

## **Strathclyde Partnership for Transport: Comments on Block Exemption Consultation August 2015.**

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

In principle, yes, SPT welcomes the proposed renewal of Block Exemption (BE). In Strathclyde, BE has helped facilitate the operation of the ZoneCard multi-mode, multi-operator ticket for the Strathclyde region, which is one of the UK's largest and most successful schemes. BE has provided an effective platform for discussions and agreement through the ZoneCard Forum, which is administered by SPT.

SPT has aspirations to develop Smartcard as a truly multi-modal ticketing option across the west of Scotland and we have already rolled out smartcard on the Glasgow Subway and are working closely with Abellio ScotRail to extend our smartcard model onto the Strathclyde rail network. Given the current deregulated and largely commercial market for bus services in the West of Scotland, greater challenge will be to roll out smartcard across the bus network. We are working closely with the Scottish Government and industry partners to progress this, including through current proposals from SPT submitted as part of the Glasgow & Clyde Valley City Deal. Given this context, SPT welcomes the review's acknowledgement of the on-going development of new ticketing technologies, and in particular Smartcard; an issue which we raised at pre-consultation stage discussions with CMA.

SPT considers it to be vital that BE does not negatively impact the on-going development and delivery of Smartcard integrated ticketing. This is particularly important when developing ticketing Schemes in a deregulated commercial bus environment such as that in the west of Scotland. Smartcard ticketing is key to improving the bus market in the west of Scotland by promoting greater consumer choice and more affordable ticketing options.

In the absence of BE, transport operators may be more reluctant to participate in ticketing Schemes such as ZoneCard or other ticketing schemes which we may look to develop in future.

It is worth noting that SPT used the governance of the ZoneCard forum to distribute revenue to bus operators carrying additional passengers during the 2014 Glasgow Commonwealth Games.

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

Yes. It is difficult to gauge the likely impacts on current or developing ticketing schemes in the absence of BE. However, as highlighted, transport operators may be reluctant to participate in ticketing schemes for fear of breaching competition law and this may result in reduced ticket options and potentially increased cost for consumers.

Until now BE has allowed for the facilitation of the ZoneCard, multi-mode multi-operator ticket for Strathclyde. As SPT look to further develop Smartcard integrated ticketing across the wider region, we consider that BE rules will help ensure operator participation in development and operation of such schemes.

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

Yes. Without BE the ability to develop multi-mode multi-operator ticketing schemes and, in particular, Smartcard integrated ticketing, would be greatly hampered. To that extent, it would mean a significant curtailment in consumer choice given operator reluctance to participate in such ticketing schemes.

**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.**

As highlighted, BE has been a significant factor in the success of Zonecard. In particular in enabling effective partnership working between SPT and participating operators through the ZoneCard Forum. Without BE, transport operators will understandably be less willing to participate in such ticketing schemes.

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

We are not aware of any instances whereby the application of BE has led to adverse consequences.

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

We are not aware of any developments within the last five years that have been negatively impacted by BE.

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

We are not aware of any difficulties which have been encountered in applying BE rules. However, we have previously highlighted to CMA that whilst we believed the principles of BE are fairly well understood across the industry, the specific conditions, classifications and application of BE are less so. To that extent we would welcome the publication of refreshed, clarified guidance.

**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 (see Chapter 4 above).**

We do not consider that a period longer than ten years is necessary or desirable for BE duration. We do, however, agree that within the proposed ten year period, there is sufficient scope to include exemptions and where necessary, to undertake a review of the BE ahead of the ten year expiry period. Again, this is particularly important as SPT and our Government and industry partners work to drive further improvements to the bus network in the west of Scotland, including through the roll out of Smartcard integrated ticketing.

9. **Do you agree with the assessment outlined in Chapter 5 of this consultation? Please provide further explanation and information to support your answer. In addition we have highlighted some areas where we would welcome representations:**

**(a) We would welcome examples where MIT schemes have been abandoned or not commenced because of the requirements that revenue lies where it falls. We would also welcome proposals of other possible revenue share options that would satisfy section 9(1) conditions and under what conditions these would apply, for example where operators only overlap to a limited extent because their services mostly operate at different times of the day. (See paragraphs 5.17 to 5.20)**

Not aware of any.

**(b) Whether in relation to capped tickets there are any practical obstacles to redistributing revenue collected to the relevant operator on a revenue foregone basis for smart ticket sales which fall below the capped price. If so, what revenue allocation would be appropriate? (See paragraphs 5.36 to 5.38)**

SPT already has a mechanism in place for distribution of revenues to operators i.e. the ZoneCard Forum. This model could be extended to Smartcard revenue redistribution. Importantly, we also have in place the Nevis Technologies platform through which ticketing sales information could be handled meaning revenue redistribution could be apportioned equitably and with complete commercial sensitivity.

**(c) Whether barriers are likely to arise for smart ticketing and the extent to which they could prevent participation in the schemes. (See paragraphs 5.42 to 5.44).**

Other than the cost and practical issue of replacing ageing electronic ticket equipment that supports ITSO commercial smart ticketing, SPT does not foresee any barriers to entry for participation by operators in Smartcard ticketing schemes. We would welcome all operator participation in any new schemes and believe that in doing so this will enable the widest ticket offering and more competitive pricing for consumers.

10. **We consider that it is possible for 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.**

We do not consider that there have been any instances in the past 5 years nor are we aware of any developments over the next 5 years that are likely to require a change in the terms of BE. However, as SPT develops Smartcard integrated ticketing and other bus improvement measures we feel strongly that BE rules should be drafted in such a way as to allow flexibility and provide an opportunity or mechanism amendments to be made as necessary.

As SPT continues to promote measures to improve public transport use and confine its agenda of improvements in the bus market across the west of Scotland, it is essential that BE enables multi-operator, multi-modal engagement to take place without fear of breaching competition laws.

**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.**

We had previously indicated to the CMA during pre-consultation discussions that whilst we consider the principles of BE to be fairly well understood, the conditions, classifications and application of BE are less so. To that extent we welcome refreshed and clearer guidance. At those discussions, it was suggested to CMA that including case studies or clear examples of BE application would be helpful to users in their understanding of BE application. Such refreshed guidance will help remove ambiguity or uncertainty over BE application.

As the CMA recommendations note, information sharing will become increasingly essential and therefore potentially more of an issue as Smartcard ticketing develops. This in turn has the potential of introducing concerns regarding commercial confidentiality. In practice however this concern by operators is unfounded as the existing Nevis/SPT smartcard system has now been adopted for use within the ScotRail franchise and the firewalls protecting commercial data have been robustly tested by the rail operator. However, such risks can be reduced through BE and clarified Guidance and by far the greatest risk is that industry concerns over breaching the law result in a diminution of effective partnership working arrangements and with it a lack of high quality ticketing products available to the travelling public. We view information sharing as critical to the development of the bus market and network in the west of Scotland. However, within the commercial bus market environment that exists in the west of Scotland, it is likely they will require and test the level of assurance over exclusivity of commercial data in any scheme as being owned by the operator. Once again we would welcome clarity within the Guidance document, including examples or case studies, of BE application in relation to information sharing.

Finally, it should also be noted that SPT has unrivalled experience in Scotland of planning developing and coordinating transport ticketing products. We have and continue to do so in a challenging market driven and deregulated bus market and have demonstrated at all times our capacity to treat commercially sensitive data with complete respect and objectivity whilst promoting innovative, cost effective, attractive ticketing offers which maximise integration, customer choice and flexibility.

The establishment of Nevis Technologies provides a further platform for effective revenue distribution and ensures an even more robust mechanism for the handling of sensitive commercial data.

The continuation of BE will help SPT to continue to promote innovative, attractive and integrated ticketing options. BE is essential to instilling industry confidence in cooperative efforts to maximise integration while not inhibiting or distorting competition. However, there must be sufficient flexibility built into BE, including an effective mechanism for review, to accommodate and promote the introduction of new technologies and products. This will help promote an integrated public transport network that is an increasingly attractive proposition for the public.