EXPLANATORY MEMORANDUM TO

THE COMPETITION ACT 1998 (PUBLIC TRANSPORT TICKETING SCHEMES BLOCK EXEMPTION) (AMENDMENT) ORDER 2025

2025 No. 1247

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Peter Kyle, Secretary of State at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Alex Williams, SCS1 for Competition Policy, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Tasmia Qureshi at the Department for Business and Trade, email: CompetitionPolicy@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Order amends the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 (S.I. 2001/319) (PTTSBE). The PTTSBE automatically exempts certain types of agreements establishing public transport ticketing schemes ("ticketing schemes") from the prohibition in Chapter 1 Part 1 of the Competition Act 1998 ("the Act") (which prohibits agreements that prevent, restrict or distort competition) insofar as they meet certain conditions set out in the PTTSBE. Ticketing schemes can enable passengers to purchase tickets or travel cards that are valid on the services of all participating operators. Without these schemes, passengers might have to buy separate tickets from each operator they use.

4.2 This Order varies the PTTSBE so that it will not expire on 28th February 2026 but will continue without fixed duration. It also makes an amendment to clarify how the exemption relates to "trunk bus services" which are, in effect, long distance services which also have some parts operating as local public transport services. The Order also omits the definition of "working day" in the PTTSBE. This amendment is incidental or supplemental and is intended to ensure that the definition of "working day" for the purposes of the PTTSBE is consistent with that in section 59(1) of the Act.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the entirety of the United Kingdom.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the entirety of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 Competition law and its enforcement contribute to ensuring that market failures are prevented or remedied by prohibiting agreements between businesses that prevent, restrict or distort competition. This can include, for example, price-fixing, dividing up markets, or obligations to supply a product exclusively to a particular buyer. In so doing, competition law protects businesses and consumers based in the UK from illegal, anticompetitive behaviours across the economy.

5.2 An agreement can be exempt from the Chapter I prohibition on the basis that it produces benefits which outweigh its impact on competition. Ordinarily, businesses must make their own assessment of whether an agreement which restricts competition can be justified based on its benefits. In certain cases, it may be clear that all agreements in a particular category are likely to be exempt agreements. In these circumstances, a 'block exemption order' may be made to automatically exempt agreements in that category if they satisfy the conditions set out in the block exemption. In this way a block exemption order provides legal certainty for businesses. The PTTSBE creates a block exemption for agreements which establish specific ticketing schemes between public transport operators insofar they meet conditions in the PTTSBE.

5.3 In 2024 the CMA carried out a review of the PTTSBE in order to make a recommendation to the Secretary of State for Business and Trade on whether the PTTSBE should be continued, with or without further amendments, or whether it should be allowed to expire on 28 February 2026. In September 2024 the CMA published a draft recommendation and consulted on it publicly for 5 weeks. The CMA considered the views presented, resulting in the CMA's final recommendation to the Secretary of State on 20 January 2025.

5.4 The CMA found 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. The CMA considers that the PTTSBE will support the operation of ticketing schemes that would otherwise not be undertaken or that might otherwise cease operation. The additional costs and increased risks if the block exemption were removed would likely trigger withdrawal from any such arrangements to the detriment of service users.

5.5 In its final recommendation to the Secretary of State, the CMA proposed two amendments to the block exemption. The first was amending the definition of 'connecting service' in Article 3 of the PTTSBE to clarify that it includes the long-distance parts of 'trunk bus services' such that these fall within scope of the PTTSBE. Trunk bus services are in effect long distance services which have some parts operating as local public transport services and can be used to provide connections for onward destinations. This amendment 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 ticket. Long distance add-ons allow passengers to purchase certain tickets as an extension to a ticket on an individual long-distance route on one or more connecting services. This will have a positive impact on both transport businesses and consumers. A short

distance add-on ticket can be offered where passengers are using a trunk bus service for local journeys (to travel 15 miles or less from their starting point).

5.6 The second was the removal of a fixed expiry date. Varying the block exemption so that it will continue without fixed duration is likely to have a significant positive impact on business operations for industry participants. It would give further legal certainty and lower the administrative burden to businesses. However, this will not prevent the CMA from carrying out a review of the PTTSBE if market circumstances significantly changed. There will also be a statutory requirement for the Department for Business and Trade to carry out and publish a post-implementation review of the block exemption order every 5 years ensuring it is regularly reviewed.

5.7 In addition, the continuation of the block exemption ensures that the CMA does not need to scrutinise essentially benign or beneficial agreements and allows the CMA to effectively use its resources to enforce competition law across the UK by targeting more detrimental forms of anti-competitive agreements and practices. The Order also omits the definition of "working day" in the PTTSBE. This amendment is incidental or supplemental and is intended to remove the inconsistency between the definition of "working day" in section 59(1) of the Act and in Article 3 of the PTTSBE, and will ensure that the definition in the Act applies for the purposes of the PTTSBE.

What was the previous policy, how is this different?

5.8 The PTTSBE has been in place since 2001. In its original form, the PTTSBE provided that it would cease to have effect at the end of the period of five years commencing on 1 March 2001. Subsequent amendments to the PTTSBE extended its duration so that it would cease to have effect at the end of the period of twenty-five years in February 2026 (among making other changes).

5.9 This Order will give effect to the CMA's recommendation that the PTTSBE should be varied to remove the expiry date so that in future it will continue without fixed duration.

Additionally, the definition of 'connecting service' in Article 3 of the PTTSBE will be amended to clarify that the long-distance parts of 'trunk' bus services are included in the definition of "connecting service". Both amendments are made following feedback from stakeholders and are tailored to the needs of UK consumers and business to enhance the benefits of the block exemption order.

6. Legislative and Legal Context

How has the law changed?

6.1 The Act prohibits agreements between undertakings that prevent, restrict or distort competition (known as "the Chapter I prohibition"). Section 9 of the Act sets out the conditions under which such an agreement is exempt from the Chapter I prohibition.

Section 6 of the Act provides that the Secretary of State, on advice of the CMA, may make a block exemption order covering agreements which fall under a particular category of agreements that are likely to be exempt under section 9 of the Act. Such an order may impose conditions or obligations subject to which the block exemption is to have effect. An agreement which falls into a category specified in a block exemption order (and that does not breach any of the conditions specified in the order) is exempt from the Chapter I prohibition, providing greater certainty for a business.

6.2 In 2001 the Secretary of State exercised the power under section 6 of the Act to make the PTTSBE. If, in the opinion of the CMA, it is appropriate to vary or revoke a block exemption order it may make a recommendation to that effect to the Secretary of State (section 8(3) of the Act). Following reviews by the CMA, the PTTSBE was subsequently amended by S.I. 2005/3347, S.I. 2011/227 and S.I. 2016/126 to extend its duration so that it would cease to have effect at the end of the period of twenty-five years from 1st March 2001 (among making other changes).

In line with the recommendation of the CMA (published on 20 January 2025), this Order further varies the PTTSBE so that it will continue without a fixed duration and amends the definition of 'connecting service' in Article 3 of the PTTSBE (see paragraph 5.5 above). It also omits the definition of "working day" in Article 3 so that the definition in the Act applies for the purposes of the PTTSBE. This Order makes provision for the Secretary of State to review the PTTSBE within 5 years of the date this Order comes into force and subsequently every 5 years.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The CMA consulted on its proposed recommendation to the Secretary of State regarding the PTTSBE in 2024. It received 10 responses from a wide variety of stakeholders, the vast majority from across the transport sector agreed that the CMA should recommend to the Secretary of State that he should vary the block exemption so that it has no fixed duration and change the definition of connecting service to include trunk bus services.

7.2 The CMA subsequently published the outcome of the consultation, its final recommendation to the Secretary of State[1].

7.3 The Order was published for technical consultation on 14 July 2025 and closed on 25 August 2025, during which four responses were received[2]. Respondents welcomed the amendments to the PTTSBE and the opportunity to provide comments on the draft Order. All respondents were content that the Order achieved the intended outcome, with one proposing additional improvements to the associated CMA guidance. The Government's response will be published on 1 December 2025 on Gov.UK.

8. Applicable Guidance

8.1 The CMA proposed changes to its existing Guidance in light of their recommendations and consulted on the same. The CMA intends to publish its final Guidance shortly after the Order comes into force[3].

[1] https://assets.publishing.service.gov.uk/media/678e30d502801a21aa7acf51/CMA_s_final_recommendation_to_Secretary_of_State.pdf.
[2] Draft amendment to the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 - GOV.UK (https://www.gov.uk/government/consultations/draft-amendment-to-the-competition-act-1998-public-transport-ticketing-schemes-block-exemption-order-2001)
[3] Public Transport Ticketing Schemes Block Exemption - GOV.UK (https://www.gov.uk/cma-cases/public-transport-ticketing-schemes-block-exemption)

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there has been no substantive change to the PTTSBE, thus no substantive change from the baseline counterfactual option. The de minimis exemption applies as the Equivalent Annual Net Direct Costs to Business is expected to be less than £10m. The impacts of retaining the PTTSBE are zero, except for a small change regarding 'trunk' bus services, and therefore the overall impacts are clearly below the de minimis threshold.

Impact on businesses, charities and voluntary bodies

9.2 The clarification regarding 'trunk' bus services being within the scope of the PTTSBE should give businesses more certainty that they can legally combine 'trunk' bus services within a ticketing scheme, potentially leading to greater provision of ticketing schemes. The inclusion could also avoid costs to business of making individual assessments of these types of ticketing schemes against competition law. It has not been possible to quantify this business impact, but it is expected to be relatively small.

9.3 There may be some initial familiarisation costs for business who will need to understand the change in scope of the PTTSBE. These familiarisation costs are likely to be small, given it is a minor change leading to a relatively small increase in the scope of the PTTSBE. It has not been viewed as proportionate to attempt to quantify this small familiarisation cost.

9.4 There are expected to be some impacts on business, but these impacts are expected to be small and not significant. There are no significant impacts on charities or voluntary bodies.

9.5 The legislation is not expected to significantly impact small or micro businesses, as these types of business are unlikely to be offering integrated public transport services.

9.6 The cost to self-assess against the Act, rather than relying on the PTTSBE, is likely to be disproportionately prohibitive for smaller businesses, as they are less likely to have the skills and resources to undertake such an assessment. As such, for any small businesses that do rely on the PTTSBE rather than having to self-assess, the benefits of the PTTSBE might well be felt more greatly for them compared with larger businesses.

9.7 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is for the CMA to oversee its implementation. It will keep under review its application and effectiveness in achieving its policy and operational objectives.

10.2 The statutory review clause in the PTTSBE is amended by this Order to ensure a post implementation review of the PTTSBE is carried out within 5 years of the date this Order comes into force and then regularly thereafter on a 5-year cycle.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").