

Final Business and Regulatory Impact Assessment

Title of Proposal

The Future of Smart Ticketing in Scotland – Transport (Scotland) Bill measures

Purpose and intended effect

- **Background**

Beyond specific contractual requirements in the ScotRail franchise and the Clyde and Hebridean Ferry Services contract, there are no current regulations or requirements in Scotland around commercial smart ticketing or payment.

Transport Scotland has lead responsibility for the delivery of interoperable smart ticketing and payment services on public transport across Scotland. It is working to deliver the ministerial vision that *“all journeys on Scotland’s bus, rail, ferry, subway and tram networks can be made using some form of smart ticketing or payment”*.

While progress is being made, both by the Scottish Government (a delivery strategy is in place) and commercial public transport operators (the Operator Smart Steering Group is in place), this has been rather piecemeal and at times has taken longer to deliver than desired.

As a result, the public have not thus far seen the benefits on offer as quickly as anticipated, nor have the benefits been fully realised. This is especially so where multiple operators or modes are involved.

- **Objectives**

Legislative measures on smart ticketing are contained in the Transport (Scotland) Bill (‘the Bill’), introduced to the Scottish Parliament on 8 June.

The intention of the legislation is to ensure that local transport authorities and public transport operators have the support and tools they need to establish and take part in smart ticketing schemes and arrangements. It will also ensure that there are consistent technology standards in place and measures to ensure compliance where participation is mandatory, as well as creating a stakeholder-led advisory group to advise Ministers on when and how smart ticketing and payment technology should be upgraded.

Transport modes other than bus services are not directly affected by the legislative changes in the Bill, as powers to require that arrangements meet the national standard only apply to bus operators. The Bill will expand the definition of ticketing arrangements to cover connecting rail and ferry services such as rail or ferry, yet such operators cannot be compelled to provide the ticketing arrangements required by a ticketing scheme and would have to do

so voluntarily. There will be the option for this to be set out in guidance, taking account of the benefits of interoperability. The Scottish Government will also consider the imposition of requirements to participate in local transport authority ticketing schemes within future contract specification, as it is at present with ScotRail and CalMac.

Specific detail on these provisions can be seen on the Scottish Parliament's website at:

<http://www.parliament.scot/parliamentarybusiness/Bills/108683.aspx>

- **Rationale for Government intervention**

The majority of public transport operators in Scotland recognise and accept that the travelling public expect to see modern systems in place on public transport that make the use of smart ticketing and payment. Also there's an acceptance that this should be widespread, consistent and easy to use. Most of the larger operators in Scotland have already invested in the main systems necessary to facilitate this, but interoperability across all public transport modes and all of Scotland cannot happen unless there is universal use of a common technology platform. This would help ensure that:

- Passengers are able to access smart ticketing or payment on the major public transport modes across Scotland.
- There is a consistent customer experience which gives the public confidence in using public transport.
- There is good governance of current and future delivery of smart ticketing in Scotland, ensuring that all key stakeholders are able to contribute to decision making.

The aims align with the National Performance Framework, contributing to 2 of the National Outcomes:

- *Our public services are high quality, continually improving, efficient and responsive to local people's needs.*
- *We reduce the local and global environmental impact of our consumption and production.*

Consultation

- **Within Government**

The Transport Scotland internal ITIS (Integrated Travel In Scotland) Board comprises representation from all the key transport modes – bus, rail and ferry – together with colleagues from Scottish Government Digital, that has met since 2016 to progress smart ticketing.

Transport Scotland officials consult and meet with local authorities and RTPs regularly to discuss and progress the smart ticketing and payments agenda

- **Public Consultation**

The “Future of Smart Ticketing in Scotland” consultation was undertaken between 13 September 2017 and 5 December 2017. The table below shows the responses by group type.

Type of respondent	Number
Groups:	
Campaign Groups	2
Local Authorities	16
Other Public Bodies	9
Political Parties & Representatives	2
RTPs	3
Third Sector	1
Transport Industry	6
Transport Operators	9
User Groups	2
Total Groups	50
Individuals	98
TOTAL	148

Non-confidential responses were published to the Scottish Government website on 9 March 2018 and an independent analysis of the consultation responses was also published at that time.

In terms of business impact, relatively few transport operators responded, and their views were mixed. Where there was some resistance to the proposals it was more focussed on how the aims might not require legislation to be delivered, rather than the measures having any potential detrimental impact on business.

A summary of responses can be found at:

<https://www.transport.gov.scot/publication/the-future-of-smart-ticketing-in-scotland-analysis-of-responses-to-the-consultation/>

- **Business**

Face-to-face discussions and interview took place with a number of transport

operators of varying size and business model. As the legislative duty in the Bill focusses on bus services, the focus was on such commercial operators.

The following face to face interviews were conducted:

- **Docherty's Coaches**, Colin Docherty, Owner (26 March 2018, Auchterarder)
- **Prentice Coaches**, Ross Prentice, Owner (28 March 2018, Haddington)
- **Stagecoach Bus**, Robert Andrew, MD Scotland (29 March 2018, Glasgow)
- **Orkney Ferries**, Andrew Blake, Ferries Manager (3 April 2018, Orkney)
- **Comhairle nan Eilean Siar**, David Smart, Transport Manager (4 April 2018, Stornoway)
- **Shiel Buses**, David McGillivray, Owner (5 April 2018, Fort William)
- **Whitelaw's Coaches**, Sandra Whitelaw, Owner (6 April 2018, Stonehouse)

Options

This BRIA considers three options:

Option 1

'Do nothing' – Continue to work with transport operators and local transport authorities, as well as the established Operator Smart Steering Group (OSSG), to deliver smart ticketing and payment, and retain the Transport (Scotland) Act 2001 legislative options. This is delivering some progress, but at a slower pace and in a more fragmented way than is desirable. This also increases the likelihood of some smaller operators not participating (for example in regional schemes), and of major operators pursuing their own non-interoperable solutions. This in turn creates a smart ticketing and payment landscape that can be complicated for the passenger to understand and engage with, and several opportunities are lost.

Option 2

'Non-regulatory' – Continue to work with the Operator Smart Steering Group (OSSG), other operators, and local transport authorities to deliver smart ticketing but introduce voluntary requirements rather than statutory regulations. This approach might avoid or mitigate some of the risks described under "do nothing" but the essence and impact of these risks would remain.

Option 3

Introduce new legislation to:

- a) – To formalise the role of the OSSG as an advisory body to Scottish Ministers on 'smart' (The Transport [Scotland] Bill facilitates the creation of the National Smart Ticketing Advisory Body).

- b) To introduce a national standard for smart ticketing infrastructure which will help to ensure that interoperability across regions and modes can be achieved.
- c) Enhance the legislation currently contained within sections 28-32 of the 2001 Act to ensure that ticketing 'arrangements' and 'schemes' can be more easily adopted and implemented by local transport authorities and, in so doing, implement the relevant recommendations from the Competition and Markets Authority 2011 report on ticketing schemes.

Sectors and groups affected

Public transport sector – both publicly owned and commercial transport operators will be affected across bus, rail, ferry, subway and tram.

Local government – local transport authorities (typically local councils but also Strathclyde Partnership for Transport) may be impacted by changes to existing legislation.

Benefits

Option 1

'Do nothing' – The policy benefits associated with the other options – outlined above – would not be realised. Yet transport operators would not have to make changes to their practices to comply with new legislative measures.

However, the smaller transport operators who have been engaged with recognised that they needed some help with developing smart ticketing, and could see the benefits of what was being proposed in legislation. The larger operator – Stagecoach was interviewed – felt that they are capable of delivering the improvement and innovation that passengers expect, but did recognise that other some operators may not embrace these opportunities, or do so in a collaborative way.

Option 2

Non-regulatory' – Will be easier to enact and can be delivered to a quicker timetable than any legislative option. However, it still carries broadly the same risks as Option 1 above.

Option 3

Update existing legislation – Will help to ensure that, where smart ticketing arrangements or schemes are deemed to be needed, these can be delivered in a consistent and comprehensive manner across all of Scotland. This appears the only viable sure way to create proper interoperability across Scotland and to simplify and standardise the customer experience around smart ticketing and payment, thereby ensuring passengers embrace the options for travel rather than be put off because it is too complicated and inconsistent. In terms of safeguards for business and industry concerns the National Smart Ticketing Advisory Body, will have representation from such sectors. Therefore there will be a clear role in providing advice to Ministers on

all the key issues affecting smart ticketing and payment including the ongoing comprehensive provision of the national infrastructure necessary for interoperability across Scotland and across modes. This is critical for ensuring that operators have a degree of control over technology choices and costs.

Costs

Option 1

There would be no costs for operators for having to comply with new obligations. However, the market itself encourages innovation in this area and updates – not connected with legislative duties – could be assumed to continue over time.

Also, generally there is a recognition and acceptance amongst transport operators that passengers increasingly expect transport services to be capable of offering smart ticketing and payment options, and that the passenger experience should be as simple and consistent as possible. On that basis, most operators accept the need to invest in the infrastructure necessary to provide such choices, but also comment that the investment is unlikely to generate sufficient revenue growth to meet the cost of investment.

However, bus operators have already had to make the investment in ticketing equipment in order to continue to participate in the Scotland-wide free bus travel concession scheme. All but three of Scotland's near-200 bus operators have already invested in ticketing equipment to the current standard. Transport Scotland continues to fund the provision of back office facilities and services (all necessary for successful operation of the concessionary travel scheme), as well as technical advice and support to operators around smart ticketing, all of which can be used by operators for both concessionary travel and commercial smart ticketing at no cost. The Scottish Government (via the Improvement Service) provides a national smart card (the National Entitlement Card) available free of charge to all Scottish residents (and, in turn, to operators).

As a result, very few additional costs arise from the introduction of more comprehensive smart ticketing, whether based on a “do nothing”, voluntary or legislative approach.

Option 2

Very similar to the above. In the voluntary approach, it is likely that major operators will continue to advance the boundaries of smart ticketing and payment in accordance with what they believe their passengers and other stakeholders such as local transport authorities and Scottish Ministers want and expect. This may result in enhancements being made at a faster pace, but does not guarantee consistency of approach and therefore creates a sub-optimal customer experience. Major bus operators who have co-operated to create multi operator regional smart ticketing products report. These have had some modest costs. However to date, much of this has been in bringing ticketing equipment up to the national standard (a process which is now effectively complete). Overall any possible “new” costs will be minimal.

Option 3

Should the national technological standard for smart ticketing arrangements under the Bill be in a final Act of Parliament, these will be subject to Ministerial decision following consultation with the advisory body the legislation creates. A widely used national standard (ITSO 2.1.4) is already in place to administer the Scotland-wide Free Bus Travel scheme for Older and Disabled People and is also used for commercial smart card schemes. This infrastructure is funded by Transport Scotland and therefore little new cost is predicted to arise from this aspect of the proposed legislation. The creation of an advisory body – which will not have any appreciable running costs associated with it – will ensure that operators will have a reasonable degree of influence over the nature and timing of any technology refresh. This will allow for consideration of whether such a technology refresh will generate benefits that outweigh costs. Other regional ticketing arrangements can be created using different infrastructure, yet this would be a commercial factor influenced by many factors and not mandated by the Bill.

A key consideration is that most of the cost for the provision and upkeep of smart infrastructure, whether for bus operators or for government, is already absorbed or provided for as a result of the Scotland-wide free bus concessionary travel scheme. It is an important – but reasonable – assumption that a substantive Scotland-wide free bus concessionary travel scheme will continue to be in place for the foreseeable future. Similarly, the cost for the provision and upkeep of smart infrastructure for ScotRail and CalMac are already covered by existing, and funded, contractual commitments.

Scottish Firms Impact Test

Given the level of face-to-face engagement in the creation of this BRIA, a detailed outline of Scottish Firms Impact Test considerations is below. The following questions were asked in face-to-face discussions, and the consensus view from BRIA consultees is summarised alongside each question:

Benchmarking

1. Existing costs of smart ticketing?
 - Does having smart ticketing equipment provide benefits beyond access to the Scotland-wide concessionary travel schemes?
 - Operators mostly recognise benefits around better quality management information, development of smart ticketing products, complaint resolution, tracking vehicles and drivers, schedule adherence, early access to information. Stagecoach have also used long term relationship with supplier to evolve and integrate infrastructure especially around real time information, which previously was a separate system. Whitelaws were concerned that the cost of the investment was not met by comparable increases in revenue
 - If so, what do you use it for?
 - See above
 - If so, does this provide a financial benefit and how do you measure upfront costs against any longer-term financial gains?

- Cost of sales is higher, but some savings around fraud. Hard to quantify specifically.
- Do you use any ticketing equipment apart from the ITSO 2.1.4 compatible kit?
 - For Stagecoach, cEMV readers being progressively rolled out and switched on.
 - For all other operators only ITSO at this stage, although some interested in cEMV.

Status quo financial impact

2. Expected future costs of smart ticketing?

- Do you expect to further expand your smart ticketing offerings?
 - Stagecoach have already developed a comprehensive suite of period passes, and are developing a carnet product on smart.
 - Smaller operators predominantly deal in singles, but even some of them eg Prentice have developed, or would consider developing, a wider set of commercial products on smart.
 - No operator had a problem with participating in multi operator smart ticketing arrangements or schemes although, for smaller operators, there was some mistrust that they would have sufficient say in pricing or get properly reimbursed.
 - Smaller operators providing feeder services could see benefits of interoperability eg with rail services, ferry services or other operators' bus services
- What financial outlay and benefit do you expect to see?
 - Most operators recognised that the business case is more difficult in smaller and more rural areas but generally no significant additional outlay and better customer offering.
 - Smaller operators would look to Transport Scotland for expertise and practical assistance, recognising that they did not generally have the in-house resource to develop smart ticketing too much.
- Would you expect to see benefit from being part of a local or regional ticketing product?
 - See above - recognise that it confers benefits for passengers with more complicated journeys.
 - Smart also represents a better basis for revenue apportionment.
- Would you expect to deliver any new ticketing products?
 - Varies from operator to operator, as described above

Options in BRIA

3. Do nothing option –

- What are the business/cost advantages/disadvantages of remaining with the current arrangements for delivery of smart ticketing and payment across Scotland?
 - Stagecoach recognise that other parts of Scotland or other operators may need a push, also that passengers increasingly expect to be able to pay without cash (particularly the younger generation).
 - Most smaller operators had no strong views,
- What are the business/cost advantages/disadvantages of influencing the technology type to bring about interoperability?
 - Stagecoach and Whitelaws play a leading role in the Operator Smart Steering Group (the precursor of the proposed advisory group).
 - For Stagecoach, they also need to be cognisant of their UK-wide requirements – no advantage in having a separate system in

Scotland.

- Most other smaller operators were content for their views to be represented through CPT (Confederation of Passenger Transport) and through existing good relationships with Transport Scotland
- Do you think there is a need to influence the ticketing technology to be interoperable, even considering any business/cost advantages or disadvantages?
 - Most operators agreed with this - see above.

4. Non-legislative option –

- Would introducing new voluntary expectations on operators have any impact on your current/expected costs?
 - Positive or negative, as above – some operators already achieving much on a voluntary basis, but recognise that may not be the case in other parts of Scotland.
 - Also a recognition that, while some costs may arise, passengers increasingly expect smart ticketing and payment, and they may lose business as a result of not delivering on these expectations.
- Would introducing new voluntary expectations on operators have any positive or negative impact on your day to day business?
 - Most operators neutral or positive, subject to – for smaller operators – assurances that they would get support and advice from Transport Scotland

5. Legislative option –

- Do you think the proposed legislation will have any positive or negative impact on your current/expected costs?
 - Not really – see above – for most operators no appreciable difference between voluntary and legislative approach in terms of costs
- Do you think the proposed legislation will have any positive or negative impact on your current business?
 - Mostly neutral to positive – advisory group being able to influence nature and timing of technology advances is very important
- Would these costs be significantly different from the non-legislative option?
 - No

6. Digital Payment –

- Do you use, or plan to use in near/distant future, contactless bank card/mobile payment technology Stagecoach already at an advanced stage – including Apple and Google pay – and it is liked by both drivers and passengers?
 - Smaller operators are concerned about the overall transaction costs associated with cEMV, as well as the start-up costs, and would generally need to think quite carefully before going down this road.
 - They do recognise that, particularly younger customers, have increasing expectations that electronic forms of ticketing and payment are universally available
- What positive or negative financial impacts would you expect to see from this?
 - Make life easier for passengers and drivers, might attract some growth, but this needs to be offset against more cost in bank and merchant charges.
 - Stagecoach doing research around this, while smaller operators are mostly adopting a wait and see approach

- What positive or negative business impacts would you expect to see from this?
 - Greater transaction cost compared to cash
- What positive or negative customer impact would you expect to see from this?
 - Passengers like it and may, in due course, come to expect it
- Would you consider a local e-purse a viable alternative to contactless payments for your business?
 - Yes – expected (or known if running pilot) benefits to business/customer Stagecoach strong preference for cEMV rather than a national or local e-purse, but smaller operators – largely on costs grounds – mostly lean towards the local e-purse option
 - No – any expected (or known) negative impact from this / lack of interest etc
- Do you have a preference for cEMV over e-purse, or vice versa? If so, why?
 - For most smaller operators, see above, although Whitelaws expressed an outright preference for cEMV despite the increased cost of transaction.
 - For Stagecoach, they were already committed to introduction of cEMV as a retail-wide standard before national e-purse proposed, and see it as a better all-round solution

7. Advisory Group

- How would you see your interests in the Advisory Group being best represented to align with your business interests?
 - Stagecoach expect to play a leading role in the Advisory Group, Whitelaws are currently on it, and most smaller operators would be comfortable having their interests represented by CPT.
 - For Orkney Ferries, as a smaller – and remote – ferry operator, it was important that there was a ferries sub group, noting also that several aspects of ferry travel are quite different to bus or to rail.
- Do you think the advisory group should be broadly the same shape and size as the current Operator Smart Steering Group?
 - Subject to the points above, all consultees agreed it should, and recognise benefit of bringing in LA and Bus User representation to augment existing operator representation

8. Local Schemes and Arrangements

- Do you think mandatory (for bus) participation in a local/regional ticketing scheme is a good idea business/cost advantages/? If not, why not?
 - Smaller operators have some concerns about their level of influence in such arrangements today, so some broadly welcomed the idea of mandatory arrangements which might lead to greater transparency.
 - For Stagecoach, their first preference is voluntary agreement, and their only real concern is if schemes are created for political reasons rather than where a good business case exists

Competition Assessment

Answers to the four Competition and Markets Authority (CMA) competition

assessment questions are given below.

- Will the measure directly or indirectly limit the number or range of suppliers?

No – both the preferred (current) infrastructure elements required are open standard – ITSO for smart ticketing and cEMV for smart payment – so any supplier may enter the market place, and any transport operator may elect to utilise one or both of these means of delivering smart ticketing.

- Will the measure limit the ability of suppliers to compete?

No

- Will the measure limit suppliers' incentives to compete vigorously?

No

- Will the measure limit the choices and information available to consumers?

No, indeed it should help increase and simplify the choices available

Test run of business forms

No new forms for business as part of these proposals.

Legal Aid Impact Test

It is not currently expected that the proposals will have any impact on the current level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund. This will be further explored and updated as necessary as the legislation progresses.

Enforcement, sanctions and monitoring

Under the legislative proposals (Option 3):

- LTAs would be required to ensure that *ticketing schemes* were offered using the smart ticketing national standard (as an option alongside other methods) and also, define a number of other 'characteristics' of the scheme (such as who could retail tickets or how the scheme is marketed.)
 - These would be treated as a requirement on participation of operators and would therefore be treated as a *prescribed particular* of the operator's PSV licence. This allows for the Traffic Commissioner to impose sanctions under section 6 of the Transport Act 1985.
 - Where an LTA failed to include smart ticketing to the national standard, Ministers would determine that the scheme was not meeting the legislative requirements and, powers of directions contained in the Bill could step in and direct the LTA to design a scheme which met the needs of users.

- Monitoring would be through reporting requirements placed on LTAs. Annually, they would be expected to provide quantitative and qualitative information about ticketing arrangements and schemes within their area. This information will be collated by Scottish Government and published each year.

Implementation and delivery plan

Should the legislative measures proceed to an Act of Parliament, it is estimated this would come into effect in summer 2019 with regulations on the national standard, make-up of the advisory body and Ministerial power of direction to follow in following in due course.

Post-implementation review

Through the formal reporting process and regular engagement with stakeholders, both through advisory group and directly, the Scottish Government will monitor the effectiveness of the legislation and identify any areas where there is evidence that the regulations need to be reviewed/ revised.

It is proposed that the introduction of the legislation on smart ticketing be reviewed after a period of 6 years.

Summary and recommendation table

1 – Do nothing

2 – Voluntary

3 - Legislation

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	Progress on smart ticketing is being made, but in a rather piecemeal way and at a slower pace than is desirable. So the economic, environmental and social benefits are being realised to some extent, but not optimised. In particular, the social benefits – more people using public transport – are not being realised because passengers find the current offerings somewhat complicated and confusing, partly because their experience varies from operator to operator and partly because they don't even know if an offering will be available. It is also assumed that environmental benefits are optimised if there is modal shift to public transport	None of the options – do nothing, voluntary or legislative approach – generate significant costs for businesses for the foreseeable future, as most of the infrastructure costs are already met as a result of the Scotland-wide free concessionary bus travel scheme and, in the case of the major rail and major ferry operator in Scotland, the costs are already built into existing contracts.

2	With voluntary arrangements, we would expect some consolidation of the offerings to passengers, and some co-operation between operators, but the risks and drawbacks described in 1 above would still be there to some extent	None of the options for action generate significant costs for businesses for the foreseeable future, as most of the infrastructure costs are already met as a result of the Scotland-wide free concessionary bus travel scheme and, in the case of the major rail and major ferry operator in Scotland, the costs are already built into existing contracts. Forecasts are explored in detail in the Financial Memorandum introduced to Parliament alongside the Bill (link below)
3	It is felt that light touch legislation that ensures provision of a single national standard, clarity around multi operator regional ticketing arrangements and schemes, and an advisory group that enables stakeholders and Ministers to work constructively and formally together to – in particular – plan for future iterations of the technology (which is where the main costs lie), optimises the conditions for a consistent and comprehensive smart ticketing offering in Scotland across all operators and all modes. This in turn increases the likelihood of a simpler and more uniform passenger experience, thus optimising the social benefits, leading to modal shift towards public transport, thus optimising the environmental benefits.	As with option 2. Also, some Transport Scotland infrastructure costs, which would be spread across local government and participating operators in the ticketing schemes. Forecasts are explored in detail in the Financial Memorandum introduced to Parliament alongside the Bill (link below)
<p>The Financial Memorandum accompanying the Bill can be seen at:</p> <p>http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33FMS052018.pdf</p>		

Declaration and publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

- Sign-off for Final BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

A handwritten signature in blue ink, appearing to read 'Michael Matheson', written over a faint horizontal line.

Date: 27th August 2018

Minister's name - Michael Matheson

Minister's title - Cabinet Secretary for Transport, Infrastructure and Connectivity

Scottish Government Contact point:

Gordon Hanning (Transport Scotland Trunk Road and Bus Operations)