EXPLANATORY MEMORANDUM TO

THE COMPETITION ACT 1998 (PUBLIC TRANSPORT TICKETING SCHEMES BLOCK EXEMPTION) (AMENDMENT) ORDER 2011

2011 No. 227

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and laid before Parliament by Command of Her Majesty.

   This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

2.1 This Order extends for a further five years an existing block exemption under section 6 of the Competition Act 1998. This exemption was established in 2001 by the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 (S.I. 2001/319). The 2001 Order originally had effect for five years but was extended by the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption)(Amendment) Order 2005 (S.I. 2005/3347) for a further five year period which expires 28 February 2011. The 2001 Order provides that agreements between public transport operators relating to certain ticketing schemes falling within the terms of the block exemption are exempt from the prohibition in Chapter I of the Competition Act 1998.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Chapter 1 of the Competition Act 1998 (the Act) prohibits agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect, the prevention, restriction or distortion of competition within the United Kingdom (or any substantial part of it).

4.2 Section 9(1) of the Act sets out the conditions under which a restrictive agreement is exempt from the Chapter I prohibition.

4.3 Section 6 of the Act empowers the Secretary of State, acting on the recommendation of the Office of Fair Trading (OFT), to make a block exemption order exempting from the Chapter I prohibition agreements that fall within a category the OFT considers are likely to satisfy the conditions for exemption set out in section 9(1) of the Act.

4.4 On 8 February 2001, the Secretary of State exercised his power by making the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 (S.I. 2001/319). The Secretary of State made a further order on 23 January 2006 (S.I. 2005/3347) which varied and extended the 2001 Order for a further five years and expires on 28 February 2011.

4.5 As required under section 8(4) of the Act, the OFT has consulted on its proposals for extending the duration of the existing order before making a recommendation to that effect to the Secretary of State under section 8(3) of the Act.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 In 2001, the then Director General of Fair Trading (now the Office of Fair Trading) concluded that agreements between public transport operators relating to certain types of integrated public transport ticketing schemes were likely to satisfy the conditions for exemption set out in section 9 of the Act. Ticketing schemes were considered to deliver benefits for passengers, transport operators and other consumers by increasing the quality and flexibility of transport services for passengers or by improving the viability of public transport networks. Such ticketing schemes may also result in reductions in road congestion, air and noise pollution, although these potential benefits do not form part of the competition assessment. The OFT recommended that the Secretary of State make a block exemption order for such agreements, providing greater legal clarity for transport operators in circumstances where otherwise such agreements might not take place. In 2005, the OFT recommended that the Secretary of State vary and extend that order for a further five year period.

7.2 The OFT continues to consider that the benefits that the ticketing schemes covered by the block exemption bring to the consumer outweigh any negative effects such schemes have on competition. Consumer benefits are mainly in the form of improvements in the quality and flexibility of public transport ticketing services, for example allowing a consumer to use one ticket for a journey involving travel on more than one operator's services.

7.3 Following a public consultation – the overwhelming majority of respondents to which supported the OFT's proposal – the OFT considers the block exemption for such agreements should be extended without changes to the substance of the block exemptions provisions. In the view of the OFT, the ticketing schemes covered by the block exemption continue to constitute

clearly identifiable categories of public transport ticketing schemes that deliver efficiencies and benefits to consumers without eliminating competition on public transport or allowing restrictions that are not indispensable to obtaining the benefits from the agreement.

7.4 The OFT considers that there is a significant and real risk that the ticketing schemes may not be entered into, and that existing agreements may be terminated, to the detriment of consumers, if the block exemption is not extended. In the OFT's view, this is owing to the fact that benefits to consumers from ticketing agreements are typically substantial but benefits, in particular revenues, to some transport operators may in some instances be relatively small. Also, transport operators may be concerned about the risk of sanction under competition legislation in the absence of the block exemption. Additionally, the need for cooperation in relation to public transport ticketing schemes is considered greater than the need for cooperation in relation to agreements in other sectors.

7.5 The ticketing schemes covered by the block exemption are multi operator travel cards (such as the Oyster card), through tickets, multi operator individual tickets, short and long distance add-ons.

8. Consultation Outcome

8.1 In reviewing whether or not to recommend extending the block exemption, the OFT undertook a public consultation. It received 24 responses which were mostly from transport operators and local authorities. There was widespread agreement from respondees that the block exemption should be extended and that there was no other alternative to regulation that was reasonable and practicable. The OFT's response to the consultation can be viewed at the following link: http://www.oft.gov.uk/shared_oft/consultations/oft1255

9. Guidance

9.1 The OFT published guidance for transport operators which covers an overview and application of the block exemption. The guidance can be found at the following link: http://www.oft.gov.uk/news-and-updates/press/2006/169-06

10. Impact

10.1 An impact assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating Small Business

11.1 This Order applies to small businesses. The consultation responses noted that the block exemption does assist smaller transport operators to compete with larger ones by including their transport services within individual ticketing schemes and receiving the resulting share of revenue. All transport operators

are able to join ticketing schemes. Any transport operator can submit a complaint direct to the OFT for investigation if it finds it has been blocked out of a particular ticketing scheme unfairly.

12. Monitoring and review

12.1 The OFT has a duty to review the block exemption before recommending any further extension when this order expires in 2016. The next review, which will include a public consultation, is planned for 2015. The OFT also has a role in monitoring the use of the block exemption which includes ensuring that agreements between transport operators to provide ticketing schemes meet its criteria.

12.2 The OFT can also recommend that the Secretary of State vary the Order before its expiry in 2016, at any time, should a change in circumstances warrant.

13. Contact

13.1 Paul Bannister at the Department for Business, Innovation and Skills Tel: 0207 215 5009 or e mail paul.bannister@bis.gsi.gov.uk can answer queries regarding this instrument.

Title: **Public Transport Ticketing Schemes Block Exemption** **Lead department or agency:** Department for Business, Innovation and Skills **Other departments or agencies:** Office of Fair Trading	**Impact Assessment (IA)** **IA No:** BIS0262 **Date:** 01/02/2011 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Secondary legislation **Contact for enquiries:** paul.bannister@bis.gsi.gov.uk or 0207 215 5009

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Provision of ticketing schemes such as the multi operator travel cards (e.g Oyster card) require transport operators to enter into agreements which each other in order to share information and revenue. These schemes benefit passengers in purchasing only one ticket for a journey or a number of journeys that may involve a number of different transport operators. Such agreements may breach Section 2 of the Competition Act 1998 (the Act) which prohibits agreements or practices between firms that have the effect of restricting or distorting competition. Travel operators are unlikely to enter into such agreements without the legal certainty provided by a block exemption for which, the Secretary of State is empowered to give, on a recommendation by the Office of Fair Trading.

What are the policy objectives and the intended effects?

Ticketing schemes are considered to promote higher quality transport services and improve the viability and flexibility of public transport networks to the benefit of passengers. The block exemption also benefits transport operators by improving incentives to invest in ticketing schemes without eliminating competition and improve security against fraud. Integrated ticketing schemes would not be possible without agreements between transport operators. The intended effect is to give legal certainty to transport operators to enter into agreements in order to provide ticketing schemes for passengers by removing any risk that they may be investigated or found to be in breach the prohibitions contained within the Competition Act 1998.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

There are 3 policy options considered are: 1) to either extend the block exemption or 2) extend it with variations to its terms, or 3) do nothing, allow it to expire with other reasonable or practicable arrangements put in place without the need for legislation that would have the same effect. Under Section 8(3) of the Competition Act 1998, the OFT has recommended that the block exemption should be extended for a further five years. After its detailed review and consultation, the OFT concluded that this category of agreements are special in that they need to continue an enhanced level of cooperation between transport operators in order to conclude and implement, and that other reasonable arrangements to facilitate joint ticketing schemes could not be concluded that would have created greater benefits to consumers. Significantly, there was a real risk that transport operators would not enter into agreements with each other to ensure to ensure that ticketing schemes work without a sector specific block exemption.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 07/2015 **What is the basis for this review?** Duty to review. **If applicable, set sunset clause date:** 02/2016	
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: 29/1/2011

URN 10/1268 Ver. 2.0 12/10

Summary: Analysis and Evidence

Policy Option 1

Description:

Extend the Duration of the Block Exemption

Price Base Year 2011	PV Base Year 2011	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate: 0**

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	0		0	**0**

Description and scale of key monetised costs by 'main affected groups'

Extending the duration allows transport operators to continue operating ticketing schemes for passengers - it therefore allows business to continue as normal.

Other key non-monetised costs by 'main affected groups'

When the block exemption first came into force in 2001, there would have been some costs to transport operators in setting up processes and systems to work together in order to deliver ticketing schemes to passengers. However, extending the duration of the block exemption does not attract additional costs - it merely allows transport operators to continue business as normal.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	0		0	**0**

Description and scale of key monetised benefits by 'main affected groups'

The benefits accrued through the existence of the block exemption are already in place and it is therefore a case of business as usual. In particular, transport operators have the freedom to enter into agreements. develop and invest in new forms of ticketing agreements that enhance the viability of transport networks and give greater flexibility to passengers.

Other key non-monetised benefits by 'main affected groups'

Such ticketing schemes may also result in reductions in road congestion, air and noise pollution although these potential benefits do not form part of the impact assessment. Ticketing schemes also help to reduce fares for passengers, give flexibility in using various modes of transport to complete journeys and give various options for purchasing tickets. Ticketing schemes also allow transport operators some degree of economy of scale in order to investment in new forms of ticketing schemes.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

The block exemption has now been in operation for over 10 years. It has now been reviewed twice by the OFT and its latest recommendation to the Secretary of State to extend its duration for a further five year period reflects that its a well tested and well operated scheme. Its principle perceived risk is that transport ticketing schemes may be harmful to competition between transport operators and therefore to the interests of passengers. However, the block exemption does include certain conditions which transport operators must meet for its use. These conditions, which were varied when the block exemption was extended in 2006, are designed to protect competition. The OFT considered and consulted on possible further variations for it, but did not recommend any for this order.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: N/A	**Benefits:** N/A	**Net:** N/A	No	IN

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			29/02/2011		
Which organisation(s) will enforce the policy?			Office of Fair Trading		
What is the annual change in enforcement cost (£m)?			0		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** 0		**Non-traded:** 0
Does the proposal have an impact on competition?			Yes		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** N/A		**Benefits:** N/A
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	**Micro** 0	**< 20** 0	**Small** 0	**Medium** 0	**Large** 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	8
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	8
Small firms Small Firms Impact Test guidance	Yes	8
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	8
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	8
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	8
Human rights Human Rights Impact Test guidance	No	8
Justice system Justice Impact Test guidance	No	8
Rural proofing Rural Proofing Impact Test guidance	No	8
Sustainable development Sustainable Development Impact Test guidance	No	8

[1] Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	RIA for 2005 Order - http://www.legislation.gov.uk/uksi/2005/3347/pdfs/uksiem_20053347_en.pdf
2	The OFT's review and consultation document - http://www.oft.gov.uk/shared_oft/consultations/oft1255
3	The OFT's response to its consultation - http://www.oft.gov.uk/shared_oft/consultations/oft1255
4	The OFT's recommendation and report to the Secretary of State - http://www.oft.gov.uk/shared_oft/consultations/ticketing-schemes/PTTS-recommendation.pdf
5	Public Transport Executive Group response to OFT's consultation dated Oct 2010.

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	0	0	0	0	0	0	0	0	0	**0**
Annual recurring cost	0	0	0	0	0	0	0	0	0	**0**
Total annual costs	0	0	0	0	0	0	0	0	0	**0**
Transition benefits	0	0	0	0	0	0	0	0	0	**0**
Annual recurring benefits	0	0	0	0	0	0	0	0	0	**0**
Total annual benefits	0	0	0	0	0	0	0	0	0	**0**

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Public Transport Ticketing Schemes Block Exemption

Background

1. Public transport ticketing schemes (or ticketing schemes) are, broadly speaking, written agreements between transport operators allowing passengers to purchase tickets that can be used on the services of all participating operators. Without ticketing schemes, passengers would only be able to buy from each operator individual tickets valid for use on that operator's services. Examples of ticketing schemes are multi-operator travel cards (Oyster), through tickets, short and long distance add-ons. Use of ticketing schemes by passengers is extensive, for example over 100 million bus trips every year in England alone, use ticketing products that are covered by the block exemption (see reference No.5).

2. Chapter I of the Competition Act 1998 (the Act) prohibits agreements, concerted practices and decisions of associated firms that would have as their object or effect, the prevention or distortion of competition within the United Kingdom, or any part of it. Depending on the scheme in question, such agreements may involve transport operators sharing information on commercial matters including costs in some cases; fixing a common ticket price; and sharing revenue, all of which might constitute a restriction of competition under the Chapter I prohibition of the Competition Act 1998.

Policy Objective

3. Competition remains an important element to growth in the UK economy. The Competition Act 1998 outlaws behaviour that prevents, restricts or distorts competition which should stimulate growth and innovation with the principal benefits falling to the consumer. However, the Act does allow certain agreements that may be considered anti competitive to be exempt from the prohibitions where there are countervailing economic efficiencies, a fair share of the resulting benefit is shared with consumers and the agreement contains only restrictions that are indispensable to achieving the efficiencies and does not eliminate competition in respect of a substantial part of the goods and services in question. Consistent with this, after receiving a recommendation from the Office of Fair Trading, the Secretary of State may by order, exempt certain agreements under Section 6 of the Act. The criteria for agreements to be exempt is set out at Section 9(1) of the Act.

4. Ticketing Schemes are considered to promote higher quality transport services and networks, to the benefit of passengers. For example, they can benefit passengers in enabling them to purchase only one ticket when making journeys involving multiple transport operators. Such ticketing schemes may also result in reductions in road congestion, air and noise pollution, although these potential benefits are indirect.

The Approach and Purpose

5. In 2001, the then Director General of Fair Trading (now Office of Fair Trading) concluded that agreements between public transport operators on certain types of integrated public transport ticketing schemes were likely to satisfy the conditions for exemption set out in Section 9 of the Act. The Secretary of State was recommended to make a block exemption order for such agreements, providing greater legal certainty for transport operators in circumstances where otherwise such agreements might not take place (and avoiding the need for large numbers of overall beneficial agreements to be notified unnecessarily to the OFT under its notification system. The Secretary of State exercised his power in February 2001 by making the

Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 (SI 2001/319).

6. In the light of an OFT recommendation in 2005 that the Secretary of State vary and extend the duration of that order for a further five years, the Secretary of State made a further order on 23 January 2006 (SI 2005 No 3347) which varied and extended the 2001 Order for a further five years and expires on 28 February 2011. The Impact Assessment for this order can be viewed at: http://www.legislation.gov.uk/uksi/2005/3347/pdfs/uksiem_20053347_en.pdf The present order extends the block exemption for a further five years until 28 February 2016.

7. The purpose of the block exemption is to facilitate the development and provision of integrated ticketing schemes by transport operators, subject to certain conditions designed to maintain competition and protect the interests of passengers.

Reasons for Extending the Block Exemption (Option 1)

8. The OFT sought views on the extent to which there is a continued need for a block exemption and whether the types of integrated ticketing schemes under consideration continued to satisfy the conditions for exempt agreements under the Act. Its consultation document can be found at the following link: http://www.oft.gov.uk/shared_oft/consultations/oft1255 There were three options considered. They are:

- Extend the duration of the block exemption (Option 1).
- Extend the duration along with making any variations to the conditions for its use (Option 2).
- Allow the block exemption to expire allowing other reasonable and practicable arrangements to be put in place without the need for legislation (do nothing - Option 3).

9. With regards to Option 2, in its review and consultation the OFT considered whether any variations were necessary to the terms for use of the block exemption by transport operators. The OFT considered minor changes to the way in which revenues are shared between transport operators in individual ticketing schemes and a greater ability for coordination on timetables. None of the consultation respondents believed that the variations were necessary as the current scope of the Order already allowed for these measures to the degree needed for agreements to work efficiently. The OFT accepted these views and therefore did not recommend any variations to the scope of the Order.

Government's Preferred Option (Option 1)

10. The OFT's recommendations to the Secretary of State concluded that:

- There is a clearly identifiable category of beneficial agreements that appear to meet the conditions for exemption under Section 9(1) of the Act.
- 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,
- There was a significant and real risk that the category of agreements will not be entered into in the absence of a sector specific block exemption, and

11. The Secretary of State accepts the arguments made by the OFT and does not consider it appropriate to allow the block exemption to expire in February 2011. The OFT's report and

recommendations to the SofS can be viewed at the following link:
http://www.oft.gov.uk/shared_oft/consultations/ticketing-schemes/PTTS-recommendation.pdf

Alternative to Regulation (Option 3)

12. The Secretary of State also accepts the OFT arguments that there were no alternatives to regulation that that were reasonable and practicable to facilitate joint ticketing arrangement schemes, and which could deliver even greater benefit to passengers, or which would otherwise be more appropriate. Any form of ticketing scheme involving two or more transport operators necessarily means that they must share commercial information and revenues in order to deliver a scheme that has value to the passenger.

OFT Consultation

13. In July 2010, pursuant to Sections 8(1) and 8(4) of the Competition Act 1998, the OFT consulted interested parties on proposals to extend the block exemption. The consultation paper can be viewed at the following link:
http://www.oft.gov.uk/shared_oft/consultations/oft1255 The OFT received a total of 24 responses to the consultation, mostly from transport operators and local authorities. All respondents agreed that without the block exemption, there is a risk that transport operators would not participate in ticketing schemes. Developments in smart ticketing technologies was considered at some length in the consultation and review – specifically whether the current block exemption should have specific provisions to cover developments in new technologies. However, the OFT notes that whilst new modalities of ticketing technologies are being developed, it would be premature to make any substantive changes. Additionally, the Secretary of State can make an Order at any time during the five year period to vary the Order should circumstances change, if so advised by the OFT.. The extension of the duration of the block exemption for a further five year period was consider

14. The OFT's response to the consultation can be viewed at the following link:
http://www.oft.gov.uk/shared_oft/consultations/oft1255

One in One Out

15. This Order is a one in. However, as there are no costs to business, no corresponding measure needs to be identified as out.

Costs and benefits

16. Although there may have been costs when the order was first introduced in 2001 such as transport operators setting up systems and processes to operate in agreements and sharing revenues, there are no costs identified in extending the duration of the Order for a further five years. It is a measure that already allows transport operators to continue operating ticketing schemes in a way they have been doing so for the last ten years and any costs incurred now can be considered as business as usual. It is a measure that transport operators have specifically asked for. The benefits continue to fall to transport operators and substantially to passengers. Ticketing schemes deliver benefits by increasing the flexibility and viability of the transport network, and allowing investment in new ticketing arrangements ensuring that passengers are able to complete a journey involving a number of different transport operators without having to buy separate tickets.

17. The block exemption also avoids the need for large numbers of overall beneficial agreements to be notified unnecessarily to the OFT notification system, though this is now defunct following EU competition law modernisation in 2004.

Monitoring and Review

18. The OFT, as the UK's competition authority is responsible for enforcement and monitoring of the block exemption. It receives and reviews regular reports from transport operators on the operation of agreements under the block exemption to ensure that its provisions are complied with and that any information sharing remains within the provisions provided for by the exemption.

19. The OFT recommends extending the duration of the block exemption by a further five years to 29 February 2016 but plans to review the case to consider changing circumstances in 2015 in advance of the expiry of the extended block exemption. If before 2015 it appears that there are specific developments unlikely to be covered by the block exemption but which merit protection under a block exemption, the OFT will consider earlier whether changes are necessary and appropriate and whether it should make another recommendation to the Secretary of State.

20. A Post Implementation Review will be carried out by the OFT in 2015 before any decision is taken to extend the block exemption again when it expires in 2016.

Specific Impact Tests

21. Competition Assessment impact test. Whilst transport operators are allowed to share information by agreements with each other under the block exemption in a way that may breach the provisions of the Competition Act 1998, these agreements meet the criteria under section 9(1) of the Act which allows such agreements if a fair share of the benefits fall to consumers. The specific criteria is that the agreements must contribute to improving production or distribution, or promoting technical or economic progress whilst allowing consumers a fair share of the resulting benefits.

22. The Secretary of State will make a Block Exemption Order only if the OFT recommends that certain agreements meet the criteria. In this case, the OFT has recommended that these agreements continue to meet this criteria and that there is no other alternative arrangement that is reasonable and practicable to deliver ticketing schemes.

23. Small Firms. This Order applies to small businesses. The responses to the OFT's consultation noted that the block exemption does assist smaller transport operators to compete with larger ones by including their transport services within individual ticketing schemes and receiving the resulting share of revenue. All transport operators, no matter their size and coverage are able to join ticketing schemes. Any transport operator can submit a complaint direct to the OFT for investigation if it finds it has been blocked out of a particular ticketing scheme unfairly.

24. Statutory Equality Duties. After initial screening as to the potential impact of this policy and Order on race, religion and belief, disability, gender, age, gender reassignment, pregnancy and maternity, and sexual orientation equality, it has been decided that there will no impact upon minority groups in terms of numbers affected or the seriousness of the likely impact, or both.

25. Environmental/Social and Sustainable Impacts. Ticketing schemes are considered to bring potential benefits to the environment by reducing road congestion, air and noise pollution by making the transport networks more viable and attractive to passengers. However, these benefits are indirect.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)]; There is a duty placed on the OFT by the Competition Act 1998 to review the Block Exemption, including publicly consulting, before any further extension is given. The extension is considered every five years and a review will be carried out in 2016 on whether or not to extend the order in 2016.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] The aim of the review is to ensure that the block exemption is the indispensable to competition, in other words, that the benefits of the scheme fall as much to passengers as they do transport operators and that there is no other reasonable means of achieving ticketing schemes other than this Order.
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The review takes the form or an investigation into the operation of the current scheme, developments of the market, options for change to the conditions of use of the block exemption and whether it remains necessary or if there are other reasonable mechanisms to achieve the same or greater benefits.
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The do nothing option, which is to allow the block exemption to expire without any further extension.
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Ticketing schemes promote: higher quality transport services, improve the viability of the transport network and allow transport operators to invest in new ticketing schemes and achieve an economy of scale. They help to reduce fares of passengers, give flexibility in purchasing options, synchronise modes of transport without having to purchase individual tickets when using different modes of transport to complete a single journey which also improves provision of transport between operators.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] The OFT are also responsible for monitoring the operation of the block exemption and have a commitment to bring to the attention of the Secretary of State any information relevant that may require his action to either revoke or amend the order before it is due for its formal review in 2015. The OFT receives regular reports from transport operators and can commit its own surveys to collect data.
Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here] N/A