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Mr Gawain Evans
Finance Director
Office of the First Minister and Cabinet Office
Welsh Government

Dear Mr Evans,

Notification of classification of Keolis Amey Wales Cymru Ltd and Keolis Amey Operations Ltd

ONS has undertaken a classification assessment of Keolis Amey Wales Cymru Ltd (the ODP) and Keolis Amey Operations Ltd (the OpCo, also known as Transport for Wales Rail Services) following the approval of emergency agreements made in response to the COVID-19 pandemic.

The first agreement, the Emergency Interim Agreement (EIA), enabled revenue support to be backdated by one month. The second agreement, the Emergency Measures Agreement (EMA), amended normal franchise mechanisms and transferred revenue and cost risk to the Welsh Government (WG).

ONS assessed the ODP and the OpCo in the context of the internationally-agreed rules laid out in the European System of Accounts (ESA) 2010 and the accompanying Manual on Government Deficit and Debt (MGDD) 2019.

The assessment considered whether public sector control existed during the EIA period, concluding that the changes introduced during this period did not introduce public sector control over the ODP or OpCo.

In relation to the EMA, the assessment noted that,

- The EMA places constraints on the capacity of the ODP and OpCo to raise funds: specifically, the EMA prevents the ODP, in relation to rail services only, from being able to borrow any sum, or enter into any loan or lending agreement for the purpose of borrowing from any person
- The main reason the train services continue to run is because it is government policy to ensure the continuation of these rail services
- Almost all of the financial risks associated with rail transport are now borne by government
- For the duration of the EMA, without the approval of Transport for Wales on behalf of WG the ODP and OpCo cannot take key decisions that relate to their corporate policy such as increasing their workforce or reducing their workforce by more than 5%, or setting ticket prices lower than they were immediately before the EMA came into place

Having also noted that control over an institutional unit does not require interventions in its day-to-day business (see MGDD 2019 1.2.3.1, 24), the assessment concluded that following approval of the EMA, public sector control of both the ODP and OpCo exists.

The assessment also reviewed the market status of both the ODP and OpCo, noting that,

- Public corporations often provide services that the market would not produce in the quantities or at the prices that would meet government policy, meaning they will respond to market forces differently from private corporations (see ESA 2010 20.21)
- The ODP/OpCo are competing on the basis of price against other producers of transport, meaning revenue from ticket sales has been classified as market output (P.11)
- The payments received by the ODP from government have been classified as other subsidies on production (D.39)
- The ODP and OpCo are institutional units that provide non-ancillary services to households, and have an incentive to adjust supply to undertake a viable profit-making activity (see ESA 2010 20.29)
- The EMAs take the form of amendments to the ODP Grant Agreement that was awarded following an open tendering competition between suppliers of rail services. As the ODP and OpCo are not the only supplier of rail services, and as they have acted in real and open competition with other producers, the quantitative market test must be carried out (see MGDD 2019 1.2.4.2, 50)
- The last available accounts for the ODP and OpCo relate to the 2018/19 financial year (before the EMAs came into force) meaning they passed the quantitative market test. However, at the conclusion of the current financial year ONS will have to further review the market status of the ODP and OpCo. In doing so, ONS will make a determination as to whether the ODP and OpCo have passed the quantitative market test for financial year 2019/20, and whether they are expected to pass it for the next two years, as minor fluctuations or outcomes deemed to be one-off and exceptional cases do not necessarily result in a reclassification (see MGDD 2019 1.2.4.3, 55)

Therefore, both the ODP and OpCo have been classified to the public non-financial corporations subsector (S.11001) with effect from 3 May 2020, the date the EMA came into force.

It may be helpful for me to point out that further classification assessments of the ODP or OpCo may be carried out in the future if there are changes in their circumstances such as an amendment of the EMA, or if they begin operating under new agreements or arrangements with the government.

The above conclusions have been approved by the Chief Economist (Grant Fitzner) to whom the National Statistician has delegated decision-making on classifications.

I trust this provides sufficient explanation of the assessment. Please do get in touch if you have any questions or comments.

Yours sincerely,

David Beckett
Head of Economic Statistics Classifications