits provided by such schemes have been reduced by the recent developments discussed in the previous section.

The restrictions must be indispensable to the attainment of the efficiencies

- 3.14 As noted, the PTTSBE contains general conditions that apply to all ticketing schemes and also different conditions that apply to each of the different schemes. The varying conditions were put in place following the OFT's review in 2005 to ensure that the balance of the PTTSBE satisfied the need to ensure that the ticketing schemes covered by it do not impose restrictions that are not indispensable to the benefits flowing from the agreement, and the

⁵⁰ Paragraph 2.15 of the Final report and recommendations to the Secretary of State.

⁵¹ *Peninsula Transport Sub-National Transport Body response to CMA's PTTSBE call for inputs*, page 2; and *Confederation of Passenger Transport response to CMA's PTTSBE call for inputs*, page 4; *Urban Transport Group response to CMA's PTTSBE call for inputs*, paragraph 8.3.

⁵² *First Bus response to CMA's PTTSBE call for inputs*, page 3; *TravelMaster response to CMA's PTTSBE call for inputs*, page 2; and *Urban Transport Group response to CMA's PTTSBE call for inputs*, paragraph 8.3.

⁵³ *Transport Focus response to CMA's PTTSBE call for inputs*, page 1; *Office of Rail and Road's response to the CMA's PTTSBE call for inputs*, paragraph 3, and *Strathclyde Partnership for Transport response to CMA's PTTSBE call for inputs*, page 3.

CMA's review in 2015 concluded that there was no evidence to suggest that the position had changed.

- 3.15 The CMA has not received any evidence that there have been developments that would alter its previous view that the conditions of the PTTSBE ensure that ticketing schemes do not impose restrictions that are not indispensable to the benefits that they create for consumers.
- 3.16 Accordingly, the CMA's provisional conclusion is that relevant ticketing schemes are likely to meet the indispensability condition.

The agreement must not afford the parties the possibility of eliminating competition in respect of a substantial part of the products concerned

- 3.17 As noted above, the PTTSBE contains conditions that are designed to ensure that ticketing schemes within the scope of the PTTSBE do not eliminate competition in respect of a substantial part of the services in question, in particular that the schemes must be open to all operators, and that operators retain commercial freedom to set their own fares, services and timetabling. The PTTSBE also contains restrictions on information sharing by limiting the ability to share information to only the information that is indispensable to that scheme.
- 3.18 The CMA continues to have no evidence or grounds to suggest that the PTTSBE is likely to eliminate competition on a substantial part of the market for transport services.
- 3.19 On that basis, the CMA provisionally concludes that this condition of the Section 9 exemption is also likely to be met.

Factor 2: Enhanced need for cooperation

- 3.20 Previously, the CMA, in 2015, and, prior to that the OFT in 2010, concluded that ticketing schemes require an enhanced level of cooperation in comparison with other sectors of the economy.⁵⁴ In those reviews, it was considered that consumers highly value the integration of the ticketing network as that enables them to travel more easily throughout the ticketing area (despite using the services of multiple operators) and often at lower cost than if they had to purchase multiple single tickets from different operators.

⁵⁴ Paragraphs 2.24 to 2.26 of the Final report and recommendations to the Secretary of State; paragraphs 4.28 to 4.30 of [Public Transport Ticketing Schemes Block Exemption Review: Proposal to recommend that the duration of the Block Exemption is extended](#) (2010).

The view was taken that such ticketing schemes would not be feasible without agreements between transport operators.

- 3.21 During the CMA's review, several stakeholders confirmed the need for transport operators to work together to offer ticketing schemes that provide consumers with integrated ticketing products. These stakeholders considered the PTTSBE essential in ensuring that transport operators can continue to promote and work jointly on ticketing schemes for the benefit of consumers.⁵⁵
- 3.22 On the basis of the above, the CMA provisionally considers that ticketing schemes covered by the PTTSBE have an enhanced need for cooperation for them to be concluded and implemented.

Factor 3: Sufficient benefits brought by a block exemption compared to self-assessment under the CA98

- 3.23 In the absence of the PTTSBE, parties to public transport ticketing schemes would need to self-assess compliance with the CA98 and ensure that they met the conditions of the section 9 exemption. The CMA has considered whether there are sufficient benefits to justify maintaining the PTTSBE compared to public transport operators instead needing to assess their schemes individually against the conditions of the section 9 exemption.
- 3.24 The advantages of the PTTSBE for public transport ticketing schemes result from:
- (a) the *overall* benefits produced by any public transport ticketing schemes which – absent the PTTSBE – public transport operators would not have entered into; and
 - (b) for those public transport ticketing schemes which public transport operators would still have entered into absent the PTTSBE, any reductions in public transport operators' competition law compliance costs that would have been facilitated by the PTTSBE.
- 3.25 Therefore, the CMA has considered whether letting the PTTSBE expire would result in either or both:

⁵⁵ CMA meeting with Oxford Bus Company, 22 May 2024; CMA meeting with Urban Transport Group, 11 June 2024; Peninsula Transport Sub-National Transport Body response to CMA's PTTSBE call for inputs, page 1; Strathclyde Partnership for Transport response to CMA's PTTSBE call for inputs, page 2; and TravelMaster response to CMA's PTTSBE call for inputs, page 2.

- (a) public transport operators *terminating* the public transport ticketing schemes to which they are currently party, or deciding not to enter into future schemes; and/or
- (b) significant additional costs for public transport operators to carry out self-assessments of their schemes.

3.26 In the CMA's review, stakeholders indicated that the cost of self-assessment (as a result of obtaining independent professional advice) would mean that some public transport ticketing schemes would no longer be commercially viable or be worth the risk in the case of those schemes that are minimally profitable currently.⁵⁶ It was explained to the CMA that this would lead to schemes being terminated or public transport operators deciding not to enter future schemes.⁵⁷ Stakeholders also explained that expiration of the PTTSBE would likely affect smaller schemes to a greater extent because operators party to such schemes would be less capable or confident of undertaking self-assessment.⁵⁸

3.27 While some stakeholders advised that implementation of EPs, BSIPs and franchising arrangements may have an impact on the extent to which the PTTSBE is relied upon for certain bus-only ticketing schemes, they explained that implementation of such arrangements is at an early stage and the PTTSBE would be relied upon by transport operators for pre-existing schemes.⁵⁹

3.28 Most stakeholders were clear that the PTTSBE is needed to facilitate multi-modal ticketing schemes. As explained above, a multi-modal scheme is one that allows passengers to purchase tickets that are valid on multiple modes of transportation (eg train and bus services). Stakeholders explained that the PTTSBE would continue to be relied upon by transport operators providing multi-modal ticketing schemes because EPs, BSIPs and franchising arrangements only apply to bus services and do not apply to other modes of

⁵⁶ *First Bus response to CMA's PTTSBE call for inputs*, page 2; *CMA meeting with Rail Delivery Group*, 17 June 2024.

⁵⁷ *Oxford Bus Company response to CMA's PTTSBE call for inputs*, page 1; *Rail Delivery Group response to CMA's PTTSBE call for inputs*, page 2; *Transport Focus response to CMA's PTTSBE call for inputs*, page 2; *Urban Transport Group response to CMA's PTTSBE call for inputs*, paragraphs 3.4 to 3.5.

⁵⁸ *TravelMaster response to CMA's PTTSBE call for inputs*, page 2.

⁵⁹ In its meeting with the CMA, the Urban Transport Group suggested that usage of the PTTSBE may be reduced by implementation of EPs and franchising arrangements in England, although it would still remain relevant and necessary; *CMA meeting with Urban Transport Group*, 11 June 2024. In its response to the CMA, the Strathclyde Partnership for Transport explained that '[t]he introduction of new powers in Scotland could have impacts on PTTSBE. However, as yet, there is no experience to draw upon since the new powers have not yet been used'; see *Strathclyde Partnership for Transport response to CMA's PTTSBE call for inputs*, page 2.

transport covered by the PTTSBE.⁶⁰ One stakeholder described the PTTSBE as ‘critical’ for multi-modal ticketing schemes and explained that ‘[u]nless the EP powers were increased to cover all transport modes...there is no reason that the PTTSBE should not continue in perpetuity’.⁶¹ Another stakeholder advised that ‘it is unlikely that [multi-modal] schemes would come to fruition [without the PTTSBE] as the effort and risk of navigating them through the self-assessment process in relation to the Chapter I prohibition would outweigh their commercial benefit’.⁶²

3.29 Stakeholders identified cross-boundary ticketing schemes as another instance where there is a continued need for the PTTSBE. A cross-boundary scheme is a scheme agreed between transport operators that applies across the boundaries of two or more local authority areas.⁶³ One stakeholder explained that enabling consumers to travel across local authority boundaries was particularly important in rural areas.⁶⁴ Another stakeholder noted that the PTTSBE was particularly relevant to cross-boundary ticketing schemes.⁶⁵ Several stakeholders explained that (even in circumstances where EPs, BSIPs and franchising arrangements have been implemented) transport operators will still need to rely on the PTTSBE when offering such cross-boundary schemes.⁶⁶ A separate stakeholder also explained that although two or more LTAs could jointly implement a cross-border ticketing scheme, under an EP (or BSIP), in practice, this would be difficult to achieve because it would require a high degree of coordination between LTAs which are likely to have different priorities.⁶⁷ The same stakeholder has confirmed they are unaware of any LTAs jointly implementing a cross-border ticketing scheme.

3.30 Some stakeholders advised that LTAs may decide not to use EPs or BSIPs to establish new bus ticketing schemes.⁶⁸ As explained to the CMA, this may be

⁶⁰ *First Bus response to CMA’s PTTSBE call for inputs*, page 3; *TravelMaster response to CMA’s PTTSBE call for inputs*, page 2; *Urban Transport Group response to CMA’s PTTSBE call for inputs*, paragraph 4.2; *West Yorkshire Ticketing Company response to CMA’s PTTSBE call for inputs*, page 1.

⁶¹ *TravelMaster response to CMA’s PTTSBE call for inputs*, page 2.

⁶² *Rail Delivery Group response to CMA’s PTTSBE call for inputs*, page 2.

⁶³ Examples of cross-boundary ticketing schemes include the [Reading All-Bus](#) scheme, which extends into Wokingham, West Berkshire and Oxfordshire, and the [PlusBus](#) scheme, which enables customers to add bus and tram tickets to their train ticket.

⁶⁴ *Peninsula Transport Sub-National Transport Body response to CMA’s PTTSBE call for inputs*, page 1.

⁶⁵ *Urban Transport Group response to CMA’s PTTSBE call for inputs*, paragraph 6.6.

⁶⁶ On cross-boundary schemes, First Bus explained to the CMA that schemes, such as PlusBus, that operate across local authority boundaries would still rely on the PTTSBE notwithstanding the implementation of EPs, BSIPs or franchising arrangements; *CMA meeting with First Bus and Confederation of Passenger Transport*, 11 June 2024. See also *Confederation of Passenger Transport response to CMA’s PTTSBE call for inputs*, page 4.

⁶⁷ *CMA meeting with Oxford Bus Company*, 22 May 2024.

⁶⁸ *CMA meeting with Oxford Bus Company*, 22 May 2024; *Urban Transport Group response to CMA’s PTTSBE call for inputs*, paragraph 6.5.

because establishing such schemes is considered too costly and/or the complexity associated with such schemes means that it is easier to implement ticketing schemes by relying on the PTTSBE. These stakeholders considered that the PTTSBE would continue to be relied upon by transport operators establishing ticketing schemes outside the scope of an EP or BSIP.

- 3.31 While one stakeholder suggested that it would still consider entering into ticketing schemes in the absence of the PTTSBE because it had relevant expertise to undertake self-assessment, it also explained that the operators of smaller schemes serving lower numbers of customers would be less able to undertake self-assessment without additional support.⁶⁹ A separate stakeholder advised that the additional costs of self-assessment, where it was pursued, would need to be passed on to consumers in the form of higher ticket prices which may in many instances remove the consumer benefit of reduced ticket prices.⁷⁰
- 3.32 In light of the above, the CMA provisionally considers that transport operators will continue to enter into public transport ticketing schemes outside of EPs/BSIPs and franchising arrangements and that there is a real risk that, without the PTTSBE, at least some public transport operators would withdraw from existing public transport ticketing schemes and would be reluctant to join future schemes. In particular, stakeholders have indicated that, in many cases, operators were unlikely to be willing to join ticketing schemes in the absence of the PTTSBE due to the additional costs associated with self-assessment, and concerns that the agreement could risk infringing competition law with the associated risk of exposure to enforcement action under the CA98.
- 3.33 Transport operators and representative organisations connected to the public transport industry have informed the CMA that the PTTSBE is an invaluable tool that enables a degree of enhanced cooperation. Responses to the review strongly suggested that operators would be reluctant to undertake a self-assessment for compliance of multi-operator and multi-modal ticketing schemes and other schemes not covered by new legislative arrangements (such as cross-boundary schemes) with the CA98. The general view expressed by respondents was that if a scheme does not fall within the PTTSBE then the lack of legal certainty and the costs associated with self-assessment of compliance with section 2 or exemption under section 9 would

⁶⁹ *TravelMaster response to CMA's PTTSBE call for inputs*, page 1. As an example of a smaller scheme, TravelMaster gave the example of the [Derbyshire Wayfarer](#) ticketing scheme which retails a significantly lower number of ticket in comparison to TravelMaster's ticketing scheme.

⁷⁰ *TravelMaster response to CMA's PTTSBE call for inputs*, page 1.

be too great to justify notwithstanding the potential benefits (for the operator and consumers).

Factor 4: Alternatives not available

3.34 As discussed in the previous section, in many cases franchising arrangements or ticketing schemes introduced under either an EP or BSIP are not suitable alternatives to the PTTSBE. In particular, the PTTSBE is still required to facilitate cooperation between transport operators for multi-modal as well as other schemes that are not possible under EPs, BSIPs or franchising arrangements, and considered to be valuable for facilitating cross-boundary ticketing schemes.⁷¹ Our provisional finding is therefore that there are currently no alternative, reasonable and practicable arrangements to facilitate ticketing schemes not covered by franchising arrangements, an EP or BSIP that could deliver even greater benefit to passengers, or which would otherwise be more appropriate.

General recommendation

3.35 The CMA's provisional view, based on evidence gathered in its review, is that that PTTSBE continues to satisfy the four factors we have applied for considering whether a block exemption is necessary. The CMA provisionally considers that the PTTSBE remains a relevant and useful tool for businesses that provides legal certainty compared to a situation where businesses would have to rely solely on self-assessment. It considers the PTTSBE will support the operation of ticketing schemes that would otherwise not be undertaken or that might otherwise cease operation.

3.36 The CMA is therefore minded to recommend the continuation of the PTTSBE. This could be achieved by the Secretary of State amending the existing PTTSBE to extend the duration or by adopting a new consolidated Order.

3.37 In reaching its provisional recommendation, the CMA has considered the impact of recent developments in local transport services (described at paragraphs 2.1 to 2.14 above). Notwithstanding such developments, the CMA provisionally considers that the PTTSBE continues to play an important and significant role in giving transport operators the confidence to engage in cooperation in public transport ticketing, which has benefits for consumers in the form of better and wider service provision, consumer choice and prices. In particular, even in those parts of the UK where EPs, BSIPs and franchising

⁷¹ CMA meeting with First Bus and Confederation of Passenger Transport, 11 June 2024.

arrangements for local bus services have been implemented, operators currently appear to continue to rely to some extent on the PTTSBE for schemes that operate outside of those arrangements. Furthermore, the PTTSBE appears to be relevant for other ticketing schemes, including, cross-boundary and multi-modal schemes.

Policy questions

Question 1: Do you agree with the CMA's provisional assessment in section 3 that PTTSBE remains relevant to businesses despite recent developments in the provision of local bus services (eg the development of EPs, BSIPs and franchising arrangements)? Please provide the evidence and reasoning behind your answer.

Question 2: Do you agree with the CMA's proposed recommendation that there is a continuing need for the PTTSBE? In your view, are there other recommendations that the CMA should consider? Please provide the evidence and reasoning behind your answer.

Impact questions

Question 3: If the PTTSBE were allowed to expire and transport operators needed to carry out a self-assessment of the application of the Chapter I prohibition, how would this affect your business or those that you represent? Please consider how these costs differ from costs currently incurred when determining whether an agreement falls within the PTTSBE.

Question 4: Please describe and provide evidence how the PTTSBE currently affects UK consumers. How would UK consumers be affected if the PTTSBE were allowed to expire?

Question 5: If the PTTSBE were allowed to expire, how would this affect cross-border ticketing schemes? Please provide the reasoning behind your answer.

4. The PTTSBE: Does it need to be varied?

4.1 In addition to assessing whether there is a continuing need for the PTTSBE, the CMA's review has also considered whether there is a case for varying any of its provisions. Some stakeholders identified areas where they believed that the PTTSBE might be varied to improve or clarify its operation or scope. We consider these potential amendments to the PTTSBE below.

Definition of 'ticket'

4.2 The PTTSBE defines a 'ticket' in Article 3 as 'evidence of a contractual right to travel.' The Guidance Document sets out that the CMA considers the current definition to cover smart tickets, including electronic tickets and situations where the ticket product is not determined until later, and that the exact form of the entitlement to travel is irrelevant to the application of the PTTSBE conditions.⁷²

4.3 The majority view expressed to the CMA during its review was that the current definition of 'ticket' did not require variation. A few stakeholders highlighted that smart ticketing is now used widely, with physical tickets no longer being issued for certain schemes. They questioned whether contactless payment methods in multi-operator ticketing schemes are covered by the PTTSBE.⁷³ In particular, it was explained that there was uncertainty as to coverage of the PTTSBE where consumers only have their bank statement as proof of their contractual right to travel.⁷⁴

4.4 A separate issue raised by a few stakeholders is whether the current definition of 'ticket' should cover multi-operator tickets purchased through a Mobility-as-a-Service (MaaS) platform.⁷⁵ In general terms, a MaaS platform is a service that integrates various forms of transport services into a single platform which is accessible to consumers on a digital application.⁷⁶ This enables a consumer to purchase multi-modal packages and may cover transport modes

⁷² Paragraphs 3.5 and 3.6 of the Guidance Document.

⁷³ *Confederation of Passenger Transport response to CMA's PTTSBE call for inputs*, page 6; *First Bus response to CMA's PTTSBE call for inputs*, page 5; *Urban Transport Group response to CMA's PTTSBE call for inputs*, paragraph 13.1.

⁷⁴ *CMA meeting with First Bus and Confederation of Passenger Transport*, 11 June 2024.

⁷⁵ *TravelMaster response to CMA's PTTSBE call for inputs*, page 3; *West Yorkshire Ticketing Company response to CMA's PTTSBE call for inputs*, page 2; *Strathclyde Partnership for Transport response to CMA's PTTSBE call for inputs*, page 4.

⁷⁶ Department for Transport, [Guidance: Mobility as a Service: code of practice](#), 30 August 2023.

that are not covered by the PTTSBE (for example, car-sharing, car rental, e-scooters and bike-sharing).

- 4.5 The CMA's view is that current definition of 'ticket' should cover schemes where a consumer only has a bank statement as proof of their ticket where that evidences a contractual right to travel and that no change to the definition is required at the current time. The CMA also considers that tickets purchased via a MaaS platform where they relate to the modes of transport covered by the PTTSBE and demonstrate a contractual right to travel would fall within the current definition of a ticket.
- 4.6 The CMA does not therefore propose to recommend any changes to the definition of 'ticket' in the block exemption. The CMA does, however, propose to modify the Guidance Document to provide clarification that these non-physical and MaaS scenarios are covered.

Zonal bus tickets

- 4.7 During the CMA's review, one stakeholder identified an issue with the definition of 'long distance add-on' in the PTTSBE.⁷⁷ Long-distance add-ons allow passengers to purchase a single-operator local service ticket, MTC or TT, as an extension to a ticket on an individual long-distance route on one or more *connecting services*.⁷⁸
- 4.8 The concern with the current definition, as explained to the CMA, is that it does not allow certain zonal bus tickets to be added to a connecting rail service where that connecting rail service starts in a zonal area that is covered by the bus service.⁷⁹ It was suggested that the current definition be amended because, as presently drafted, it makes it difficult for operators to offer zonal bus tickets which cover large geographic areas as add-ons to connecting rail services.
- 4.9 The CMA's view is that the PTTSBE does not *per se* prevent a zonal bus ticket from being added to a connecting rail service that starts in the zonal area covered by the bus service. However, the current definitions of TT and

⁷⁷ *First Bus response to CMA's PTTSBE call for inputs*, page 5.

⁷⁸ A 'connecting service' is defined in Article 3 of the PTTSBE as a service (other than a bus service, a chartered service or a tourist service) for the carriage of passengers by road, tramway, railway, inland waterway or air which is a long distance service and runs between: (a) a station or stopping place at or in the vicinity of which the relevant local public transport service stops and (b) any other place.'

⁷⁹ *CMA meeting with First Bus and Confederation of Passenger Transport*, 11 June 2024.

MTC, each referred to in the definition ‘long distance add-on,’ do not allow combinations of routes in certain circumstances:

- (a) TT: the ticket must be made on ‘complementary services’, that is services where the operators do not compete with each other over a ‘substantial part of the route’ covered by the ticket;⁸⁰ and
- (b) MTC: a ticket must relate to routes that are ‘not substantially the same’ and, in practice, not be substantially used by passengers as an MIT or TT.

4.10 Broadly, the purpose of these conditions is to ensure that public transport ticketing schemes provide access to a network of *complementary* routes. As a result, a zonal bus ticket cannot be added to a connecting rail service where, for a TT, it is in competition with or, for a MTC, its route is substantially the same as, the connecting service. The Guidance document sets out how transport operators should assess whether routes are substantially the same and whether they are in competition or not.⁸¹ The Guidance explains that this is a matter for transport operators to assess by reference to whether common stops (including adjacent stops) form a substantial part of a relevant route, and/or when routes are considered substitutes by a large proportion of passengers.⁸²

4.11 Neither the PTTSBE nor the Guidance Document require that assessment to make reference to the zone covered by the transport service to be added on to a long distance, connecting service. Rather, two routes cannot be combined if they are competition with one another over a substantial part of the route (for a TT), or if they are substantially the same (for an MTC). The CMA is therefore not minded to change the current definition of ‘long distance add-on’ and considers that the conditions of the current definition remain appropriate.

‘Trunk’ bus services

4.12 The majority of stakeholders did not identify any additional categories of transport ticketing schemes that should be covered by the PTTSBE. However, one stakeholder suggested that the PTTSBE should cover ‘trunk’ bus

⁸⁰ The terms ‘complementary services’ is defined in Article 3 of the PTTSBE as ‘local public transport services which are not in competition with each other over a substantial part of the route covered by the ticket in question.’

⁸¹ Paragraphs 3.25 to 3.36 of the Guidance Document.

⁸² Paragraph 3.28 of the Guidance Document.

services.⁸³ The CMA understands such services to be bus services that have a route that is longer than 15 miles and can be used by:

- (a) some passengers to travel less than 15 miles from their starting point; and
- (b) other passengers to travel longer distances of 15 miles or more from their starting point.⁸⁴

The CMA understands that where passengers can make journeys of less than 15 miles from their starting point, this part of the route should be registered as a local service.⁸⁵ As an example, the stakeholder identified a bus service between Peterborough and Norwich (which is over 80 miles) that is used for long distance travel but is registered as a local bus service.⁸⁶ The stakeholder explained that such services can be used to provide connections for onward destinations.

- 4.13 The stakeholder suggested that the definition of ‘short-distance add on’ be amended to cover ‘trunk’ bus services explicitly.⁸⁷ A ‘short distance add on’ is a ticket where an MTC (eg a bus zonal ticket) is provided as an add-on to a local public transport service (eg bus or train services). As the definition of ‘short distance add on’ only allows an MTC to be added to complementary local transport services, the stakeholder was unclear whether this definition would cover trunk bus services (as defined above). The thinking behind the stakeholder’s suggested change was that it would make clear that operators could offer an MTC as a short distance add-on to trunk bus services.⁸⁸
- 4.14 The stakeholder also explained that a ‘long distance add-on’ allows for an MTC to be added to certain transport modes (such as rail and coach services) covering longer distances (15 miles or more). However, as bus services are excluded from the definition of a ‘long distance add-on’,⁸⁹ transport operators are unable to offer customers such an add-on to ‘trunk’ bus services when being used by passengers to travel longer distances in the same way that rail or other operators can.

⁸³ *First Bus response to CMA’s PTTSBE call for inputs*, pages 4 to 5.

⁸⁴ Section 2 of the Transport Act 1985 defines ‘local services.’

⁸⁵ See page 2 of [Local Bus Service Registration Guide \(England/Wales\)](#); page 5 of [Local Bus Service Registration in Scotland](#).

⁸⁶ *CMA meeting with First Bus and Confederation of Passenger Transport*, 11 June 2024.

⁸⁷ *First Bus response to CMA’s PTTSBE call for inputs*, page 5.

⁸⁸ *First Bus response to CMA’s PTTSBE call for inputs*, pages 4-5.

⁸⁹ This is because the definition of ‘connecting service’ in Article 3 of the PTTSBE explicitly does not include bus services.

- 4.15 Although the stakeholder's suggestion is to amend the definition of a short distance add-on, the CMA considers that trunk bus services are, in effect, long distance services which have some parts operating as local public transport services. The CMA's preliminary view is that trunk bus services should be treated as other long distance services (eg long distance rail services) and it is not aware of any reason why travel operators should be prevented from offering customers add-on tickets for such services.
- 4.16 The CMA's proposal is that the definition of 'connecting service' in Article 3 of the PTTSBE, which currently excludes all bus services, be amended to include trunk bus services. This would mean that where passengers are using a trunk bus service to travel longer distances (i.e. 15 miles or more from their starting point), the travel operator could offer passengers a long distance add-on (an MTC or one of the other types of tickets covered by the definition of long-distance add-on). However, where passengers are using a trunk bus service to make a local journey (i.e. less than 15 miles from their starting point), this should be treated as a local public transport service for the purposes of a 'short distance add-on' (as defined in Article 3) and, consequently, the transport operator would be able to offer that passenger a short distance add-on ticket.

Other provisions

- 4.17 Several stakeholders, during the course of the CMA's review, raised the issue of whether the scope of the PTTSBE should be extended to cover other modes of transport (such as e-scooters or e-bikes) and MaaS platforms.⁹⁰
- 4.18 However, other stakeholders considered that the inclusion of other modes of transport services would complicate the PTTSBE⁹¹ and explained that other modes (such as e-scooters and e-bikes) are forms of personal mobility and are not currently modes of public transport.⁹²
- 4.19 It was also suggested to the CMA that other modes of transport would need to be designated as 'public' before the PTTSBE could be expanded to cover them and that technical issues (such as payment technology) used by

⁹⁰ *Urban Transport Group response to CMA's PTTSBE call for inputs, paragraph 15.1; West Yorkshire Ticketing Company response to CMA's PTTSBE call for inputs, page 2; Strathclyde Partnership for Transport response to CMA's PTTSBE call for inputs, page 4.*

⁹¹ *Confederation of Passenger Transport response to CMA's PTTSBE call for inputs, page 6.*

⁹² *Network One Ticketing response to CMA's PTTSBE call for inputs, page 6.*

companies prevented other modes of transport being included in existing ticketing schemes.⁹³

- 4.20 Notwithstanding the views above in paragraph 4.17, the CMA considers that it is too early in the development of both the new forms of transport and MaaS platforms to adopt a position on their inclusion in the PTTSBE. The CMA will continue to monitor trends in relation to both issues to inform any future reviews of the PTTSBE.

Policy questions

Question 6: Aside from the definition of ‘connecting services’ (discussed below), do you agree with the CMA’s assessment that the definitions in Article 3 of the PTTSBE do not require variation? Please provide the evidence and reasoning behind your answer.

Question 7: Do you agree with the CMA’s view that the definition of ‘public transport ticketing scheme’ in Article 4 of the PTTSBE remains fit for purpose? Please provide the evidence and reasoning behind your answer.

Question 8: Do any of the conditions for categories of ticketing schemes (set out in Articles 6 to 16) of the PTTSBE require variation? Please provide the evidence and reasoning behind your answer.

Question 9: Do you agree with the CMA’s recommendation that ‘trunk’ bus services (as defined in paragraph 4.12 above) should be covered by the PTTSBE’s definition of ‘connecting service’? Please provide the evidence and reasoning behind your answer.

Question 10: Are there variations to the scope of the PTTSBE that have not been considered in this consultation document? Please provide any relevant evidence that you have to support your views.

Question 11: Do you think there should be any further variation of the PTTSBE? If so, please explain how any proposed variation meets the conditions of the section 9 exemption.

⁹³ CMA meeting with Oxford Bus Company, 22 May 2024.

Impact questions

Question 12: What would be the likely impact on your business's operations or the operations of those you represent of including 'trunk' bus services in the PTTSBE?

- (a) Significant positive impact
- (b) Moderate positive impact
- (c) Negligible impact
- (d) Moderate negative impact
- (e) Significant negative impact
- (f) Uncertain / Don't know

Question 13: How would including 'trunk' bus services in PTTSBE, as proposed by the CMA, impact consumers?

- (a) Significant positive impact
- (b) Moderate positive impact
- (c) Negligible impact
- (d) Moderate negative impact
- (e) Significant negative impact
- (f) Uncertain / Don't know

Please provide a short explanation highlighting your reasoning for your answer above.

5. Duration of the PTTSBE

- 5.1 The PTTSBE currently has a duration of ten years and is due to expire on 26 February 2026. When the CMA carried out its review in 2015, it justified a ten-year duration, as compared to the previous five-year duration of the PTTSBE, on the basis that the extended duration would give greater legal certainty and lower the administrative burden.⁹⁴
- 5.2 Section 6(7) of the Act sets out that a block exemption order may provide that the order is to cease to have effect at the end of a specified period. It is clear that there is no obligation to provide an expiry date for an order.
- 5.3 The PTTSBE has been in force since 2001 and, as outlined above, stakeholders have explained that they continue to rely on it in order to provide ticketing schemes. Accordingly, the CMA is provisionally minded to recommend the continuation of the PTTSBE without a fixed duration. Alternatively, if a new consolidated block exemption order should be adopted, that such an order be adopted without a fixed duration. The CMA invites views from interested stakeholders in relation to this point.
- 5.4 As described at paragraphs 2.1 to 2.14 above, there have been various developments, particularly in the provision of local bus services that may have an impact on the role of the PTTSBE and the CMA is aware that further developments in transport services are likely to be implemented in the future. In addition to these developments, there are new forms of transport as well as new ways to provide tickets (such as through MaaS platforms) that may need to be taken into account in the PTTSBE in the future. While the CMA's provisional conclusion is that the developments to date do not call into question the justification for the PTTSBE, it is mindful of the need to keep this under review.
- 5.5 A PTTSBE without a fixed duration would not prevent the CMA from carrying out a review of the PTTSBE at an early stage if market circumstances significantly changed. Moreover, the CMA's provisional view is that it would be appropriate to review the PTTSBE at a point at which the impact of the recent and anticipated future developments in the transport sector are clearer, rather than committing to a fixed timetable created by a set expiry date. In any case, there is a statutory requirement for DBT to carry out and publish a post-

⁹⁴ Paragraph 6.1 of [Final report and recommendations to the Secretary of State](#).

implementation review of any block exemption order within five years of it coming into force and then regularly on a five-year cycle.⁹⁵

- 5.6 An alternative to a PTTSBE without a set expiry date would be a block exemption order with a fixed expiry date that is shorter than the previous ten-year duration to take account of the impact of recent and forthcoming developments in the sector. The CMA provisionally considers that such an approach would not offer the same level of flexibility in allowing the CMA to react swiftly to emerging issues and may commit the CMA to a review at a point at which post-pandemic market trends are still uncertain. For this reason, the CMA is provisionally of the view that a PTTSBE without a set expiry date would be the most appropriate option.

Policy questions

Question 14: The CMA invites views from interested stakeholders on the continuation of the PTTSBE without a fixed expiry date.

Impact questions

Question 15: What would be the likely impact on your business's operations or the operations of those you represent if the PTTSBE was continued without a fixed expiry date?

- (a) Significant positive impact
- (b) Moderate positive impact
- (c) Negligible impact
- (d) Moderate negative impact
- (e) Significant negative impact
- (f) Uncertain / Don't know

Please provide a short explanation highlighting your reasoning for your answer above.

⁹⁵ Section 28 of the [Small Business, Enterprise and Employment Act 2015](#).

Annex A: Consultation Questions

General recommendation

Policy questions

Question 1: Do you agree with the CMA's assessment in section 3 that PTTSBE remains relevant to businesses despite recent developments in the provision of local bus services (eg the development of EPs, BSIPs and franchising arrangements)? Please provide the evidence and reasoning behind your answer.

Question 2: Do you agree with the CMA's proposed recommendation that there is a continuing need for the PTTSBE? Are there, in your view, other recommendations that the CMA should consider? Please provide the evidence and reasoning behind your answer.

Impact questions

Question 3: If the PTTSBE were allowed to expire and transport operators needed to carry out a self-assessment of the application of the Chapter I prohibition, how would this affect your business or those that you represent? Please consider how these costs differ from costs currently incurred when determining whether an agreement falls within the PTTSBE.

Question 4: Please describe and provide evidence how the PTTSBE currently affects UK consumers. How would UK consumers be affected if the PTTSBE were allowed to expire?

Question 5: If the PTTSBE were allowed to expire, how would this affect cross-border ticketing schemes? Please provide the reasoning behind your answer.

Variation of the PTTSBE

Policy questions

Question 6: Aside from the definition of 'connecting services' (discussed below), do you agree with the CMA's assessment that the definitions in Article 3 of the PTTSBE do not require variation? Please provide the evidence and reasoning behind your answer.

Question 7: Do you agree with the CMA’s view that the definition of ‘public transport ticketing scheme’ in Article 4 of the PTTSBE remains fit for purpose? Please provide the evidence and reasoning behind your answer.

Question 8: Do any of the conditions for categories of ticketing schemes (set out in Articles 6 to 16) of the PTTSBE require variation? Please provide the evidence and reasoning behind your answer.

Question 9: Do you agree with the CMA’s recommendation that ‘trunk’ bus services (as defined in paragraph 4.12 above) should be covered by the PTTSBE’s definition of ‘connecting service’? Please provide the evidence and reasoning behind your answer.

Question 10: Are there variations to the scope of the PTTSBE that have not been considered in this consultation document? Please provide any relevant evidence that you have to support your views.

Question 11: Do you think there should be any further variation of the PTTSBE? If so, please explain how any proposed variation meets the conditions of the section 9 exemption.

Impact questions

Question 12: What would be the likely impact on your business’s operations or the operations of those you represent of including ‘trunk’ bus services in the PTTSBE?

- (a) Significant positive impact
- (b) Moderate positive impact
- (c) Negligible impact
- (d) Moderate negative impact
- (e) Significant negative impact
- (f) Uncertain / Don’t know

Question 13: How would including ‘trunk’ bus services in PTTSBE, as proposed by the CMA, impact consumers?

- (a) Significant positive impact
- (b) Moderate positive impact
- (c) Negligible impact

- (d) Moderate negative impact
- (e) Significant negative impact
- (f) Uncertain / Don't know

Please provide a short explanation highlighting your reasoning for your answer above.

Duration of the PTTSBE

Policy questions

Question 14: The CMA invites views from interested stakeholders on the continuation of the PTTSBE without a fixed expiry date.

Impact questions

Question 15: What would be the likely impact on your business's operations or the operations of those you represent if the PTTSBE was continued without a fixed expiry date?

- (a) Significant positive impact
- (b) Moderate positive impact
- (c) Negligible impact
- (d) Moderate negative impact
- (e) Significant negative impact
- (f) Uncertain / Don't know

Please provide a short explanation highlighting your reasoning for your answer above.

Appendix B: Processing of personal data and Government consultation principles

1. In preparing this consultation document, the CMA has taken into account the published government consultation principles, which set out the principles that government departments and other public bodies should adopt when consulting with stakeholders.
2. Any personal data that you supply in responding to this consultation will be processed by the CMA, as controller, in line with data protection legislation. This legislation is the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018. 'Personal data' is information which relates to a living individual who may be identifiable from it.
3. We are processing this personal data for the purposes of our work. This processing is necessary for the performance of our functions and is carried out in the public interest, in order to take consultation responses into account and to ensure that we properly consult on the proposed recommendation to the Secretary of State before it is finalised.
4. For more information about how the CMA processes personal data, your rights in relation to that personal data, how to contact us, details of the CMA's Data Protection Officer, and how long we retain personal data, see our Privacy Notice.
5. Our use of all information and personal data that we receive is also subject to Part 9 of the Enterprise Act 2002. We may wish to refer to comments received in response to this consultation in future publications. In deciding whether to do so, we will have regard to the need to exclude from publication, so far as practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if published, might, in our opinion, significantly harm the individual's interests, or, as the case may be, the legitimate business interests of that business. If you consider that your response contains such information, please identify the relevant information, mark it as 'confidential' and explain why you consider that it is confidential. When submitting your response please also let us know if you wish to remain anonymous.
6. Please note that information and personal data provided in response to this consultation may be the subject of requests by members of the public under the Freedom of Information Act 2000. In responding to such requests, if you have made any representations about the confidentiality of any information contained in your response, we will take such representations into

consideration. We will also be mindful of our responsibilities under the data protection legislation referred to above and under Part 9 of the Enterprise Act 2002.

7. If you are replying by email, this statement overrides any standard confidentiality disclaimer that may be generated by your organisation's IT system.