

APPENDIX 1

Consultation response form – implementation of Competition Commission bus registration remedies

Part 1 - Information about you

Name	Pete Mathieson
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Company Name or Organisation (if applicable)	Nottinghamshire County Council
Please tick one box from the list below that best describes you /your company or organisation.	
<input type="checkbox"/>	Small to Medium Enterprise (up to 50 employees)
<input type="checkbox"/>	Large Company
<input type="checkbox"/>	Representative Organisation
<input type="checkbox"/>	Trade Union
<input type="checkbox"/>	Interest Group
<input checked="" type="checkbox"/>	Local Government
<input type="checkbox"/>	Central Government
<input type="checkbox"/>	Police
<input type="checkbox"/>	Member of the public
<input type="checkbox"/>	Other (please describe):
If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members: Please note - the bus operator comments contained in this reponse represent the views of the main bus operators operating in Nottinghamshire.	

If you would like your response or personal details to be treated **confidentially** please explain why:

PART 2 - Your comments

<p>1. The impact of the 14 days pre-notification remedy is considered in the impact assessment at Annex A. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department has made various assumptions in calculating the impact and would welcome evidence on:</p> <ul style="list-style-type: none"> the proportion of routes that can be changed with 70 days' notice (56+14 days) at no extra cost (we implicitly assume that all PTE areas have a code of service stability in place and therefore wouldn't incur any costs from this change in regulation) – is this a fair assumption?). Overall, we assume that 91% of operators are able to give 14 days' notice without any additional costs. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence; the proportion of lost commercial kms that is typically replaced by local authorities? We assume an average of 21% is replaced by local authorities. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence; the percentage reduction in the cost of emergency tender contracts that an additional 14 day period would allow? We assume that the extra time given to local authorities to engage in the procurement of tenders will reduce costs by 10%. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence. it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence. 	<p>Local Bus Operators:</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	
	<p>Nottinghamshire County Council:</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	
	Empty space for evidence	
<p>Please provide evidence or information (particularly in terms of monetised costs/benefits):</p> <p><u>Local Bus Operator Response:</u> Local bus operators currently have a 70 day period for those services that operate in the 2 SQBP areas, the City and Mansfield, and do not object to this being applied for all services.</p>		

Nottinghamshire County Council Response

Nottinghamshire County Council has negotiated recognised service change dates with operators. The arrangements are established with operators, and it is reasonable to assume the current arrangements will continue.

We also have two Statutory Quality Partnerships in Nottingham City /Nottinghamshire, where we have an extended notice period for registrations (70 days) and the operators have not indicated any additional costs/ resource implications incurred due to this elongated notice period.

2. Do you agree with the Department's proposal to implement a 70 day notice period for all registrations, rather than a 90 day notice period just for variations? If not, what would you propose and why, and how would you address the circumvention risk of an operator cancelling and re-registering a service?

Local Bus Operators:

Yes

No

Nottinghamshire County Council:

Yes

No

Please explain your reasons and add any additional comments you wish to make:

Local Bus Operator Response:

The operators felt that the document wasn't very clear about whether the 70 days includes the 14 day notification period for local authorities or whether it is in addition to the 70 days, therefore making the notice period 84 days. If it is for the 84 days they do not support the proposal.

Nottinghamshire County Council Response

Nottinghamshire County Council support the principle of an increased notice period for registrations to ensure competing services have a greater opportunity of success and ensure greater network stability overall.

However we do still consider the Competition Commission recommendations of 90 days would have greater merit but understand the DfT reservations due to the circumvention risk, and would of liked more detail of the work DfT carried out to inform the proposal for 70 days -specifically to fully understand the DfT 'concerns' over the ability of the guidance to be clear and precise regarding definitions of a 'new' registration and 'variation' to an existing registration.

Within the Competition Competition report no reference has been made to the registering of services under section 22 which has a 28 day notice period. Should consideration be given to aligning the registration periods for section 22 with local bus to ensure there is no distortion of the market i.e. a large operator setting up a 'not for profit' off shoot and registering a service over a small operator?

3. If you propose that the circumvention risk can be removed through guidance, how would

you define what should be registered as a variation and what should be registered as a new service?

Please explain your reasons and add any additional comments you wish to make:

Local Bus Operator Response:

Supports the proposals for 70 days rather than the 90 day proposal due to difficulty operationally of working to two different notice periods i.e. where the new service is registered in 90 days while a variant is registered in 56 days but they operationally are on the same rota and also start on the same date.

Nottinghamshire County Council Response

Extending the notice period of 70, rather than 90 days to all registrations rather than just variations, is considered an appropriate measure, but as outlined above we would have liked more detail from the DfT on the rationale for this proposal.

4. The impact of the 90 days remedy is considered in the impact assessment at Annex A. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department has made various assumptions in calculating the impact of the options and would welcome evidence on:

- the percentage reduction in the cost of emergency tender contracts that the additional notice period would allow? We assume that the extra time given to local authorities to engage in the procurement of tenders would reduce costs by 10%. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- some local authorities may have a Code of Conduct on Service Stability (CoCSS) that requires operators to notify local authorities 14 days before making an application to the Traffic Commissioner. However, other local authorities may currently have a CoCSS but may decide it is no longer necessary given the new notice period. It is assumed that 20% of local authorities would have a Code of Conduct on Service Stability in addition to a 70-day notification period to TCs. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence.
- percentage of operators already giving 14 days' notice to local authorities? We assume 56% and implicitly assume that all PTE areas have a code of service stability in place. If you believe this is not a

Local Bus Operators:

Yes

No

Nottinghamshire County Council:

Yes

No

<p>fair assumption, please tell us what assumption you think should be used and provide us with the evidence.</p> <ul style="list-style-type: none"> it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence. 		
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Please provide evidence or information (particularly in terms of monetised costs/benefits):

Local Bus Operator Response:
The operators do not believe there is any evidence to support the 10% reduction in costs locally or nationally and point out that PTE's continue to see rising costs regardless of the extended 'notice' periods in operation in many of these areas.

Nottinghamshire County Council Response
Providing evidence on the impact of a longer notice period for service changes is very difficult because local factors such as time of year, number of companies competing locally, financial stability of the operators etc. has meant we have seen no discernable trend. However locally when a local operator went into administration and emergency tenders were sought the costs were between 25- 30% higher.

Nottinghamshire County Council has negotiated recognised service change dates with operators. The arrangements are established with operators as part of quality bus partnership arrangements, and it is reasonable to assume the current arrangements will continue.

The percentage of operators already giving 14 days' notice to local authorities is unlikely to be representative of all local authorities, but locally in Nottinghamshire we have 2 SQBP's which covers approximately 60-70% of service registrations.

Small and large bus operators could be adversely impacted financially where they wish to de-register a non-profitable service, where they will be required to sustain the losses for an additional 14 days. This could be of particular concern where the de-registration is consequent upon unforeseen circumstances i.e. closure of an employer and sudden loss of patronage. In these cases consideration should be given to a short notice withdrawal, providing it can be demonstrated that the loss of patronage was sudden, and could not have been reasonably foreseen.

<p>5. Are there any unintended consequences of delaying acceptance of a further registration until the first notice period has lapsed?</p>	<p>Local Bus Operators:</p>	
	<p>Yes <input checked="" type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
	<p>Nottinghamshire County Council:</p>	

	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

If yes, please explain what these are:

Local Bus Operator Response:

The bus operators would continue to like the flexibility to respond to emergency situations quickly where there is no competitive element to consider.

Nottinghamshire County Council Response

None. Any non-competitive need for a further registration within the period of the first registration would most likely qualify within the short-notice provisions, and therefore be accepted as set out in Section 1.20.

<p>6. The impact of the short notice remedy is considered in the impact assessment at Annex B. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department would welcome evidence on:</p> <ul style="list-style-type: none"> the number of successful short notice applications that are made annually, and the percentage of those that are currently for changes of no more than 10 minutes earlier or later. We have made no assumptions in the IA on the questions above and we would welcome evidence in order to monetise the impacts of this recommendation. Please tell us what assumptions you think should be used and provide us with the evidence. it has been assumed that the impact on small and micro businesses as a result of this policy option will be low. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence. 	Local Bus Operators:	
	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Nottinghamshire County Council:	
	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Please provide evidence or information (particularly in terms of monetised costs/benefits):

Local Bus Operator Response:

The Bus operators believe these proposals do not take into account that large operators can register over small operators and therefore 'unwittingly' supports the predatory behaviour that the Competition Commission is trying to address by not offering 'protection' for small operators. They point to two local examples where this has happened recently and put the small operators out of business.

Nottinghamshire County Council Response

The exact number of short service registrations can be sought from the Traffic Commissioner but we have no analysis locally of the impact of short notice changes.

We support the bus operators observations about small operators being vulnerable to large operators registering competing services.

7. Do you agree with the Department’s proposal to introduce fixed bands? If not, please explain what is your preferred option and why?

Local Bus Operators:	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Nottinghamshire County Council:	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Please explain your reasons and add any additional comments you wish to make:

Local Bus Operator Response:

The bus operators do not support this proposal because they believe it makes the registration process more complex i.e. for a school service operates 10 services per hour during school term dates (which incidentally vary in Nottinghamshire and Nottingham City) and 6 per hour during school holidays and thus would have to register the change before the initial service has started. Equally on a frequent service for one hour in the morning they may operate in two time bands, peak and off peak, therefore requiring 2 registrations.

Nottinghamshire County Council Response

The County Council agrees with the bus operators on the introduction of fixed bands and service intervals and the complexity this will cause in the registration process.

The County Council would recommend that all services are registered in the same way and there is no differentiation between frequent and non-frequent services. In regard to the monitoring of the services by the Traffic Commissioner we would recommend no change for 'frequent' services. If the bus operator provides the infill timetable information for all bus stops, this is useful to fulfill database and traveline requirements as outlines in Section 11 regarding encouraging the uptake of EBSR.

8. The impact of the frequent service remedy is considered in the impact assessment at Annex C. Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account? In particular the Department

Local Bus Operators:	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Nottinghamshire County Council:	

<p>would welcome evidence on:</p> <ul style="list-style-type: none"> the monetised costs to operators of identifying their frequent services and informing DVSA of which ones fall outside of the default band and which band they fall in (see paragraphs 1.33 to 1.35); the monetised costs of a software upgrade for EBSR users (see paragraphs 1.36 to 1.39); the cost for operators that do not use EBSR to upgrade their IT system to comply with the new definition of frequent services. We have not currently monetised this as we didn't have enough data to include monetisation, please tell us what assumption you think should be used and provide us with the evidence. for each of the three policy options - how often do you think operators would have to change their frequency band annually as a proportion of total frequent services? We currently assume that under policy option 1, 3% of total frequent services would have to be re-registered into a different band annually. Under policy option 2 and 3 it is assumed that 7.5% of total frequent services would have to be re-registered into a different band annually. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence. the total number of frequent services in England? We currently assume that there are 518 frequent services in England (from the CC report). If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence. it has been assumed that the change in frequency registrations will have little impact on small and micro businesses as medium and large businesses run the majority of frequent bus services. If you believe this is not a fair assumption, please tell us what assumption you think should be used and provide us with the evidence. 	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Please provide evidence or information (particularly in terms of monetised costs/benefits):

Local Bus Operator Response:

No response on this, other than to say if the costs increase this will be reflected in tender costs and fares for customers.

Nottinghamshire County Council Response

The cost for operators that do not use EBSR to upgrade their IT system to comply with the new definition of frequent services can be removed by instead introducing the workaround described at Question 10. Operators should be able to determine which frequency band the service falls into at the time they make the registration.

The low adoption rate especially by small and medium sized operators is primarily due to the cost of installing proprietary software which would enable EBSR to be exported to the Traffic Commissioner, Local Authority and Traveline. The software should be made available as a secure on-line facility, available to pre-registered operators.

The Department of Transport should also insist that operators provide infill timetable information for all bus stops, so one upload from the operator can be submitted to the Traffic Commissioner, Local Authority and any real time passenger information databases. This would be the most efficient and cost effective way to provide data.

9. Do you agree that operators are best placed to identify their services that are frequent services? If not, please explain why.

Local Bus Operators:	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Nottinghamshire County Council:	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Please explain your reasons and add any additional comments you wish to make:

Local Bus Operator Response:

Operators agree with this assumption.

Nottinghamshire County Council Response

It is suggested that The Traffic Commissioner should monitor frequent services to verify that the band within which the service is registered is being complied with.

10. Do you agree with the Department's proposal to adopt a workaround to the EBSR system to record the frequency? If not, please explain how you think the issue

Local Bus Operators:	
Yes <input type="checkbox"/>	No <input type="checkbox"/>
Nottinghamshire County Council:	

should be resolved.	Council:	
	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Please explain your reasons and add any additional comments you wish to make:

Local Bus Operator Response:
No comment.

Nottinghamshire County Council Response

The proposed workaround would restrict costs to the extra administrative costs of entering the information and costs to DVSA of checking that the information has been supplied. It would be significantly cheaper than the cost of updating the software to include a new element for frequency band.

11. In relation to encouraging the uptake of EBSR, views are also being sought on:

- potential barriers to the full roll out of EBSR in the next 2-3 years and how those barriers might be addressed;
- potential solutions to make the software accessible to small and medium operators; and
- whether Traveline acting as an agent for operators without TransXChange-compliant scheduling equipment is worth exploring.

Please explain your views and add any additional comments you wish to make:

Local Bus Operator Response:
The Bus operators believe that EBSR is not fit for purpose hence its slow adoption and suggest that a new approach is considered. However locally Stagecoach is using EBSR for bus registrations.

Support the development of an internet portal available for use by small operators and large operators alike. The only difference would be the requirement for the internet portal to accept uploaded files from large operator's propriety systems.

Do not support the need for traveline involvement if the above option is accepted. However if the use of traveline is considered then additional charges would need to be recovered from the registration fee.

Nottinghamshire County Council Response

Barriers could include slow operator adoption of new technology and training operators to use EBSR effectively.

The software should be made available as a secure on-line facility, available to pre-registered operators.

Registrations should be input and submitted by the operator registering the service to ensure their full understanding and 'buy-in' to the new service. The software should be made available as a secure on-line facility, available to pre-registered operators and we would recommend the Norfolk County Council system is adopted, to ensure a speedier uptake than 2 or 3 years.

Other Comments

The Council wishes to submit the following additional comments in respect of this consultation:

Role of the Traffic Commissioner.	<p>Nottinghamshire County Council requests that the Department for Transport gives consideration to devolving the role of managing Local Bus Registrations from the Traffic Commissioner to the Top Tier Local Authority. This could be achieved initially as a trial to showcase the benefits of the relevant Local Authority(ies) taking responsibility for approving local bus registrations. This would be of particular benefit with the introduction of a 14 day advance discussion period for local bus registrations. The Local Authority would be able to verify whether the 14 days discussion period has been complied with, which would otherwise be invisible to the Traffic Commissioner considering the application.</p> <p>Nottinghamshire County Council would be willing to participate in a trial of the above proposal.</p>
Senior Traffic Commissioner Consultation	<p>There is concern that the second Traffic Commissioner Consultation issued on 7th April includes a 7 minute window for late running. This could encourage operators to adopt unfair competitive practice by departing stops later than scheduled resulting in competition with a later departing competitor's service, therefore resulting in competition by stealth.</p> <p>There is a need for review of how any revisions to Local Bus Registration guidelines and the role of the Senior Traffic Commissioner guidance will work together for the benefit of the customer.</p>