

Consultation on the renewal of the Ticketing Scheme Block Exemption

Response of the Go-Ahead Group plc

Introduction

The Go-Ahead Group plc (Go-Ahead) is one of the UK's leading passenger transport companies operating three rail franchises for the UK Government and over 4,700 buses in London, Oxford, East Anglia, Tyne & Wear, East & West Sussex, Brighton, Southampton, Dorset, the Isle of Wight, Bournemouth and Poole.

Questions for Consultation

1. Do you agree with renewing the Block Exemption? Please explain and provide reasons for your answer

Go-Ahead agrees with renewing the Block Exemption. Government policy is to see more multi-operator multi modal ticketing schemes and the absence of the Block Exemption would make it more difficult for companies like Go-Ahead to risk involvement in such schemes. The Block Exemption provides a firm foundation to be involved in such projects.

2. Do you consider the continuation of the Block Exemption to be necessary to deliver integrated ticketing schemes that are beneficial to customers?

Similar to response to Question 1, integrated ticketing schemes almost by definition involve discussions between operators and in the case of Multi operator Travelcards the need to co-ordinate pricing. Without the Block Exemption the basis on which to develop such schemes would be much more uncertain and hence unlikely to happen.

3. Would consumer choice, in particular the variability and suitability of ticketing options, be significantly reduced without the Block Exemption?

In a similar vein to the responses to Questions 1 and 2, yes, almost inevitably the lack of willingness to bring integrated multi operator multi modal products to the market in the absence of the Block Exemption would inevitably result in fewer integrated ticketing products being available on the market and hence less consumer choice.

4. If the Block Exemption was not renewed how would that influence your operations? Please provide examples and an indication of the likely costs to your business and the potential implications for the transport sector more widely

If the Block Exemption was not renewed it would have a significant impact on our retail offer. We would have to consider withdrawing from popular products to the detriment of customers. An example is PlusBus. PlusBus is a product which enables rail customers to add on bus travel at the beginning or end of a journey. Bus operators generally co-ordinate prices and the geographical area under a MTC arrangement. In total the scheme is worth £5.2m per annum in payments to the bus industry and there are over 950,000 issues. Without the Block Exemption each scheme would have to be negotiated individually with

associated legal fees which would make the cost of setting up such schemes prohibitive. PlusBus would never have happened if the Block Exemption wasn't there to provide the reassurance. It would not have been worth Go-Ahead taking the risk or negotiating separate legal agreements for each scheme and the customer benefit lost.

5. Have there been any adverse consequences from the application of the Block Exemption? Please provide examples and why

Go-Ahead is not aware of any adverse consequences arising from the Block Exemption.

6. Has the current Block Exemption prevented any developments in the last five years that could have benefited customers? Please provide details of the proposed development and how the Block Exemption has prevented this

Go-Ahead is not aware of any developments that have been prevented in the past. However the Block Exemption must stay relevant for future developments in ticketing, fares and retailing such as pre-pay, pay later and tokens, capping and EMV. The CMA demonstrates its awareness of such products in 5.25 – 5.29 of the consultation document.

7. Do you encounter any difficulties in applying the Block Exemption rules? Please explain and provide specific examples

The guidance can sometimes be difficult to use particularly as it provides relatively limited information (e.g. on pricing). This indicates that its utility to operational staff can be limited, increasing the reliance which parties must place on specialist (and sometimes expensive) competition law advice. The age of the guidance (It was first published in 2006) and the existence of subsequent guidance from the DfT and in the Competition Commission's final report following the Market Investigation also raises issues. First the documents are not always consistent with each other and secondly the age of the document inevitably diminishes the comfort it can provide. Revised guidance which supersedes each of these sources would be beneficial. The introduction of examples drawn from 'live' situations would also be a significant improvement in terms of aiding clarity.

8. We would welcome views on whether a longer duration for the Block Exemption would be desirable. Please outline the reasons for your answer highlighting any cost implications and associated risks of your preferred options

Go-Ahead considers the proposed renewal to 2026 is sufficient.

9. Do you agree with the assessment outlined in Chapter 5 of this consultation? Please provide further explanation and information to support your answer

5.8 We agree that ideally MTCs should be considered as separate products in their own right and appropriate pricing determined on that basis. The document guides the reader to pricing issues that were considered as part of the Competition Commission Local Bus Services Market Investigation. However this recommended pricing of multi operator tickets should be based on a formula which Go-Ahead (and others in the industry) feel is

unworkable because it could create the situation where single and multi operator ticket prices are the same. Go-Ahead agrees with the concept of a formula to determine the pricing of a multi operator ticket but it must be calibrated in a way that recognises there must always be a premium for the multi operator ticket.

5.15 Whereas MTCs are very common, MITs are rare. Go-Ahead's view is that this is more likely to be a function of market conditions rather than due to the rather restrictive nature of MITs. However, there is undoubtedly a groundswell of opinion that public transport fares are too complex and that consumers want a simple set of pricing propositions. It may seem odd therefore that regulation prevents operators from charging the same fare for what is essentially the same product. Go-Ahead's view is that the current regime for MITs is too restrictive and would ask the CMA to consider whether there needs to be a separate definition for MITs and whether these could be brought within the general (and more flexible) MTC definitions.

5.17 – 5.20 The issues being discussed in these paragraphs should be set in the context of smart ticketing which makes it much easier to record individual journeys and thus overcome a number of the issues being discussed here.

5.40 Go-Ahead recognises the need for precautions to be taken to ensure that sensitive data is protected. The issue is the definition of 'independence.' It is possible that a large operator could administer shared service back office systems that are used by the large operator and smaller operators participating in the scheme (for a fair and reasonable commercial fee) with clear divisions between the back office administrators and the operating company staff. So the back office staff are independent from the operating companies despite being employed by different departments in the same business. Some clarification of the definition of independence would therefore be useful.

5.42 – 5.44 Go-Ahead does not consider that smart technology (in its widest definition) presents any particular barriers to entry. As noted, Go-Ahead offers shared services for smaller operators for its back office systems that lie behind smart schemes and in other cases local authorities have engineered schemes to lease ticketing equipment to smaller operators. In addition the ITSO protocol means that interoperability can be achieved more readily than if the various equipment required for smart were based on proprietary software. Government policy has been to incentivise the purchase of ITSO equipment and this means that its use is widespread.

10. We consider that it is possible or new ticketing technology and products to be accommodated within the current Block Exemption (subject to clarification through revisions to the Guidance Document.) Have there been any developments, in particular in ticketing technology and products, in the last five years or are any expected over the next five years that affect the Block Exemption and would require, in your view, a change in its terms? Please explain and provide specific examples

Go-Ahead considers that in its consultation document the CMA has captured well the new ticketing technologies and agrees that providing the definition of smart is as wide as it is it

should encapsulate new retail and fulfilment mechanisms as they arise. The CMA will be aware this is a fast moving arena and there is a need for flexibility to keep the Block Exemption relevant to developments that might occur during its tenure that none of us may be aware of at the moment. 'Smart' is a key Government concept and they have made the public transport industry aware that they want more and more smart schemes across modes and across operators. Given this, Go-Ahead would urge the CMA to make MTCs as flexible as possible. Currently there are some provisions which we feel are overly prescriptive such as *'three or more journeys on three or more specified local public transport services operating on three or more routes.'* Given the Government's wishes, the flourishing of smart ticketing and the plethora of tickets and products that can be offered, Go-Ahead believes the definition of an MTC could be amended to ensure the full benefit of the new technology is taken and it is made as simple and flexible as possible.

11. Please provide any other information and/or views that you consider relevant for the CMA's review of the Block Exemption. Are there in your view other recommendations that the CMA should consider? For example, are there variations to the scope of the Block Exemption that have not been considered in this consultation document? Please provide any relevant evidence that you have to support your views?

The Block Exemption (and related guidance) provides an environment in which operators can cooperate in a way that is positive for consumers, but with clear protection as to their position under competition law. Without a flexible Block Exemption and clear guidance, it is likely that companies would be more cautious (in particular given the degree of regulatory scrutiny of the industry in the past) and many of the benefits of co-operating in products like MTCs would be lost. As is the case with these types of documents there is always a trade off between simplicity and comprehensiveness. In terms of its usability Go-Ahead considers that revised guidance would benefit from practical examples of the application of the Block Exemption. Whilst we would support simplification (as it might make it easier for smaller operators to understand and therefore be less cautious) we would want there to be a number of examples covering different scenarios so that it is also practical.

**Martin Dean
Managing Director - Bus Development
The Go-Ahead Group plc
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