
STATUTORY INSTRUMENTS

2005 No. 3347

COMPETITION

The Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) (Amendment) Order 2005

<i>Made</i>	- - - -	<i>5th December 2005</i>
<i>Laid before Parliament</i>		<i>7th December 2005</i>
<i>Coming into force</i>	- -	<i>23rd January 2006</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 6(2), (5) and (7), 8(6), and 71(3) of the Competition Act 1998 (“the Act”)(**1**) makes the following Order.

In April 2005, in accordance with section 8(1) of the Act, the Office of Fair Trading (“the OFT”) published details of its proposed recommendation to the Secretary of State that the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 (**2**) be amended. The OFT considered the representations which were made to it and, in accordance with section 8(3) of the Act, has recommended that the Secretary of State vary the 2001 Order. In accordance with section 8(2) of the Act, the Secretary of State informed the OFT of some minor modifications and has taken their comments into account.

Citation and commencement

1. This Order may be cited as the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption)(Amendment) Order 2005 and shall come into force on 23rd January 2006.

Amendment of the 2001 Order

2.—(1) The Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 is amended as set out below.

(2) In article 2, for “at the end of the period of five years commencing on 1st March 2001.” substitute “at the end of the period of ten years commencing on 1st March 2001.”.

(3) In article 3, in the definition of “register”, for “means the register maintained by the Director under rule 8 of the Director’s rules set out in the Schedule to the Competition Act 1998 (Director’s rules) Order 2000;” substitute “means the register maintained by the Office of Fair Trading under rule 20 of the Office of Fair Trading’s Rules set out in the Schedule to the Competition Act 1998 (Office of Fair Trading’s Rules) Order 2004;”.

(1) 1998 c. 41.
(2) S.I.2001/319.

- (4) In article 8, for “object or effect or limiting” substitute “object or effect of limiting”.
- (5) For article 11, substitute the following—

“**11.** The parties to a public transport ticketing scheme, which provides for members of the public to purchase a multi-operator travelcard, shall not distribute between themselves the revenue received by virtue of the operation of that scheme in a way that provides the parties with an incentive to set their own fares higher than they would have been set in the absence of the multi-operator travelcard, or significantly reduces the incentive for each of the parties to compete for passengers.”.

- (6) In article 15 omit paragraph (a).
- (7) In article 21, for paragraph (b) substitute—
 - “(b) where it is not reasonably practicable for the Office of Fair Trading to comply with paragraph (a), the Office of Fair Trading publishing a summary of its decision or proposal in the register and causing a reference to that summary to be published in—
 - (i) the London, Edinburgh and Belfast Gazettes;
 - (ii) at least one national daily newspaper; and
 - (iii) if there is in circulation an appropriate trade journal which is published at intervals not exceeding one month, in such trade journal,”.

Gerry Sutcliffe
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department of Trade and Industry

5th December 2005

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 ([SI 2001/319](#)) (“the 2001 Order”). The 2001 Order is a block exemption order under section 6 of the Competition Act 1998 (“the Act”). It gives effect to the OFT’s recommendation that public transport ticketing schemes (as defined in Article 3 of the 2001 Order) for local transport services constitute a category of agreements which are likely to be agreements to which section 9 (now section 9(1)) of the Act applies. Agreements which fall within the category specified in the 2001 Order are exempt from the prohibition in Chapter 1 of the Act.

The 2001 Order would cease to have effect at the end of the period of five years from the 1st March 2001 and this Order extends the period of the 2001 Order to ten years commencing on the same date.

This Order amends the definition of “register” contained in Article 3 of the 2001 Order to refer to the register maintained by the OFT under rule 20 of the OFT’s Rules set out in the Schedule to the Competition Act 1998 (Office of Fair Trading’s Rules) Order 2004 ([SI 2004/2751](#)).

This Order substitutes a new Article 11 so that the condition requiring revenue distribution for multi-operator travelcard schemes (“MTCs”) to be on the basis of “passenger miles, as far as reasonably practicable” is replaced with a condition allowing any method provided (a) it does not create an incentive for operators to set their own fares higher than they would have been in the absence of the MTC, and (b) it does not significantly reduce the incentive for each of the operators to compete for passengers.

Article 15 is amended to remove the requirement for operators to sell their own operator tickets when they issue multi-operator individual tickets.

This Order substitutes a new Article 21(b) which sets out where the OFT is required to publish a summary of the decision or proposal, and cause to be published a reference to that summary, if it is not reasonably practicable to write to all the parties to the ticketing scheme.

Guidance on the block exemption is available from the OFT at www.of.gov.uk. A regulatory impact assessment of the effect that this Order will have on the costs of business has been prepared and is available from the Consumer and Competition Policy Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET (e-mail paul.bannister@dti.gsi.gov.uk)