House of Commons
Transport Committee

Competition in the local bus market

Third Report of Session 2012–13

Volume I: Report, together with formal minutes, oral and written evidence

Additional written evidence is contained in Volume II, available on the Committee website at www.parliament.uk/transcom

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The Transport Committee

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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

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The current staff of the Committee are Mark Egan (Clerk), Farrah Bhatti (Second Clerk), David G Davies (Senior Committee Specialist), Tony Catinella (Senior Committee Assistant), Adrian Hitchins (Committee Assistant), Stewart McIlvenna (Committee Support Assistant) and Hannah Pearce (Media Officer).

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Summary

Over five billion passenger journeys are made by bus each year in Great Britain, journeys that are important to individuals and to businesses. Outside London, three-quarters of bus services are planned and provided commercially by private bus companies. Additionally, local and central government spend over £2.5 billion in England alone on support for bus services and concessionary travel. While many services are good, not all are as good as they could or should be and bus use outside London continues to decline. Quality varies across areas and across bus operator groups. In our previous report, *Bus Services after the Spending Review*, we highlighted the danger that bus services would be disproportionately affected by the spending cuts.

The Competition Commission undertook a major investigation into the operation of local bus markets and estimated that a lack of competition was imposing up to £305 million of detriment on passengers and local authorities. It proposed remedies to increase head-to-head (on the road) competition, which it believes will lead to improved services for passengers. The Government has agreed to implement most of the remedies.

Many witnesses to our inquiry argued that widespread head-to-head competition was neither sustainable nor desirable. There was general support for the individual remedies proposed by the Competition Commission, particularly for more multi-operator ticketing schemes, but a view that these measures alone were not sufficient. We support the Competition Commission’s remedies but are not convinced that it has addressed the full range of issues, including the problem of large incumbent operators who do not provide a sufficiently good service.

The Local Government Association (LGA) and some passenger transport executives (PTEs) argued for more emphasis on franchising, using the Quality Contract provisions of the Local Transport Acts. The LGA also argued for more government bus spending to be put under local authority control. Bus operators and some passenger groups were wary of these proposals. We concluded that although only a few PTEs seem likely to adopt the franchise route, it is important that this option is seen to be realistic. The Government should be even-handed in its approach to support for partnerships and franchises. The key issue will be whether franchises can deliver better value for money. London delivers a superior bus service, under a form of franchising, but in very different circumstances and with a much greater level of subsidy. Changes to the Local Transport Act 2008 are not required.

Partnerships—between local authorities and bus operators—will be the way forward in most areas. Where possible, partnerships will include multiple operators, as in Oxford, and competition will take place within a framework that benefits the public. Multi-operator ticketing schemes and smartcards should be implemented more widely. In areas with only one operator, partnerships should still be pursued. We call on local authorities and the bus industry to show leadership in developing partnerships, the best of which are based on shared interests and long-term-relationships and cannot easily be imposed. We also call on the Government to ensure that partnerships, including measures such as joint ticketing and co-ordinated timetabling, can proceed without undue constraint from the competition.
authorities, where partnerships are in the interests of passengers.

Bus operators have to comply with safety regulations and punctuality standards, enforced by the Traffic Commissioners, but there is little other regulation of service quality for commercial services. We were concerned that limited resources were preventing the Traffic Commissioners from carrying out their regulatory functions as robustly as they would wish. The resourcing of bus regulation seems to compare unfavourably with that for rail. We recommend that the Department for Transport commission an independent review of the resources for the Traffic Commissioners in time for the next Spending Review.

In conclusion, we call on the Government to establish a framework that will encourage and enable local authorities and bus operators to work towards providing better bus services.
1 Introduction

The importance of bus services

1. Over five billion passenger journeys were made by bus in Great Britain in 2010-11, more than three times the number of journeys by national rail. People use buses for a range of journey purposes, mainly for shopping, commuting, leisure and education. Younger people, older people and those without access to a car are most reliant on buses. Norman Baker MP, Parliamentary Under-Secretary of State for Transport with responsibility for buses, described buses as “a lifeline for people who do not have access to a car.” Buses are also important for economic purposes, providing access for people to jobs and for firms to labour markets. During our previous inquiry, Bus Services after the Spending Review, we heard directly from bus users about the importance of bus services to them. We were concerned that bus services would be disproportionately affected by the current combination of central and local government spending cuts.

Provision of bus services

2. In most of continental Europe, bus services are under the control of a local or regional transport authority which specifies the services and either provides them itself or contracts with an operator to do so. In the UK, with the exceptions of Northern Ireland and London, arrangements are quite different since bus services were “deregulated” under the Transport Act 1985. Subject to certain safety and quality standards, bus operators decide which services to run, the fares to charge and other such matters, without recourse to the local authority. Local authorities have powers to supplement these services—filling gaps in the commercial network—by inviting tenders for supported services. In 2010-11, 23% of all bus mileage in England outside London was on local authority supported services. The underlying philosophy of the Act is that, given a competitive market, private companies will provide better value for money and be more attuned to passenger demands than a system planned and controlled by local government would do. There is also greater transparency over which routes or passenger groups are subject to public subsidy.

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3 Ev w63


5 HC Deb, 19 April 2012, col 484


7 Transport Committee, Bus Services after the Spending Review, Eighth Report of Session 2010-12, HC 750, 11 August 2011

8 The percentage has been about 20% since deregulation. It was 22% in 2009/10. DfT, Annual Bus Statistics 2010/11, January 2012 http://assets.dft.gov.uk/statistics/releases/annual-bus-statistics-2010-11/busstats2010.pdf
London

3. Bus services in London were not deregulated as they were in the rest of Great Britain. London bus services are planned by Transport for London and provided by private bus companies following a competitive tender process. The London Mayor sets the level of fares. Tendering is on a route-by-route basis (which should enable smaller operators to enter the market) and ‘gross cost’ (i.e. the operator makes a bid based on costs and service quality and does not have to bear the revenue risk, unlike the ‘net cost’ system for tendered services common in most other regions). On the road competition is not permitted.

Passenger numbers

4. The number of passenger journeys by bus in the Great Britain has been in long-term decline since the 1950s when the number stood at almost 15 billion. The trend continued after deregulation, with more pronounced reductions in Scotland, Wales and English metropolitan areas. Since the mid-1990s, there has been an upturn in total passenger numbers for Great Britain, largely as a result of the introduction of national concessionary travel schemes and passenger growth in London. (See Chart 1 and Appendix Table A1.) Bus use in London now accounts for 50% of all bus journeys in England (2.3 billion out of 4.6 billion in 2010-11). The reasons for the long-term decline in bus use are numerous but increasing levels of car ownership and land-use changes are major factors. Vehicle miles on local bus services in Great Britain have increased slightly since 2004-05.

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9 Including trolley buses but excluding trams. Bus passenger trips, as defined in these statistics, are based on estimates of trips defined as commencing each time someone boards a bus. Some passengers’ journeys involve bus-to-bus interchange, so the number of trips made between activities is somewhat less. This applies in particular to networks with a high proportion of interchange, such as London. DfT, TSGB, Table TSGB0102. http://webarchive.nationalarchives.gov.uk/20110509101621/http://www.dft.gov.uk/pgr/statistics/datatablespublications/modal/passenger/tsgb0102.xls


Passenger satisfaction

5. The 2012 Bus Passenger Survey by Passenger Focus, the official passenger watchdog, found that, on average, 85% of passengers in England (excluding London) were satisfied overall with their bus journey. The high level of overall satisfaction is to the credit of the operators and their local authority partners. However, averages and overall ratings can mask underlying issues. Colin Foxall CBE, Chairman of Passenger Focus, commented that:

[...] while overall passenger satisfaction across the surveyed areas was consistently good, bus passengers rate just about all other specific journey factors lower.

Significantly there are wide disparities with passengers’ ratings of value for money, not only between different areas, but between different operators and services within the same area.

6. On closer analysis, the survey shows considerable variations in the performance of different bus operators. For example, the percentage of users satisfied with value for money was generally lower for FirstGroup, and for National Express in the West

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13 Colin Foxall CBE, Chairman, Passenger Focus, Bus Passenger Survey, March 2012, p 3
Midlands, than for Stagecoach and some publicly-owned operators such as Nottingham City Transport. In Manchester, FirstGroup had satisfaction for ‘value for money’ of just over 51%, but Stagecoach had 64%. Variations in bus operator service standards are also reported by other witnesses, such as Metro, the West Yorkshire Passenger Transport Executive. The Association of Transport Coordinating Officers (ATCO) states, from other survey sources, that passenger satisfaction levels do not appear to be related to levels of competition.

7. Having heard directly from bus users in this and our previous inquiry, we are in no doubt that, despite good levels of overall satisfaction, problems exist for bus users and that some aspects of services need to improve. We are also aware that the survey does not include the views of those people who do not use buses, for whatever reasons.

8. The Bus Passenger Survey by Passenger Focus is a useful report. It shows, among other things, significant variations in passenger satisfaction between bus operators. However, the report does not present an assessment of the performance of the major groups, aggregated across the survey areas. We recommend that in future bus passenger surveys, Passenger Focus provide a clearer statement of the relative performances of the major bus operator groups. It would also be helpful if it provided data that allowed analysis of passenger satisfaction and competition at the local level—although that might require a larger survey.

Government bus strategy

9. Bus policy and expenditure are devolved matters. The Government set out its policy for buses in England in A Green Light for Better Buses. It says that “Large parts of England already benefit from very good bus services” and it wants to see more areas receive better quality services and value for money.

   Our vision is for a ‘better bus’ with more of the attributes that we know passengers want: more punctual, inter-connected services, an even greener and more fully wheelchair and buggy-accessible fleet and the widespread availability of smart ticketing.

Wider use of multi-operator tickets, smartcards and low-carbon buses are emphasised. The Government acknowledges the long-term decline in bus use outside London. Whilst expressing the hope that this can be reversed—in order to protect the viability of services—it sets no targets.

14 Passenger Focus report, pp 20-24
15 Ev w46
16 Ev w34
17 See, for example, Ev w4 and Ev w58
18 Substantial differences are funding are found in Wales and Scotland, especially with respect to treatment of BSOG. Scotland now bases this on bus mileage - not fuel - and Wales proposed to make substantial cuts at short notice, although this was subsequently deferred.
19 DfT, Green Light for Better Buses, March 2012, p 8
20 Q 381
10. The main mechanisms proposed to deliver these improvements are wider use of partnerships between local authorities and bus operators and changes to bus industry and local authority grants, including the Bus Service Operators Grant (BSOG) and the Better Bus Areas Fund. (See below.) Some changes to regulations are also proposed but major legislation is not planned.21 (See also Paragraph 42.)

**Government spending on buses**

11. Central and local government in England spend around £2.5 billion a year on bus-related revenue expenditure (Table 1). Since 2004-05, total net support for local bus services in England has increased by 20% in real terms, mainly due to a 78% increase in funding for concessionary travel. It fell by 7.3% between 2009-10 and 2010-11, mainly due to reductions in London.22

12. The major item of spending is concessionary bus travel, amounting to over £1 billion in England in 2010-11. This is a subsidy to certain groups of bus passengers, including older and disabled people, allowing them to travel without charge after 9.30am.23 Bus companies are reimbursed for the fare revenue foregone on a “no better, no worse off” basis.24 In 2010-11, 34% of journeys were made by concessionary passengers.25

13. Local authorities outside London spend significant sums on “supported services”–bus services which they deem to be necessary but which are not commercially viable. Following a tender process,26 bus companies are contracted to provide these services. This represents a subsidy by local authorities to passengers and communities on these routes. In 2010-11 net support amounted to £370 million. In London, where arrangements are quite different (see Paragraph 3), support was £564 million, giving a total of £934 million for England.

14. The Government provides financial support to the bus industry for bus services through Bus Service Operators Grant (BSOG). This is paid to bus operators to partially offset fuel duty, thereby reducing the cost of providing bus services. Additional BSOG payments are available to encourage operators to use low carbon buses and to install automatic vehicle location and smart ticketing equipment. The Government is consulting on changes to BSOG which could see a proportion paid to the local authority instead of

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21 Q379
23 Local concessionary travel authorities have the discretion to define concessionary travel more generously. It is paid locally.
24 Ev 89
25 In 2010/11, the figures were England 34%, Scotland 34%, Wales 43% and Great Britain 34%. DfT, Table BUS0105, http://www.dft.gov.uk/statistics/tables/bus0105/ This includes concessionary travel for young people where the compensation is paid by local authorities to operators, and in London.
26 Or by negotiation if the service is within ‘de minimus’ limits.
the bus operator.27 (See Chapter 4.) In 2010-11 BSOG amounted to £420 million. The rates paid to bus operators in England were cut by 20% in the Spending Review 2010.28

Table 1. Support by central and local government for local bus services and concessionary travel, England 2010-11

<table>
<thead>
<tr>
<th>Area</th>
<th>Net Public Transport Support</th>
<th>Concessionary Travel</th>
<th>Bus Service Operators Grant</th>
<th>Total estimated net support</th>
</tr>
</thead>
<tbody>
<tr>
<td>London</td>
<td>564</td>
<td>191</td>
<td>108</td>
<td>862</td>
</tr>
<tr>
<td>English metropolitan</td>
<td>127</td>
<td>309</td>
<td>108</td>
<td>543</td>
</tr>
<tr>
<td>English non-metropolitan</td>
<td>243</td>
<td>504</td>
<td>205</td>
<td>953</td>
</tr>
<tr>
<td>England</td>
<td>934</td>
<td>1,004</td>
<td>420</td>
<td>2,358</td>
</tr>
</tbody>
</table>


Notes: ‘Net Public Transport Support’ is that defined as that paid toward support of services (as distinct from concessionary fares), and is net of revenue received (whether directly by the operator, or the relevant authority, as in the case of TfL). Outside London, the payment to operators is incurred on tendered non-commercial services, whereas in London it relates to the network as a whole. Expenditure is also incurred by local authorities managing the tendering process, provision of public transport information, etc.

The figure for Net Public Transport Support for London above (£564m) is higher than the figure provided by TfL (£428m) in LBS50. The TfL figures are for the net cost of tenders and exclude expenditure on central items including marketing and passenger information; the iBus system; ticketing systems; bus stations, stands, stops and shelters; liaison and consultation with local authorities, London TravelWatch and others.

15. In addition to these major items of regular expenditure, the Government has introduced the Better Bus Areas Fund which is aimed at local authorities in the larger urban areas working in partnership with local bus operators. In 2012-13, a total of £70 million was awarded to 24 local authorities in England. A further £31 million, from the Green Bus Fund, was awarded to bus companies and local authorities in England to help them buy new low carbon buses.

Reference by the Office of Fair Trading

16. More than 25 years after the Transport Act took effect, there are approximately 1,245 bus companies in Great Britain.29 However, the industry is dominated by five major companies: FirstGroup, Stagecoach, Arriva, Go-Ahead and National Express, sometimes called the “big five”, which provide 69% of all local bus services outside London.30

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27 Norman Baker MP, Written Statement, 26 March 2012
28 Reductions to BSOG are being implemented at different times across England, Wales and Scotland. In England they took effect from April 2012. See Q 247.
29 This refers to companies operating registered local services. The number with Operator Licences is greater, due to some companies being involved only in school contracts, private hire, etc. Competition Commission report, December 2011, Summary, para 12.
17. As a result of concerns about an apparent lack of competition in the bus industry, the Office of Fair Trading (OFT) undertook an investigation\(^{31}\) and referred the industry to the Competition Commission (the Commission) in January 2010.\(^{32}\) The terms of the reference stated:

The OFT has reasonable grounds for suspecting that a feature or a combination of features of the market or markets for the supply of local bus services in the UK excluding Northern Ireland and London prevents, restricts or distorts competition.\(^{33}\)

London and Northern Ireland were excluded from the Commission’s investigation, the OFT having found no matters of concern there. The Commission launched a major investigation, publishing its final report in December 2011. The investigation, which we look at in Chapter 2, revealed much about the state of competition and the workings of the bus industry. It has also rekindled debate about how bus services should be regulated.\(^{34}\)

**Our inquiry process**

18. We decided to inquire into competition in the local bus market, building on the evidence obtained by the Commission, and considering whether factors other than competition were relevant to providing the bus services that were needed, at acceptable cost to the passenger and the taxpayer.\(^{35}\) As the situation in London is so different to that in the rest of Great Britain, we excluded London from our inquiry, except for comparison purposes. We received over 50 written submissions and took oral evidence from 22 witnesses. We also visited Oxford to find out more about the partnership working between bus operators and with the local transport authority—a scheme that the Commission has described as successful. Our specialist advisers throughout our inquiry were Professor Peter White, University of Westminster, and Robert Linnard, formerly Director of Local Transport Policy at the Department for Transport.\(^{36}\) We are grateful to all who assisted us.

\(^{31}\) Local bus services. The OFT’s reasons for making a market investigation reference to the Competition Commission, January 2010, OFT1158, http://www.oft.gov.uk/shared_ofr/reports/transport/OFT1158_Local_bus_services.pdf


\(^{33}\) Competition Commission, December 2011, Appendix 1.1

\(^{34}\) House of Commons Library, Buses: Franchising, Standard Note SN00624, April 2012 http://www.parliament.uk/briefing-papers/SN00624

\(^{35}\) Details of the inquiry, including terms of reference, are on the Committee website http://www.parliament.uk/transcom

\(^{36}\) Professor White and Mr Linnard made formal declarations of interests which can be found in the formal minutes of the Transport Committee, session 2010-2012, Appendix 8 http://www.parliament.uk/documents/commons-committees/transport/formal%20minutes%202010-12%20-%20V%2003.pdf
2 Competition–is more always better?

**Competition Commission report–key findings**

19. The Competition Commission published its final report on 20 December 2011.\(^{37}\) It concluded that there was a lack of sustained head-to-head (on the road) competition between bus operators and that they avoided competing in other operators’ core territories. Operators were also earning excessive profits. As a consequence there were “adverse effects on competition”. These led to a detriment to consumers–less frequent, poorer quality services and possibly higher fares\(^ {38}\)–valued at “considerably in excess of £70 million a year” and likely to be between £110 million and £295 million a year. In addition, lack of competition may be costing local authorities £5 million to £10 million a year through higher contract prices for tendered services, giving a total detriment of up to £305 million.

**Geographic market segregation**

20. The Commission concluded that the major bus operators were not competing in each other’s recognised territories, resulting in geographic market segregation. It uncovered what amounted to a non-aggression pact between Arriva and Go-Ahead in the North East England and questioned the completeness and veracity of other information provided by the industry.\(^ {39}\)

21. The finding of collusion was strongly challenged by (the late) Peter Huntley, Managing Director of Go North East during the Competition Commission’s inquiry. Mr Huntley argued that the Commission had interpreted market segregation wrongly and that communication and cooperation between operators in the North East had been almost entirely legitimate and in the interests of passengers.\(^ {40}\) Mr Cooper, Executive Director of Arriva, told us that there was “no pact” and that geographic market segregation was due to “economic reality in a very mature environment.”\(^ {41}\)

22. Whether geographic market segregation is by collusion or the result of market forces, there are many areas which have been dominated by a single operator for some years.\(^ {42}\) For example, Stagecoach in south Manchester and FirstGroup in north Manchester. This seems unlikely to change: Arriva’s strategy for delivering growth does not include competing with rival companies or expanding into new areas.\(^ {43}\) If the quality of service

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37 Competition Commission, *Local bus services market investigation*, December 2011

38 The OFT report estimated that average fare levels in areas not subject to competition were approximately 9% higher than those in which competition was found (Appendix C of that report). However, the subsequent Competition Commission report did not sustain this conclusion. See also Q 178.

39 Competition Commission, December 2011, paras 40-42

40 For example, the late Peter Huntley in *Passenger Transport*, 13 January 2012, pp 19-23

41 Q 234

42 The Competition Commission report, Figure 2.9, shows the geographical dominance of the largest operators across Great Britain.

43 Ev 100, para 1.5
and the levels of fares charged were always satisfactory, we would be less concerned about these local monopolies.

23. The Commission refers in its report to the problems caused by the dominance of the big five, and possible impacts on users. However, it draws relatively few distinctions between the performances of named groups. It appears to be suggesting that similar disbenefits to users arise from any of the big five being in a dominant position in a particular area.

Lack of head-to-head competition

24. The Commission concluded that head-to-head (on the road) competition was “uncommon” but that, where it existed, it led to benefits to passengers in increased services, frequencies and lower fares. It cited Oxford, Sheffield and Nottingham as examples of cities where head-to-head competition had led to improved services. However, the Commission also found that “[…] competition can result in a costly period of intense rivalry between operators which is likely to be loss-making, and so culminate in the exit of one operator.”

25. The bus industry argued that widespread head-to-head competition was unsustainable. It was therefore unsurprising if operators stuck to their own territories (see Paragraph 35). Representatives of Arriva and FirstGroup told us that only a small percentage of routes could sustain additional competitors and that losses would be incurred in the process. However, this absence would not protect an operator which was performing very badly, because the threat of competition would always exist. Passenger groups pointed out that sustained head-to-head competition was unusual and could itself have unintended negative consequences. A number of witnesses argued that the Commission was wrong to dismiss the long-term competition that bus services faced from the car. Between 1997 and 2010, the cost of motoring increased by 32.5% while bus fares increased by 76.1%.

Excess profits

26. The Commission’s report points to high levels of profitability for the five largest bus operator groups. It estimates that the average rate of return on capital employed across the industry for the period 2005-06 to 2009-10 was 13.5% while the mid-point cost of capital was 9.7%, giving a profit margin of 3.8%. The figures were confirmed by our industry witnesses although they placed a different interpretation on them.

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44 Competition Commission, Final Report, December 2011, Summary, para 30
45 Q 234
46 Ev w36 para 4.1
47 Ev 89 para 1.3.5, Ev w7 para 3.3 and Ev w64 para 4.6
48 Over the same period the Retail Price Index increased by 41.9% DfT, Transport Statistics Great Britain, December 2011, Table TSB0123 http://www.dft.gov.uk/statistics/tables/tsgb0123/
49 Competition Commission, December 2011, Summary, para 25
50 Qq 186, 249-250. The findings are based on rates of return on capital employed (ROCE), a calculation which involves making estimates about the values of assets, primarily vehicles. Operators often talk of an ‘operating margin’ (sometimes called a ‘return on sales’), which is the net profit (usually after depreciation and interest) as a
27. The Commission’s assessment of economic detriment due to lack of competition includes a substantial element of excessive profits made by the five largest groups, i.e. returns above the costs of capital. However, the report does not explicitly consider whether such excessive profits have been distributed to shareholders or reinvested in the business to the benefit of passengers, for example, in fleet renewal, smartcard ticketing and infrastructure.\footnote{Steven Salmon, Director of Policy Development of the Confederation of Passenger Transport, told us that, during a period of more than five years in the 2000s, the industry collectively invested more in each year than it made in profits.\footnote{Steven Salmon, Director of Policy Development of the Confederation of Passenger Transport, told us that, during a period of more than five years in the 2000s, the industry collectively invested more in each year than it made in profits.}}

**Proposed remedies**

28. The Commission recommended a series of remedies intended to increase head-to-head competition. These include more multi-operator ticketing schemes, longer notice periods for service changes, a code of conduct for operators, access to bus garages for competitors, disclosure of information about services to be deregistered, a tougher approach by the OFT towards bus company mergers, more competition within partnerships, an OFT-local authority partnership forum and incentives through revisions to BSOG. (See Box 1.)

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**Box 1. Main remedies proposed by the Competition Commission**

*Market-opening measures*

- Ticketing: additional powers for local transport authorities (LTAs) to determine the characteristics of mandatory multi-operator ticketing schemes;

- Operator behaviour: restrictions on changes in service frequency through increased registration notice periods and changes to frequent service registrations; a local bus operator Code of Conduct to be drawn up and enforced by the Traffic Commissioners;

- Access to bus stations: an Order by the Competition Commission requiring local bus operators to provide fair access to bus stations for rival operators.

*Supported services*

- Best practice guidance: the Department for Transport (DfT), Scottish and Welsh Governments to provide best practice guidance for LTAs on tendering for supported services;

- Information about newly deregistered services: LTAs to be given powers to obtain and disclose information about revenue and patronage of services being deregistered.

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\footnote{Percentage of turnover. This has averaged around 10% or more for bigger groups in recent years (but is lower for smaller operators). This figure is of a similar magnitude, but is not the same as, rate of return on capital.}

\footnote{FirstGroup spent over £300 million on buses in the last five years in England and Wales - Q 182 Footnote. Arriva spent £90 million in the same period-Q 186.}

\footnote{Q 183 Under present accounting practice in Britain, only historic depreciation is charged. This provides for some, but not all, of the cost of like-for-like replacement vehicles, and hence operators need to make an additional profit margin to cover this difference.}
Wider regulatory and policy environment

- Effective competition enforcement and compliance: the OFT to take a tougher approach towards bus company mergers; operators to review their competition compliance training and culture;
- Partnerships: LTAs to tailor partnerships to facilitate increased competition; OFT to establish a forum with LTAs (and possibly operators) on partnerships and competition issues;
- BSOG: the DfT to revise BSOG to incentivise participation in the remedies proposed.

Source: Competition Commission report, December 2011, Chapter 15.

29. The Commission did not recommend divestiture by any of the major companies, despite its finding that they were reluctant to compete in their competitors’ core territories. Jeremy Peat, chair of the investigation, said that the Commission had considered this option but decided that this would be a very complex process; that transferring ownership to another operator might not lead to service improvements; and that other remedies were more likely to be effective.53

30. The Commission considered whether the current system of direct on-road competition should be replaced by a franchising system. It concluded that enhanced direct competition was the better solution.54 We address this further in Chapter 3.

Reactions from stakeholders

31. Witnesses to our inquiry were mostly critical of the Commission’s report. Stakeholders from a range of sectors, including bus user groups,55 local authorities56 and the bus industry57 accused the Commission of relying on economic theory that was not appropriate to the bus industry and of reaching conclusions that did not do enough to address the needs of bus users.

32. Despite these criticisms, many witnesses accepted a number of the remedies proposed by the Commission, although with reservations about some details. There was particular support for the wider introduction of multi-operator ticketing schemes.

Passengers

33. Bus user groups, including Passenger Focus, Bus Users UK and the Campaign for Better Transport, said that bus users valued punctuality, frequency, reliability and stability

53 Qq 369-371
54 Competition Commission, December 2011, Summary, para 69
55 Ev 56
56 Ev w69
57 Ev 111
in bus services, as well as value for money and the ability to transfer between operators. They argued that these factors did not necessarily improve with more competition. The Commission’s analysis did not relate competition levels to passenger satisfaction. Bus Users UK thought the proposals for more multi-operator ticketing schemes and disclosure of information about newly deregistered services would be particularly beneficial. Perhaps surprisingly in view of the importance attached to stability, the passenger groups largely opposed the Commission’s proposals for increased notice periods and limitations on an incumbent operator’s response to competition. They also opposed the changes to BSOG.58

**Local authorities**

34. The LGA,59 pte60 and other local government groups61 expressed disappointment at the Commission’s report: they saw some recommendations as useful but not going nearly far enough. In particular, they had hoped for a recommendation for wider use of franchising62 accompanied by reform of the bus subsidy package (BSOG, concessionary fares, etc) with more funding being channelled directly to local authorities.63 The individual passenger transport executives (PTEs) pointed out differences in performance by different bus operators. Metro noted that one bus company in the West Yorkshire area was much better than others.64 Centro noted the poor quality of some (usually small) operators.65

35. ATCO took a more positive approach to the Commission’s report.66 It welcomed a number of the remedies, including those for fair access to bus stations, multi-operator ticketing access, and disclosure of information about deregistered services—although stressing the need for accuracy. ATCO was wary about the proposals for BSOG changes (subsequently rejected by the Government).

**Bus operators**

36. Some operators, such as Go-Ahead, pointed out that the Commission’s remit was to focus on competition in the bus industry and this precluded a wider examination of issues about bus services.67 Despite initial misgivings, the larger bus companies seemed to have come to terms with the Commission’s investigation and were relieved that the Commission had not recommended structural change. However, they have concerns about the details of implementation and the risk of unintended consequences.68 On the
Commission’s central conclusion that widespread head-to-head competition was the way forward, bus operators, such as Arriva, said that few routes could sustain head-to-head competition and it seemed an unlikely prospect.69

37. The Association of Local Bus Managers (ALBUM), representing small and medium size bus companies, was not impressed by the investigation70 but was ultimately “relieved” at the recommendations.71 Some small individual companies, such as Leven Valley Coaches, were highly critical of both the Commission’s methods and findings. They were concerned that some of the remedies, including the increased notification period proposed for service changes, would affect them unfavourably when compared with the large operators.72 Smaller bus operators saw benefits in the proposals for more multi-operator ticketing schemes.73

38. Operators also expressed concern that the Commission’s investigation had been a costly and time-consuming distraction from more important and urgent issues such as responding to changes in BSOG, concessionary fares compensation levels, and the impact of the recession.74 FirstGroup told us it had spent around £3 million on consultancy fees to respond to the Commission and to present its case in the best light.75 The Commission acknowledged that the investigation had placed considerable demands on the industry.76

**Detriment**

39. Arriva challenged the calculation of detriment (£115-305 million) and pointed out that the OFT’s initial claim of fares being 9% higher in areas of low competition had not been backed up by Commission findings.77 Mr Anderson, a transport consultant, estimated the detriment to be equivalent to an additional 6.4p-12.9p per passenger journey, “a small proportion of typical fares, and barely significant.”78 In relation to the industry revenue of £4.3 billion79 the detriment does not appear to be large–less than 7%.80 The minister, Norman Baker, said the Competition Commission had estimated a “wide range” of detriment.81

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69 Q 177  
70 Ev 111  
71 Q 179  
72 Ev w1 para 11  
73 Q 180  
74 Peter Huntley in Passenger Transport, 13 January 2012, pp 19-23  
75 Qq 197-198  
76 Q 327  
77 Q 178  
78 Ev 76, see also Ev 89  
79 In the reference area, ie Great Britain excluding London.  
80 Industry revenue in the reference area (Competition Commission, December 2011, Table 2.5).  
81 Q 415
Trades Unions

40. The transport unions Unite and RMT were critical of the remedies proposed by the Competition Commission for enhanced competition:

Tweaking competition methodology and simply blaming the main bus operators in the market is not an adequate solution.82

41. They argued that competition was not in the interests of their members or the public. They were opposed to on-road competition but said that cheap exclusion tactics, such as bus drivers blocking stands, were a thing of the past.83 Unite was generally in favour of area franchising. It was critical of the route franchising system in London because of the impacts on its members whose wages, pensions and conditions were affected when contracts changed.84 RMT favoured renationalisation of bus companies.85

Government response

42. The Government said that, with the exception of the recommendation on BSOG,86 it has “agreed to pursue” all the Commission’s recommendations to address the shortfall in competition. However, while accepting the Commission’s recommendations for increased competition, the Government’s response also endorses “a stable, reliable and integrated service”.87

43. Most recommendations could be implemented without new legislation. The exception is the recommendation that bus operators be required to disclose information on newly deregistered services. The Government says that it “will explore the possibility of…legislation by the end of this parliament” to address this matter, though it hopes that voluntary disclosure will make legislation unnecessary.88

44. Some recommendations fall to other parties to implement. The OFT is already showing signs of taking a tougher line towards take-overs and mergers within the bus industry.89 The Senior Traffic Commissioner is recommended to develop the Code of Conduct. However, Beverley Bell, Acting Senior Traffic Commissioner, told us that she had insufficient resources to implement this recommendation (see Chapter 5).90

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82 Ev 116
83 Qq 283-285
84 Q 265
85 Q 269
86 The Government is undertaking a wider review of BSOG, with consultation planned for autumn 2012, Q395.
87 Department of Business, Industry and Skills, Government response to the Competition Commission’s report “Local bus services market investigation”, 26 March 2012
88 Green Light for Better Buses, para 4.62
89 An example of a stricter approach by OFT is its reference to the Competition Commission of the proposed sale of First’s Barnstaple area operation to Stagecoach. Consequently, Stagecoach indicated it was no longer interested in the deal due to the delays. First then announced that it would close the operation altogether. Stagecoach has now registered an expanded network in the area to be introduced when First withdraws its services. (Passenger Transport, 10 August 2012). However, the Competition Commission has approved the merger of services for McGills and Arriva Scotland West, serving a somewhat larger area south west of Glasgow (Passenger Transport, 24 August 2012).
90 Q149
Conclusions

45. The Competition Commission has provided valuable insights into the state of competition in the local bus market. It is not a comprehensive study of the needs of bus passenger but, within a limited remit, its report makes a number of useful recommendations to bolster competition. In certain aspects we would have liked it to go further, in particular to address more directly the problems of dominant operators which are too big and entrenched to be challenged but which are failing to provide a satisfactory standard of service. As we note later, where the problem is one of poor punctuality, the role of the Traffic Commissioners is key.

46. Under the “deregulated” system of bus services, effective competition—actual or threatened—is necessary to keep operators on their toes. We are not convinced, however, that the Competition Commission’s vision of widespread and sustained head-to-head competition is realistic or desirable. Previous “bus wars” led to instability and confusion that was in the interests of neither operators nor passengers. We recommend that the Government promotes policies that allow sensible cooperation among operators and with local authorities where this is in the interests of bus passengers and local taxpayers.
3 The franchise option

Competition Commission’s analysis of the bus franchise option

47. The Competition Commission’s findings of a lack of competition in the bus industry have been used by some as grounds for advocating a much greater degree of market regulation, particularly franchising. Dr Roger Sexton, among others,91 was convinced that “nationwide franchising is the answer to the British problem of getting good, integrated and affordable bus services.”92

48. Franchising is an option available to local authorities under the Quality Contract provisions of the Local Transport Act 2000, as amended by the Local Transport Act 2008. In brief, a local authority would specify the bus service that it required, including outputs such as fares, routes, timetables, information and ticketing, and invite tenders from commercial bus operators. It might also, or alternatively, specify outcomes, such as passenger satisfaction levels or passenger numbers. Once a franchise was in operation, other bus operators would no longer be permitted to operate within the area. This is broadly similar to the way that rail franchises are awarded except that the local authorities might choose to bear the revenue risk whereas for rail the train operator does so.

49. The Commission considered at length whether bus services should be awarded under franchises but concluded that enhanced competition was generally the better and more practical solution.93 Jeremy Peat, chair of the investigation, explained the Commission’s thinking:

   We looked at the option of franchising as an alternative for other parts of GB. We noted the costs in London. We also noted that London went straight from a publicly owned bus service to a franchised service. Many would argue that that is somewhat easier than going from a deregulated privately owned service to a franchised service. We noted that and we genuinely believe that in terms of practicality and proportionality the measures that we have proposed are more appropriate and more likely to bring benefits for passengers.94

The Commission put the cost of implementing a Quality Contract scheme at up to £1 million with annual running costs of approximately the same amount.95 It acknowledged, however, that franchising might be appropriate in order to meet wider social or policy objectives.96 This might arise if local authorities take on responsibilities for local rail services, as the Government has suggested in its Rail Decentralisation consultation paper.97

91 Ev 76
92 Ev 75
93 Competition Commission, December 2011, Summary, para 69
94 Q 324
95 Competition Commission, December 2011, paras 15.450-51
96 Competition Commission, December 2011, Summary, para 69
97 DfT, Rail Decentralisation, March 2012
50. When probed on its methodology, the Commission witnesses told us that they had been unable to undertake comparisons between competition and franchising as there were no franchises (Quality Contracts) in operation in its reference area and that London would be a misleading comparator, not least because of the much higher subsidy levels there. The Commission had not undertaken comparative studies or benchmarking with bus services in other countries—unlike the concurrent value for money study of the railways by Sir Roy McNulty in which benchmarking featured prominently.

51. The debate over the role of competition in the provision of local bus services—whether franchising rather than on-road competition would produce better bus services—has raged ever since the Transport Act 1985. The analysis by the Competition Commission has not resolved the issue. Our view is that local authorities should be free to decide what is best for their area, on the basis of robust local evidence. Franchises may be particularly appropriate where local authorities take on responsibility for local rail services, as the Government has suggested in its rail decentralisation consultation paper. The Department for Transport should monitor moves by local authorities towards franchising, the costs and outcomes, and disseminate information and lessons learned.

**Does London point the way?**

52. Critics of bus deregulation often point to London as evidence that a planned approach, with competition controlled by the local transport authority, produces better bus services. In the 10 years to 2010, bus use in London grew by over 50% while outside London numbers were broadly static and would have decreased without the national concessionary travel scheme. Even during the late 1990s, when subsidy levels (apart from BSOG and concessionary fares compensation) were low, London retained a stable level of ridership compared with a decline in other metropolitan areas.

53. Other witnesses pointed out that bus services in London benefit from very high levels of financial support—some three times greater than in other English metropolitan areas, measured on a per passenger basis. This is due to subsidy from the GLA (£564 million in 2010-11) and extensive concessionary travel schemes specified by the Mayor and funded by the London Boroughs (£191 million in 2010-11) (see Table 1). James Freeman, Chief Executive Officer of municipally-owned Reading Transport Ltd, said that, if he had the same level of public financial support for bus services in Reading that

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98 TAS provides a brief assessment of the franchising experience in Northern Ireland, Ev 89.
99 Qq 321 and 342
101 Ev w29 and Ev 75
102 See Appendix 1. NB Comparisons over this period are not precise as the estimation method changed in 2004/05 and the new method showed slightly lower figures.
103 Q 321
104 Qq 295-6 and Ev 124. See also notes to Table 1.
applied in London, he could provide “an amazing public transport system with ridership levels to cry for.”

54. London also has many specific features, other than funding, which affect bus use in the capital. These include the scale of the bus network, the major role of rail services, very high passenger volumes, low levels of car ownership, high rates of economic growth, high population density and growth and the Congestion Charge.

55. Peter Hendy, Commissioner of Transport, Transport for London, described the strong political and financial support that successive London mayors had given to buses, as part of a wider strategy to support economic growth. The GLA’s powers over bus services were a necessary but not sufficient element in delivering the bus strategy. Asked to what extent London was a model for other parts of the UK, he was very clear that responsibilities without additional funds would be a bad combination:

[…] in my position it would be much less satisfactory to have both the amount of control and the amount of responsibility we have if we had insufficient resource to buy what is needed. The real difficulty in a place like Manchester is that, for the former PTE, or now the ITA, to have real influence over bus operation, frankly you need to be able to buy it. […] What I don’t think you want as a public authority is a lot of responsibility for something that you can barely influence because you have no cash to do it.

56. The rates of return on capital for bus operators in London, where routes are awarded on a competitive basis, are lower than those achieved outside London. According to FirstGroup, London rates are approximately 60% of the rates that it earns in some other parts of the country. However, this does not necessarily mean that the situation in London is financially unattractive to bus operators. Arriva said that it operated in a franchise environment across Europe. Peter Hendy said that TfL received an average of “just under three bids” for each route they tendered and thought that operators were “doing reasonably well out of it.”

The franchise option–some pros and cons

57. A number of witnesses supported wider use of franchises for local bus services. The transport union Unite says:

Unite has already noted that the bus market was never contestable and that the industry is a natural monopoly or near monopoly. Therefore an appropriate
A regulatory structure to regulate the bus industry is needed. Unite believes that Quality Contracts [franchises] are that regulatory structure.\textsuperscript{113} A few PTEs—Metro (West Yorkshire) and Nexus (Tyne and Wear)—are actively pursuing franchising schemes. Others, including South Yorkshire PTE, have considered this option in case satisfactory partnership arrangements could not be achieved but have now rejected it. It seems that franchising is seen by a number of witnesses as a necessary threat rather than an option to be widely implemented.

58. The LGA’s position (in its written evidence) is also that franchising is the best solution:

[...] competition within local bus markets is limited and that this has an adverse impact upon services and outcomes for bus passengers. The LGA believes that the most effective way to remedy this would be to shift the focus from on-road competition to competition between operators for contracts to operate services franchised by LTAs.\textsuperscript{114}

However, Councillor Shona Johnstone, Vice-Chair of the LGA’s Economy and Transport Board, refined the LGA’s position:

We do not see quality contracts as the way forward [...] No authority has yet had a quality contract. It needs to be simplified. At the moment it is just too complex, too costly and the risks for local authorities are too high. If you got rid of those barriers, then some sort of quality contract might work.\textsuperscript{115}

59. Some witnesses advocated cross-subsidy of lightly used, loss-making services from surpluses made on services with high passenger volumes. This happens only to a limited extent within a competitive system but would be possible within a franchise system. It occurs in a number of rail franchises, such as Southern, where profitable and unprofitable services are bundled together into a single franchise. The disadvantage of cross-subsidy is that passengers on the profitable services tend to pay more or receive a lower level of service in order to generate the surplus.\textsuperscript{116}

60. Bus operators and some passenger groups are not convinced that franchises would improve services—unless supported by substantial additional public expenditure. They claimed that franchising would lead to a loss of competition as the unsuccessful bidders would leave the market.\textsuperscript{117} Subsequent rounds of bidding would therefore be less competitive and prices would be higher. Bus Users UK has pointed out that, whilst there may be weaknesses in the current system, this does not mean that alternative arrangements, such as London-style franchising, would necessarily prove better. Franchising could leave bus services vulnerable to changes in political commitment, local authority spending decisions on other services, and difficulties with cross-border

\textsuperscript{113} Ev 116 para 6.2  
\textsuperscript{114} Ev w68 para 3.1  
\textsuperscript{115} Q 63  
\textsuperscript{116} Q 253  
\textsuperscript{117} Ev 89
The Campaign for Better Transport thought franchising had a role to play but did not endorse it as the better option. Passenger Focus said that, as there were no examples of franchising (other than London), it could not make comparisons but would welcome the opportunity to do so. These groups acknowledged that the suggestion of a franchise (Quality Contract) being imposed could help to make partnership working more effective.

61. The LGA, some Passenger Transport Executives and other witnesses have argued strongly for the franchising of bus services; the industry and some bus user groups argue that there are disadvantages. The key issue is the level of resources. Would a bus franchise deliver better outcomes than a partnership for a similar amount of public expenditure? The evidence from London suggests that franchising could deliver better services but only if backed by substantially increased levels of public subsidy and a willingness on the part of elected members to take more direct responsibility for the quality of local bus services.

Quality Contract provisions

62. Local authorities can opt for bus franchising under the Quality Contract provision of the Local Transport Act 2000 (as amended 2008). The 2008 Act replaced the previous “only practicable means” criterion for Quality Contracts with less stringent criteria. The local authority’s proposal for a Quality Contract would be judged by a specially convened board and the final decision would rest with the local authority, not the minister.

63. The Government says it is neutral on Quality Contracts or competition and that it is up to local authorities to decide which is appropriate for their area. The Minister reiterated his position:

I am on record as having done so [supported Quality Contracts] before the last election. They are there in legislation. They are there as part of the Local Transport Act 2008. They remain on the statute book. There is no intention to repeal those provisions, but it is up to local PTEs, ITAs or councils, whatever it is, to make up their own minds as to whether or not they wish to avail themselves of those powers.

64. The Commission concluded that the Quality Contract option should remain and did not recommend legislative change. Those witnesses supporting the franchising option, such as Unite and pteg, also seem content with the current legislative framework, including the Local Transport Act 2008.
Difficulties of being first local authority “across the line”

65. Despite the Quality Contract provisions in the Local Transport Acts, no local authority has introduced such a scheme. pteg has provided evidence suggesting that the hurdle is not the specific transport legislation but the potential costs and interim risks to bus services facing the first local authority trying to implement a Quality Contract.124

66. Opposition from incumbent bus operators, fearing loss of business, is a significant consideration for local authorities. The major bus companies operating in the Tyne and Wear area have vehemently opposed moves by Nexus to introduce a Quality Contract. Stagecoach is reported as saying that, if Nexus does so, Stagecoach would immediately withdraw all its buses and make its staff redundant.125

67. We invited the minister to comment on this. He made his position clear:

I would expect bus companies to respect the law. Certainly if a bus company were to adopt a scorched earth policy or anything similar in the face of a local authority wishing to exercise its right under the 2008 Act to have a quality contract, I would take a very dim view of that. The senior traffic commissioner has already said that she would take a dim view of that. That might cause reputational harm to that particular company.126

However, the minister told us that it had not been decided whether the funding sources, available to support partnership schemes, such as the Better Bus Areas Fund, would also be available for local authorities pursuing Quality Contracts.127

68. The Quality Contract option is a legitimate one for a local authority to choose. It must also be seen as credible in order to enable the local authorities to apply pressure in cases where competition or partnerships are not working satisfactorily. Local bus operators should not seek to frustrate moves towards a Quality Contract. That no local authority has implemented a Quality Contract more than a decade after the provisions were introduced suggests that there are significant hurdles to overcome, particularly for the first local authority to go down this route. The legislation itself, as amended by the Local Transport Act 2008, seems satisfactory but the process is still lengthy and risky. We recommend that the Government makes the Better Bus Areas funding available, in principle, to support Quality Contracts as well as partnership schemes. To this end we welcome the Transport Minister’s even handed approach between quality contracts and quality partnerships and look forward to his consultation paper on the use of BSOG.

124 Ev w40
126 Q396
127 Q395. The DfT’s December 2011 guidelines state that bids for Better Bus Area funding will be considered only if supported by key local bus operators. Given the objections to Quality Contracts by most bus operators, this would seem to preclude Quality Contract schemes from Better Bus Area funding, http://www.dft.gov.uk/publications/better-bus-areas-fund/
4 Partnerships

Non-statutory bus partnerships

70. Partnership working between bus operators and local authorities has been around informally since the 1990s when the bus industry began to stabilise, following the 1985 Transport Act, and both parties realised that cooperation could bring mutual benefits. Typically, a local authority would agree to deliver traffic management measures to assist buses while an operator would agree to raise service quality standards. Many partnerships between local authorities and bus operators have been established on this voluntary basis. However, concern that a partnership might be deemed a restriction on competition and, therefore, fall foul of the OFT placed significant limitations on the establishment and scope of partnerships. Statutory partnership options (below) have therefore been introduced to supplement the informal arrangements.

Statutory partnership options

71. The Local Transport Act 2008 provides for two statutory partnerships arrangements:

- Statutory Quality Partnerships. These can be imposed by the council following consultation with bus operators and other interested parties. The local council typically invests in better infrastructure such as bus lanes and bus companies invest in better buses. Councils can also mandate maximum fares and minimum frequencies. Bus companies which do not meet the specified standards are prevented from operating on the relevant routes.

- Voluntary Partnership Agreements. These are formal, voluntary arrangements between the council and one or more operators. The council must be of the opinion that any disbenefit from reduced competition is outweighed by the benefits of better bus services. As with a quality partnership scheme, the council provides better facilities and the operator(s) provide better services. Voluntary Partnership Agreements allow operators to provide coordinated services, based on a clearer competition test. The OFT’s powers to impose fines is removed.

72. Despite the statutory options available to local authorities and operators, few Statutory Quality Partnerships or Voluntary Partnership Agreements have so far been concluded and most partnerships remain purely voluntary and informal. Some of these informal arrangements have nevertheless been very successful in securing stable, high quality local services.

73. The Government, in Green Light for Better Buses, cites Milton Keynes and the West Midlands as two areas which have bucked the national trend and seen increased bus use. There are other success stories, for example in Merseyside, Brighton and Hove,

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128 Ev 89
129 Arriva says it is a member of 40 quality partnerships (mainly voluntary) in England and Wales, Ev 100, para 5.4.
130 DfT, Green Light for Better Buses, March 2012, pp 9 and 31
York and Cambridge. What they all have in common is close working—not necessarily through a formal partnership—between the bus operators and the local transport authority to provide not only better buses but also the infrastructure they need to offer a frequent, punctual service. These and other examples show that local bus networks can thrive, given the right conditions.\footnote{The TAS Policy Exchange report, \textit{Making Buses Better}, July 2012, analyses the variations in performance of the bus industry in different parts of the country since the deregulation of local bus services in 1986. It concludes that the choice of strategy by bus operators and local authority policies and investment levels have a significant bearing on success or failure.}

The challenge for central and local government and for the industry is to make network growth the norm rather the exception.

**Government policy on partnerships and funding reform**

74. The current Government, like its predecessor, has supported the establishment of bus quality partnerships. Indeed, partnerships are the main thrust of its bus policy:

> Above all this document recognises the welcome difference that partnerships are making up and down the country. Collaborations between local authorities, operators and passengers are helping co-ordinate timetables in Liverpool, Oxford and Sheffield, improve our guidance on bus punctuality and connect an isolated urban community to the town centre in Cheltenham. They are succeeding because they combine local knowledge of what passengers want in their area with the resources to make a difference.\footnote{Green Light for Better Buses, Foreword by Norman Baker, March 2012, p 4}

75. In order to give local authorities more influence over bus services in their areas, including the ability to implement quality partnerships, the Government has introduced the Better Bus Areas Fund. This is targeted at larger urban areas and bids by local authorities must be backed by at least one local bus operator. In 2012-13, 24 local authorities will share the £70 million fund.\footnote{For local authorities in England only, outside London. http://www.dft.gov.uk/news/press-releases/dft-press-20120323a/}

76. The Government has also proposed changes to BSOG. The element of BSOG that relates to tendered services will be paid to the local authority and not to the bus operator. In those areas which are chosen to be Better Bus Areas, BSOG for both tendered and commercial services will be paid direct to the local authorities, rather than operators. These changes are subject to consultation and planned to take effect in 2013.\footnote{http://assets.dft.gov.uk/publications/bsog-reform-20120702a/letter-regarding-bsog-reform.pdf} The minister told us that it had not been decided whether these funding sources would be available for local authorities pursuing Quality Contracts.\footnote{Q 395}

77. The changes introduced by the Government go some way to meeting the requests of the LGA and pteg for bus grants and subsidies to be devolved to local authorities, away from the bus operators.\footnote{Ev 68 and Ev w40} In the short term, this money will be “ring-fenced”—that is, councils must continue to use it to support bus services. But the Government intends, subject to decisions at the next spending review, to remove this restriction. It would then
be for local councils to decide what priority to give to supporting uncommercial bus services, given competing demands for local funding.

**Competition Commission and quality partnerships**

78. The Competition Commission is less enthusiastic about partnerships. It says “We were told about the benefits of [partnerships]. We were, however, very aware of the potential risks of misuse of partnerships, for example if they facilitated some degree of geographic market segregation (or similar coordination) between operators.”137 The Commission recommends that local authorities “consider the potential for tailoring partnerships to facilitate increased competition.”138 It cites Oxford as a successful example of a partnership between the County Council and the two main bus operators which maintains competition between the bus operators. It also recommends that the OFT and local authorities establish a partnership forum, potentially involving other stakeholders, to discuss issues raised in the competition assessment of partnership proposals (see Box 1).

**Ingredients for successful partnerships**

79. We visited Oxford to learn more about partnership working from the operators, local authority and bus users. Stagecoach and the Oxford Bus Company have registered a Voluntary Partnership Agreement (see above) which allows them to coordinate timetables and ticketing. We found the visit helpful and the results encouraging. The companies have jointly introduced a SmartZone smartcard that allows passengers to travel on any local bus in the Oxford area. In addition, bus services have been rationalised, in cooperation with Oxfordshire County Council, in order to reduce congestion and pollution in the historic city centre streets. Passenger numbers have increased and the city centre environment has improved. A clear message that we took away was that successful partnerships come from building long-term relationships and mutual respect. In the case of Oxford, the right legal framework was also crucial to enable coordination of services and ticketing.

80. We support partnership working as the most realistic means of delivering service improvements at current public spending levels in most areas. Where feasible, partnerships should include the local authority and more than one operator. It is important that the Government supports the development of partnerships and does not allow the fear of falling foul of the Office of Fair Trading from hindering partnerships that are in the public interest. The Office of Fair Trading should use the proposed partnership forum to engage with local authorities, bus operators and other key stakeholders to make partnership working easier and more effective.

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137 Competition Commission, December 2011, Summary, para 16
138 Competition Commission, December 2011, Summary, para 66
## Multi-operator tickets

81. One of the most desirable outcomes of bus partnerships is multi-operator ticketing. Multi-operator tickets—competitively priced—would assist passengers needing to use more than one bus operator to complete a journey. Multi-operator ticketing should also make it easier for new operators to enter the market, especially where a high proportion of bus users buy tickets off-vehicle, as in the West Midlands, for example. Virtually all evidence to this inquiry has supported, at least in principle, the Commission’s recommendations to encourage more multi-operator ticketing.

82. Local authorities and PTEs have sought to implement multi-operator ticketing in the past. While some have been successful, the dominant bus companies have sometimes made multi-operator tickets unattractive by charging a premium and undercutting them with cheaper single-operator tickets. Some witnesses, such as Nexus, expressed caution about the scale of the benefits likely to arise from multi-operator ticketing. The Commission wants to see more multi-operator ticketing and has recommended giving local authorities additional powers to impose schemes where agreement cannot otherwise be reached. The DfT is preparing guidance for local authorities.

83. Smartcards and other innovative ticketing technologies offer the prospect of greater convenience for the passenger, more sophisticated, multi-operator ticketing options, quicker, cashless boarding and better information. Pay-as-you-go smartcards would be particularly beneficial to the occasional passenger who cannot justify purchase of a period card. Oyster has proven popular with bus passengers in London and an effective system for TfL. We saw how the Oxford Smartzone smartcard was working in a much smaller, multi-operator environment. The Government has announced £15 million of support for small and medium-sized bus companies to introduce smartcards and compete with the “big five.”

84. Wider provision of multi-operator ticketing is long overdue. The Government must ensure that where the private sector does not deliver such a scheme voluntarily, the local transport authority has the powers to implement a viable scheme. The wider introduction of smart cards, as in Oxford, should reduce some of the practical challenges associated with multi-operator ticketing.

## Supported services

85. Local authorities spend a considerable sum supporting bus services which they deem necessary but which are not commercially viable (see Paragraph 13). Witnesses pointed to two particular problems. Firstly, if an operator discontinues a commercial service which the local authority then decides to support, there may be few or no competitors. In addition, the incumbent has the advantage of knowing the revenues, which may not be available to another bidder. Since most tendered service contracts are based on net cost
bids, the bidder needs to have a good knowledge of likely revenues, as well as costs (which they can estimate themselves). The Commission estimated that this lack of competition was costing local authorities an additional £5 million to £10 million a year. Secondly, local authorities will seek to integrate supported services with commercial services but they cannot rely on the latter continuing, a problem highlighted by Essex County Council.

86. The Commission’s recommendation on disclosure of information on deregistered services was seen as important by ATCO, although it stressed the need for accurate and consistent information. Disclosure should also help new operators to win contracts. This in turn might lead to greater network stability and make the incumbent think twice before making network changes, assisting situations such those in Essex. Some bus operators, such as Reading Transport Ltd, already disclose details of services that they deregister. It remains to be seen if more operators will disclose information on deregistered services voluntarily or whether legislation will be required.

87. Disclosure of information by bus operators on deregistered services is an important element of the Competition Commission’s remedies. The Government should set a target date for securing voluntary agreement with the industry, the date being early enough to allow legislation to be enacted in the current Parliament if agreement is not forthcoming.

144 Q 80
145 Ev w34
146 Qq 237-239
5 Monitoring and enforcement of standards

Ensuring safety and punctuality

88. Under the current “deregulated” system, bus operators are allowed to provide bus services as they choose, subject to meeting certain safety and competency standards, including:

- The business—requires an operator licence (“O” licence), issued by the Traffic Commissioner, with support from Vehicle and Operator Services Agency (VOSA);
- The vehicle—requires a licence and valid test certificate, issued by VOSA; and
- The driver—requires a licence for the appropriate class of PCV, issued by the Driver and Vehicle Licensing Agency (DVLA).

89. An operator must register proposed services (routes and timings) with the Traffic Commissioner and give 56 days’ notice of changes. Operators are also required to meet punctuality standards set by the Traffic Commissioners, with 95% of services arriving no more than one minute early or five minutes late. Punctuality is the only specific service quality standard that is regulated—outside a Statutory Quality Partnership—although the Traffic Commissioner can also impose penalties on an operator who fails to run a registered service.

Traffic Commissioners

90. The Traffic Commissioners are the regulators of public service vehicle safety and can impose a range of sanctions on bus operators for failing to meet these safety or punctuality standards. They also have powers to revoke an operator licence, or curtail the number of vehicles (discs) which an operator is allowed to run under that licence. The Senior Traffic Commissioner told us that while “most PSV operations [were] offering a great service to passengers” there were some who ought not to be in business.147 Other witnesses concurred.148 The Senior Traffic Commissioner told us how she had recently levied a record £285,000 fine on FirstGroup in north Manchester for punctuality breaches.149

91. The Traffic Commissioners are not competition regulators. However, as the safety and punctuality regulator, they have an important role in preventing unfair competition. The Commission has recommended that the Traffic Commissioners draw up a code of conduct for bus operators, to prevent buses blocking competitors and other forms of “cheap exclusion”.150 The (then Acting) Senior Traffic Commissioner151 told us that she

147 Qq 171-172
149 Q 123. This was reduced on appeal to £213,705. Coach & Bus Week, 22 August 2012, pp 44-46.
150 See comments by the transport unions, para 40.
was unable to take this forward due to a lack of resources. She said that Commissioners felt there was a “distinct lack of resource with regard to bus compliance work”\textsuperscript{152} and that other key regulatory tasks were also overdue. \textsuperscript{153} She also said that local transport authorities did not generally make best use of the Traffic Commissioners.\textsuperscript{154}

92. Peter Hendy, in his capacity as (then) President of the Chartered Institute of Logistics and Transport, said of the Traffic Commissioners:

> The Traffic Commissioners are badly paid, almost invisibly resourced but produce a huge regulatory benefit to the industries that they regulate. If somebody asked me what the biggest improvement you could make to the UK bus industry ... in the next ten years would be, I would say that giving a new lease of life and powers to the Traffic Commissioners, and proper money for enforcement and proper support to them, would probably be the best thing that you could do.\textsuperscript{155}

93. Traffic Commissioners have previously claimed to lack resources and our predecessor Committee has drawn attention to it.\textsuperscript{156} The minister, Norman Baker MP, said that it was a long established principle that the Traffic Commissioner’s activities were broadly covered by the fees that they charged to the industry. He added that in 2011-12, the Traffic Commissioners had spent £14.2 million while their fees brought in £12 million, with the shortfall made up from the wider VOSA budget.\textsuperscript{157}

### A comparison with rail regulation

94. We cannot help but compare resourcing of bus and rail regulation. The seven Traffic Commissioners in Great Britain—who are responsible for the safety and punctuality of the whole bus industry—are supported by 138 staff, of whom a substantial proportion are devoted to the licensing of goods vehicles.\textsuperscript{158} By contrast, the Office of Rail Regulation has a staff of 280.\textsuperscript{159} There are additional rail regulation and safety staff at Network Rail.

95. On punctuality monitoring and reporting, there is a striking contrast between rail and bus. A plethora of rail performance data (PPM) are available and on 10 July the DfT announced that, in addition, ORR and Network Rail would be publishing data on services arriving within one minute of due time at the final destination. The DfT\textsuperscript{160} publishes a

\textsuperscript{151} Beverley Bell was appointed Acting Senior Traffic Commissioner in June 2011 and made permanent in June 2012.

\textsuperscript{152} Q 116

\textsuperscript{153} Q 149

\textsuperscript{154} Q 131

\textsuperscript{155} Peter Hendy speaking at “The Great Bus Debate” in London (March 2012), as reported in Passenger Transport, 6 April 2012, p 29. See also Qq 305-306 and Ev 58 para 7.6.

\textsuperscript{156} Transport Committee, The enforcement activities of the Vehicle and Operator Services Agency (VOSA), Seventh Report of Session 2008-09, paras 42-44.

\textsuperscript{157} Q411. The roads minister, Mike Penning MP, and the Senior Traffic Commissioner issued a Framework Document July 2012 setting out the relationship between the Department for Transport and the Traffic Commissioners. While this seems to be a positive move it does not address the issue of resources.

\textsuperscript{158} Q 135 and Ev 96


national figure for the proportion of buses running on time but passenger groups said it was hard to find performance data for services outside London.\textsuperscript{161}

96. The Traffic Commissioners have important roles, delivering an efficient service within limited resources. They are not and should not be economic regulators but their safety and quality functions are crucial. They should be more closely integrated with the delivery of local and central government efforts to improve bus services. It is worrying that the Traffic Commissioners say that they continue to be inadequately resourced to carry out their remit and are unable to take on the new task of drawing up an operator code of conduct, as recommended by the Competition Commission. The situation seems to contrast starkly with that for rail where the regulator appears to be better resourced. We recommend that the Government commissions an external review of the roles and resourcing of the Traffic Commissioners as regards public service vehicles and their operation in time to inform the next Spending Review.

Leadership by the bus industry

97. Bus industry witnesses told us that they have the interests of passenger at heart and want to see the bus market grow. They are seeking stability and not further regulation as they deal with issues such as cuts to the rate of BSOG and concessionary travel reimbursement.\textsuperscript{162} They have also stated their wish to work in partnership with local authorities. In the rail industry, in which many of the same operator groups also operate, the industry, through the Rail Delivery Group, is taking a lead in tackling problems of costs and industry fragmentation. If bus operators wish to avoid calls for tighter regulation, they too should take more responsibility for the long-term health of their industry.

98. The bus industry needs to step up and take more of a leadership role. We call on the major bus operators to address the long-term interests of bus passengers and the wider economic and environmental objectives to which bus services contribute. They should lead the way on matters such as the introduction of multi-operator ticketing, smartcards, data transparency, passenger information and service stability. The Government should encourage this. In parallel, we recommend that local authorities, bus operators and the Department for Transport publish more comprehensive data, at local and national level, on bus punctuality and other key performance criteria.

\textsuperscript{161} Q 28

\textsuperscript{162} Ev w7
6 Conclusion

100. The Competition Commission’s report was valuable in clarifying the workings of the local bus market. It provided a number of useful recommendations to enhance competition. However, the Commission’s remit was limited, not addressing some of the key concerns of bus users, and its advocacy of widespread head-to-head competition has not proved convincing. If better bus services are to be delivered and the decline in bus use halted, a broader agenda is needed.

101. The deregulated bus system can appear a difficult one for local authorities to engage with and each area will have its particular challenges. The public finds aspects of it hard to understand, such as why bus companies do not communicate with each other or coordinate their services.163 Yet, despite some support for franchising, it is clear that in most areas buses will continue to be provided by the private sector, supplemented by supported services, hopefully in partnership with the local authority. The OFT must use its partnership forum to assist this process, not to prevent it.

102. Local authorities have important statutory and discretionary roles in relation to local bus services. The Local Transport Act 2008 provides a sound legislative framework with options for Quality Contracts, partnerships and other arrangements. We have had few calls for it to be amended. It is for local authorities to decide how they wish to proceed. Local authorities ought to make it their business to know how well services are running and what action to take if there are problems.

103. Franchises may be the best option in areas where competition has failed and local authorities are prepared to take responsibility and find additional funds. Franchises may also be appropriate where local authorities have a wider policy agenda, for example taking on responsibility for devolved rail services. In such cases the Government should assist local authorities to manage the interim risks.

104. Where competition is limited, as it will be in many areas, regulation must be effective. This should include self-regulation by bus operators–greater transparency and disclosure of performance information–and robust safety and punctuality regulation by the Traffic Commissioners who must be adequately resourced.

105. There are many opportunities to improve bus services, such as the wider availability of smartcards. These cannot be delivered by legislation. The bus industry needs to take on more of a leadership role–as many of the same companies are doing for rail through the Rail Delivery Group. We believe this would be in the long-term interests both of bus companies and passengers.

106. We recommend that the Government and local transport authorities focus their efforts on raising service standards and achieving the “stable, reliable and integrated service” advocated by the Government in its response to the Competition Commission. In places where bus services are poor, strong partnerships between the local authorities and one or more bus operators or prompt action by properly resourced Traffic

163 Ev w58
Commissioners seem to us more likely to secure improvements than reliance on efforts to foster more head-to-head competition. The bus industry must also take more responsibility and play a bigger leadership role.
Conclusions and recommendations

Passenger satisfaction

1. The Bus Passenger Survey by Passenger Focus is a useful report. It shows, among other things, significant variations in passenger satisfaction between bus operators. However, the report does not present an assessment of the performance of the major groups, aggregated across the survey areas. We recommend that in future bus passenger surveys, Passenger Focus provide a clearer statement of the relative performances of the major bus operator groups. It would also be helpful if it provided data that allowed analysis of passenger satisfaction and competition at the local level—although that might require a larger survey. (Paragraph 8)

Competition—is more always better?

2. The Competition Commission has provided valuable insights into the state of competition in the local bus market. It is not a comprehensive study of the needs of bus passenger but, within a limited remit, its report makes a number of useful recommendations to bolster competition. In certain aspects we would have liked it to go further, in particular to address more directly the problems of dominant operators which are too big and entrenched to be challenged but which are failing to provide a satisfactory standard of service. As we note later, where the problem is one of poor punctuality, the role of the Traffic Commissioners is key. (Paragraph 45)

3. Under the “deregulated” system of bus services, effective competition—actual or threatened—is necessary to keep operators on their toes. We are not convinced, however, that the Competition Commission’s vision of widespread and sustained head-to-head competition is realistic or desirable. Previous “bus wars” led to instability and confusion that was in the interests of neither operators nor passengers. We recommend that the Government promotes policies that allow sensible cooperation among operators and with local authorities where this is in the interests of bus passengers and local taxpayers. (Paragraph 46)

Competition Commission’s analysis of the bus franchise option

4. The debate over the role of competition in the provision of local bus services—whether franchising rather than on-road competition would produce better bus services—has raged ever since the Transport Act 1985. The analysis by the Competition Commission has not resolved the issue. Our view is that local authorities should be free to decide what is best for their area, on the basis of robust local evidence. Franchises may be particularly appropriate where local authorities take on responsibility for local rail services, as the Government has suggested in its rail decentralisation consultation paper. The Department for Transport should monitor moves by local authorities towards franchising, the costs and outcomes, and disseminate information and lessons learned. (Paragraph 51)
The franchise option–some pros and cons

5. The LGA, some Passenger Transport Executives and other witnesses have argued strongly for the franchising of bus services; the industry and some bus user groups argue that there are disadvantages. The key issue is the level of resources. Would a bus franchise deliver better outcomes than a partnership for a similar amount of public expenditure? The evidence from London suggests that franchising could deliver better services but only if backed by substantially increased levels of public subsidy and a willingness on the part of elected members to take more direct responsibility for the quality of local bus services. (Paragraph 61)

Quality Contracts

6. The Quality Contract option is a legitimate one for a local authority to choose. It must also be seen as credible in order to enable the local authorities to apply pressure in cases where competition or partnerships are not working satisfactorily. Local bus operators should not seek to frustrate moves towards a Quality Contract. That no local authority has implemented a Quality Contract more than a decade after the provisions were introduced suggests that there are significant hurdles to overcome, particularly for the first local authority to go down this route. The legislation itself, as amended by the Local Transport Act 2008, seems satisfactory but the process is still lengthy and risky. We recommend that the Government makes the Better Bus Areas funding available, in principle, to support Quality Contracts as well as partnership schemes. To this end we welcome the Transport Minister’s even handed approach between quality contracts and quality partnerships and look forward to his consultation paper on the use of BSOG. (Paragraph 68)

Ingredients for successful partnerships

7. We support partnership working as the most realistic means of delivering service improvements at current public spending levels in most areas. Where feasible, partnerships should include the local authority and more than one operator. It is important that the Government supports the development of partnerships and does not allow the fear of falling foul of the Office of Fair Trading from hindering partnerships that are in the public interest. The Office of Fair Trading should use the proposed partnership forum to engage with local authorities, bus operators and other key stakeholders to make partnership working easier and more effective. (Paragraph 80)

Multi-operator tickets

8. Wider provision of multi-operator ticketing is long overdue. The Government must ensure that where the private sector does not deliver such a scheme voluntarily, the local transport authority has the powers to implement a viable scheme. The wider introduction of smart cards, as in Oxford, should reduce some of the practical challenges associated with multi-operator ticketing. (Paragraph 84)
Supported services

9. Disclosure of information by bus operators on deregistered services is an important element of the Competition Commission’s remedies. The Government should set a target date for securing voluntary agreement with the industry, the date being early enough to allow legislation to be enacted in the current Parliament if agreement is not forthcoming. (Paragraph 87)

A comparison with rail regulation

10. The Traffic Commissioners have important roles, delivering an efficient service within limited resources. They are not and should not be economic regulators but their safety and quality functions are crucial. They should be more closely integrated with the delivery of local and central government efforts to improve bus services. It is worrying that the Traffic Commissioners say that they continue to be inadequately resourced to carry out their remit and are unable to take on the new task of drawing up an operator code of conduct, as recommended by the Competition Commission. The situation seems to contrast starkly with that for rail where the regulator appears to be better resourced. We recommend that the Government commissions an external review of the roles and resourcing of the Traffic Commissioners as regards public service vehicles and their operation in time to inform the next Spending Review. (Paragraph 96)

Leadership by the bus industry

11. The bus industry needs to step up and take more of a leadership role. We call on the major bus operators to address the long-term interests of bus passengers and the wider economic and environmental objectives to which bus services contribute. They should lead the way on matters such as the introduction of multi-operator ticketing, smartcards, data transparency, passenger information and service stability. The Government should encourage this. In parallel, we recommend that local authorities, bus operators and the Department for Transport publish more comprehensive data, at local and national level, on bus punctuality and other key performance criteria. (Paragraph 98)

Conclusion

12. We recommend that the Government and local transport authorities focus their efforts on raising service standards and achieving the “stable, reliable and integrated service” advocated by the Government in its response to the Competition Commission. In places where bus services are poor, strong partnerships between the local authorities and one or more bus operators or prompt action by properly resourced Traffic Commissioners seem to us more likely to secure improvements than reliance on efforts to foster more head-to-head competition. The bus industry must also take more responsibility and play a bigger leadership role. (Paragraph 106)
Annex: Bus passenger statistics

Table A1. Passenger journeys on local bus services, Great Britain

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Source: DfT, Transport Statistics, Table BUS0103 http://www.dft.gov.uk/transport/statistics/tablebus0103/

Notes: The estimation method changed in 2004-05 and both estimates are provided above where available. 2011-12 data are provisional.
Formal Minutes

Tuesday 4 September 2012

Members present:

Mrs Louise Ellman, in the Chair

Steve Baker
Jim Dobbin
Julie Hilling
Mr John Leech

Kwasi Kwarteng
Paul Maynard
Iain Stewart

Draft Report (Competition in the local bus market), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 106 read and agreed to.

Annex agreed to.

Summary agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Monday 10 September at 4.00 pm]
Witnesses

Tuesday 28 February 2012

Stephen Morris, General Manager, Bus Users UK, Richard Hebditch, Campaigns Director, Campaign for Better Transport, and David Sidebottom, Passenger Team Director, Passenger Focus

John Pope, Head of Passenger Transport, Essex County Council, Councillor Shona Johnstone, Local Government Association, and David Brown, Director General, South Yorkshire Passenger Transport Executive Group

Dr Roger Sexton, Neil Anderson, Associate Director, Capital Traffic Management Ltd, and Steve Warburton, Operations Director, TAS Partnership

Tuesday 17 April 2012

Beverley Bell, Acting Senior Traffic Commissioner

Mike Cooper, Executive Director, UK Bus Operations, Arriva, Steven Salmon, Director of Policy Development, Confederation of Passenger Transport, Giles Fearnley, Managing Director UK Bus, FirstGroup, and James Freeman, Chief Executive Officer of Reading Buses, Association of Local Bus Company Managers (ALBUM)

Bobby Morton, National Officer for Passenger Transport, Unite, Martin Mayer, Unite Executive Member for Passenger Transport, Unite, and Phil Bialyk, Regional Organiser, South West England, RMT

Wednesday 16 May 2012

Peter Hendy CBE, Commissioner of Transport, Transport for London

Jeremy Peat, Chairman of the Inquiry, Douglas Cooper, Inquiry Director, and Adam Land, Director of Remedies, Competition Commission

Norman Baker MP, Parliamentary Under-Secretary of State, Department for Transport

List of printed written evidence

1 Bus Users UK Ev 56
2 Campaign for Better Transport (National) Ev 58
3 Passenger Focus Ev 62
4 Essex County Council Ev 65
5 Local Government Association Ev 68
South Yorkshire Integrated Transport Authority (SYITA) and South Yorkshire Passenger Transport Executive (SYPTA) Ev 71
Dr Roger Sexton Ev 75
Neil Anderson, Associate Director, Capital Traffic Management Ltd Ev 76
TAS Partnership Ev 89
Mrs Beverly Bell, Acting Senior Traffic Commissioner, Office of the Traffic Commissioner, North Western Traffic Area Ev 96
Arriva plc Ev 100
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Oral evidence

Taken before the Transport Committee
on Tuesday 28 February 2012

Members present:
Mrs Louise Ellman (Chair)
Jim Dobbin
Mr Tom Harris
Mr John Leech
Paul Maynard
Iain Stewart
Graham Stringer
Julian Sturdy

Examination of Witnesses

Witnesses: Stephen Morris, General Manager, Bus Users UK, Richard Hebditch, Campaigns Director, Campaign for Better Transport, and David Sidebottom, Passenger Team Director, Passenger Focus, gave evidence.

Q1 Chair: Good morning, gentlemen. Welcome to the Transport Select Committee. Before we begin the proceedings I would like to pay tribute to Peter Huntley, who was killed in a walking accident on 19 February. Mr Huntley was a former Chair of the TAS Partnership and a former Managing Director of Go North East. We were intending to ask him to contribute to our inquiry. He is a very sad loss to the transport community. Our thoughts are with his family and friends.

Gentlemen, could you give us your name and the organisation you are representing for our records?

Stephen Morris: I am Stephen Morris from Bus Users UK.

Richard Hebditch: I am Richard Hebditch. I am Campaigns Director at the Campaign for Better Transport.

David Sidebottom: I am David Sidebottom, the Passenger Team Director at Passenger Focus.

Q2 Chair: Thank you. What are the things that matter most to bus passengers? Mr Sidebottom, what are the key things that passengers care about?

David Sidebottom: We undertook some research, which we published in 2010, on bus passenger priorities for improvements. That focused on a number of areas. We asked nearly 3,500 passengers across England and outside London about their priorities for improvements. The top four things were better punctuality, improved frequency of services, getting a seat on a bus, which varied in some areas between value for money and getting a seat, and the availability of a multi-operator ticket was also important, which surprised us in terms of the level of demand from passengers for that kind of service.

Q3 Chair: Does anybody else have any different points to put?

Stephen Morris: We would agree with those priorities from what bus users tell us. People want to be assured that they can turn up in the morning, get on a bus and get to work on time, and do so reliably day after day.

Q4 Chair: Mr Hebditch, do you have anything to add?

Richard Hebditch: It is also important to think about the difference between more rural areas and urban areas. Particularly for rural areas where services are less frequent, it is the reliability of those bus services and that they are turning up on time or actually turning up at all. That is often very important for passengers in those areas.

Q5 Chair: Would you say that the Competition Commission’s inquiry addressed those areas or was it looking at something else? Mr Morris, how do you view the Competition Commission’s report? Did it look at the areas of concern to passengers?

Stephen Morris: By and large I do not think it did. There are one or two areas that we thought were very useful, particularly the aspect of multi-operator ticketing. That is something that will certainly be welcomed by bus users, but competition itself is something that is quite a long way down most bus passengers’ agenda. As I say, they just want to get to work on time and where they are going reliably, and, for the most part, they do not really mind who is providing that bus service for them.

Q6 Chair: Does anyone have any other views on the Competition Commission’s report?

David Sidebottom: From our perspective they are focusing on what passengers want to see improved and what they value. The emphasis on trying to encourage more sustainable use of multi-operator ticketing was particularly welcome, and we welcomed that publicly. We are particularly interested in the differences between quality contracts and partnerships, and how passengers see that as an output and what that could deliver. The main focus from our point of view is very much on multi-operator tickets, which again is based on what passengers want. That was a welcome announcement.

Q7 Chair: The Competition Commission’s report did not focus a great deal on quality contracts and partnerships, did it? It was looking at competition issues. Why do you think that was?

Richard Hebditch: Basically, the remit of the Competition Commission and the inquiry was to look
at the bus market, how it was working and any difficulties in the bus market. It was not necessarily starting from the point of view of what passengers want. There is a discussion very deep within the full report about what passengers actually want, but you do not get a sense, from reading the recommendations or the key findings of the Competition Commission, that they really addressed what passengers’ real concerns are about bus services. In particular, all of the kinds of things that passengers want are not necessarily things that bus companies in isolation can deliver. It is that thing about how bus operators work with local transport authorities, in particular, in terms of information to passengers whether at the bus stop or elsewhere, but also in terms of the punctuality of bus services and improving punctuality. Those kinds of measures are not addressed within it. This is not a policy report about how to improve bus services. It is purely looking at the function of the market itself and how that can be improved.

Q8 Paul Maynard: As you just mentioned, this was a Competition Commission report with set terms of reference. Are there any reasons why you feel the Competition Commission should have exceeded its terms of reference to look at matters other than competition?

Richard Hebditch: A fuller discussion of what the priorities are for passengers would have been useful to make sure that simply the automatic linking of competition with meeting passengers’ needs was more fully explored. What is really important is how the Department for Transport interpret the report. As you know, the Government have waited until this Competition Commission report to decide what their policy is towards bus services as the two parties have different views on it. I am not sure that this report gives you enough of a basis for making policy. What we need to see from Government is a clearer discussion about what the role of the market is, and, in particular, what the role of local transport authorities is and what they can do to improve bus services by working in partnership with bus operators.

Q9 Paul Maynard: Would any of the witnesses disagree with the notion that, because this is the Competition Commission, the fact that it reported on aspects related to competition is hardly a surprise?

Stephen Morris: No; that is hardly a surprise. I would agree with that.

Q10 Paul Maynard: The reason I am trying to develop this line of argument is that as a Committee we have already done one inquiry into local buses. We are now doing a second. There is clearly an appetite for a greater policy direction from somebody somewhere. How do you think that can best be delivered? Are you looking to Government for more White Papers or Green Papers leading to legislation, or are you looking to outside bodies to come up with a report? Are we looking at a Royal Commission?

David Sidebottom: I think we all know it is very localised by delivery bus. The one thing that struck us in our work in surveying passengers and asking about passenger satisfaction, and the things that come through the strongest in some areas of the country where it works really well, is that you back it up with what you believe to be the quality of the individuals that are working within that area. It is not so much the regime or the infrastructure; it is more about the outputs of passengers. Passengers recognise that their partnerships work very well. Whether that is a quality contractor or a quality partnership, it comes through in some of the results we have had. It does not surprise us that the areas that rate very well from passengers are where there has been long-term stability in the network, operators get on with what they do very well and so does the transport authority providing the bus priority measures that Richard talked about before as well.

Q11 Mr Leech: Mr Sidebottom, you said that quality partnerships work quite well. Do they work well everywhere where they have been introduced?

David Sidebottom: It is interesting. We are going to publish some results next week. We surveyed 20,000 passengers across the country asking them about various aspects of their journey. It is passenger satisfaction work. In some areas we can see where there has been real direction put into improving punctuality and offering a multi-operator ticket. Passengers recognise that over other journeys that they undertake. It is fair to say that the picture is still patchy. Where you see some focus it is new; it is early days and it is not quite mature enough yet, but where it is well established, you certainly see passenger satisfaction increase.

Q12 Mr Leech: Where the partnerships have worked, has that been in areas where the relationship between transport authorities and bus operators has generally been pretty good anyway and the services have been better than other areas?

David Sidebottom: I would say so, yes.

Q13 Mr Leech: Is there some evidence to suggest that, where there are poor bus services and a poor relationship, the quality partnerships have not worked?

David Sidebottom: Yes. I am sure we can cut our work to illustrate that.

Q14 Mr Leech: What about quality contracts?

David Sidebottom: That is one of the sad things in all of this. We have not had the ability to benchmark where a quality partnership delivers against a quality contract. That would be a fascinating study to do. We have not seen anyone embark upon a quality contract as yet. Our work is outside London, sadly, so we are not quite in that franchise model.

Q15 Mr Leech: Do you think that they could work, though?

David Sidebottom: I am sure they could, as could competition. In terms of the things that passengers want to see—punctuality, reliability, better value for
money and getting a seat—all of those things can deliver. Passengers are interested in the outputs. Again, it is down to the quality of the individuals working on it, the commitment and the endeavour to make that work between the authority and the operator.

Q16 Mr Harris: What is stopping local authorities promoting quality contracts?

Richard Hebditch: It is just the difficulties of the process.

Q17 Chair: Why haven’t quality contracts been embarked on? Mr Sidebottom was talking about the quality of individuals, but it must be something else surely.

Richard Hebditch: It is about the risks of moving to a quality contract. They are such that the incentives for doing so are not sufficient. A number of local transport authorities are looking very seriously at doing it, but the difficulty is just making that leap. I do not think there have been the incentives to do it. One of those things could have been financial incentives to make sure that it worked, to test the approach, but there simply have not been the incentives to make that leap to risk the delivery of your existing bus services by moving to a new model. Local transport authorities have not generally had the confidence to take such innovative measures throughout the post-war period of declining powers for local transport authorities. It is quite difficult to expect them to take up more innovative solutions.

Q18 Mr Harris: Ever since deregulation in 1985, local authorities, passenger transport executives and passenger groups have been campaigning for a return of some form of regulation. They were given it in 2010 and still have not done anything with it. Is this because the legislation is not good enough, it needs tightening up and needs to be improved, or is there just a problem with political will?

Stephen Morris: There is certainly a problem with political will. In many cases where quality contracts have been suggested, a partnership approach has been stepped up and has worked well. We have seen quite a lot of instances where the bus companies are obviously not keen on quality contracts. Where they have been raised as an issue, they have worked more effectively in partnership with the local authorities.

Q19 Mr Harris: In London we have a franchise system. In the 10 years to 2010, passenger numbers are up by 50%. Outside London we have a completely deregulated system. If it were not for the concessionary fares scheme, passenger numbers would have gone down in the 10 years to 2010. Am I missing something here?

Stephen Morris: London is always quoted as such a fine example. The two particular aspects of London that have made it successful have been a very strong political will to ensure that it does succeed and the injection of a great deal of money into the bus service. It was £560 million last year, I understand. You have to remember that 15 years ago, London bus services were provided under the same style of regime but requiring the network to be provided at virtually nil subsidy. In those days, the bus service in London was pretty terrible. It was very poor. It has been made to work because of a very strong political will to ensure that it does work and also the political will to make the money available to ensure that it does work. Of course, the great danger with any scheme like this is that a change of political control and political will could cause the thing to disintegrate very quickly.

Q20 Graham Stringer: You make interesting points, Mr Morris, about a comparison of the London system with elsewhere. In the period before the large injection of cash with the mayoral system there was virtually no subsidy into the London system, but there was not a loss of passengers when the rest of the country lost about 40% of their passengers. That is the real comparison, is it not?

Stephen Morris: Yes, that is true. We have seen growth in some of the shire areas in that time. There has been quite a substantial loss of passengers in the other metropolitan areas in Britain and that is certainly an issue of great concern. Whether a regulated system would have been the thing to enable that to happen is impossible to say. Whether an improved relationship between the local authorities and the local bus companies during that time could have produced similar results, again, is something that is difficult to say. We were aware during that time of some adversarial relationships between some of the metropolitan authorities in the rest of England vis-à-vis the bus companies.

Q21 Iain Stewart: You mentioned the inter-operator tickets as a passenger priority for using buses more. Is that simply between bus operators or is there more of an appetite for a public transport ticket like an Oyster Card that we have in London that could equally be used on trains and trams as well as buses?

David Sidebottom: From our research in 2010, for a bus passenger it was very much about the ability to use cross-city services, though in some areas, as I am sure you are very much aware, there are very distinct borders between operators. The ability to get on the next bus is very important, and often the ability to buy that ticket from the local authority that allows you to use different operator services comes at a premium. There is also an appetite, though, for multi-modal type ticketing. It is a little bit further down the pecking order, but certainly there is an appetite.

Q22 Iain Stewart: The reason I ask is because I am interested in probing whether the Competition Commission has looked at competition simply between bus operators or where there might be competition with a tram system or a railway. I imagine that is a relatively small level of competition. From your perspective, have they analysed that adequately?

Richard Hebditch: There is some discussion about competition with other forms of public transport. It does seem to have a moderating influence on the behaviour of bus operators to create more of a market mechanism. The area where we would have some dispute with the Commission’s report is about competition between the car and buses. It is true that
the Competition Commission is right to say that for a lot of people there is not competition because the bus market has declined. The core market is those who do not have a car. The potential is smart ticketing but also in terms of better information through smart phones, the internet and those kinds of things. There is the potential to grow the market more. We have got used to the idea of the bus market as being a declining market over which bus operators fight and protect their territories, but, actually, the potential for this is a growing market. Competition may start to have more of a beneficial impact where it is starting to grow and attract people away from cars.

**Q23 Jim Dobbin:** Do you not think that this aim to introduce competition is just a dream? If you go back to the days of deregulation, you used to see dozens and dozens of small buses running all over the place, following each other everywhere. Of course, it did not take long for the larger companies to come in and buy them out. In my own area, in Greater Manchester, there are two major bus companies. There are one or two smaller ones, but two major ones: Stagecoach and First. They split the area into two, so there is no competition, and they drag buses off routes willy-nilly as and when they want. You really need to get back to some regulation here before you can even consider getting proper competition. It is as simple as that. That is what deregulation did. It just destroyed the whole system.

**Stephen Morris:** If I may say, I think it is a little disingenuous to suggest that the two operators split the territory into two.

**Q24 Jim Dobbin:** Well, that is what they have done. **Stephen Morris:** That was the way it was set up at privatisation. The big bus company that covered the whole of Greater Manchester was split into two at deregulation and sold off in two separate halves. To suggest that the two bus companies have deliberately set out to retrace the opposite ends of the conurbation is not quite an accurate reflection of the situation.

**Q25 Jim Dobbin:** It is my accurate view. **Richard Hebditch:** There are also some important recommendations from the Commission that are about regulating the market. The recommendations about trying to mandate multi-operator ticketing is one way. That can have a really important impact directly on passengers in improving their experience and also in longer periods for notifying changes to services. It is one of the things that passengers, as I am sure you are aware, have concerns about. If we are moving to an era of more open data and having different ways of getting information about bus services, having reliable information where you know what the bus service will be and where it does not change frequently—it will change, say, twice a year—will have very important impacts for passengers as well.

**Stephen Morris:** We would agree that passengers value stability in the bus network as they do in any public transport network.

**Q26 Chair:** The Competition Commission calculates that bus users are suffering from between £110 million and £295 million a year detriment due to inadequate competition. What do you make of that and what kind of competition would improve the situation?

**Richard Hebditch:** It will be very difficult to have sustained competition. That is one of the challenges. The influence of competition leading to innovation will be an important part of it. I also think it is about the way that the system as a whole is regulated. One of the key things, perhaps picking up Mr Maynard’s point earlier about where policy might go next, is working out what the roles of local transport authorities are. Are they there to pick up the services that would not otherwise be provided? Are there they to regulate or co-ordinate services? The Government need to develop a clear understanding or idea about what they want local transport authorities to do. There are all these parallel measures about decentralisation and devolution, whether it is devolving powers over some rail services or devolving more of the larger local authority major scheme funding. Then there is potentially the devolving of the Bus Service Operators Grant. Bringing those things together to give local transport authorities a clear role in terms of whether they are about regulating services or delivering or co-ordinating services is where the real emphasis needs to be.

**Q27 Chair:** Are you saying then that you would address this issue of the detriment caused by lack of competition by looking at more partnership working rather than more competition?

**Richard Hebditch:** I think so. Co-operation is often what delivers for passengers. It is to deliver products like multi-operator ticketing and having zonal tickets where you clearly understand the price before you board. It is very clear from the passenger focus research that it is important to passengers or potential passengers that they know how much they are going to pay. That is going to be even more important if you are moving to a smart card system where it is not necessarily very transparent about the price that you pay and you just swipe your card. The recommendations from the Competition Commission that will have the most impact are those about the role of transport authorities in terms of changes in service frequency, longer notification periods and also multi-operator ticketing.

**Q28 Chair:** Mr Sidebottom, you are nodding. Does that mean you would agree, because we cannot record a nod?

**David Sidebottom:** Absolutely. You need stability of the network. I would agree very much with both of my colleagues on that. When there are major changes to be made to the networks, passengers have to be given prior notice and consulted as part of that. That is part of the evidence we gave at a previous hearing. The multi-operator ticketing is a big attraction for passengers, particularly when they are not paying a premium for that. There are many large conurbation areas now where, to buy that multi-operator type ticket, you will pay a premium for that. The ability to get on the next bus comes at a price rather than the one for which you have your weekly pass or your season ticket.
I agree very much with Richard that the access to information about how your route performs is critical in this day and age. In London, you can get access about how frequent and punctual your service is. That data is all in the public domain. It is very difficult to get that anywhere outside London.

**Q29** Paul Maynard: In the evidence from Essex county council there was mention of the fact that VOSA had abolished its bus compliance unit. There is no explanation of what the potential impact of that would be. Before I get too obsessed about the issue, could I have your views on what the impact of that has been in terms of local bus competition? Was that a relevant observation to make?

**Stephen Morris:** Yes, I think that was a relevant observation to make. In order for the system to work properly, whatever the regulatory regime, it needs the regulators to be properly resourced and to have access to the right intelligence that enables them to make decisions concerning bus operators. The abolition of those bus compliance monitors is a serious retrograde step. We would certainly like to see the traffic commissioners better resourced to be able to do the job that they are supposed to be doing.

**Q30** Paul Maynard: Do you have any views you wish to add?

**David Sidebottom:** The initial reaction from Passenger Focus to the announcement on the bus compliance officers was how to protect the right for a passenger to complain about a service through their operator to the traffic commissioner, and how that is then taken up in terms of potential hearings and enforcement action. At the moment, the jury is still out in terms of any evidence as to whether that has gone in the right direction or not. Traffic commissioners are now working much more in an educative role with operators. They are using their new resource to try and educate the operators about how they are gathering information and using their own information on punctuality to better manage their own services. However, I agree with Stephen that the backstop should always be that the regulator should regulate and have the resources to do so.

**Q31** Paul Maynard: To what extent do you think bus passengers are aware of traffic commissioners and what their role is? To what extent do you think a traffic commissioner’s role can be enhanced as a guardian of local bus services and almost a consumer champion? Is that confusing their two roles?

**David Sidebottom:** Potentially it is. With anything to do with bus passengers, the ability to know where and how to complain is a bit foggy. He is not quite sure whether to go to the authority, the bus operator or complain to the traffic commissioner. It is about the levels of awareness. It is not often you can sit on a bus and see clearly where your lines of communication are if you want to escalate a complaint.

**Q32** Paul Maynard: Finally, for clarity, is the Local Transport Act fit for purpose? Are we discussing an Act that cannot be implemented because of flaws in it, or are we discussing an Act that for other reasons local government is choosing not to implement?

**Stephen Morris:** I presume you are referring to the fact that quality contracts have not been invoked under the Act.

**Paul Maynard:** Yes.

**Stephen Morris:** That is just one aspect of it. In other respects, the Act seems to be working well. We particularly welcome the fact that it is not a one-size-fits-all type of Act. There are different situations that can pertain to suit local circumstances, and to that extent, I think it has been a very good Act. The quality contract provisions are perhaps a little onerous. If a quality contract were to be invoked, we would like to see it being invoked quickly so that we are not left in a situation of a whole bus network being left in limbo for about four years while everybody discusses how it should be done. Generally I would say that the Local Transport Act 2008 is fit for purpose, yes.

**Q33** Julian Sturdy: On the quality contracts point, I want to go back to what was said earlier on. You were questioned about why you do not feel local authorities have been introducing quality contracts, and you talked about the risk of moving to quality contracts. You say that they are quite onerous. As a panel, what do you feel are the real risks for local authorities moving to a quality contract?

**Stephen Morris:** One of the perceived risks is certainly the question of judicial review by the bus companies. It is probably right and proper that they should have that review. Not all bus companies are poor. Some bus companies have done a very good job of building up services. There are plenty of examples around the country of bus services that have been built up from virtually nothing to really quite good bus services. Understandably, the operator that has taken a commercial risk to do that will want serious recompense if the ability to run or develop that service is taken away from them.

**Richard Hebditch:** I guess there are risks in the relationship with existing bus operators if you are hoping that there will be new entrants to the market. The Competition Commission shows the difficulties of entering a free market, but there are also difficulties entering a franchised market in having the infrastructure for a new provider to come in and deliver those services. The risks are also in the transition to quality contracts in the services that have been provided in the local area.

**Q34** Mr Leech: There are some areas where competition has worked to a lesser or greater extent. In my constituency along the Wilmslow Road corridor, it is the one place where I have heard people say that there are too many buses. Frequency of buses, choice and price have all been dictated by competition. Have any of you done any work in looking at the benefits and also the drawbacks of that competition? The reason why I ask the question is because the impact of all buses migrating on to Wilmslow Road has been that some of the local services have been removed and have effectively disappeared, so everyone has to go to Wilmslow Road. Have you done any work to see whether or not
that happens in most places where there is competition?

**David Sidebottom:** Not that specific point, no. All our work at the moment is geared around measuring passenger satisfaction and drilling down into that. We were talking about existing users of those services—the results we will be publishing next week will feature some of those services along Wilmslow Road in Manchester—but not about some of the wider impacts. Knowing those services, they have been tailored very distinctly to the market, have they not?

**Q35 Chair:** You cannot give us any preview of what it is going to say.

**David Sidebottom:** No. I can share the information next week when it is published, by all means.

**Richard Hebditch:** When we have done research on best practice in bus services we have not looked at competition specifically, but it tends to be the case that, in the areas where there is best practice, sometimes there is competition and sometimes there is not. It is not a clear pattern that the competition has much to do with it. Often it is about working with the local transport authority to improve the overall conditions for the market. Oxford is a good example where there is some competition, but the measures that have enabled that to happen are about growing the overall market. It is about improving the information to passengers. When you come out of a station, it is having the bus services on a screen so that you know which bus to catch. It is having good information at the bus stops and having very clear information about fares. It is about growing the market overall. That is where we think the emphasis should be. It is about how local authorities can work effectively with operators to grow the market to attract people away from cars and to provide better information and better fares.

**Q36 Mr Leech:** My question is more about the impact on the network of services. If you look at south Manchester, you could probably make a case to say that there are more buses on the streets than there were 10 years ago, but there are fewer routes because some of the routes that used to run no longer run. I was interested to know whether you had done any work about the impact of competition from a negative perspective as well as a positive perspective.

**Richard Hebditch:** No.

**Stephen Morris:** No.

**David Sidebottom:** It might show you how rare competition is.

**Stephen Morris:** Yes, that is true. Wilmslow Road is a very specific case. I know Wilmslow Road quite well. I am not particularly aware of areas around Wilmslow Road that have been left unserved as a result of the competition there.

**Q37 Mr Leech:** The 46 and 47 service ended up disappearing as a direct result of other services taking most of the customers.

**Stephen Morris:** Yes. There is probably quite a lot of the 47 route that still exists in some shape or form. I used to use the 47 route some years ago. I do not know that it was ever a particularly thriving bus service. The other factor on Wilmslow Road, of course, is that there are traffic regulations that prevent the operators from just running the prime part of the route between the university halls of residence and the university. They are expected to run quite some distance beyond those points by traffic regulation orders. In places like Withington, which is part of your constituency, Mr Leech, you end up with more bus services than are justified in any terms—certainly the demand for them.

**Q38 Chair:** Should local government be put in charge of bus services with franchised services? Does anybody think that is the right way forward?

**Richard Hebditch:** There are risks and dangers with that, particularly in the current financial climate. The mapping that we have done of local authority cuts to bus services has shown that the protection for bus services is fairly weak when there are so many priorities for local authority budgets. The statutory duties in terms of providing bus services are relatively weak, so funding has gone elsewhere. We would be more concerned that a simplistic move to transfer responsibility to local transport or to local authorities would not necessarily deliver the results. There might be some areas of the country that would end up with a worse service and some that would end up with a better service, but we would have concerns about that.

**Q39 Chair:** What are the views of the other witnesses? Does anybody think that the solution to the issue of the declining number of people using buses is for local authorities to be in charge of the franchising system?

**David Sidebottom:** It has the potential. That is the difficulty in how you measure the evidence. At the moment it is an economic model rather than being anything we can predict in terms of what passengers think. What are the outputs that passengers want it to deliver? It has the potential, but then again so does competition. We are more geared to what comes out of that and how a passenger gets involved in any franchised mechanism. It works well in rail in measuring passenger satisfaction and outputs of rail franchises. It potentially has a benefit for bus passengers, but it is making sure, as Richard was saying, that the resourcing and infrastructure are right to deliver the things that are right for passengers.

**Q40 Chair:** Should central Government funding for bus services—BSOG, concessionary fares and others—be devolved to local government? Mr Morris, what is your view on that?

**Stephen Morris:** BSOG is a rather special case. It obviously began life as Fuel Duty Rebate. BSOG is really a means by which Government can say that it is a good thing to use bus services. It is rewarding people for using buses rather than using less sustainable modes of transport. It is giving that particular indication.

**Q41 Chair:** Should that be devolved to local government, together with other sources of funding for bus services?
Witnesses: John Pope, Head of Passenger Transport, Essex County Council, Councillor Shona Johnstone, Local Government Association, and David Brown, Director General, South Yorkshire Passenger Transport Executive Group, gave evidence.

Q49 Chair: Good morning and welcome to the Transport Select Committee. Could we please have your name and the organisation you represent for our records?

David Brown: I am David Brown. I am the Director General of South Yorkshire Passenger Transport Executive. I am here representing pte—the passenger transport executives group.

Shona Johnstone: I am Shona Johnstone. I am a county councillor from Cambridgeshire and I am representing the Local Government Association.

John Pope: I am John Pope, Head of Passenger Transport at Essex County Council.

Q50 Chair: Did the Competition Commission get it wrong? Mr Brown, your written evidence is very critical of the Competition Commission. Where was it wrong?

David Brown: We believe it is fundamentally flawed because it just did not look at the things that were important to customers and passengers. It did not look at punctuality, reliability, affordability or integration.

Q47 Chair: Does anybody else want a quick final word on what the Government should be doing now to improve bus usage outside London?

Stephen Morris: I would agree with what David Sidebottom says on the importance of ensuring that bus services are made reliable. There needs to be a greater emphasis on the role of bus services and public transport services in general in the local transport plan process. That is a process that favours the use of public transport and encourages local authorities to provide the means for public transport to be more successful.

Richard Hebditch: “Don’t cut BSOG” would be a very simple, straight answer. The other side of it is about incentivising better co-operation around information and ticketing, as the Competition Commission recommends, but also in looking at the better bus areas funding that has been announced and whether that can move towards more long-term funding to incentivise partnerships and co-operation to deliver what passengers want. The two areas that could really make a difference are not cutting BSOG and providing funding to improve co-operation around what passenger priorities are.

Chair: Thank you very much to all of you.

Examination of Witnesses

Witnesses: John Pope, Head of Passenger Transport, Essex County Council, Councillor Shona Johnstone, Local Government Association, and David Brown, Director General, South Yorkshire Passenger Transport Executive Group, gave evidence.

Q44 Chair: What should the Government be doing to improve usage of bus services outside London? Mr Sidebottom, do you have any views on that?

Richard Sidebottom: It may seem like a shameless plug, but in finding out what passengers think and what they want, there should be better consultation and better measurement.

Q45 Chair: Passenger Focus has been doing work for some time now on identifying that. I am looking at what should be done. What should the Government be doing now to improve usage of bus services outside London?

David Sidebottom: Some of the conversation around BSOG, for example, if that is parcelled up, as Richard was saying there, and devolved to authorities to spend, would alter the behaviour. It is funding the right thing. If you want a better bus product, it is the things that passengers recognise, which is better punctuality, improving frequency, better value for money and smart ticketing.

Q46 Chair: You think those are the most important things.

David Sidebottom: Yes.

Q48 Chair: Mr Hebditch, do you have any final comments on what should be done?

Richard Hebditch: “Don’t cut BSOG” would be a very simple, straight answer. The other side of it is about incentivising better co-operation around information and ticketing, as the Competition Commission recommends, but also in looking at the better bus areas funding that has been announced and whether that can move towards more long-term funding to incentivise partnerships and co-operation to deliver what passengers want. The two areas that could really make a difference are not cutting BSOG and providing funding to improve co-operation around what passenger priorities are.

Chair: Thank you very much to all of you.

Stephen Morris: We would prefer to see that remaining as a separate, discrete stream of funding for the bus operators. It is not going to get confused with local authority support for services and the concessionary grant. We would like the fiscal message to continue to be given that bus services are a good thing and should be encouraged.

Q42 Chair: Are there any other views on this?

Richard Hebditch: The key thing for us is about whether the funding is ring-fenced for bus services or whether it goes into general local authority budgets.

Q43 Chair: If it was ring-fenced, should all forms of funding for buses be devolved to local government?

Richard Hebditch: You would probably want to explore what the impacts would be. You would not necessarily want to devolve all of it straight away. You might look at parceling it up in terms of the percentage of what is currently the Bus Service Operators Grant. There is a case to be made about looking at the funding that goes to local authorities and looking at whether local authorities feel they truly have a choice about the transport measures they seek to put in place. From our point of view as an environmental transport organisation, we think that much of the funding framework, both in the way that transport projects are appraised and also in what funding is available, biases local authorities towards capital schemes or road building as a solution to transport problems. If you gave local authorities real powers and capability to deliver on public transport as well, that would enable them to make a real choice about the transport projects and priorities that would make a difference to people in their area. Public transport would perhaps become part of that rather than it being something over which they feel they have no control.

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Q50 Chair: Did the Competition Commission get it wrong? Mr Brown, your written evidence is very critical of the Competition Commission. Where was it wrong?

David Brown: We believe it is fundamentally flawed because it just did not look at the things that were important to customers and passengers. It did not look at punctuality, reliability, affordability or integration.
It concentrated on looking at a very theoretical model about competition between bus services. The second fundamental flaw is that it just did not look at the competition between bus and car. It looked at a very theoretical model, and then it just looked in a very narrow way at that element and ignored the wider aspect of the role of buses and also the different aspects that are important to passengers.

Q51 Chair: Why do you think it did that? Was it its terms of reference or something else?
David Brown: It is partly its terms of reference, but at the beginning of the process they clearly were looking at the wider perspective and so were looking at things that were important to passengers. However, as the process continued through, the remit seemed to get narrower and narrower and it seemed to focus very much on this theoretical argument about bus versus bus competition as though that would produce a better bus services, when all the evidence says that bus on bus on-street wars do not improve things in the long term for passengers.

Q52 Chair: Ms Johnstone, did the Competition Commission look at the things that matter most to passengers?
Shona Johnstone: No, I do not think they did. I would share the views of David Brown and pteg that would share the views of David Brown and look at the wider perspective and so were looking at things that were important to passengers. However, as the process continued through, the remit seemed to get narrower and narrower and it seemed to focus very much on this theoretical argument about bus versus bus competition as though that would produce a better bus services, when all the evidence says that bus on bus on-street wars do not improve things in the long term for passengers.

Q53 Chair: Mr Pope, you were not as condemnatory of the Competition Commission’s inquiries as our other witnesses but you were critical. Why do you think it was wrong?
John Pope: I looked at what I believe customers want. I listed in my submission eight things that they wanted. The chief things are reliability, stability, quality and good information. My experience in the industry since deregulation has been that increased competition does not necessarily deliver any of those improvements whatsoever. However, they were looking at it from a competition point of view, not from a passenger requirement point of view. Therefore, one can understand the point that they took in one or two areas because they were looking at it purely as a competition element rather than as a passenger transport provision.

Q54 Mr Leech: Before I move on to something else that I was going to ask, Mr Pope, you said that competition has not delivered any of those things. If competition worked in the way that it can do in some areas where competition has been effective—I mentioned earlier the Wilmslow Road corridor in Manchester—could it deliver the benefits to passengers if it was replicated across the country?
John Pope: Competition in some areas has delivered better services for passengers—of that there is no doubt. There have been places where it has grown the market, you have had quality competition and passengers have a much better offering. However, there are a lot of places, particularly towns of not large populations, where the bus business is not big enough to withstand competition. There are a couple of towns in Essex, for example, where competition has, in my view, not brought the best service for the travelling public. In one case, it has brought a degree of instability that is still going on now, and that is not what customers want, and in another area it has brought a lot of buses chasing too small a market, which means there is not the return for the quality standards to go up. You have highlighted Wilmslow Road, and this is the classic, where people have competed where the market is strong. As you have said yourself, it has left certain areas unserved as a consequence.

Q55 Mr Leech: Does your analysis show that in Essex there are certain services that have disappeared, while in areas where there is an element of competition all buses have gone on to those routes?
John Pope: If you take certain different towns in Essex, with a population typically of about 100,000 people, there is one operator whose network is largely unchallenged and where there is a degree of stability and network transfer that you can make quite easily. If you compare that with towns where there are a number of operators competing, it does create instability and in some cases a lack of adequate return for the operators to invest in the fleet. It also has an effect for the local authority. If the daytime services are more competitive and therefore the returns are less for the operators, they are less likely to provide services either in areas of lower demand or at times of lower demand because their major earning on certain corridors is being diluted.

Q56 Chair: Ms Johnstone, what is your experience from the LGA?
Shona Johnstone: I was simply going to reiterate what my colleague had said. You yourself have pointed out the unintended consequences of competition. While it is great for Wilmslow Road and extra buses there, it has been to the detriment of those on either side. That is why we would propose a system of franchising, where we can look at a whole area rather than just one specific route.

Q57 Mr Leech: Have partnerships been successful?
Shona Johnstone: Yes, they have been in a number of areas. The previous witnesses talked about political will. That can be an issue in some cases—political will both by the local authorities and also by the operators to want to make it work. Where there is that shared agenda of wanting to improve bus services it can be very effective.

Q58 Mr Leech: Are there some areas where partnerships have not worked because that relationship has not been good enough between the operators and the transport authority or the politicians? Are quality contracts the answer to that?
Shona Johnstone: I would not say that quality contracts are the answer. No authority has yet set up a quality contract.
Q59 Mr Leech: Could they be the answer, though, if they were easier to introduce?

Shona Johnstone: As they currently stand, the fact that no authority has done it speaks volumes. If they were simplified, made easier and there was less risk, less cost and less complexity, then I think they might be the answer.

Q60 Mr Leech: Does pteg have a view on that?

David Brown: We have a strong view that a lot of time and effort went into the Local Transport Act 2008 and that gave a toolkit ranging from voluntary partnership agreements through to quality contracts or franchising. In PTE areas, we are using almost all of those. There are examples of statutory quality partnerships and qualifying agreements in places like Birmingham, Sheffield and Liverpool, which are then seeing stability and growth. This is technically correct in Birmingham, though they have one on the way, and it is being consulted on now. We think there is a role for partnerships continuing in whatever vein they come together, but we believe there is a role for quality contracts or franchising in the overall mix. Three PTEs are looking at that and doing a business case in the north-east, in west and south Yorkshire to see if that is the most appropriate answer for the issues that they face in their areas.

Clearly, the legislation has a test that has to be passed, which is quite a high test. That brings risks and costs associated to anybody that is promoting a quality contract. It may be that the quality contract is the most appropriate way and the Government can do something to encourage people to press on with a quality contract and mitigate some of those risks. We have put in our evidence that there are a number of operators that have said they would very vociferously defend and oppose a quality contract, including things like scorched earth, such as selling off depots and companies just to stop a quality contract having any possible future relevance in a certain area. Understanding those risks and putting in place a process for securing quality contracts will be one of the issues. There is clearly a role for all of those tools that the Local Transport Act provided.

Q61 Paul Maynard: Drawing on Mr Pope’s evidence regarding the Essex towns where there has been too much competition, would the panel agree that it is not so much competition that should be the goal but rather that the market should be determining the level of competition that should exist to give passengers a service that they want? In pursuing competition, are we ignoring the market, perversely?

David Brown: Urban areas are slightly different because even the Competition Commission said that about three quarters of urban bus services were either a monopoly or a duopoly. There is very little competition in the major urban areas, and where it does exist it tends to be quite short term in nature. It is quite negative because people cannot make long-term plans because services and fare levels are changing. What happens is that because there is no competition people are pursuing profit levels on key routes. Therefore, the market per se is driving people just to concentrate on core routes, like the Wilmslow Road, and other areas on the fringe of urban areas tend to get a reduced level of service. The Competition Commission did not look at this wider role of bus services, not just in making profit and responding to a market but also a social need.

Q62 Paul Maynard: You have pre-empted my second question. A lot of the debate on buses seems to focus on urban areas and the role of ITAs in particular, possibly to the detriment of rural areas. I know that examples such as Norfolk and Cornwall have shown how ridership can be increased with greater diversity for passengers, fitting what they actually want. Do either you or Ms Johnstone, and possibly even pteg, have any observations on how you can learn from the rural county councils as to how other models can be brought in that might deliver what you are trying to achieve?

David Brown: There are two observations. One is that PTEs are using all the tools in the Local Transport Act. There are voluntary agreements in the west midlands that are looking at networks, and that is driving up patronage. We have some statutory quality partnership schemes, which are driving up patronage in some of these networks. We are using those tools in those circumstances.

The second thing for me is that in south Yorkshire, although we have an ITA, 40% of it is designated as rural. We look at the network in totality, so we do not look at a network for the Sheffield and the Doncasters. We look at the total bus network for that area, including the rural components. We look at that as local authorities in the round. The operators tend to look at that on the basis of route-by-route, profit-making or non-profit-making. That is where there is a slight disjoin between the aspirations and objectives of operators and local authorities.

Shona Johnstone: From the local government perspective, while we do not support on-street competition because we do not think it is in the best interests of passengers and users, we would like to see competition for routes, inviting operators to come in and want to run a particular route, either on just one corridor or over an area. If you did that, then you might be able to address some of the rural issues. You are right to highlight Norfolk as an example. Norfolk Green is a small operator, which has started to grow and is just growing very slowly and steadily by looking at what customers want, what they need and providing a service rather than simply running buses.

Q63 Chair: In the LGA’s written evidence you are strongly in favour of quality contracts. Do you see that as the way forward?

Shona Johnstone: No, we do not see quality contracts as the way forward because of the point that I have made. No authority has yet had a quality contract. It needs to be simplified. At the moment it is just too complex, too costly and the risks for local authorities are too high. If you got rid of those barriers, then some sort of quality contract might work.

We see a role for the local authorities as commissioners of bus services. This is moving on really. There is something like £3 billion a year that goes into the bus industry in public subsidy in one form or another. If all of that was devolved to local
operators to bid for work when we put that out to tender because we need a large competitive market. It is quite okay. Therefore, for us to stimulate competition is quite difficult and I am not sure what money we have and here are the services that we want to buy”, and then having the certainty that those services are going to be provided in the medium term. Taking that money and deploying it in a way where there is a chance of people walking away is quite risky. I agree with the point about pooling the resources, but I think you need a very structured way in which you buy those services through a quality contract, a franchise or a partnership.

John Pope: You mentioned competition in rural areas. One thing about the Transport Act 1985 is that it did not say, “You must compete”. If any operator chooses not to compete as part of their business strategy, that is quite okay. Therefore, for us to stimulate competition is quite difficult and I am not sure what benefits we would gain. We require a large number of operators to bid for work when we put that out to tender because we need a large competitive market. We are very fortunate in Essex that we will always get a good response to any tender invitation we put out, but there are parts of the country where there is a dominant operator. Some of my colleagues will only get one response to a tender and that is a real issue for them. We try and encourage operators to work for us and to be seen to be a good person to do business with. We are fortunate in Essex. There are about 33 transport authorities and they then commissioned the services in the way that we use joint strategic needs assessments to commission health services in an area, if you used that sort of model, you might get better value for your money.

Q64 Chair: You would like all funding in relation to local transport to be devolved to local government.

Shona Johnstone: Yes.

Q65 Chair: Would that include the Bus Service Operators Grant?

Shona Johnstone: Yes.

Q66 Chair: Is everyone on the panel in agreement with that? Nobody disagrees.

John Pope: I have concerns about the Bus Service Operators Grant. At the end of the day this is a tax policy. If you run a bus, you pay a certain amount of tax on fuel. If you run a train or aircraft, you pay a different tax. This is not a public transport issue; this is a tax issue. We are about to see a reduction in the allowance that is given to bus operators again from the beginning of April. I believe this will have two effects. First of all, the fares will increase as a consequence. I also believe that some of the network that is now commercially sustainable may not be beyond that, which means that the local authorities will therefore have to buy in more services. At the same time, the services we do buy in are likely to cost us more when they go out to tender because fuel prices have gone up. People tinker with this at their peril. It is going to have quite a significant impact.

With so many things in the bus industry, it will manifest itself in different ways in different towns throughout the country. There will not be one major response that we will see. We will see a number of incremental changes, some of which will happen over the forthcoming years. Therefore, I think it is a high-risk strategy to start tinkering about with Bus Service Operators Grant, and it does seem to be driven not in any public terms but in pure tax terms.

Q67 Chair: Can the decline in the usage of bus services outside London be reversed?

Shona Johnstone: Yes. I would point to Cambridgeshire where we have been growing our bus services over the past 10 years. We have not seen a decline. We have had more use. Park-and-ride, for example, went up from 1 million to 5 million passengers a year. The Guided Busway, which opened last August, in its first year is already nearly 50% above what was forecast. We can certainly demonstrate in Cambridgeshire that where we have a good relationship with operators—not a quality contract but a good partnership—you can see benefits for bus users and for the operators because we have a shared agenda. Yes, it is not rocket science; it can be done.

Q68 Chair: How much money would it cost nationally?

Shona Johnstone: We have never had much money in Cambridgeshire and we have managed to do it. In terms of park-and-ride and the Guided Busway, they are commercially run services and successful services.
operators, and we typically can get five or six responses to any tender. That is not the case everywhere in the country.

Q72 Julian Sturdy: Going back, is it not the case that this is a problem with the rural areas? Obviously you are not getting a huge amount of competition for the less attractive rural routes. That is where we should be looking at community transport projects playing a larger role in delivering those services.

John Pope: It is not that they are less attractive.

Q73 Chair: Ms Johnstone, is that the case in rural areas?

Shona Johnstone: Yes. There is one route in Cambridgeshire, for example, where the subsidy per passenger is £12 for every journey. It would be cheaper to put them in a taxi, quite frankly. We have to think of a better way of delivering those services.

David Brown: In urban areas as well, although there are big operators there, as the Competition Commission said, there is very little competition because it is very difficult for new entrants to come in and compete. If an operator is operating 90% of the bus services in an area, it is very difficult for someone to come in and compete. Therefore, even though people could compete, there is just no stimulus in the market to do so. Despite local authorities encouraging people to bid for tenders, if there are one or two dominant operators, it is a restriction on allowing people to come into the market.

Q74 Chair: Mr Brown, is there anything further local authorities could do to encourage more tenders to come through?

David Brown: We all try very hard, so we are all very open on the tenders. It depends on the structure of your industry. For us, if you have a dominant operator it is very difficult to stimulate more people to enter the market because of the structure. You need depots and vehicles. If you have a large operator dominating one place, it is very difficult, despite how we write the tenders, to encourage people to come in. Our tenders tend to be for the weekends and the evenings. Dominant operators are providing the seven in the morning to the seven at night service. It is very difficult to see how a small operator can then come in and just provide a few services in the evening on a profitable basis.

Q75 Jim Dobbin: Quality contracts do not appear to be the flavour of the month at the moment. Obviously, some bus companies would not want to know anyway. Is there any other model of regulation that you can think of that would bring satisfaction to the general public?

David Brown: There is sometimes a bit of confusion about the term “quality contracts”. Everyone agrees they would like the outputs that a quality contract can give you. The difference is in the way the legislation is written for a quality contract. It is quite difficult to do. Therefore, people want the outputs. Everyone recognises that using a defined budget to secure that output, having a specification and then buying in those services, is the right way forward. Because of the way the legislation is written, the tests and the risks associated particularly for the first people who go for a quality contract are too onerous. People all want the same outputs—reliable and affordable services—but it is just how you get from the current deregulated market to the new market. If you look at London, which never became deregulated, they have an excellent service and ridership and so on. If you could move to that model outside London, we would all appreciate the outputs that you would get. It is just that the transitional risks from where we are into a new system are quite onerous. That is not stopping some places still looking at quality contracts, either for an area or for a route.

Q76 Jim Dobbin: Is the antidote to that more public investment?

David Brown: There are two things really. I do not think we would push for any new legislation at this stage. We would push Government to look at sharing some of the financial and legal risks associated to those first movers into a quality contract. Putting some money into areas where they can see the potential and want to encourage a local authority to go for a quality contract could be a way to push that over the line and see whether a quality contract works in practice.

Q77 Jim Dobbin: Has anybody had a look at the systems in Europe?

David Brown: We were quite disappointed with the Competition Commission. It has looked at the bus market in England, which is deregulated. The vast majority in Europe and in London are regulated, as is our rail system and so on. It is a bit odd that we have a report concentrating on quite a small part of the total market, when a regulated, franchised or quality contract system seems to work successfully in mainland Europe, London and elsewhere.

Q78 Chair: Are you saying, though, that the London model is the way to go for everywhere?

David Brown: Not everywhere. You have to make sure that the risks and the costs are proportionate. We would not say the London model works for everywhere, but I think it does work in certain circumstances.

Q79 Chair: What are those circumstances?

David Brown: Where you have a monopoly situation by operators, where you do not have the innovation and you have a bus service which just does not meet people’s expectations. That is the end point: where it is not reliable, punctual or affordable and the quality is not good. In a large area I can see how you would move to a quality contract. It is then about how you specify what you want. You pay for whatever you want to buy. The London model has had a significant amount of subsidy over the years. That does not mean to say that you cannot have a franchised or quality contract system in an urban area at a lower cost base. Our view is that, for all of the money that we were talking about that goes into the system, you could get a better service out by doing it under a controlled franchised or quality contract approach.
Like the old tooth fairy. They seem to bring good about them in these evidence sessions. They are rather Q80 Chair: Mr Pope, in your written evidence, you regard for the control of the traffic commissioner. That least two operators in Essex that seem to have scant competition have been allowed to continue. I have at therefore, that is why some of the worst excesses of view that has not been fulfilled adequately, and, rather than being so prescriptive. I am concerned that, when people think of franchising, they think of something very bespoke. They think perhaps of the London model or the rail franchise, where the timetable decrees, “You will run this.” We need a different approach.

We can do that where we have control of an area because we are buying in all the service. That is very difficult where you have commercial services. It is very interesting that I spoke to the operator who ran one commercial service through that area and said, “Would you, for the length of the time, commit to running that network as it is so that we can then build a network around it?” but during the course of that five years he changed the route.

Q81 Paul Maynard: I revert to Mr Pope and his evidence on VOSA and the bus compliance unit. Do you have any practical examples of the damaging impact of that decision on your local services? John Pope: Not yet, because the withdrawal of bus compliance officers is a fairly recent innovation. Having said that, when we did have them, they were fairly thin on the ground around the country. One of the clear things about deregulation was that the traffic commissioner was given an enforcement role. In my view that has not been fulfilled adequately and, therefore, that is why some of the worst excesses of competition have been allowed to continue. I have at least two operators in Essex that seem to have scant regard for the control of the traffic commissioner. That does cause problems.

Q82 Paul Maynard: How can the role of the traffic commissioners be improved? I seem to keep hearing about them in these evidence sessions. They are rather like the old tooth fairy. They seem to bring good things the whole time, but no one is quite sure they exist or what they do. John Pope: They have the regulatory role for the industry, which we would fully support. I do not think they have adequate resources in order to fulfil that role. It is as simple as that. As a consequence of that, that role is not fulfilled to our satisfaction. If we write to the traffic commissioner with an issue that we wish him to follow up, we have a polite acknowledgment. You have to bear in mind that he is an independent person who does not have to report to us on his actions, or anyone else for that matter. That is right and proper, but there is a lack of enforcement. I would not necessarily put that blame at his door. It is the resources that he has available.

I have recently met VOSA, concerned at the reduction in monitoring that will go on. We will need to do some monitoring ourselves. I just need the reassurance that the traffic commissioner will accept that evidence in traffic court, and that is a discussion that I am having with them at the moment. It is not something that I want to do, but the public, certainly in Essex, somehow have this belief that we license operators to run services anyway. They believe it is franchised. When they say, “Why don’t you take the service away from this operator?” we say, “We can’t; they are outside our jurisdiction.” My local members get very frustrated that the public go to them with complaints about bus services and it is something over which we have no jurisdiction whatsoever.

Q83 Chair: What should be done now to improve the service? Councillor Johnstone, what should happen now, either in relation to the Competition Commission’s report or in any other matter that has been raised today? What should be done now to improve the service? Shona Johnstone: The main thing the LGA would like to see is the devolution of all bus funding to local authorities to enable us to commission services across our patches and to be able to put in quality assurance standards to ensure that what is provided is what people want. I am not sure that we are always very good at addressing what people want in terms of the journeys that they want to make at a particular time. We probably need to be better in our analysis and how we commission those services. That would be our top aim. We would not go down the route of the Competition Commission in trying to increase on-road competition but competition around routes, accepting that the operators will, by and large, stick to their own areas. In my area, one operator has 80%–plus of the services. No matter how much we try to encourage other operators in, it just does not happen. I cannot see that situation changing. It is about how we work with a major operator to ensure we get better standards, reliability and information and, therefore, more people using buses.

Q84 Chair: Mr Brown, what should be done now? David Brown: The Department for Transport should respond very positively to some of the aspects in the Competition Commission report and should put in place legislation particularly in regard to multi-operator ticketing, which is in the report, and the
information provision from bus operators about deregistered services. They should get on and do that in the short term. The second thing is that they should re-emphasise that the tools in the Local Transport Act are still appropriate. The third thing is that they should encourage, possibly with additional funding and powers, those areas they wished to proceed with a quality contract or a franchise to take away some of those risks inherent in the process.

Q85 Chair: Mr Pope, what should be done now? John Pope: I do not see any fundamental change to the legislation, but we are very nervous about moving in the direction of quality contract for all the reasons people have said. There is certainly one area of Essex that might benefit from a quality contract. If we go back to what passengers want—and I listed eight things that they want in my submission—how do we line that up? One thing particularly that the Competition Commission picked up on was the registration period and the time. Giving the local authorities 14 days’ extra notice is quite useless. What can we do with that until it is in the public domain and until the operator has registered it? One thing we always have a problem with is what we do when an operator deregisters a service. We need to make a decision. We need some information about the number of people travelling. The first thing we can do is to ask the incumbent operator how many people are travelling. With the best will in the world, it is not his greatest priority. Out of his goodwill he will send us the information. We may well have to wait a couple of weeks for that, and we are already into a 56-day period when we have to make a decision as to whether we want to replace the service in any way, shape or form. The other thing is the short period of notice that the traffic commissioner can apply to allow services to start in less than 56 days. We have had some problems with that whereby the operator has withdrawn a service commercially and another operator has come in and said, “I will put a replacement service on”, but it has changed it somewhat so that the route has been extended, it does not do this and it does not do that. It has generally met the needs, but because that was not like-for-like it would not get the 56 days waiver.

Q86 Chair: So these are the things. John Pope: There are lots of things we could tinker about with that would make life a lot easier for us. The Competition Commission has picked up some of those issues, and we should grasp those issues and look at how we can implement them. Chair: Thank you very much to all of you for coming here and answering our questions.

Examination of Witnesses

Witnesses: Dr Roger Sexton, Neil Anderson, Associate Director, Capital Traffic Management Ltd, and Steve Warburton, Operations Director, TAS Partnership, gave evidence.

Q87 Chair: Good morning, gentlemen. Welcome to the Transport Select Committee. Could you please give us your name and the organisation you represent for our records?

Steve Warburton: I am Steve Warburton. I am Operations Director from the TAS Partnership.

Dr Sexton: I am Roger Sexton, a retired university law lecturer from Nottingham Trent University. Over the last 20 years I have been very interested in the issue of regulation of bus services.

Neil Anderson: I am Neil Anderson. I am Head of Transportation Planning at Capital Traffic Management Ltd.

Q88 Chair: We have heard a great deal of criticism about the Competition Commission’s report. Do you think it has been unfairly criticised, or what do you think are its strong points?

Steve Warburton: I would say in some respects yes and in some respects no. In some respects, the Competition Commission purely reported on the remit it was given. It looks at competition, and that is what it looked at.

Q89 Chair: Was that the direct remit?

Steve Warburton: Maybe not. There are, however, somewhere in the Competition Commission’s report some very positive shifts in their attitudes from where they previously stood in the way that they are recommending multi-operated ticketing. Previously, the feeling was that both they and the OFT were very much against multi-operator tickets as being an element of co-ordination rather than competition.

Q90 Chair: Dr Sexton, how do you view the Competition Commission’s report?

Dr Sexton: Largely it is a waste of time, except for the point that Mr Warburton has just made. At least they have seen that one thing passengers want is integrated ticketing, which does not cost an enormous amount. I would particularly underline the point that the integrated ticketing should, where appropriate, include other modes of transport, particularly trains. That is relevant to Mr Maynard’s constituency and where I come from, which is Nottingham, and, where appropriate, local trains and ferries—for example, the Portsmouth to Gosport ferry.

Q91 Chair: Mr Anderson, what do you feel is wrong with the report?

Neil Anderson: It appears that the Transport Act 1985 endorsed a Faustian pact between the bus industry and the Competition Commission in the way that they operate. It does not seem to me that that was appropriate at the time, nor is it now. There is a tendency towards a natural monopoly in the provision of public transportation services anyway. The appropriate way to regulate that is not by competition but by some sort of franchising or contract system.
Q92 Chair: The Competition Commission calculates that bus users are suffering from between £110 million and £295 million a year of detriment because of inadequate competition. Mr Anderson, you are suggesting that the answer to that is not more competition but a different system. Am I correct in that?

Neil Anderson: The loss of that money from the bus industry would be very significant at a time when many smaller operators are under threat anyway with the BSOG changes, the reduction in reimbursement for certain free fares and the like. That would be a loss that the industry cannot afford. Secondly, this is insignificant when divided by the number of passengers per year. It comes out to about 6p to 13p per journey, which is irrelevant as far as the mean cost of a trip by bus is concerned. The mean fare is probably of the order of £1, £1.50, £2 or something of that order.

Q93 Chair: Dr Sexton, what is your approach to dealing with the current problems we have? Are you looking to more competition or at the more regulated system?

Dr Sexton: I am very much looking towards more regulation. I have been consistent in that view in the submissions I have made in writing to this Committee in the past, particularly if you look at the submissions I made in 2006 and 2007. Certainly in 2007 this Committee very much endorsed some of my views. I would go the whole hog and introduce a franchising system for the whole United Kingdom, or at least England outside London, very much on the basis that it works not just in London. I would stress that it is the norm in pretty well all of our European neighbours both within and outside the EU. You do not have on-the-road competition. That is something very peculiar to Britain outside London as far as Western Europe goes. Instead, you have carefully integrated systems of public transport, which will also embrace trams, local trains and, where appropriate, ferries. They are integrated by some kind of public transport authority. It varies from country to country.

In Sweden, it is done by an organisation for each region called a Länstrafiken. In Germany, Austria and also in the South Tyrol, in all urban areas and some rural areas, there is an organisation called a Verkehrsverbund. That basically controls all local public transport except intercity trains and intercity buses. In Switzerland, which is often regarded as a public transport paradise, long-distance transport is still controlled by the Federal Railways. Local public transport—and that will include the boats on the lakes and even some of the cable cars—is controlled by the cantons or groups of cantons.

Q94 Mr Leech: I have some sympathy with what you said about franchising, but why do you think that quality partnerships and quality contracts cannot offer a decent deal for the bus user?

Dr Sexton: Quality partnerships and quality contracts are two different things. We have some quality partnerships, including one in the city where I have lived for 42 years. Nottingham is one of the more fortunate British places in that we have good bus services. There is, though, a problem of lack of integration of ticketing. The snag with the partnership approach, if we deal with that first, is that it does not solve the problem of having too many buses in certain situations. You were talking about Wilmslow Road in Manchester. The equivalent in Nottingham is Derby Road. Also, right in the city centre in Nottingham we have Parliament Street, which is the main east-west street in Nottingham. For much of the day and probably now, at about half past 11, the chances are that it is clogged up with buses. There is no doubt that a quality partnership approach, which Nottingham city has very much promoted, encourages bus operators, but you do get situations where you literally have too many buses on the road. That particularly happens in Nottingham city centre on Parliament Street. I know they have had problems in Manchester in the past. Birmingham will be holding its breath on 23 June because on that day Corporation Street, one of the main bus thoroughfares in Birmingham, closes for tram works. Where are all the buses going to go?

One of the drawbacks of a quality partnership is too many buses. It also does not solve one of the big problems of deregulation, which is that not only do people focus on main roads—you are right there, Mr Leech—but they also focus on 7.00 to 7.00 Mondays to Saturdays. You get very poor or even non-existent evening and Sunday services.

Q95 Mr Leech: Why could that not be dealt with through quality contracts?

Dr Sexton: Quite possibly, yes. What I am really advocating is quality contracts for the whole country. At the moment, there is no quality contract anywhere in this country. As people have been saying, the Local Transport Act 2008 creates very high hurdles to creating a quality contract. I believe that at the moment West Yorkshire ITA, which is Conservative-controlled, is seriously considering a quality contract and has even given some deadlines to the local bus operators to respond, which I believe run out on 23 March or something like that. It is being considered in the West Yorkshire area, but, as I have said, we have no experience yet of quality contracts. If they introduce it just in one place, there is certainly the danger of what was called earlier a “scorched earth” approach and the operators in “Xshire” will simply all up sticks and go.

Q96 Chair: What is the most important thing that should be done now to improve bus services and expand the usage?

Dr Sexton: We need radical new legislation to allow us to come into line with our European neighbours. We need to reject deregulation.

Q97 Chair: You want to move to a different system completely.

Dr Sexton: Yes. I have been consistent in that in my submissions to this Committee.

Q98 Chair: Mr Anderson, what do you think should be done now?
\textit{Neil Anderson:} I would point out, Madam Chair, that to a large extent the current bus users are the old, the young and the poor. These people have no voice. They need a voice in a way that they have not under the present situation. I would argue very firmly for an Office of Bus Regulation—OFBUS—to institute a situation of country-wide franchising, which would emphasise issues of quality, stability and reliability of services, and especially the quality aspects. The evidence is before us over the last 20 years that competition has not achieved a growing market. The opportunity for the bus industry is immense under a stable, legislative regime. That is what we ought to offer them. We ought to make incentives within the money that goes from the public purse into bus operators to increase their ridership. They can make a significant contribution to decarbonising the transportation sector, especially if they change their mainline routes into light rail, which very few have shown any interest whatsoever in doing. We can make the whole transportation sector more sustainable and reduce household transportation costs, but we need to do that in a framework that enables stability for the operating companies. They need to be profitable and they need to be sure of their market. The bus passengers themselves need a voice. I believe that in an OFBUS they would have that voice.

Q99 Chair: When you say that OFBUS should set up a system, do you mean that they should run it or that local authorities should decide what should happen in their own areas?

\textit{Neil Anderson:} I am not quite sure what you mean by “local authorities”. What I see as local authorities in the UK are units that are simply too small to operate adequately. I disagree with the lady from Cambridgeshire in this respect. I think we need larger units for sensible local government. I very much favour a regional approach to these things. At that level I think you can have the level of expertise that would be required to administer bus franchising in those areas. I am not sure that the local authorities have sufficient skills on board.

Q100 Chair: You are talking about appropriate groupings of local authorities.

\textit{Neil Anderson:} Appropriate groupings, yes, by all means.

Q101 Chair: Should the funding for public transport be delegated to them—funding including the Bus Service Operators Grant and money for concessionary fares?

\textit{Neil Anderson:} If there is a level of competence at the level of the regional operations, yes, by all means it should be devolved.

Q102 Chair: Mr Warburton, do you have any proposals on what should be done now?

\textit{Steve Warburton:} I have a preference for leaving BSOG almost as it is. It has a perversity at the moment in that it rewards high fuel consumption. The measure that the Scottish Government have just taken to make it a flat rate per mile operated—or you could equally do per hour operated—seems a sensible one to me. There is then no variation between local areas and it is an across-the-board piece of funding. I agree that the structure of local government in the UK generally is a mess. You would agree that the PTEs may have the capabilities and the strengths to handle quality contracts and franchising, but you could not see some of the smaller unitary authorities doing it. I have a worry about how you handle boundaries if some areas are in a quality contract and the next area is not. That is why some of the shires on the borders of the PTEs that are looking at them are very restive about the idea. Local government boundaries are equally as perverse as their structure. One thing the Competition Commission did seem to acknowledge is travel-to-work patterns rather than local authority boundaries. One of the issues with some of the multi-operator tickets we have now is that they stick to local authority boundaries with some variations, but usually they do, whereas the Competition Commission acknowledged that multi-operator tickets should follow patterns of travel regardless of local authority area.

Q103 Chair: Could you tell us any more about the problems shire authorities have?

\textit{Steve Warburton:} We did some work on the Commission’s input for Centro in the west Midlands. In relation to its multi-operated ticket as against the National Express own brand one, they have had very great difficulty in getting the adjoining authorities to join in so that the ticket could cover the same area. The co-operation is generally there from the operators but not from the adjoining authorities. There are issues with the operators as well, and I am looking at smaller area tickets rather than the whole of the west Midlands, but that was their main problem with the area-wide one.

Chair: Thank you very much for coming and answering our questions.
Tuesday 17 April 2012

Members present:
Mrs Louise Ellman (Chair)
Jim Dobbin
Mr Tom Harris
Julie Hilling
Kwasi Kwarteng
Mr John Lecchi
Paul Maynard
Iain Stewart
Graham Stringer

Examination of Witness

Witness: Beverley Bell. Acting Senior Traffic Commissioner, gave evidence.

Q104 Chair: Good morning, Ms Bell. Welcome to the Transport Select Committee. What role does the Traffic Commissioner have in dealing with competition in bus services?

Beverley Bell: A very limited role with regard to competition. The Commissioners feel that our general role with regard to the operation of bus services by licensed operators has two parts. The first part is the general rule of fair competition, making sure that we only allow into the industry and retain within the industry those operators who are fit to conduct bus operations. Let me give you a good example. If a bus operator is running off route to fill its vehicles with diesel because it does not have enough money to fund its diesel, then we would potentially take the licence off the operator. That is a general overriding competition issue.

With regard to specific registered services, I think all Commissioners would agree that our role is extremely limited. It is very much for the marketplace to determine how and when operators will operate their services, but we have a very limited role when it comes to enforcing. The only part of the legislation where we can look at enforcement is if there has been intentional interference by one operator against another.

Q105 Chair: Do you think there should be a local regulator of competition?

Beverley Bell: Generally?

Chair: In the bus services.

Beverley Bell: We like to think that we are regional local regulators and that we know and regulate our own traffic area. I would see no difficulty with there being a specialist regulator who looked at the region.

Q106 Chair: How would that work? Would that be in the Traffic Commissioners or something separate?

Beverley Bell: The Traffic Commissioners, in my view, would be well placed to deal with competition regulation because it sits naturally with their other role of general regulation of the industries, but we would have to increase our skills substantially. That is what I told the Competition Commission. We are not currently trained or skilled to look at competition issues, although I suppose we could act as a post box to the Competition Commission and the OFT if we received complaints.

Q107 Chair: Could you see a role for the Commissioners in promoting competition rather than reacting to the situation you found?

Beverley Bell: I would like to think that we do promote competition. I would like to think that we promote an industry that does effectively allow anybody to enter the profession subject to them reaching the right standards.

Q108 Jim Dobbin: On the issue of competition, would you like to see what happened a number of years ago when bus deregulation was introduced? All the little mini coaches were certainly running all round Greater Manchester but not for very long. They soon disappeared, basically because a couple of big companies came in and more or less split the whole of Greater Manchester in two. Would you like to see that return so that you had that on-street head-to-head competition?

Beverley Bell: I am not interested in competition per se. I am interested in a good level of reliable, punctual services for operators. The difficulty is that the current legislation does not allow Commissioners to promote that. For example, if we have a large operator running a half-hourly service and then a new operator comes in, whether they are large or small, and wants to operate five minutes in advance, I cannot do anything to stop that. That does not improve competition for the bus passenger. Maybe if we could say, “You can run that service but only at 15-minute intervals”, so that you offered a 15-minute service through different operators, we would actually improve the service to the customers—to the passengers.

Q109 Jim Dobbin: From memory, these mini coaches were just chasing each other all over the place. I did not see any benefit for the passengers at all. Do you see a benefit?

Beverley Bell: No, not at all.

Q110 Paul Maynard: You mentioned earlier that you felt you would need more skills to be able to perform some of the roles we have been discussing in terms of promoting competition. Can you talk a bit more about what sort of skills they might be and maybe a bit about what the background of Traffic Commissioners tends to be? Do you come from a legal background or an economic regulation background? What sort of background do Traffic Commissioners emerge from? They have always seemed to me a bit like the tooth
fairy: one believes they are there, but one is not quite sure what the point of them is. **Beverley Bell:** I have never thought of myself as being analogous to the tooth fairy before. Mostly, Traffic Commissioners have tended in recent years to come either from a legal or military background. There is a very good reason, Mr Maynard, why they came from a military background. We do still have some powers for deploying vehicles in emergency civil situations. That is why historically they were. At the moment, of seven Traffic Commissioners, five are qualified solicitors. We have just recruited two new ones, neither of whom are qualified solicitors and both of whom, interestingly in fact, were civil servants.

Your question about improving our knowledge of competition is simply that. It is improving our knowledge of competition legislation, but also, there would have to be a provision for us to be able to apply that competition legislation or to know when to refer it on where appropriate to the OFT, for example.

Q111 **Paul Maynard:** All things being equal, if you had those skills and abilities, and you had the legislative powers to do so, would you require greater resources to implement those powers or would you be able to do so from your existing budgets and capabilities?

**Beverley Bell:** When we interviewed for the post of Traffic Commissioners recently, one of the interviewees asked me if I felt that I would like more resources. I said, “There isn’t a public regulator in the country who wouldn’t like more resources.” But, if you read the annual reports, you will see that historically Commissioners have complained for a number of years at a lack of resources with regard, particularly, to compliance on registered services—in other words, bus compliance monitoring. My message to the Committee today is very clear. Commissioners feel that they do not have enough resources to even cover their existing powers under the legislation. Therefore, if we were to have greater powers we would certainly need more resources to enable us to deal with those.

Q112 **Paul Maynard:** We are discussing at great length in this inquiry the regulation of competition in local bus markets. Lots of ideas are emerging as to how that regulation could be improved, how competition could be promoted, why there are not more Quality Contracts, and all that sort of thing. Do you think it is the case that there are lots of ideas in search of a body to implement them and it just so happens that people have alighted upon the Traffic Commissioners as being the only extant body possibly capable of doing it, or do you see it as a more natural progression of what you have been doing anyway?

**Beverley Bell:** I definitely see it as a natural progression of what we have been doing. We are specialist regulators. We only deal with the commercial vehicle industry and I think it sits very well with our current role. It depends what you mean when you use the word “competition”. It depends whether you mean competition between existing and potentially new bus operators or whether you mean competition with other forms of transport—for example, the train, the tram or the car.

Q113 **Paul Maynard:** You have almost posed the question to yourself. In terms of competition between different modes, would you see yourself as potentially having a role?

**Beverley Bell:** No. It is more oblique than that. My role is to promote a compliant bus industry of which passengers and operators can be proud. I see that very much as my role. The bus industry suffers from a very negative press at times, which is unfortunate. My role in promoting fair competition and running reliable, punctual services fits in with that promotion of the bus over other methods of transport.

Q114 **Chair:** You referred to the problem of resources. A recent VOSA consultation showed that of the £13 million that is received in fees from the industry the Commissioners receive only £1.4 million. Were you aware of that before that consultation was published?

**Beverley Bell:** I was not until I became the Acting Senior Traffic Commissioner. First of all I became the Deputy Senior Traffic Commissioner and I am currently the Acting Senior Traffic Commissioner. One of the things I have been doing is working very closely with VOSA to examine the budgets and the figures in detail and to ask some very searching questions. Indeed, I have raised it previously with VOSA and also with Norman Baker. I had a response from Norman Baker that dealt with the aspects of that. Suffice it to say that I am looking in detail with VOSA at the allocation of that money. I am also having a meeting with the industry through the CPT, the RHA and the FTA this Thursday, and that is one of the things I am going to be discussing with them.

Q115 **Mr Leech:** Last month FirstGroup were fined £285,000. **Beverley Bell:** They were.

Q116 **Mr Leech:** When was the last time that a bus company in the north-west was fined for unreliable services?

**Beverley Bell:** That is a question I was not expecting; I am sorry. I cannot tell you the last time that a bus company was fined in the north-west. What I can tell you is that in the year 2010–11 there were no public inquiries in the north-west traffic area involving bus reliability, and the year before that there was one. Commissioners feel—and I certainly feel in the north-west—that that is as a result of the distinct lack of resources with regard to bus compliance work being referred to Traffic Commissioners.

Q117 **Mr Leech:** In terms of not just the north-west but the rest of the country, is there any evidence to suggest that where there are Quality Partnerships in place your role as a Traffic Commissioner is easier in terms of taking action against bus operators?
Beverley Bell: We have not yet had to take any action with regard to Quality Partnerships. There are many Quality Partnerships up and down England, Scotland and Wales. Many of those are a success and are seen to be working both by the operators and by the local authorities. We have not yet had to become involved with those. I am very keen, and I know my colleagues are very keen, to promote that partnership working between the industry and the local authorities, because they also have their part to play in this.

Q118 Mr Leech: Would it be fair to suggest that, by introducing Quality Partnerships, the need for the Traffic Commissioners to get involved in the fining of bus companies for not being reliable and punctual is reduced?
Beverley Bell: Absolutely not. There will always be those operators who cannot comply. There will always be those operators who will not comply. In my view you will never get 100% of operators being involved in Quality Partnerships.

Q119 Mr Leech: But, so far, you are not aware of Traffic Commissioners having to get involved in fining a bus company where those partnerships have been in place.
Beverley Bell: No, not yet. I would also say that when you look, for example, at the role of Transport for Greater Manchester, Merseytravel, and in my area the ITAs, the local authorities, they have a whole host of information about operators that they have historically not been terribly keen to pass on to Traffic Commissioners because of the relationship between them. That is changing. Once those organisations start to pass on data to Traffic Commissioners, you will see Traffic Commissioners taking a greater role in ensuring compliance.

Q120 Mr Leech: Do the Traffic Commissioners take any view on how helpful Quality Contracts would be in ensuring better services and a lack of need for intervention?
Beverley Bell: I think everybody is watching and waiting. There have not yet been any Quality Contracts. We understand that there will be one coming up later this year in one of the northern areas. I cannot yet comment on that because I may have to sit on that Quality Contract application, but I know that there is great interest in the industry to see how those develop.

Q121 Mr Leech: Finally, this is in the north-east, and it is said that the bus operators have suggested they might have a scorched earth policy to try and scupper any chances of a Quality Contract. I assume that the Traffic Commissioners would take a very dim view of that if the operators were to act in that fashion to try and scupper improving bus services.
Beverley Bell: I would never make any comment at a Transport Select Committee hearing with regard to any individual operator or any individual traffic area. That would be inappropriate. What I could do is talk about general approach. If we felt that an operator was trying to circumvent that, just as if we felt they were trying to circumvent our orders, then, yes, we would take a dim view.

Q122 Graham Stringer: I want to follow up on Mr Leech’s question. How did you decide on the level of the fine to FirstGroup?
Beverley Bell: I cannot discuss that. I meant to flag it up at the start. The reason is that the appeal period is still outstanding with regard to FirstGroup because the order that I made was in the last 28 days and it would be inappropriate of me to comment. I can say as a general answer that Commissioners are generally working to the practice direction that was issued by my predecessor Philip Brown, the then Senior Traffic Commissioner. That sets out the circumstances and the factors that Commissioners should take into account, such as how proactive the operator has been in ensuring their services run on time and what has been the role of other individuals within the organisation and so on. There is a scale that is then looked at and considered, if that assists.

Q123 Graham Stringer: There has been a decade of appalling services by FirstGroup in north Manchester. I do not think it was you; it was probably one of your predecessors who held an inquiry where they found that the wheels were literally falling off FirstGroup’s buses in Rochdale and north Manchester. There has been a distinct lack of action from the Traffic Commissioners over a decade. One is talking here about 25% of the services not following the registered timetables and my constituents suffer from that. Do you feel that you have not done enough to fulfil your obligations to my constituents?
Beverley Bell: Let me deal with the two issues. I have been in post in the north-west since 2000. I have dealt with FirstGroup and indeed many other operators at public inquiry for maintenance issues. I am conscious of the people sitting behind me. I doubt that any of them would ever suggest that I was ever seen as a soft touch by the operators. If I am, and if I am turning into the tooth fairy, then it is time for me to take a harder line. But I do not think there are any operators in the north-west who think that they can appear at a public inquiry before me or my colleagues and not expect robust action on maintenance because the public are entitled to expect robust regulation. This is a phrase I use day in, day out, in public inquiry. If you look at the statistics with regard to PSV operations, at one stage my colleagues and I were revoking 50% of operators who appeared before us. If I look at the statistics last year, my colleagues and I did about 49 public inquiries in the north-west traffic area, of which we revoked about 16 licences. So I hope I am robust. I will also say that, whenever we do have a public inquiry of interest to people like your constituents, the social networking and social media sites go bananas and haywire. We get people making comments. This
is all still very new to us as regulators. These people make comments about the level of service that they receive. After I dealt with a recent large operator at public inquiry I got lots of letters from people saying, “I’d also like to complain.”

It grieves me, Mr Stringer, that I am not told about this sooner and that I am only told about it when it is in the public domain. That is why, in my view, it comes back to resources and proper enforcement by VOSA and the other enforcement agencies. My message is: bring it on and we would be delighted to take action.

Q124 Graham Stringer: There are two points from that. You really did not answer the point about 10 years of monitored failure by FirstGroup in north Manchester, both on its maintenance and safety levels and on the punctuality of its service. The Passenger Transport Authority, the Integrated Transport Authority and Transport for Manchester—they are the sequence of authorities—have all had evidence of that. Are you saying that you have not talked to those bodies to get the information?

Beverley Bell: I would love to answer your question in detail, but, as I said to you a moment ago, there is an appeal pending with regard to FirstGroup.

Q125 Graham Stringer: Can I interrupt? I accept that answer in terms of the justification for that level of fine. Prior to that, there is a decade of failure to improve this appalling bus service in north Manchester.

Beverley Bell: When you say “bus service”, do you mean the running of the registered services or do you mean things like vehicle maintenance?

Q126 Graham Stringer: I mean both.

Beverley Bell: You mean both.

Graham Stringer: Yes.

Beverley Bell: Dealing with vehicle maintenance, as I said, a number of years ago I did deal with First Manchester at a public inquiry for maintenance. I remember it very well and I took action against them.

Q127 Graham Stringer: That was the one where the wheels were falling off a bus.

Beverley Bell: That was the one where there were problems with maintenance—absolutely. VOSA monitor any operator that has been to public inquiry and monitor them extensively. If there had been any further problems, I am absolutely satisfied that VOSA would have referred them to me and that I would have called them to public inquiry.

With regard to the running of registered services, I am sorry if I did not answer the question fully enough. After I had dealt with First Manchester at the public inquiry for the fine, I then received a lot of letters and comments from people who lived in Manchester complaining about the services that they were trying to use. I have now passed all of those on to First Manchester and asked for their comments. If I can take action, if it is appropriate to do so, I will. The point I was making, obviously not terribly well, is that I wanted to know about these things sooner, not after the public inquiry. My concern is that VOSA does not have the time and resources to investigate it fully.

Q128 Graham Stringer: I understand that point. What I am saying is that most of the complaints, not just about FirstGroup but about other bus services in any area, and we are talking about Greater Manchester, primarily go to the transport authority. Do you not go to the transport authority and ask them for what information they have?

Beverley Bell: I have regular meetings with Transport for Greater Manchester, I attend the Merseyside Bus Board and I liaise with the local authorities. Indeed, last year I had a conference with all the local authorities with regard to bus compliance. I have asked Transport for Greater Manchester in certain circumstances to provide me with data, and we are in the process of working up an agreement whereby they will be able to provide me with data regarding non-compliant operators. I regard that as really important because there is a role for the ITAs and the local authorities. They must also play their part in ensuring proper, reliable registered services. Yes, I do meet with them and we are drawing up agreements so that they can disclose data to me. Some of it is obviously commercially sensitive and the operators would not want me to see it.

Q129 Graham Stringer: On that point, the best information that is available on the reliability of the services and where the buses are at particular times is with the bus companies themselves. Do you not feel that you should have a right to access that information?

Beverley Bell: I often ask them for it.

Q130 Graham Stringer: Do you get it?

Beverley Bell: Absolutely. Nobody has yet refused to provide it to me. When I did my very first bus monitoring case, which was in the early 2000s down in Derbyshire, that involved Stagecoach. I asked Stagecoach to provide me with their bus monitoring data for a period of time, together with details of the remedial action taken when they found that they were not reaching the 95% compliance. I saw that as a much better way of spending the money that I could have imposed as a financial penalty. Historically, that is something that my colleagues and I have tended to do over the years if an operator is not complying. We ask them to send us the data on a regular basis, together with details of the remedial action. I have never yet had an operator refuse to give it to me. If they did refuse to give it to me, then that would be a very interesting scenario. Similarly, the practice direction that we currently work to, which I am amending this year, refers to the requirement for all operators to actively monitor their own services, and there are still many that do not.

Q131 Chair: I am surprised that the picture you have given is of something very non-reactive. Don’t the transport authorities come to you?

Beverley Bell: No, not generally.
Q132 Chair: They never come to you with problems. Beverley Bell: They do sometimes. They will assist us.

Q133 Chair: Or passenger groups. Beverley Bell: Yes. I want to be clear that I am speaking on behalf of all Traffic Commissioners exist. One of my things to do for this year is to speak to Bus Users UK and to say, “In what circumstances do you refer cases to Traffic Commissioners for them to take action?” To my knowledge, the Bus Appeals Body has never referred anything to Traffic Commissioners. We would love to get the cases so that we can take the action.

Q134 Chair: But do these groups ever approach you as well and do you go there? Beverley Bell: Yes, we invite them to approach us. An awful lot of people don’t know that Traffic Commissioners exist. One of my things to do for this year is to speak to Bus Users UK and to say, “In what circumstances do you refer cases to Traffic Commissioners for them to take action?” To my knowledge, the Bus Appeals Body has never referred anything to Traffic Commissioners. We would love to get the cases so that we can take the action.

Q135 Chair: How many people did you have working in the north-west? Beverley Bell: For me? Chair: Yes, your compliance team who support you in your public inquiry role, there are probably about 10 or 12 maximum. If you are talking about people who are looking at general licensing, there are five, and I share that with the north-east. If you are looking at bus registrations, which are all the bus registrations for all the operators in England, Scotland and Wales, you are looking at three and a half people. Traffic Commissioners have historically expressed their concern at the lack of resource with regard to PSV work. We do understand it is a difficult economic climate and we do understand that it is the operators who pay for the service. We don’t want to put the fees up so we have to become more efficient. That is why we need to be reliant on third parties bringing matters to our attention.

Q136 Iain Stewart: I would like to pick up on some of the points that Mr Maynard and Mr Dobbin made earlier about your role in preventing unfair competition with a new bus operator coming in five minutes ahead of an existing operator. The logical extension of your interest there is for you to have a proactive role in setting timetables. At what point do you stop policing the market and start trying to influence it? Where do you see that boundary lying? Beverley Bell: It is a very interesting question. Certainly in my time and since deregulation, we have never been involved in setting the times at which vehicles will run. That would be an absolute sea change for Traffic Commissioners. I can really never see that happening, which is what makes our job all the more frustrating. The only way that we can try to ensure some sort of safety, if you like, is through a traffic regulation condition where the local authority will approach us and ask us to make a traffic regulation condition. They are made up and down the country to make sure that the roads are safe, that people are not going to be knocked over by too many buses and so on. I do not see us having any role unless you bring back regulation. I suspect the people behind me would not be very happy if you said bring back regulation. Of course the current political climate is deregulation.

Q137 Iain Stewart: I just want to be clear in my mind at what point you have the powers to stop that happening. Beverley Bell: I don’t.

Q138 Iain Stewart: You don’t have those powers. Beverley Bell: I don’t.

Q139 Iain Stewart: Would you like them? Beverley Bell: It would be a major change to the way in which we currently regulate if we were to have those powers. Where we do have those powers is if an operator has failed in the past. If they have not been running their services properly and they have been guilty either of under-running or over-busing, and where they have done that to prevent the passengers getting on to other operators’ vehicles, we have the power, after a public inquiry, to take their registrations off them or to prevent them registering new services in the future. But that is after the event rather than before the event.

Q140 Julie Hilling: I want to go back to this notion of complaining. Are you saying to us that there is a lack of mechanism for the public to raise issues? My colleague was talking about 10 years of failure. You are saying that after you have done the inquiry you get all these letters from the public. Is there something missing in the jigsaw? If so, what should be in place for those issues to be raised? Beverley Bell: Probably the reason for us not getting referrals from members of the public is because most people do not know what Traffic Commissioners are. They do not know who they are and they do not even know that they exist. When a bus passenger wants to complain, they do one of two things. They write to the operator or they write to their local authority and say, “I want to complain about this.” Often, the local authority will deal with that complaint. Traffic Commissioners in the past have worked hard with the local authorities to say to them, “When you get those complaints, please pass them on to the Traffic Commissioner.” The Traffic Commissioner will then deal with it where appropriate.

Q141 Julie Hilling: So you are saying there is a gap in the knowledge. Beverley Bell: There is.

Q142 Julie Hilling: What needs to be done? Beverley Bell: I suppose the obvious answer, unless I have missed something, is to make the public more aware of the existence and the powers of Traffic Commissioners.
Chair: They are nice people. Do you think they
Beverley Bell: I am not saying I could use the money
better because I don’t want in any way to criticise
what they do, but I would have liked to have been
able to spend that money.
Chair: That is very diplomatic.
Julie Hilling: With regard to those companies
referred to, is there any difference between the
large operators and the small operators? Do you get more
issues with the small operators? I am talking about
safety and reliability of the delivery of service. Is there any difference?
Beverley Bell: In what way?
Julie Hilling: Do you get more complaints
coming forward about large operators or small
operators? Are the standards equivalent?
Beverley Bell: No. Passengers complain no matter
what the size. It will obviously depend very much on
the route. If you have a small operator and a large
operator running a route, and the route is not being
run properly by one operator, the passenger does not
care who it is; they just write and complain.
Chair: What role do you think the Traffic
Commissioners would have if the Competition
Commission’s report is put into practice?
Beverley Bell: This is something that we have
discussed with DfT. Lots of the proposals are a natural
extension of what we do now anyway. We do not see
any problem with the 56-day notice period being
extended to 90 days. We do not see any problem with
the 14-day notice period. I think frequent services and
having the banding is quite a good idea. I know that
some of the operators don’t think it is quite a good
idea, but I do think it is a very useful tool. May I be
allowed just to give an example on that? I have a case in a far northern town at the moment
where two bus operators are potentially looking at
maybe they might fall out at some stage in the future.
One of them runs a frequent service. What I would
like to do is say, "This is the band you can operate in.
You can run no less than six buses an hour, but you
can’t run more than 10 buses an hour", picking a
figure out of the air. If I do that, then I am limiting
the number of buses that the operator can operate at
any one time, preventing over-busing. The situation
with banding is potentially going to be very useful.
I do not see a problem with all of those, which are
bread and butter to us, subject to the funding. The
only other issue is the code of conduct. That is a much
more difficult issue with regard to a code of conduct.
Chair: Are you developing a code of conduct
now?
Beverley Bell: If DfT says that is the way forward,
then yes, the Commissioners will have to look at
developing a code of conduct.
Chair: But that is not happening at the
moment.
Beverley Bell: I am afraid not. I haven’t got the time.
Chair: Have you tried?
Beverley Bell: I haven’t got the time. I am sorry to be
blunt. I still have to draft the new statutory guidance
documents that relate to running reliable punctual
services. That should have been done last year. It was
not. As you know, I have taken over from my
predecessor and I am still the Acting Senior Traffic
Commissioner. It is on my “to do” list for 2012. Once
that is done, then the Commissioners will be able to
look at drafting a code of conduct. In any event that
will fit in with the Government’s time frame and the
DfT’s time frame. There would have to be secondary
legislation for some of the matters that the
Competition Commission referred to, and indeed
primary legislation for some other matters.
Paul Maynard: I get many complaints about
healthcare provision in my constituency from
constituents. I know the complaints process. I write to
the hospital, and if we don’t get a satisfactory reply
we end up at the ombudsman. I get just as many
complaints about bus services, predominantly
regarding routes, changes to routes, deregistering of
services and so on. Yet there does not seem to be that
clear pathway for complaints and resolving disputes
that exists in other areas of public services. Do you
see yourself as an ombudsman in a very precise,
technical meaning of the term?
Beverley Bell: No. I see myself as a regulator.
Paul Maynard: Do you think there is a role
for an ombudsman?
Beverley Bell: They are really good questions. I think
there is a role for a spokesperson, if you like, or a
post box for bus issues because the people to whom
you complain vary so much. I had a letter the other
day asking if I could arrange for a new bus stop to
be put in because people had heard there is a Traffic
Commissioner. That person got a reply and I referred
them to the local authority. When people write in, they
just don’t know who to write to, and it is our job as

public servants to say, “This is who you need to complain to.” Maybe there needs to be one focus point, one post box. Whether that is Passenger Focus I don’t know, but at the moment it tends to be the local authority. That is who people write to.

Q152 Paul Maynard: You are making quasi-judicial decisions about the provision of bus services. Beverley Bell: Yes.

Q153 Paul Maynard: You have other organisations like Passenger Focus, the local councils, and I am sure I can think of four or five others if I put my mind to it, that are all making quasi-judicial decisions. At what point does democratic accountability need to cease and a public service obligation commence? For example, if a private company wishes to cease providing a particular service that is not a tendered service and it is not going to the same destination that it always used to go to, a lot of people are rightly very angry. Beverley Bell: Yes, they are—very.

Q154 Paul Maynard: But there is no mechanism by which that decision can be tested or as to whether it is an appropriate decision to have taken. Beverley Bell: There is not; that is right.

Q155 Paul Maynard: When we had our previous inquiry into bus services, we spent a lot of time discussing how bus companies and local authorities develop route maps of where should and should not be served. Do you not see any role for the Traffic Commissioners in looking at overall route networks to make sure that they are comprehensive and meet passenger needs? Who should be doing that, for example? Chair: Would you see that in your remit? Beverley Bell: That goes against everything that we have ever done since deregulation. Again, that would be a major sea change if we were to cover and look at the routes that should be run. That is very much a local authority role. If we were going to do that, there would have to be a change to the legislation. We would have to sit with experts. When I started this job, Mike Betts, the then Senior said to me, “Beverley, don’t think you can ever tell a bus company how to run its services because you can’t; that is not your job.” I am saying that in all seriousness, because we are not skilled to know how a bus operator can send out its vehicles to cover the hospitals and the schools.

Q156 Chair: You say to do that you would need a change of legislation. Are you saying you do not think that is part of your role, and in fact it is not with the present legislation? Beverley Bell: It has not been part of our role since 1985, so to bring that back would require primary legislation and a complete sea change in how we currently regulate.

Q157 Graham Stringer: Just following up the first questions that Louise asked you, were you saying you are in favour of changing your role from what it is now to something like being Ofbus, where you could judge whether or not there was sufficient competition in the market? Beverley Bell: No, I think my job and my colleagues’ job is to regulate the licensed industry.

Q158 Graham Stringer: Your job at the moment is to make sure that people are doing what they say they are doing in a safe way, is it not? Beverley Bell: Yes.

Q159 Graham Stringer: But the public interest in the bus industry is really seeing that competition exists, it keeps prices down and keeps good services up? Beverley Bell: Yes.

Q160 Graham Stringer: There is nobody who does that. If you look at the energy industry and other industries where there is monopoly behaviour, then there is somebody who can interfere with the prices. Do you not think that should happen in the bus industry, whether it is you or somebody else who becomes Ofbus? Beverley Bell: I do not know that that is a question I can answer.

Q161 Graham Stringer: But you are right at the heart of the bus industry and you can see some of the failings and successes of it. I think it is a very good question. Beverley Bell: I think it is a very good question.

Q162 Chair: If you had that power, would that solve some of the problems that you are unable to deal with at the moment? Beverley Bell: Yes, it would, but it would require a sea change, and that would be a political decision, would it not?

Q163 Graham Stringer: It would require primary legislation, as you said before, but at the moment there are parts of the country where people do not get bus services. There are parts of our urban conurbations where one bus company will charge bus fares 20% higher than another bus company, and nobody does anything about it. Beverley Bell: Yes, I know.

Q164 Graham Stringer: Nobody has the power to do anything about it. Beverley Bell: I agree.

Q165 Graham Stringer: Don’t you think you should be given those powers? Chair: Would you like to have those powers? Beverley Bell: I would always like to have more powers and my colleagues would always like to have more powers, but there have to be resources and skilling with it.
Q166 Chair: You would like them but they would have to have resources with it. Beverley Bell: We would have to have resources and skill because it would be a sea change from how we have regulated in the past.

Q167 Graham Stringer: I have a final question. A week or so ago Peter Hendy from Transport for London—

Chair: I know Peter.

Graham Stringer:—in the “Great Bus Debate” said that there were some people in the industry who quite frankly should not be there. Do you agree with him?

Beverley Bell: I would hope that does not apply in the north-west traffic area. I would hope I have got rid of them all.

Q168 Chair: Do you agree with him nevertheless?

Beverley Bell: That there are some people who should not be in the bus industry?

Q169 Chair: Yes, who are still there.

Beverley Bell: There will always be non-compliant operators. It is really important that VOSA finds those non-compliant bus operators quickly and brings them to our attention quickly.

Q170 Chair: Is it not doing it now?

Beverley Bell: It is, but it is down to resources. I am sorry; that sounded peremptory.

Q171 Chair: Let us just focus on the question that Mr Stringer put. Are there operators currently in business who should not be?

Beverley Bell: Of course.

Q172 Jim Dobbin: This is an interesting debate, quite honestly, about rules and regulations. You keep describing the Traffic Commissioner as a regulator, but you are regulating within a deregulated system. How does it work, and would you like to see deregulation out of the system altogether? Let us be blunt about this because this is what the debate is about.

Beverley Bell: I want regulation to be proportionate. I am very much of the view that the vast majority of PSV operators do an excellent job. I sound like a politician, for which I apologise profusely.

Chair: You must not apologise to us as politicians.

Beverley Bell: But I do mean this. Generally, most PSV operations are offering a great service to passengers. Yes, it is incredibly frustrating that there are large areas, as Mr Stringer said, where people are not getting the service that they should be getting. I really do not see it as my job to say whether or not we should have more regulation because I see that as a political decision. Of course, as a regulator, I would say, “Yes, I would like more powers. Yes, I would like more resources.” But these are political decisions. They are not for people like me, which is why I could never go into politics.

Q173 Chair: Could you tell us why there have not been any Quality Contracts finalised up to now?

Beverley Bell: I don’t know. You would have to ask the local authorities and the operators. The Traffic Commissioners are the end product when there is an application for a Quality Contract. We can only wait for them to come in; we can only wait for the Quality Partnerships. I distinguish myself here now, talking to you with my north-west Traffic Commissioner hat on. When they were introduced, I did go to the industry at our bus summit and say, “I really don’t want to do a Quality Contract ever because I want operators to work in partnership with the local authorities, industry and the passenger groups. I really want to go down a Quality Partnership route.” That tends to be what has happened in my traffic area. Those words have come back to haunt me because in the north-east traffic area there is a Quality Contract pending and it will be me that has to deal with it potentially. We will just have to wait and see what happens.

Q174 Chair: Thank you very much for answering our questions.

Beverley Bell: Can I go now? I can’t bear to listen to what the operators say. Thank you for your time; I am grateful.

Chair: You can go.

Examination of Witnesses

Witnesses: Mike Cooper, Executive Director, UK Bus Operations, Arriva, Steven Salmon, Director of Policy Development, Confederation of Passenger Transport, Giles Fearnley, Managing Director UK Bus, FirstGroup, and James Freeman, Chief Executive Officer of Reading Buses, Association of Local Bus Company Managers (ALBUM), gave evidence.

Q175 Chair: Good morning, gentlemen. Welcome to the Transport Select Committee. Could I have your names and organisations, please? This is to help our records.

Steven Salmon: I am Steven Salmon from the Confederation of Passenger Transport, which represents operators large and small.

James Freeman: I am James Freeman. I am Chief Executive Officer of Reading Transport Ltd, and I am here today representing ALBUM, which is the Association of Local Bus Managers.

Giles Fearnley: I am Giles Fearnley. I am Managing Director of FirstGroup’s UK Bus Division.

Mike Cooper: I am Mike Cooper. I am Managing Director of Arriva’s UK Bus Operations.

Q176 Chair: The Competition Commission found that there was not any or enough real competition in geographic areas. They spoke about market segregation and non-aggression pacts between operators. Do you think the Competition Commission has let the industry off lightly? No one has anything to
say. Mr Salmon, should the Competition Commission have more to say about the industry, given that finding?

Steven Salmon: It is always important to remember that they had unprecedented access to data and analytical capacity. There was an enormous amount of effort that went into those conclusions. Of course people talk about “the bus market”, but it is actually made up of thousands and thousands and thousands of very small markets. People decide whether they are going to compete with each other or whether there is only enough demand maybe to support one operator, who is of course always competing with other ways of moving about that you do not see so easily.

Q177 Chair: Mr Cooper, the Competition Commission is saying that there is not real competition in local areas. Is that a failure of the industry?

Mike Cooper: I would make two points. First, if you look at the focus of the Competition Commission’s work, they were trying to assess prevailing and relative levels of fares on the one hand with relative levels of customer satisfaction on the other. Mr Stringer said earlier that they were important dimensions. In any consumer goods or any consumer product industry they are critical. I do not think anyone can doubt the logic of what they were attempting to assess.

There is a further point in terms of the degree of competition in the marketplace. We did a piece of work during the Competition Commission’s analysis looking at the proportion of our routes that could sustain an additional competitor. In the short term, it is 0.1% of our routes that could sustain an additional competitor. In the medium to long term, that rises to 9.9%, the point being that this is a very mature industry that cannot sustain additional competition in many different parts of the UK. After two years, the Competition Commission came to that same conclusion.

Q178 Chair: The Competition Commission calculated that bus users are suffering £110 million a year of detriment due to inadequate competition. Do you accept that figure?

Mike Cooper: It is quite interesting that two bodies in the space of 18 months came to dramatically different conclusions. When the OFT tried to assess that same number, they said there was a 9% differential in fares in competed and non-competed areas. When the Competition Commission ran the same analysis, they came to a very different conclusion. It is a moot point and it depends on whichever bunch of economists is assessing it on any particular day of the week; so I don’t know.

Q179 Chair: How will the Competition Commission’s remedies affect the smaller companies? James Freeman: Some of them will not be terribly helpful. The small companies need the ability to react in the market. To give an example, the extension of the notice period for changes of registrations is certainly not being welcomed by individual smaller operators where there is a need to be flexible to respond to circumstances. That certainly seems a constraint by colleagues of mine, representing, as I do, both new entrants to the market who are very small companies and municipal operators, which are in their own areas quite substantial and often have semi-monopoly powers. I must not say monopoly powers.

I have to say we were relieved that, overall, what has come out of this very lengthy process is not a complete revolution. What we do not want to see is a huge amount of disturbance to the marketplace that is going to make it even more difficult for particularly the smaller operators to invest and to run their businesses.

Q180 Chair: Does anybody else want to comment on the remedies?

Steven Salmon: We have certainly had a very positive response from some of our smaller members on the remedy around multi-operator ticketing because they are keen to do exactly what the Competition Commission wants, which is to become more active in certain markets if they can get more easily into the area-wide tickets, which at the moment tend to be priced slightly higher if they are for multi-operators. There is a lot of interest in that remedy among a particular kind of smaller operator.

Q181 Chair: The Competition Commission also spoke about the rates of return on capital that the larger bus companies have attained in recent years and have said this was higher than the market rate of return. Do you accept that? Could you tell us what has been done with the profits made?

Giles Fearnley: We have to bear in mind that, since the Competition Commission looked at financial data, the financial matrix and the foundation of the industry has changed quite dramatically, particularly with reductions in public funding—whether it is a reduction in BSOG, a reduction in concessionary fares funding through local authorities or a reduction in tendered service budgets, which affects some operators in some areas more than others but which is creating great uncertainty for operators around the strength of those networks going forward. We have to be very careful not to rely on historical data when we look forwards.

In terms of what the industry has done with the returns it has made, it has invested very significantly over the last 10 years. I would say that is as much for larger operators as smaller operators. It is not only in vehicles but more recently in ticketing equipment, as an example, in partnership agreements with local authorities, and indeed with the softer issues with regard to matters like staff training to meet CPC requirements. There is a huge amount of money that has been ploughed back so that we have sustainable businesses serving our customers.

Q182 Chair: How much has actually been reinvested in new buses or in services?

1 See supplementary written evidence from Arriva plc (LBS 26A).
Giles Fearnley: I do not have that figure for the industry. I know what FirstGroup is doing.

Q183 Chair: Can anybody give me any information on that?

Steven Salmon: After the caveats about using the latest information, I can certainly say, because we did this exercise at CPT, that we had a period in the 2000s of more than five years in which the industry, taken as a whole, was investing more in each year than it was making profits.

Q184 Chair: Do we have figures for that? Can somebody show them to us?

Steven Salmon: I will dig them out for you.

Q185 Chair: We would like to see the concrete evidence on that. Are the medium-sized companies and municipal companies making the same rates of return?

James Freeman: They do not always work to quite the same circumstance. For example, to take my own company in Reading, our owners expect a different level of return from the commercial operations. On the other hand, we have to make a return and we reinvest it very firmly. We have a very modern fleet, for example, in Reading, which is all about reinvesting.

The much smaller independent companies have to make a return; otherwise there is no point in them being in business. It is certainly not a dirty word to make a return; otherwise there is no point in them doing so.

Q186 Chair: The issue is whether excess profits have been made and whether some of those profits have actually been reinvested in the industry. It is very unclear to me what has happened.

Mike Cooper: It is interesting that Giles talked about the industry today. You yourself said that we are living through “the greatest financial challenge the bus industry has seen for a generation”. When the Competition Commission looked at the period prior to that—the supposed good times—what they found was that the difference between the typical average cost of capital in the industry, which was 9.7%, and the returns that the industry was making, which was 13.5%, was not huge. Within that 3.5%, the industry has to reinvest on the one hand and provide some pretty meagre returns to shareholders on the other. That is in the good times.

In terms of reinvestment, typically Arriva over the last five years has reinvested £90 million each year in capital expenditure and predominantly in new buses.

Steven Salmon: I want to make the broader point, which I do not think everybody has appreciated from this report. The Competition Commission used the word “excessive” both in relation to the returns of the bus companies and also the adverse effect on competition, which you mentioned, not in a sense as being absolute examples of something that is wrong but as a comparator between what operators were doing in the market as it exists compared to a market that worked perfectly. We would say that all these figures are an indication of the imperfections of the market. Without comparators from another market—I know they are about to investigate private healthcare, for instance—it is difficult to know whether we should somehow hang our heads in shame over these figures or actually they show it is quite a healthy market.

Q187 Chair: What would you say? Does it show a healthy market?

Steven Salmon: I would say that, without comparator figures from another market, it is impossible to tell.

Q188 Mr Leech: What are the reasons for us not having seen a single Quality Contract so far?

Giles Fearnley: I think it is demonstrating that the market is working and that passengers are being satisfied. There are of course huge financial issues around a Quality Contract and liabilities on an authority that enters one. In the world in which we live that is perhaps itself a major deterrent. I believe the market is working. We are seeing very significant numbers of new partnership arrangements building up to support those already in place. That is where real benefit can be achieved for passengers and for customers rapidly.

Q189 Mr Leech: Can you honestly say that in every single part of the country you believe that the market is working?

Giles Fearnley: It works better in some areas than others.

Q190 Mr Leech: Do you think it is reasonable for bus operators to use the language of scorched earth policies and the like in areas where local authorities or transport authorities are considering Quality Contracts?

Giles Fearnley: I am not involved in the north-east.

Q191 Mr Leech: I was not accusing any particular operator, but would you say that that sort of language is helpful in terms of creating partnerships between operators and authorities?

Giles Fearnley: Where relationships are deep seated between operators and authorities and where an awful lot of progress has been made over the years to serve passengers and meet their needs, then I suspect there is frustration when the issue of Quality Contracts develops. I suspect that is what is being seen here.

Q192 Mr Leech: Mr Freeman, do the smaller operators have the same level of opposition to Quality Contracts as the major operators?

James Freeman: It is hard to say until one actually comes about. The smaller operators quite often do very well out of the Quality Partnerships that have evolved in various parts of the country. One of the issues about Quality Partnerships themselves is that they vary according to the people and the organisations that are part of them. The issue with a small operator in a Quality Contract that would be a matter of fear for that operator is that they would be very insignificant and not taken much notice of. There

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2 First has spent just over £300m on buses in the last five years in England and Wales.

3 Steven Salmon of the Confederation of Passenger Transport was subsequently unable to provide figures.
Q193 Mr Leech: Are you suggesting then that the larger operators would benefit more from a Quality Contract than the smaller operators?

James Freeman: No, I am not suggesting that at all. I am merely saying that from the smaller operator’s point of view it is not attractive, but that is not to say that it is attractive from anybody else’s point of view because I am not sure that it is. Certainly from our perspective, the aim ought to be to create a partnership of willing parties rather than creating a contract that feels rather top-down to me.

Q194 Mr Leech: What about those areas where that partnership working is not really in place and there is not a strong relationship between the transport authority and the bus operators?

James Freeman: I think it is for the transport authority to try and foster that relationship.

Q195 Mr Leech: Not the bus operators.

James Freeman: Also, equally, and very much so. In my part of the world we believe fundamentally in working together with the local authorities across the areas. One of the difficulties in the shire counties is that quite often local authorities are very fragmented. Transport authorities in small unitaries characteristically have very small amounts of resource available and know very little about the provision of bus services. In those circumstances, which are often the sorts of places where the smaller operators will find their niche, it is very hard to see how anything other than a Quality Partnership type of arrangement would be deliverable.

Q196 Mr Leech: Do you accept, though, that it is horses for courses and there may be some areas in which Quality Contracts are necessary as opposed to Quality Partnerships?

James Freeman: I think it would be a pity if that was so.

Q197 Graham Stringer: Mr Fearnley, how much money did you spend as a group trying to influence the Competition Commission during this process?

Giles Fearnley: I do not have the exact figure to hand. It is in the range of £2 million to £3 million.

Q198 Graham Stringer: You spent that on lobbyists trying to stop the Competition Commission from coming to a conclusion that Quality Contracts would be a good idea.

Giles Fearnley: No; that is not correct. We spent that money on legal advice in the preparation of our submission to the Competition Commission in our answer to their very many queries and questions.

Q199 Graham Stringer: So it was just answering questions; it was not lobbying them for a particular outcome.

Giles Fearnley: Obviously in the way we answered questions we gave our views as to where we believed they should look in their investigation and what we believed should be the proposals that they came up with. We did this through the question and answer session.

Q200 Graham Stringer: Did you sue Private Eye when they said that you were lobbying for a particular end?

Giles Fearnley: No, we did not.

Q201 Graham Stringer: Why not?

Giles Fearnley: I personally and the committees I have worked for have been quoted in Private Eye many times over my working life and I don’t think it is time well spent.

Q202 Graham Stringer: Is it not because the Private Eye story was true and accurate?

Giles Fearnley: No, it is not.

Q203 Graham Stringer: You said previously that the market works well in different parts of the country. Does the market work well where FirstGroup has a virtual monopoly in my constituency in the north part of Greater Manchester?

Giles Fearnley: I accept we are the largest operator in the north part of Manchester, but there are several other operators, many competing with us on many corridors there.

Q204 Graham Stringer: That does not answer the question. Does the market work well?

Giles Fearnley: We believe we are meeting our passengers’ needs. I am not saying we can’t do better. We are striving continuously to do better, and on the issue most recently of punctuality we have given further commitments.

Q205 Graham Stringer: That is 25% failure in terms of your registered service and about 20% higher fares than Stagecoach operating in the south of Manchester.

Giles Fearnley: There are two issues there. If I deal with the punctuality one first, as the Commissioner said, we are appealing against the severity of her decision.

Q206 Graham Stringer: I am not asking about the level of the fine. I am asking whether or not you think the market is working adequately when there is a 25% failure in your services and you are charging 20% more in fares.

Giles Fearnley: I am coming on to deal with the 25%. Mr Stringer. The issue that we are appealing on is that during the period when VOSA was carrying out roadside checks—it was January and February 2011, just over a year ago—there were very significant roadworks in the Salford area, including some short-term roadworks. The data we supplied to Transport for Greater Manchester during that period demonstrated that we were unable to meet the timetable or any other timetable that we may impose for a short period because of the volatility of those roadworks and the traffic conditions that went around them. We do not believe that information was
sufficiently held in regard in the Commissioner’s decision. That is absolutely appropriate to your challenge about the 25% because we believe there were extraneous circumstances that would significantly reduce our failures during that period. In terms of fares, our operating area for your constituency and others to the north of Manchester is very different, if I may say, to that in the south of Manchester irrespective of who the operator is. The average length that our passengers travel with us is significantly further than it would be south of Manchester because of demographics—university locations, hospital locations and so forth. To a degree our fares represent that. We are working to provide absolute value for passengers. Irrespective of where the fare scales are, one to the other, for a successful and sustainable business we have to offer value for money. As an example, we have just reduced the child fare from January of this year to try to increase patronage and provide better value for money to those passengers.

Q207 Graham Stringer: But you are still 20% above Stagecoach. What percentage of the delays of that 25% where you don’t make schedules is because the buses do not come out of the depot because you have not maintained them properly?
Giles Fearnley: Less than 1%.

Q208 Graham Stringer: That is an improvement on a third of the failures the last time I got statistics out from the Government on this. Can you send us the detail of that 1% because it is very different from the previous statistics we have had on it?
Giles Fearnley: Yes, I will do4.

Q209 Graham Stringer: Do you operate in Greater London?
Giles Fearnley: We are contracted to Transport for London, yes.

Q210 Graham Stringer: What is your rate of return on capital in London compared to the rest of the country?
Giles Fearnley: It is approximately 60% of the figure that is outside London.

Q211 Graham Stringer: Isn’t that the real reason you are against Quality Contracts—because you are exploiting the travelling public outside London in a way that you can’t in a regulated system in London?
Giles Fearnley: No, it is not. We believe—

Q212 Graham Stringer: It is not. So you are happy making 60% less in London. That is a satisfactory situation. That is not a credible answer, is it, Mr Fearnley?
Giles Fearnley: We have just sold one of our operations in London to one of the other operators. We have said quite publicly that the reason for that sale is because effectively we do not believe we are achieving satisfactory returns in that part of London. We are not satisfied with the returns in London.

Q213 Graham Stringer: Is that the reason you are against a similar system for the rest of the country; you can’t exploit the travelling public in those areas?
Giles Fearnley: No. We need a satisfactory rate of return in order to invest in our fleet and in our people. As an example, in the north of England, in West Yorkshire and Manchester ITA areas, there will be 200 new double-decker vehicles put into service this autumn.

Q214 Graham Stringer: You heard the Traffic Commissioner’s evidence earlier. Why don’t you publish all the details of the reliability of your services? Do you have GPS on those buses?
Giles Fearnley: We have data capture, yes.

Q215 Graham Stringer: It would be a very simple matter to publish the reliability and the routes and whether you comply with the routes that are registered as well as the timetables, would it not?
Giles Fearnley: We provide reliability data in full to Transport for Greater Manchester, as we do to a number of other authorities around the country who request it, as I believe other operators also do.

Q216 Graham Stringer: All your information is publicly available, is it?
Giles Fearnley: The information that goes into TIGM is subject to information confidentiality set by guidelines that the industry have put down with local authorities.

Q217 Graham Stringer: Why shouldn’t the travelling public know where your buses are? If they have the time they can see where they are, but why shouldn’t you publish that information? Then we can know if the buses are on the routes they are supposed to be on.
Giles Fearnley: The buses are on the routes that they are supposed to be on. If they are not, then we have issues in front of the Commissioner, as we have been talking about last month.

Q218 Graham Stringer: Will you publish the information publicly?
Giles Fearnley: I will not undertake to publish it route by route publicly, no. FirstGroup has previously publicly produced its punctuality and reliability data on a company-by-company basis.

Q219 Mr Harris: Mr Fearnley, you mentioned that the reason no Quality Contracts have happened is because the travelling public are so happy with the service—high customer satisfaction. Do you have survey figures that you could let the Committee have to demonstrate that?
Giles Fearnley: The best figures to quote, because they are independent, are Passenger Focus’s recent data on the industry, which they published in March following very extensive surveys that they carried out.

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4 In the financial year 2010–11 the overall lost mileage at First Manchester due to vehicle non availability was 0.05%, which can be expressed as one journey lost out of every 2178 journeys scheduled. For the periods in question, for January 2011 the figure was one journey in every 2347 and for February 2011 one journey in every 1014.
last autumn. That is showing high levels of passenger satisfaction. I am not suggesting they cannot become higher, but it is broadly in the range of 80%. They are surveys, and we will arrange to send a copy to the Committee if you do not have them. There is a breakdown by area and it shows differences between areas. Clearly that is very helpful information to operators. It supports information I am sure we all take from our customers, but that is the independent data that is publicly available.

Q220 Mr Harris: Yet passenger numbers on buses outside London, if you take out the effects of concessionary fares, have gone down over the past 10 years. Are those people leaving the bus industry because they are so satisfied with the service?

James Freeman: People leave travelling within the industry for a whole host of reasons. In most recent times we are suffering quite significant recessionary effects, particularly in some areas.

Q221 Mr Harris: Over the last 10 years.

Giles Fearnley: That has occurred over the last three to four years. There has been increasing car ownership during that time. As we know, the average cost of motoring has fallen in real terms compared with the cost of providing bus services. There have been a number of factors working against us, but all bus operators—FirstGroup and all others—are in business to carry passengers and to have satisfied passengers. We are all striving in our network planning and in our service delivery to maintain the numbers of passengers we carry at the highest level.

Q222 Mr Harris: Do all the factors that apply to the bus industry outside London not apply to London at all?

Giles Fearnley: The London model is entirely different. The London model is in receipt of several hundred million pounds worth of public funds each year, which enables a relatively low fares policy. One also needs to reflect on the demographics—the population density of London, which is twice what it is anywhere else in the UK and so will drive more people to use passenger transport, whether it is tube or bus. That is a factor one sees very strongly in London, as one does in other areas outside London that have high density levels.

Q223 Mr Harris: This question is for all of you. Is it the view of the industry that there is nothing from the London experience that can be learned for the rest of the country; that London is a separate country and you are doing it far better everywhere else except London?

James Freeman: If I might answer that by repeating something, the fact is that in my area, in Reading, if we had the same level of public support for public transport that is enjoyed in London, we would have an amazing public transport system and we would have ridership levels to cry for. That is the real difference between what happens in London and what happens in the rest of the country. It is profound and it affects everything that goes on in London compared to the way that we can provide services in the rest of the land. That is the reason why, in the industry, we tend to see it as a different game. In my own company over 95% of our operation is commercial. We simply take the money that is generated by our activities. We do not have the level of public support that is enjoyed in London. I do not think anyone else does either.

Q224 Mr Harris: This is quite an important point if what you are saying is true. What you are saying is that the reason bus passenger numbers in London have gone up at the same time as passenger numbers outside London have gone down is nothing at all to do with the regulatory regime but all to do with investment. Is that right?

James Freeman: Giles quite rightly said that of course the great thing about London is that it is incredibly densely populated. That is always good news for public transport provision. It is also to do with the fact that, if you can run a very dense service and you can run it at night, in the early mornings and on Sundays, at times when the buses are not necessarily full but that complements the total service, you get a very different offer to the public and the public will react. One of the issues of this whole Competition Commission issue is that the real enemy to the bus outside London is the private car. It is private travel. It is the ability of people to decide not to use the bus.

Q225 Mr Harris: It has been for 40 or 50 years.

James Freeman: Absolutely right. That is really the enemy that we have outside London because in relatively few places do you have the situation that we have in London, which is that basically it is not sensible to drive a car in London.

Q226 Mr Harris: I just want to be absolutely clear on this. The regulatory regime in London has little or no effect on passenger numbers or passenger satisfaction. It is all to do with public investment and population.

James Freeman: And the scale of the service that is offered. That is why passenger numbers—

Q227 Chair: The scale of the service offered. That is to do with the system.

James Freeman: That is to say, the number of routes, the frequency of service, the penetration of day and night and all these things, which are now a part of the London scene. They were not so much at one stage but they certainly are now.

Q228 Chair: That is part of the planned nature of the service, isn’t it, rather than the delivery of it?

James Freeman: It is part of the planned nature, but it is paid for.

Q229 Chair: It is paid for by public funds.

James Freeman: It is not possible to do it unless someone comes up with the money.

Mike Cooper: Another huge differentiator is the congestion charging that takes place in London and elsewhere in the country.
Q230 Graham Stringer: I want to follow up those two answers. There is the congestion charge now in London, which clearly alters the nature compared to the rest of the country. From the period of deregulation until the Mayor of London was imposed and put a lot of extra subsidy into buses, you could compare what happened to the London bus system with what happened to the rest of the UK system in terms of patronage. What happened was that the London system flatlined and the rest of the country lost, in round terms, about 50% to two thirds of the passengers. Isn’t that a more sensible way to understand the difference between a regulated and a deregulated system rather than investment in the system or the density of population?

Chair: Would anybody like to comment on that?

James Freeman: My own view is that the London situation is more accentuated now and the numbers involved are much bigger than they were. The fact is that London has never been the same as the rest of the UK and never will be because of the way the urban area has been developed over a very lengthy period. Some of the things that have been happening in the provinces, apart from car ownership, are issues of planning decisions and things that decentralise. Lots of shire towns have had things like their justice centres moved away from the centre of the town, where they were easily accessible by public transport, to an outside town place where they are not. A lot of things have been happening outside London that work against the use of local bus services, and they are not to do with regulation; they are to do with a wider marketplace.

Q231 Graham Stringer: That is true, but do you not see that, when there was this big change in the rest of the country in 1985, when the bus service was deregulated, it held all those other factors constantly? Where the patronage patterns in London and the rest of the country had been similar and consistent—there had been a decline since the oil shock in the 1970s—the real change in the late 1980s was between a regulated and a deregulated system. The regulated system retained its passengers and the deregulated system lost its passengers. Is that not a wonderful experiment for holding all the variables constant apart from the regulated system?

Steven Salmon: “Yes, but” is of course the answer you would expect me to say. We are in the history books here. At the time when deregulation took place, when we moved from a planned system to a market-initiative system, a whole load of money came out. Shire councils that had been subsidising bus networks by millions of pounds suddenly stopped, so all of a sudden people were looking towards the operators and saying, “What are you going to do?” The authorities had the power, as we all know, to come back and fill up what was there. A whole load of money came out at the time that deregulation came in, so it is impossible to say that the effect is all down to the regulatory system. It is also down to money.

Chair: I am sure we will come back to this.

Q232 Iain Stewart: My question follows on from that. The Competition Commission concluded that there was effectively a geographic market segregation and there were non-aggression pacts between major operators so that they would not encroach on each other’s areas. Mr Cooper, you earlier said that less than 10% of routes could sustain another operator.

Mike Cooper: In the long term.

Q233 Iain Stewart: If that is the default state of the bus market, shouldn’t we look at moving to the London system, leaving aside the debates about subsidies and all the rest of it, whereby the competition is for the contract rather than head to head?

Mike Cooper: It is interesting because there seems to be a prevailing view that all the big operators have this rabid animosity to franchising, and that is not necessarily true. Arriva operates in a franchise world right across Europe. What is interesting to see is the relative levels of public investment across Europe compared to the UK. Oxera is a hugely respected consultancy which has performed work for the Department for Transport in the past. It is instructive to see their comparison in terms of the regulated/deregulated world in the UK. Government support for passenger journey in London, 31p; out in the regions between 13p and 19p.

Copenhagen in Denmark is often held up as a great example of where franchising is working effectively. In 2011 the Danish transport authority invested £1.30 per passenger journey in its bus network. Economics has a huge part to play and people should be conscious of that fact.

The other point is that, if you look at the European regulated environment, there is no single example of any system having moved from a deregulated world to a regulated world with some of the migration issues that come with that. The Committee should be conscious of that fact.

Q234 Iain Stewart: To go back to the Competition Commission’s findings, are they accurate in saying that there are these non-aggression pacts and there is effectively a geographic market segregation, or have they got that wrong?

Mike Cooper: There is no pact. It is an economic reality in a very mature environment. Arriva has a reasonable footprint across the UK, and I have no reason to believe that the geography elsewhere would be any different. If I analyse my routes and reach a conclusion that within the short term there is a tiny proportion—only 0.1% of my routes—that could sustain an additional competitor, and even in the long term where you have lost money to get to that position there are less than 10% of routes that could sustain it, then surely that position must hold sway in the rest of the UK.

Giles Fearnley: I would echo that. Fundamentally, it is a lack of demand for bus services. Demand for bus services can be increased most effectively through bus priorities, through measures to control the use of cars and car-parking spaces, through capital investment and ticketing, and through the frequency and quality

\[5\] See supplementary written evidence from Arriva plc (LBS 26A).
of services provided. That is what will influence demand.

Q235 Iain Stewart: Do you think you are the best people to judge the needs of the market? If there is a demand for a particular service on a particular route, are you the best people to judge the provision of that service?

Mike Cooper: Yes. Raw capitalism takes over.

Q236 Iain Stewart: There is no role for the local authority or any other regulator to determine that pattern of service.

Steven Salmon: We have a system at the moment which is market initiative, but we have this fall-back that, if there is a need that is not strictly speaking going to be met by the market because we can’t make a profit out of it, then there is the option for it to be secured under a competitive contract by local authorities. It happens to be the other way round to the classic European model where the main network is decided by the authorities and maybe there is a bit of commercial stuff at the margin. I do not think there is any evidence that the relationship that our members have with their customers means they are not aware of where demand is changing, where demand is growing and where even other operators are not doing their job properly.

To come back to talk about market segregation, every operator has an estate of premises, buses and people. It is all thousands and thousands of tiny markets. It is much easier to change what you do within the areas that you know around your depots. It costs a lot of money to take an empty bus to a town 20 miles away just in order to compete. I know I am making it sound unimportant, but that is why the market develops as it just in order to compete. I know I am making it sound

Q237 Chair: The Competition Commission points to the situation where a commercial operator may decide not to operate a route any more and it is then taken up by the local authority. The Competition Commission says that the operator is then in an advantageous position against other possible tenderers because of information about that route. It calls for more disclosure of information. Would you all be prepared to disclose that information when you have been running a route that you are no longer going to run?

Mike Cooper: Yes.

Q238 Chair: Would everyone else say yes?

James Freeman: We do already do that. I have been in a situation in Newbury where we have deregistered operations and we have provided all the data in terms of passenger numbers, revenue and obviously the timetables.

Q239 Chair: Mr Fearnley, what is your view on it?

Giles Fearnley: As Mr Freeman has said, we work very closely with our local authority partners, and where we have to take a decision such as this we would be very open with them as to the reasons we have taken that decision. That openness would include sharing data.

Q240 Chair: Mr Salmon, what is your view?

Steven Salmon: You have heard real operators. You don’t need to ask me.

Q241 Jim Dobbin: I am interested in the case you are putting forward here. Do you seriously believe that outside London there is such a thing as a public transport service?

James Freeman: Most assuredly there is where I come from and in many other places. There are parts of the United Kingdom where public transport does not exist as it once did, but in the urban centres particularly we still have the option for people to make a lifestyle choice to use public transport and not to use their car, despite everything that has happened. So I do not think it is true to say that at all. There are some areas where the network has degraded dramatically, but they will be areas where there is low concentration of demand. Wherever there are concentrations of people who want to get around, we still offer remarkably good—and incredibly cheap to the taxpayer—public transport services. I know little about this in relation to Europe and my colleagues know much more, but a lot of what goes on in the UK is very cheap. Sometimes that is the reason why in some areas there is precious little service.

Q242 Jim Dobbin: You appear to be making a case for increased public finances outside London with reference to what happens in Europe. Is that right?

Steven Salmon: Can I finesse that a little bit? What we are saying is that we are quite good at judging the needs of the market? If there is a need that is not strictly speaking going to be met by the market because we can’t make a profit out of it, then there is the option for it to be secured under a competitive contract by local authorities. The Competition Commission was making when we were discussing regulation and deregulation. I got the impression, although she did not say it outright, that she would have preferred more regulation in the system. Do you think you could support the Traffic Commissioner or somebody in that kind of position having more powers?

Chair: Should the Traffic Commissioner have more powers? Silence. Maybe not.

Mike Cooper: It is difficult to generalise unless you have a particular proposal on the table.

Q243 Jim Dobbin: That brings me to a point that the Traffic Commissioner was making when we were discussing regulation and deregulation. I got the impression, although she did not say it outright, that she would have preferred more regulation in the system. Do you think you could support the Traffic Commissioner or somebody in that kind of position having more powers?

Chair: Should the Traffic Commissioner have more powers? Silence. Maybe not.

Mike Cooper: It is difficult to generalise unless you have a particular proposal on the table.

Q244 Jim Dobbin: It is just a specific question. You are asking for more public funds. With that come responsibilities and accountabilities. Therefore we are back to this discussion about regulation and deregulation.

Mike Cooper: It is interesting that within the last couple of years a consumer champion has been created for the bus industry that did not exist. There are relatively few other consumer industries where
that takes place. The consumer champion, Passenger Focus, performs some pretty robust quantitative market research and has said that 85% of customers are satisfied with the service that they are getting. It is almost as if there is a feeling that people are dissatisfied with the regulatory system that exists, “So, I’ll tell you what, let’s get the OFT involved.” Then, “I’ll tell you what, the OFT did not quite do it so let’s get the Competition Commission involved”; and then, “Let’s have a new consumer champion.”

Q245 Chair: What does all this mean, Mr Cooper? Where is this going to end up? Do you think there should be more regulatory powers anywhere?

Mike Cooper: I have worked in three other consumer goods industries and I have never seen customer satisfaction as high as I see it in the bus industry. My view would be that we are doing a good job for the customer. The ethos, the culture and the practices of the industry are exactly where the consumer needs them to be.

Q246 Mr Harris: I would love to ask a follow-up question on what you have just said, Mr Cooper. These other industries that you worked in where customer satisfaction was less than the bus industry were not banking, by any chance.

Mike Cooper: It was not, no. I am not a banker.

Q247 Mr Harris: From listening to what you have said today and at previous hearings, it seems quite clear that in general the bus industry is opposed to Government intervention when it comes to regulation but welcomes Government intervention with open arms when the Government comes with a big cheque. In my own constituency FirstGroup has once again withdrawn one of the local bus services knowing, as I see it in the bus industry. My view would be that we are doing a good job for the customer. The ethos, the culture and the practices of the industry are exactly where the consumer needs them to be.

Q248 Mr Harris: But those were the sort of services that happened before. They have been happening throughout certainly the area of Strathclyde when I worked for the Strathclyde Passenger Transport Executive. You are right—the SNP have a lot to answer for in this latest move; but this has been happening for many years, ever since 1985. It is a regular event.

Giles Fearnley: But we are in those situations withdrawing the service as I believe any other operator would commercially, because we cannot generate sufficient passengers at a fare they are prepared to pay to be able to run that service economically in a sustained way.

Chair: We cannot pursue just one service, Mr Harris. Mr Maynard, did you have a question?

Paul Maynard: I don’t think I wish to ask any questions after what I have heard from my semi-esteem colleagues.

Q249 Julie Hilling: I want to follow up on the line of giving up routes. First of all, what is the rate of return across the industry?

Mike Cooper: On average, the rate of return across the industry for 2005–06 and 2009–10 was 13.5% return on capital employed.

Q250 Julie Hilling: That is 13.5% profit being made across the industry.

Mike Cooper: But the cost of the money that we need in order to put that investment in, as I said earlier, is about 10%.

Q251 Julie Hilling: Do you know how many routes are given up across the industry each year because they are no longer commercially viable and therefore are put to the taxpayer to pay for?

Giles Fearnley: I do not think that data is held nationally.

Steven Salmon: No. We cannot easily find that out.

Giles Fearnley: Local authorities will have their own information.

Q252 Julie Hilling: Is this one of the reasons why people are so against Quality Contracts? It does seem to me that across the whole of the transport industry it is a good place to be to put your money. When it is making profit you get good returns, and if it dips at all then the taxpayer bails it out. What is your view on that and is that one of the reasons against Quality Contracts? It would be a whole package wrapped up together rather than bearing any cost of a route that is not making as much profit.

Steven Salmon: I will start with the way you have put that. Yes, it is true that our members do have a choice of whether they operate or not, but if they stop operating, this idea that the taxpayer will bail it out is very uncertain, never more so than at the moment. We have a number of authorities who, if we stop running a route, will not come back and buy it in. We have a quite interesting choice sometimes between making a very small return in the hope that things will get better or even losing money in the hope that things will get better, because we know that the local authority has no budget to buy it back if we stop running it. This idea that we light another cigar and wait for the tenders to come out is not entirely the world as it is.

Q253 Julie Hilling: Where does the interest of the passenger come in, who then will not be able to get out of their house if the bus is not there when, yes, there is not that money in the public sector any more to bail out those services?

Steven Salmon: Who should pay for the service if the passengers don’t? Of course we know our services are important to people. We know the human
consequences. We are very close, because of the way we work, to the people who use our services, but if we cannot make a turn on running a service and suppose we did want to carry on running it because of the human cost, the only place we can get the money from for that is from the other passengers. They will then say, “You are overcharging us and making super-profits on our route so that you can run a service that loses money but is important for people somewhere else.”

Mike Cooper: I want to build on that. The default position for the industry, certainly Arriva, is not to hit the customer. The default position is self-help. We knew, as we discussed in a previous Committee hearing, that there were going to be a number of financial hits on the industry. We knew that, and we put our house in order to try and mitigate that point in terms of productivity, efficiency improvements, headcount reduction and fuel savings. That is the instinctive reaction of the industry, not to say “Let’s clobber the customer.” We want more people on our buses. It may sound peculiar but we do.

James Freeman: In the Reading example we are municipally owned. We are responsible to the local authority, to the elected members and to the people. We have also had to deregister commercial services and they have had to go into the supported sector because we could not justify the losses that we were making operating those services. As Steven rightly says, the only way you can deal with that otherwise is simply to start reducing the better services or overpricing the better services and you end up with fewer passengers using them. There is a distortion to the market, which, in the end, undermines the viability of the local bus network.

Our operation in Reading is completely driven by the need to run the best services with the highest frequencies and the lowest fares so that they generate big numbers of people making lots of money. That does mean that at the margin we end up having to say, “We can’t do this any more; we do not have the right people to do it; there just are not enough passengers using it; and maybe a bus is not the right way to meet this particular social need.” It is jolly uncomfortable when you do it, but you have to do it, otherwise you end up with a distorted provision of the market. That is the difficulty.

Q254 Chair: Are we going to get more multi-operator ticketing systems?

Giles Fearnley: Where there is demand they will be developed. My colleagues and I are all party to a whole host of multi-operator ticketing schemes around the UK, some of which have been in place for many years. In FirstGroup we have been party to two or three new schemes in the last 12 months where we believe there is passenger need and demand for those schemes.

Q255 Chair: Concern has been expressed that some of the big operators might present single tickets to undermine multi-operator ticketing. Is that likely to happen?

Giles Fearnley: If you mean own-operator tickets versus multi-operator tickets, own-operator tickets will tend to be cheaper than multi-operator tickets because they have less validity and very often they may be available in a smaller area and for a smaller range of services; so it is producing a product that meets different market requirements for individual passengers.

Q256 Julie Hilling: Why can’t we have an Oyster card outside London?

Steven Salmon: The biggest underlying problem is this. If you replicate what is known as “pay-and-go”, which is what people generally talk about when they talk about Oyster, it is relatively easy in London because TFL is a single organisation. They have a deal with the railways so they have an understanding about how the money will get divided up if you go on a frenzy of riding around on your Oyster card. There is no equivalent deal between the hundreds and hundreds of potential operators that you could use a national Oyster card on about how much, let us say, a trip in the evening might be worth if you have already reached your cap so that you are not paying any more for that trip in the evening. You end up with very complex deals, which might include one of Giles’s operators in Manchester where you had gone to in the evening, TIL in the morning and Virgin Trains in the middle. We know it is a tremendously strong prospect for consumers. If we had a monopoly of all trains and buses and were simply competing with cars, we would probably do it.

Q257 Julie Hilling: Why couldn’t you just have it on a Greater Manchester basis or a Cheshire basis?

Steven Salmon: That is easier, and I would be surprised if, in a couple of years, you don’t see those schemes coming forward.

Q258 Chair: That is a matter for negotiation at that level. What is the impact of the Government’s changes on BSOG?

James Freeman: I think the solution that has been brought forward is really quite elegant. I will say for my own part that we were very worried about what was going to come out of this. The money that BSOG brings to the market is enough to tip the balance on many commercial services. The fact that the current proposals for BSOG allow the commercial services to continue to receive BSOG is very welcome. Equally, the idea of paying BSOG to local authorities for tendered services seems appropriate.

We are pleased to see the retention of the various incentives to speed up the improvement of electronic ticketing and all these sorts of things. The bit where I struggle personally is the Better Bus Areas concept. If someone were to come to Reading and say, “We are going to take away all your BSOG payments from your commercial services,” which are currently part of our income stream, “and use them to provide some amorphous improvement such as better streets, more priority or whatever it might be,” on the day that that happened we would end up being dramatically out of pocket and the network would have to respond by increasing the prices or changing the network downwards in scale and scope. I find it really difficult to understand how Better Bus Areas are going to
work, but that is only a part of it. Overall, it seems to have something for most people in the proposition, so, overall, a big sigh of relief from ALBUM members.

Q259 Chair: Are there any differing views?

Giles Fearnley: No. I would very much endorse what Mr Freeman has said. On the tendered service front, it is very important that moneys are ring-fenced so that they are not lost to bus provision both from the time of the transition from the existing scheme while existing contracts are in place to the new scheme but thereafter as well. In terms of the Better Bus Areas, likewise we are putting our minds to how this can work and particularly how to deal with the drop-off that Mr Freeman has just mentioned. It was only yesterday, Steven, that DfT did write to CPT asking for representatives on a working group to look at this whole issue of how BSOG and Better Bus Areas can come together. As operators I am sure we will all actively participate in that because it is so key.

Chair: Thank you very much, gentlemen, for coming and answering our questions.

Examination of Witnesses

Witnesses: Bobby Morton, National Officer for Passenger Transport, Unite, Martin Mayer, Unite Executive Member for Passenger Transport, Unite, and Phil Bialyk, Regional Organiser, South West England, RMT, gave evidence.

Chair: Good morning, gentlemen. Before we proceed I wish to declare an interest. I am a member of Unite. Other members may wish to declare an interest.

Julie Hilling: Similarly.

Jim Dobbin: Same here. I am a member of Unite.

Graham Stringer: I am a member of Unite.

Mr Harris: I am a member of Unite.

Iain Stewart: I am not.

Julie Hilling: I am sure they have membership forms.

Phil Bialyk: You should join the RMT.

Q260 Chair: Could you give us your names and your organisation?

Phil Bialyk: My name is Phil Bialyk. I represent the Rail, Maritime and Transport Workers Union. Just to explain, we have about 5,000 members.

Chair: We just want the organisation. This is for our records.

Martin Mayer: My name is Martin Mayer. I am a bus driver and union rep in Sheffield. I am obviously a member of Unite and I have been on Unite’s Executive Council.

Chair: It is just the organisation we need.

Bobby Morton: Bobby Morton. I am the Unite National Officer for Passenger Transport.

Q261 Chair: What do you think are the most pressing reforms that are required to improve the buses for passengers?

Martin Mayer: The most pressing reform that is needed is regulation and the reversal of deregulation. I have experienced that as a worker, but, and my union would agree with me, the experience of deregulation since 1986 has been a disaster for the industry. We saw a massive reduction in passengers from the instability that was caused, particularly in those first five years. That reverse has not stopped since. The only area of the country where there has been a change to that and an increase in passengers has been in the only area of regulation, which is in London.

Q262 Chair: How much would that cost the public purse?

Martin Mayer: The fact is that the British bus industry receives about a third of its income from the public purse as it is. There is still a lot of money going into it. The point is whether it is going into it in the right way to get the right results.

Phil Bialyk: What Martin has said is very important. Since 1986 we have seen that deregulation has changed the emphasis from providing a public service. You mentioned about the Traffic Commissioners in the earlier questioning and more of a role for them. Of course, once upon a time they used to have that role in determining services. One of the criteria that the Traffic Commissioner would consider when an operator wanted to put a route in which may have competition was whether it served the public interest. That is the point that is being lost here. People have been exposed to no bus services because they don’t turn a profit. In the south-west there are a lot of fields but a lot of people live there as well. They are in the main disconnected. We have seen recently, with the withdrawal of subsidies from the councils, operators having to make cuts because they are not turning a profit. That is where everybody loses.

Bobby Morton: Although I spend a lot of my time representing Unite members who work in the passenger industry, I am a bus traveller. I have a car but I am conscious of what is going on in the atmosphere. I tend to use buses a lot more than I use my private vehicle. I live on the Wirral Peninsula. The service that I get there from the bus companies is what I would describe as abysmal. Just to give an example—

Q263 Chair: But the question is, what are the major changes you want to see at the moment in the industry as a whole? Do you agree with what Mr Mayer said?

Bobby Morton: Yes. The major change for me is that, because of the deregulation, I am not able to leave the Wirral Peninsula at the time—

Q264 Chair: I am asking for a general statement at this point about major changes. You are saying you want re-regulation.

Bobby Morton: Re-regulation, yes.

Q265 Mr Leech: Would the model that we have here in London with franchising solve the problem of deregulated bus services in other parts of the country?
Martin Mayer: Not entirely. It is not the system that we would like to see, although it is an improvement on deregulation. Our members are suffering very greatly from the route franchising system that happens in London at the moment. They are of quite short duration, and, when they change hands, our employees, our bus drivers, are being transferred to other depots and other companies across the other side of London possibly. This is leading to big problems in terms of retaining your wages and conditions but particularly your pensions and personal disruption. This would not happen if we had an area network concept, which is behind the idea of Quality Contracts. If you look across the channel into Europe, where this is a much more common form of privatisation, it has been considerably more successful. The European Commission, when it was preparing its evidence for the PSO regulation 1970, showed that, where there was an overall franchising operation across a whole city with one operator getting that contract, this was a much more successful form of privatisation and led to a lot more stability, both for the employees but also for the passengers.

Q266 Mr Leech: What differences would the passengers see? You gave a good example of why your members can suffer under the franchise system in London, but what difference would the passengers see?

Martin Mayer: Probably there is not a huge amount of difference from the passengers’ point of view, but I do think there are overall benefits from the local authorities’ point of view in having a much less complicated tendering regime. In other words, it is one network that is contracted out probably on a much longer-term basis to one operator and then that contract comes up for renewal. That is the typical experience in Europe. That is much less complicated and therefore has less bureaucracy. There will probably be cost savings because of it.

Phil Bialyk: From the passenger point of view stability is a very important thing. As an example, in Cornwall, contracts have been won by another company and the passengers are upset to some degree because their particular bus company is not running it. Some people feel quite emotional about that. Stability and certainty is a main thing. A Quality Contract and franchising is not the best thing, as Martin has said, but it would go a long way to providing stability in the network.

Q267 Mr Leech: In London, though, do you think passengers recognise the difference between the different operators of different routes? I don’t know which operators operate the buses that I get on in London.

Phil Bialyk: No. I would agree with you in London. That is where passengers can be quite fickle. They will catch the first thing that comes along because we all want to get to where we’re going, don’t we? You want to pay a reasonable fare and I do not think they notice. But when you go outside London there is a slight difference in some rural areas.

Phil Bialyk: It would be an improvement, as Martin said. It is not the answer to everything. You most probably would not want to countenance what I really would want you to do, but that would be a step in the right direction.

Q269 Mr Leech: What would you really want to do then?

Phil Bialyk: We used to have BET and Tillings—two major operators. Somebody came up with a wonderful idea, “Let’s nationalise this,” in 1968, and that is what they did. Traffic Commissioners regulated it. True, they did not do the best job then in the businesses at that time. Then somebody said, “Let’s deregulate.” and, hey ho, we are on that circle and round again.

Q270 Mr Leech: What would be the impact for the passenger if we went down the RMT route of completely re-nationalising the bus services?

Phil Bialyk: Accountability; we are paying the subsidies. We would have a say through elected members, and also we would have the authorities running it and meeting the needs of the people. It is a public service.

Q271 Mr Leech: What would the additional costs be? Clearly there is an issue about how much bus services cost the Treasury. What would the impact on cost be?

Phil Bialyk: As Martin has said, a great amount, if not the majority, of the revenue that the companies get—basically their profit—is through the public purse. Of course, can you buy it all back again? Most probably not in these times. There has to be another route, and that is why we have to go down the Quality Contract route perhaps. Even we in the RMT are aware of that from time to time.

Q272 Mr Leech: So you accept then that that would be too expensive a model to go for and the Quality Contract is a more reasonably costed way of improving regulated services.

Phil Bialyk: I would be happy to attend a Select Committee that determines how we best spend the public finances. When we are talking about the transport budget, I suppose that is the only way we could go. Do we spend the nation’s money in the best way? That is another debate, isn’t it?

Q273 Mr Harris: I was going to ask for clarification but you have made your position clear, Mr Bialyk. What does Unite see as the ideal solution? You opposed deregulation in 1985. Would you want to go back to the situation where local authorities either directly owned or operated bus services, or would you be satisfied with a halfway house of Quality Contracts?

Bobby Morton: It would not be the ideal situation, but the Local Authorities Transport Act 2008 provides for a lot of what we would wish for in the terms of Quality Contracts. It is all there. People such as you spent a great deal of time researching, debating and

Q274 Mr Leech: On that basis what would be the problem with going for the London-type franchising model in other parts of the country?

Phil Bialyk: It would be an improvement, as Martin said. It is not the answer to everything. You most probably would not want to countenance what I really would want you to do, but that would be a step in the right direction.
then putting the Act on to the statute, but unless the bus operators are prepared to bring a bottle to the party then the party is not going to take place. There is already something there for us to work on, but we need some regulation behind that to bring the bus operators that I have mentioned to the party.

Q274 Mr Harris: When the Passenger Transport Executives were here as part of this inquiry it became clear that there was a problem with political motivation. Councillors from councils throughout the country seem reluctant to go down this road of Quality Contracts. I do not think it is just the bus operators. There is a lack of political will in this. What is your understanding of the reasons why councils do not want to take advantage of that legislation that you have mentioned?

Bobby Morton: I can only quote what I was reading on the way down. People were talking about the north-east and one of the bus operators said that before they accept a Quality Contract in that area they will close the depots down, transfer all of the buses and make everyone in that area redundant. I am sure that, if that happened and the councillors were brave enough to support the Quality Contract, then when it came to election time people would remember. Councillors are afraid because the bus companies are putting the strong arm on them. They are threatening them. They are threatening whole communities with mass redundancies. It is totally unacceptable.

Q275 Mr Harris: We have had the same threats in Scotland. When it comes to Quality Contracts—and I do not think it has been explored with this Committee yet—do you have a view on the ideal time scale for a franchise? Is it five years or 10 years? Mr Bialyk, you were talking about passengers wanting some kind of continuity. If you have too short a franchise term, you do not get that continuity.

Phil Bialyk: I would agree with that. We have seen it on the railways. Short terms can mean problems, but you could buy in a problem with a long term. In my view it would have to be something round about 20 or 21 years, but there must be some provisions within it for opt-in or opt-out arrangements. The contract must be quite tightly regulated to allow it to come forward.

On your remark about the local authorities, this may be a bit harsh, but my view is that I think the relationships between the companies and some of the local authorities are not the best they should be. Perhaps the accountability line does not go right through to officer level. When you talk about local authorities, I am a member of a local authority and we would love to run the transport provision because we would see it as a public service benefiting the people of this city.

Q276 Mr Harris: I have one question following that up, Mr Bialyk. What has your council done to advance Quality Contracts?

Phil Bialyk: My council is only a district council—a city council, unfortunately. We were hoping to become a unitary authority. It is Exeter. We got that one kicked back. We would have loved to get hold of it and we would have done all we needed to do in that provision.

Q277 Chair: Quality Contracts could affect your members and the companies that lose out, could they not? Is that something of concern to you?

Martin Mayer: It is a concern, but we were involved very closely with the last Government’s drawing up of this legislation. We were very keen to ensure there were proper measures in place to give protection for employees that could be caught up in the process. We were properly satisfied that the legislation that came out in the Local Transport Act does have a wide range of protections: for instance, to ensure that the Transfer of Undertakings (Protection of Employment) provisions would be made to apply even though technically they would not in normal circumstances, and we would put every effort into ensuring that every single employee within the industry covered by that Quality Contract had a job under the new employer. There were also provisions there to try and ensure that pensions were protected in transfer. There are a number of concerns, obviously. We were also very pleased that we were able to secure the important role of the trade unions as stakeholders and that we would be consulted throughout that process.

Phil Bialyk: The TUPE arrangements do apply. We have seen a situation in North Devon. FirstGroup have sold on their operations business to Stagecoach. It is about 50 or 60 buses and about 80 or 90 staff. Stagecoach is not going to compete against itself; so there are going to be some changes in how the business is run. We have seen a situation in North Devon. FirstGroup have sold on their operations business to Stagecoach. It is about 50 or 60 buses and about 80 or 90 staff. Stagecoach is not going to compete against itself; so there are going to be some changes in how the business is run. We have seen a situation in North Devon. FirstGroup have sold on their operations business to Stagecoach. It is about 50 or 60 buses and about 80 or 90 staff. Stagecoach is not going to compete against itself; so there are going to be some changes in how the business is run. We have seen a situation in North Devon. FirstGroup have sold on their operations business to Stagecoach. It is about 50 or 60 buses and about 80 or 90 staff. Stagecoach is not going to compete against itself; so there are going to be some changes in how the business is run. We have seen a situation in North Devon. FirstGroup have sold on their operations business to Stagecoach. It is about 50 or 60 buses and about 80 or 90 staff. Stagecoach is not going to compete against itself; so there are going to be some changes in how the business is run.
What happens with the market is that some of those companies are unsustainable. In the end the market consolidates in a private sector situation like that and you end up where you are today. To try and introduce more competition to take us back to those chaotic days does not strike us as being the answer. The answer needs to be a return to a much better system, and that can only be achieved where the public sector has some kind of control and regulation over it. We believe Quality Contracts give us that solution.

Q280 Chair: Mr Bialyk, in your written evidence you talk about the need for a “restored and robust regulatory system”. Could you tell us more about that?

Phil Bialyk: Yes. As I said, once upon a time the Traffic Commissioner used to do it. It may not be the best way in these times but we need the vision. We heard some of the evidence this morning. If a company is running a particular route commercially, what you see them do sometimes is divest out bits of that route and say, “We can’t run it commercially,” leaving the local authorities with no option but to pick it up, knowing full well that another operator is not going to step in and just pick up that little bit of route for five miles somewhere else. They are strangulating it. In my view, it is not a proper way to run the bus service. We do not see anything wrong in sensible cross-subsidy because that is what would happen in a Quality Contract. That is where the regulation would come, and a full discussion with all the stakeholders to meet the public need makes sense to us.

Q281 Chair: Where have Quality Partnerships been successful, or have they?

Martin Mayer: There has been some success with Quality Partnerships, but the problem is that they don’t really ever go far enough. In some parts of the country the Passenger Transport Executive or the local authority has come into an arrangement with an operator, or perhaps more than one operator, to upgrade the corridor, for instance, with improved bus priority measures, improved bus stops and lay-bys and ticket information, in return for a guarantee that the operators will maintain a certain level of service and perhaps investment in new buses. There is some benefit that can come from that. The trouble is they really do not end up giving you the comprehensive solution that a Quality Contract would do.

Q282 Chair: Are there any places where the Quality Partnerships have worked? Could you name anywhere that you think is a good example?

Martin Mayer: Currently in my city, Sheffield, we have in effect a statutory Quality Partnership where two operators have been at it, head to head, on certain major corridors. The PTE has stepped in and in effect brokered discussions to ensure that both operators run a joint timetable and try and make the best of that service. That appears to be a success compared with where we were before.

Q283 Chair: The Competition Commission also criticised what they call “cheap exclusion” tactics. That is one operator trying to impede a possible competitor. Have your members reported any incidents where they have been pressured into taking such actions?

Martin Mayer: No, I do not think so. I am not aware of what actions we are talking about. There is a certain amount of fiction here.

Q284 Chair: The examples the Competition Commission give are deliberately blocking or delaying services on the road; preventing them from using bus stops and stands; intimidating drivers; and causing damage to a rival’s vehicles. Those are the examples.

Bobby Morton: I think what it refers to is going back three or four years ago in Greater Manchester, where I used to operate, where we had a number of bus wars going on at the time. There was one company in particular that the Traffic Commissioner threw out of the area, put them out of business, where just the things the Competition Commission are describing were happening. It was like wacky races on the roads of Greater Manchester, with buses cutting in in front of other companies’ buses in order to get the passengers and fares. It threw health and safety out of the window. Passengers were fearful for their safety just standing at bus stops. There were occasions when drivers from rival bus companies would engage in physical violence because of the things that were going on. I think that is what it refers to.

Q285 Chair: Yes; those are the sorts of things in the report. Are you saying that is something in the past and it is not happening now?

Martin Mayer: Yes.

Bobby Morton: Yes. We are very afraid that, if more competition was introduced on routes, then we would return to the past.

Q286 Chair: Is personal safety for your members or for passengers getting better or worse?

Martin Mayer: I think there have been some improvements. One of our main problems is the fear of assault. In most of the major operators where we have union representation we have negotiated better protection and better systems. I believe it is fair to say that the number of assaults has now reduced from where it was before. All bus drivers still do face an unacceptable level of verbal abuse. Our ethnic minority members particularly constantly receive racial abuse.

Phil Bialyk: I would say that has changed. The days when I used to do the “throwing out of the pubs” run is not quite the same now, to be quite honest. You are more at risk during the afternoon with people just being aggressive if the bus isn’t on time. Everybody is stressed out, are they not, and there is a bit more verbal abuse as opposed to the physical sort of violence? You do get the reporting of spitting and these sorts of things, which I have to say was unheard of 30 years ago when I was doing it. It is not as bad, and Martin is quite right that it is a bit better.

Q287 Julie Hilling: Is it BT police or the ordinary police that deal with buses?

Martin Mayer: Ordinary police.
Q288 Julie Hilling: Do you have the spit/saliva testing response there is now on trains in terms of prosecution through using saliva? Is that current on buses?
Bobby Morton: We have engaged with the bus companies and the packages are available to our drivers in case anyone does spit on them. The problem we have is that because of the lack of resources the police are not always interested. We do have the DNA testers but it is what we do with them when we have tested. It depends on whichever police force you are dealing with. Some are very co-operative; others will tell you, “We do not have the resources or the time, so we can’t help you with that.”

Q289 Chair: When services have transferred from one operator to another, have TUPE conditions applied or have there been adverse impacts on your members?
Martin Mayer: It depends on the situation. If the main large incumbent operator loses some mileage to a new operator operating on lower costs, for instance, it is not necessarily important that TUPE does apply because the company may well retain those drivers on other routes. We have had to fight for TUPE in London to ensure that drivers are transferred because there is often no other work for them. The work goes with that mileage, and if they lose that mileage they do not have any other option but to transfer with it to the other employer.

Phil Bialyk: There was a small example in the west country, although this was coach services, where the contract was lost by FirstGroup in Plymouth. Eight drivers quite clearly identified with the work were transferred to a small private operator, who refused to take them under TUPE. I have to say that FirstGroup were quite supportive in this, but, even so, they would not take them and we had the ludicrous situation of eight drivers reporting for work on a Monday morning with no job and no income. FirstGroup said, “They are not ours,” and the new company said, “We are not having them under those terms.” Those people had mortgages. We got a settlement some months later—a very good one—because they had breached TUPE, but that was no good for those employees at that time who had bills to pay. There would need to be something about that. That was a ludicrous situation.

Q290 Chair: How are your members affected by the current system? Are there very widely differing rates of pay and conditions?
Martin Mayer: Yes, there are. They range from a little above the minimum wage right up to £13, £14 or £15 an hour in London. It depends a great deal on how well organised we are as bus workers, how strong the union is, and it has a lot to do with market conditions as well. There is a huge variety, but even within one particular city different operators will be operating on quite differing rates of pay and conditions.
Chair: Thank you very much for answering our questions.
Wednesday 16 May 2012

Members present:
Mrs Louise Ellman (Chair)
Jim Dobbin
Julie Hilling
Kwasi Kwarteng
Mr John Leech
Paul Maynard
Iain Stewart
Graham Stringer

Examination of Witness


Q291 Chair: Good afternoon and welcome to the Transport Select Committee. Could you tell us who you are, Mr Hendy, for our records?

Peter Hendy: My name is Peter Hendy. I am the Commissioner of Transport for Transport for London.

Q292 Chair: Many parts of the country look with some envy on London. It does not have a deregulated transport service and a lot more people use buses in London than they do elsewhere. It has a much more comprehensive service. Are you satisfied with the way bus services are running in London?

Peter Hendy: Yes. The system that we operate as an authority was established first in 1984. It has evolved over time to changing political and economic conditions. I came back to Transport for London in 2000 to be the managing director of Surface Transport. I ran that system for six years, and in the process I changed the parameters of what had originally been established in competitive tendering terms reasonably substantially. The view of both the previous Mayor and now the present one is that the London bus service is satisfactory and the system that provides it is satisfactory. If it helps you, in terms of competition, we still have an average number of bids per tender of just under three. We have all the major players except National Express, who used to be in the market, and they are actively competing with each other.

Q293 Chair: Are you satisfied that you are getting value for money and that there is enough competition in the bids?

Peter Hendy: There are 700 bus routes in London of various sizes, ranging from ones with one bus to ones with 70 or 80 buses. An average number of bids, as I say, of just under three is a demonstration of adequate competition. The operators never fail to tell me that their margins could be higher, but it is their competitive bids that reduce them, which is entirely satisfactory from the point of view of a public authority spending public money. Generally, of course, they combine their complaint about the relative lack of margin with a request for more work, so it is hard to see that actually they are not doing reasonably well out of it. We do obviously have a duty to make sure that changes in the market—acquisitions and changes of ownership—do not reduce market competitiveness, but I do not think there is any evidence that the market is insufficiently competitive.

Q294 Chair: What is the amount of financial support to bus services in London at the moment?

Peter Hendy: I will write and tell you exactly what the sums are. In my recollection we got up to about £500 million a year. It is now declining, as you would expect, in a position where we had a substantial cut in grant from Government due to the public spending review. The Mayor has been pursuing, at least until now, a policy of fares increases that are recently RPI+2. The amount of public support is declining in line with his policy.

Q295 Chair: The degree of bus use in London has gone up by a lot, while in other parts of the country it has either declined or more recently has remained stable. What do you think is the reason for that difference?

Peter Hendy: One of the reasons for the subsidy in London is the purpose of the bus service. People do not travel as an end in itself. They travel in order particularly to gain employment and create economic activity and, hopefully, growth. One of the characteristics of the London bus service and one of the reasons it needs support is that in the peaks we plan to carry everybody who presents themselves. We are not trying to limit peak capacity on the grounds of the good economics of the bus service; we are trying to create circumstances in which people who live and work in London can get to work. Those peak buses are very expensive, but they also create the circumstances where the bus service is catering for demand at it the fares that are charged. Having got that peak service, we are able to offer off-peak services relatively cheaply. The consequence of that is that most London bus services now run at a frequency where you do not need a timetable. You only need to know that they are more frequent than five buses an hour and so you just turn up and go. All of those characteristics—together with reliability and security, because we pay a significant sum to the Metropolitan Police for policing on buses, and good information—contribute, as does the growing population, to increasing bus usage.

Q296 Chair: You are saying that you have set out to maximise the usage of buses at peak hour times.

Peter Hendy: We have set out to carry everybody who presents themselves at peak hours. Under the GLA Act it is the Mayor who sets the fares. The previous Mayor, for example, decided to give free travel to kids under 18 in full-time education. The current Mayor
has continued that policy. We have had to expand the peak bus service to carry those people, even though in those circumstances there are no fares at all. But that is the right thing to do in circumstances where we and the Mayor judge that provision of the bus service is a really important ingredient in the economic growth of London.

Q297 Chair: You are looking at buses as part of economic growth.

Peter Hendy: I think that is entirely right. I have learned, certainly in my recent career working for the Mayor, that you do not make a case for good transport on transport grounds; you make it particularly on economic growth and social grounds. That is, I believe, why both Mayors have consistently supported the development and high quality of the bus service; they believe that it contributes to London’s economic success.

Q298 Mr Leech: Hypothetically, if bus services in London were deregulated, what would be the impact on services?

Peter Hendy: The first thing to say is that I have absolutely no evidence that anybody intends that, whatever their politics in London’s government, and we are responsible to the Mayor. I suppose I could best answer that question from the point of view of having been a bus operator. I would certainly not seek to cater for the maximum peak demand at affordable fares because it would give me a cost profile where the last peak bus would be extremely expensive and I would never recover it from the fare income. In effect, every peak bus that we put on costs money, so we are trying to do our best to restrain the number of peak buses that we put on by managing the service to absolutely suit the demand at the peak level. What I would do is what you can see people doing in the rest of the country, which is trying to flatten out peak demand through fares and service provision, and then run an adequate all-day service with those sorts of resources. If we tried to do that here, we would simply leave thousands and thousands of people behind, and that would be entirely unsatisfactory, certainly if you adjust the purpose of the bus service to be the one that I have set out.

Q299 Mr Leech: Would we see an increase in attempts for bus services to compete with light rail and heavy rail services?

Peter Hendy: In London you probably would not. The average journey length on the railway network in London is very substantially more because of the size of Greater London and the pattern of commuting. So I think it would be less likely. I still think the biggest thing that you would see would be a sharp change in peak fares and peak provision, simply because it is entirely uneconomic on a rational basis for the provider alone to provide the last peak bus.

Q300 Mr Leech: In places like Manchester, for instance, arterial routes have tons of buses and other areas have very few and services have been massively restricted. Would we see that sort of model in London?

Peter Hendy: I guess you might. It would depend on the fare levels. Clearly whoever wrote the GLA Act decided that setting fares in London was a political act because it was reserved to the Mayor as the Mayor, and not the Mayor either as the Chair of the Transport Authority or the Authority itself. There would have to be a sea change in the level of fares if it were to replicate anything like the rest of the country. It would be quite hard to see. I do not know what excessive provision is. The ideal bus service is so frequent that you do not need a timetable and so reliable that you can turn up and catch one. Yes, you might see a preponderance of buses on major corridors rather than in lower density suburban areas.

Q301 Mr Leech: We would potentially see more competition in some areas, but would we actually see the bus companies making any more money?

Peter Hendy: It would be radically different because of the level of subsidy. I have to calibrate my financial years, but from memory the subsidy going into the bus service is about £400 million. If that is not there, which is one of the features of deregulation—the original intention in 1985 was to reduce substantially the public contribution to support of bus services—then the whole picture would look radically different. Fares would be much higher and the general provision of service in any event would be much lower. Yes, there might be overprovision on some corridors. I suspect that in some parts of suburban London the housing densities are so low that there probably would not be any service.

Q302 Graham Stringer: You said nobody had withdrawn from the system. I seem to remember that Stagecoach or FirstGroup withdrew at one stage from the London market, didn’t they?

Peter Hendy: We have had various people come in and out. National Express sold their interest to Abellio, who are otherwise the Dutch National Railways. Stagecoach sold their operations to Abellio, who are otherwise the Dutch National Railways. Stagecoach sold their operations to Abellio, who are otherwise the Dutch National Railways. Stagecoach sold their operations to Abellio, who are otherwise the Dutch National Railways. Stagecoach sold their operations to Macquarie but more recently reacquired them. FirstGroup have just recently sold one depot to Go-Ahead.

Q303 Graham Stringer: Both Stagecoach and FirstGroup have withdrawn as well as National Express. Can you explain to the Committee why you think they withdrew?

Peter Hendy: I have heard it said that FirstGroup sold the depot because of low margins, but I am not sure that that holds up because another major commercial player bought it. I think it is on the public record that Stagecoach sold their bus companies to Macquarie for a very high price and bought them back at a very modest price.

Q304 Graham Stringer: That is good business.

Peter Hendy: It seems to me to be good business but it is not evidence that you cannot make any money in this market, because evidently they would not have returned at any price were that the case.

Q305 Graham Stringer: Who should not be in the bus industry? You made a statement recently that,
“There are some people in the bus industry that should not be there.” Who are they? 

Peter Hendy: I participated in what was rather gloriously called “The Great Bus Debate”. I referred specifically to the Traffic Commissioners, their regulatory functions and the amount of resource and support that they had. Yes, I did say that I thought there were some people who should not be there. That was a reference to the fact that I think the resource that goes into the regulation of the bus industry outside London is frankly insufficient, and you can get into and remain in the bus industry for rather too long in circumstances where, if there were more regulatory activity and more inspection, you would be found out quicker.

As more of an anecdote, when I took over Surface Transport in 2001 I found people on our list of approved tenderers whose vehicles I would not travel in as a citizen in the places where they operated. I took the view that there were people there who had been properly issued with a licence by the traffic commissioners, bearing in mind the criteria they had to adopt, but who were frankly unsuitable to run a high-quality service in a city like this. We took them off the tender list. Running urban bus services in developed first-world cities is a serious activity, and you need to show more than the basic conditions under which you can gain an O-licence to do it. We apply more stringent criteria for people to provide bus services in London, and indeed award tenders to some extent on people’s ability to do what we are currently asking them to do.

Q306 Graham Stringer: So your remedy would be more Traffic Commissioners, more officials working for VOSA and probably tougher regulations as well.

Peter Hendy: I think all three of those things are justified. I would say, as I have said before, that the Commissioners are one of the few regulatory authorities in both the bus and haulage industries who are greatly supported by those industries. They deserve more support than they get in their own activities. The policing activity of VOSA, as it were, could also be better supported than it is.

Q307 Graham Stringer: That is very interesting. The Competition Commission’s report does not apply to London, but have you read it?

Peter Hendy: I have read the summary and I have read some parts of it. It is a substantial document.

Q308 Graham Stringer: What do you think of what you have read? Can you tell the Committee what you think of the recommendations they have made?

Peter Hendy: I share some of the industry’s views that it seems to be a very weighty tome and a pretty major distraction without a great deal of outcome. It seemed to me that, whether or not they felt they were asked that question, it is not a question that was answered. It seems to me to be at the heart of why it is that you might want to run certainly a good bus service in urban areas. If you can answer that question and if you can then determine what level of public support you would be prepared to put into that system, then defining how the system would actually work seems to me to be much easier to do.

Graham Stringer: That is very helpful; thank you.

Q309 Jim Dobbin: My area is Greater Manchester. A number of the members of the Committee are interested in comparing their bus service provision and how they are run with areas outside London rather than being part of London. In that area we have the large companies: Stagecoach and First Bus. Do you think these companies are too powerful? The reason I am asking is because, yes, you are advocating more control and more regulatory powers for the Traffic Commissioners, but we have passenger transport authorities as well, who have certain inroads into controlling or at least some control over those companies. Why do you think they get away with what they get away with?

Peter Hendy: The best way I can answer that is that in my position it would be much less satisfactory to have both the amount of control and the amount of responsibility we have if we had insufficient resource to buy what is needed. The real difficulty in a place like Manchester is that, for the former PTE, or now the ITA, to have real influence over bus operation, frankly you need to be able to buy it. You need to be able to buy the services you want or have such an accord with the people who run them that what they are running on a commercial basis accords so closely with your view about what is needed for the economic development benefit of the city that it is exactly the same. What I don’t think you want as a public authority is a lot of responsibility for something that you can barely influence because you have no cash to do it.

That seems to me to be why you keep coming back to this question about what the point of the bus service is, who wants it to do what and who should then be responsible for its provision. Frankly, if public authorities have very little money to spend, or could spend money on it and do not, then you might be better to leave it to these people, however unsatisfactory or satisfactory you feel their provision is, because you have no public money to influence it. Again that goes back to the point I made about peak services. If one of your overwhelming priorities is to get people to work, school or whatever, then that provision itself beyond the normal flow of traffic all day is an expensive thing to do, and probably needs to be paid for at reasonable fares.

Q310 Jim Dobbin: So I have to tell my constituents that we have no way of influencing this whole process.
Peter Hendy: I am not sure I am saying that. It is a whole other question about the degree of devolution of finance in major urban areas and the extent to which the politicians in those areas can control it. All I am saying is that if I was running one of those ITAs and faced with the sort of money that they seem to have available, you would not be able to do much.

Q311 Chair: What lessons can transport authorities outside London learn from the London experience?  
Peter Hendy: There is one obvious lesson, even though it might not have been picked up electorally in the recent decisions about Mayors. I am sure that the authority that I run, which also provides, as you know, the tube and other things, has been much better provided for financially by having somebody in a strategic political position in London as a region. One can argue for the financial resource in order to develop the city's economy. In the course of that it has provided us with the money. We could always spend more if there was some, and the policy is to make it decline in accordance with the public spending review. That has given us the resource to have this huge influence over the provision of the bus service, the way it is provided and the sort of services that are provided.

As I said in the Great Bus Debate, that is at least a sort of choice. If you believe the provision of transport services is really important in urban areas for those reasons, then actually having a politician in charge who can argue with Government for the financial resource you need to do it is extremely important. If the politician is not there, if there is no strategic authority and if there is no money, you are most unlikely to see the sort of result that we have produced here.

Q312 Chair: Do you think the nature of the system is relevant as well? Do you think there should be more joint working, whether it is through partnerships or contracts, between the transport authority and the bus operators?

Peter Hendy: That is important for a number of reasons, one of which is that the two pieces of our system that mean the most to passengers who go round London are consistent information provision and common ticketing. There is no doubt at all that those two features of all the public transport in London are really the backbone of the provision. The fact that the Oyster Card is used on every mode of transport and the fact that the information provision is consistent, complete and can be accessed without reference to who runs the services is really important.

I cannot believe anybody would not support those developments in the rest of Britain. As you know, there have been some strides towards it. It is much easier for us to do it in London because of our control over the whole system, but those are good things to do anyway. The Competition Commission is trying to say that at the same time as trying to sort out how you do it in a market that they would otherwise rather see as competitive. That is a bit of a curious animal to devise.

Chair: Thank you very much, Mr Hendy.

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**Examination of Witnesses**

Witnesses: Jeremy Peat, Chairman, Douglas Cooper, Inquiry Director, and Adam Land, Director of Remedies, Competition Commission, gave evidence.

Q313 Chair: Good afternoon, gentlemen. Welcome to the Transport Select Committee. Could I ask you to give us your name and position for the record?  
Jeremy Peat: I am Jeremy Peat. I am Chairman of this particular Commission inquiry. On my right is Adam Land, who is the Director of Remedies at the Commission. On my left is Douglas Cooper, who is Director of this particular inquiry.

Q314 Chair: Thank you very much. You have just heard Mr Hendy tell us that he thinks that the Competition Commission is trying to say that joint working between the transport authorities and the bus operators is a good idea as well as promoting competition. Is he right or are those two incompatible things?

Jeremy Peat: We do not believe they are incompatible. As one of our recommendations has suggested, the Department for Transport and the OFT should convene regular forums at which bus operators get together with local transport authorities, PTEs and the Department for Transport to discuss how partnerships are working in different parts of GB and how lessons of good practice can be learned, and how one can avoid going too far along the route of working together—where one can get to unsatisfactory endings, if you like. We certainly believe that partnerships have been very successful and there are lessons that can be learned. We would encourage more examination of where their actions could be added to.

Q315 Chair: In your report you say that you support "sustained head-to-head competition", but you also find that that is very rare, at least at street level. Why do you think that is the situation?

Jeremy Peat: We have a situation where, in urban areas, something like, on average, 69% of the services are provided by the major operator in that area. There is quite substantial aggregation of the service. We do have examples of sustained head-to-head competition in both urban and rural areas, which we refer to in the report, but we believe that there are barriers to entry. There are prohibitions on entry and competition, and we believe that if these are reduced or removed, there can be more scope for both actual competition and the threat of competition, which will encourage operators to behave more in the interests of passengers, which after all is what the inquiry should be all about.

Q316 Chair: Is it realistic to have sustained head-to-head competition at a route level on a very wide basis, because that does not seem to be happening?
Jeremy Peat: We have seen examples where it does happen. Oxford is one area; Sheffield and Nottingham are other areas. There are examples where it does happen. There are examples where there are other types of competition. There may be competition between buses that are coming into the area and buses that operate within the area. There may be competition by the type of product that is offered. A different quality of product may be offered by one provider as compared to another. There are various ways in which competition can and does take place. We believe there could and should be more. We believe also that the threat and scope for potential competition will also bring benefits.

Q317 Chair: Is it consistent to say that there should be more of this particular type of competition and at the same time support partnership working?
Jeremy Peat: Yes. There are examples where the partnerships involve two or more operators who work together with the local authorities to make sure that bus use generally is encouraged, that there are higher parking fees and that there is more access for buses so that one has general encouragement to the bus product, and at the same time there is competition between operators on particular routes. That does and can happen.

Q318 Mr Leech: Can I ask the three of you when was the last time you went on a bus?
Jeremy Peat: Monday.
Douglas Cooper: Last week.
Adam Land: Last week as well.

Q319 Mr Leech: So you are all regular users of the bus.
Jeremy Peat: Yes.

Q320 Mr Leech: Is that in London or outside London?
Jeremy Peat: I live in Edinburgh, so I regularly use the bus in Edinburgh and the Lothians. My colleagues are London-based.
Adam Land: I live in London.

Q321 Mr Leech: I live in Manchester. I sometimes get the bus in Manchester; I sometimes get the bus in London. I would certainly argue that the bus services in London are significantly better than any other place that I have used bus services in Britain. Would you agree?
Jeremy Peat: I am not a regular user in London. I tend to use the tube more than the bus but I certainly hear good things. We looked at the bus service in London as part of our inquiry even though it was not within our remit. We looked to see what we could learn from it. Certainly there are very positive messages that come out. But I would remind you that the subsidy per passenger for bus from the public purse is something like three times or upwards in London compared to other metropolitan areas in England.

Q322 Mr Leech: But, by general consensus, most people would argue that bus services in London, however much more expensive they might be, are better than in other parts of the UK.
Jeremy Peat: I think some people would argue that bus services in Edinburgh are pretty good as well. I do not think it would be a matter that was agreed across the UK, but I am sure there are a number of metropolitan areas that are jealous of the service that exists in London.

Q323 Mr Leech: Do Mr Land and Mr Cooper agree with that, as users of London transport?
Douglas Cooper: My personal experience is that the service is better in London in terms of the quality of the vehicles and the frequency of service.
Adam Land: I have not used the bus outside London a great deal. I think the key point that makes it difficult to make strong comparisons is this funding point.

Q324 Mr Leech: I am anxious to get to the bottom of why the inquiry came to the conclusion, with which you appear to agree, that increasing competition is difficult on the whole, and strong competition between bus services is pretty rare, yet you think that is better than the system of franchised bus services we have in London, which, by general consent, is better than where we have deregulated services where they may or may not be in competition.
Jeremy Peat: The first point I would make, as I tried to explain to Mrs Ellman, is that we believe it is feasible to enhance the extent of competition across GB in bus services, and that the measures we have proposed as remedies will work to that end and will lead to further competition that will be to the benefit of passengers. We looked at the option of franchising as an alternative for other parts of GB. We noted the costs in London. We also noted that London went straight from a publicly owned bus service to a franchised service. Many would argue that that is somewhat easier than going from a deregulated privately owned service to a franchised service. We noted that and we genuinely believe that in terms of practicality and proportionality the measures that we have proposed are more appropriate and more likely to bring benefits for passengers.

Q325 Chair: But you do contradict yourselves, because you did start off by reaffirming that you did not see more partnership working as an alternative to a competitive system. Now you are suggesting that more competition is the solution to get better services.
Jeremy Peat: Apologies if I have not been totally clear. We certainly believe that more partnership working in certain instances can be beneficial as part of this process. That is one of the areas where we have encouraged this coming together of operators with local transport authorities, agreed with the DfT, working together to see how they can learn from experience and how partnerships can be increased in number and made of more value to passengers. That, we believe, can work alongside the other remedies we propose for encouraging more competition.
Q326 Graham Stringer: We had FirstGroup before us a few weeks ago. They told us that they spent £3 million making representations to the Competition Commission during this inquiry. Can you tell us how you saw their expenditure of that £3 million? What did they do to present to and influence you?

Jeremy Peat: I have no idea what they spent and we have not asked them.

Q327 Graham Stringer: I am telling you that they spent £3 million.

Jeremy Peat: We certainly saw a great many responses from them to the papers we put out. We held several hearings with them. They employed lawyers, economists and other advisers to look at the proposals and the analysis that we have undertaken. They were very diligent in their co-operation with us and in their responses to papers and propositions.

Adam Land: We ran quite a hefty process. I do not think we would deny that we asked companies for a lot of information and data, and to do a lot of analysis. We put out a lot of working papers on which we seek views. Companies who are main parties to our investigations put in a lot of time to respond. They have choices as to how and in what depth they respond to each paper. I do not think we would deny that we place demands on the people who are parties to our inquiries.

Q328 Graham Stringer: Did they just provide you with economic analysis and legal responses or did they cross the line? Were they lobbying you?

Jeremy Peat: They were arguing their case very strongly. When we had economic analysis that we had undertaken, we showed it to them and we would have a workshop with them, and others, where their economists and the economists we had employed within the Competition Commission debated and discussed at some length and some complexity. I am not sure if the word is “lobbying”, but they were certainly arguing their case very strongly to us throughout the whole process, as were the other companies.

Q329 Graham Stringer: Were there private meetings that were not technical? Were there meals or anything that I would consider to be lobbying as opposed to just an exchange of technical information?

Jeremy Peat: No. Our hearings were on the record. There would have been discussions between members of the teams and members of the companies about some questions of detail and fact, but we certainly did not get together behind closed doors or in smoke-filled rooms to discuss issues.

Q330 Graham Stringer: That is categorical. Why did you change the recommendations from the draft report to the final report?

Jeremy Peat: We undertook more work. We listened further to the representations and the comments we received, and we worked towards our final conclusion. It was taking account of more evidence, more information and thinking harder. This was a long process.

Q331 Graham Stringer: Can you be slightly more specific than that?

Adam Land: I will take you through the process, particularly on how we worked. After about 16 months of our investigation we published what we called our provisional findings, which set out our views broadly on the competition questions we had been asked. Then we entered into a phase where we considered remedies. At the start of that we published what we called a remedies notice, which set out a range of options that we were going to consider during the final eight months of our investigation. There were a range of options with a view to having a consultation on those options. Franchising was one of the options that was being considered alongside partnerships, multi-operator ticketing and so on.

We then collected evidence from a range of parties about those options; we came to a view as to which was our preferred package of options, which we published in a provisional decision on remedies with probably about three months of the investigation to go. Then we published a final report. There was not a great deal of change between our provisional decisions and our final report. Where our position developed was moving from our initial list of the options that we were considering to our provisional decision and to our final decision. I would not categorise it as there having been a big shift from having been minded to do one set of remedies and then switching over to something else. It was a process whereby we narrowed down the options until we had come up with the package that we thought was the right solution in this market.

Q332 Graham Stringer: You were talking about on-road competition in response to Louise’s questioning; your report explicitly accepts that this is likely to lead to lower standards. In your words, “There is a risk that partnerships have potential to restrict competition if they specify unnecessarily high quality standards.” Why shouldn’t people in Sheffield, Manchester and Liverpool have high standards? Why should it be a race to the bottom?

Jeremy Peat: We are not suggesting it is a race to the bottom. If one takes the question of quality away from the companies and imposes quality standards, then that may impose costs upon them, which will lead them to a different outcome than would have been the case if they had been able to determine their own quality. I think that is what one is saying. Certainly the local authority has every right to express interest in the service for reasons wider than just pure competition. They may wish to impose certain standards and certain other conditions on operators as part of partnerships, but that is for them to determine. We are just stating that it can have other consequences.

Q333 Chair: What are those other consequences?

Jeremy Peat: If you are paying more for the quality of the product, then your fares go up and/or you reduce expenditure elsewhere, which may mean fewer services. It is not a matter of just putting a higher quality bus on, taking that extra cost and making no other changes in your model.
Q340 Graham Stringer: In a sense, that is one of the pillars where you are resting your argument for on-road competition as opposed to franchising.

Jeremy Peat: I do not think so. I think we are encouraging partnerships. We are very supportive of partnerships, but we are also very supportive of a range of remedies, which we have yet to discuss, that we believe can encourage competition.

Q341 Graham Stringer: But if that is not what you are resting your argument on, where is the evidence that on-road competition is better than off-road franchising competition in terms of delivering quality bus services?

Jeremy Peat: There are a number of good examples where there is on-road competition which leads to good services. I have mentioned three particular urban areas. There are also examples in Cornwall and parts of Devon, where there is good on-road competition that leads to a service which is seen as very satisfactory so far as passengers are concerned.

Q342 Graham Stringer: Again, that was not the question I asked; it was where it is better. There are clearly some areas where competition works and there are a lot of areas where it does not work. Where is the evidence that on-road competition is better than off-road competition? You are the Competition Commission. Where is the evidence between those two different kinds of commercial competition?

Chair: Is there any evidence?

Jeremy Peat: I really am not trying to avoid the question, but the difficulty is finding the actual comparisons that can be made. We have one example of a franchised system in the UK, which is London. We have other examples of attempts at on-the-road competition in the rest of the UK. One cannot directly compare one with the other in terms of the quality of service or the benefits that apply, because they are different in so many other ways.

Q343 Chair: Yes, but Mr Stringer is asking you for evidence behind your assertion. If you can look at your own report again and find some, please tell us what it is because that is why we are asking you. We are trying to get underneath what you have concluded to find the basis for those conclusions.

Jeremy Peat: We certainly have evidence that if competition increases, it does lead to more frequent and better quality services and a tendency for lower prices for passengers. That is evidence that we do have.

Chair: You do in part, but you also talk about geographic market segregation and non-aggression pacts, which is the other part. Mr Stringer, have you finished your questions?

Q344 Graham Stringer: Could I ask two more questions? There is undoubtedly evidence that competition works in some places and not in others. Your findings are pretty damning about collusion in the north-east. Given that you did not change your recommendations very much between the draft report and the final report, why did you not publish those findings until after the draft report?

Jeremy Peat: Essentially the information which led to us publishing our addendum to provisional findings on geographic market segregation—that evidence—only came to our attention very late in the inquiry. We undertook some very urgent work to dig out as much as we could of that evidence and to examine it as carefully as we could. We published it on 1 November, but we could not do it any earlier because we did not have that information at an earlier stage.

Q345 Graham Stringer: That is a fair point, but given that you found evidence of collusion—I accept that it is very difficult to find evidence of collusion between bus companies—why is that not evidence that you might be better, or probably would be better, having off-road competition where the bidding was...
transient among the different commercial bus companies?

Jeremy Peat: We took it as evidence that if one goes down the partnership route, one must be careful that one does not go too far so this type of collusion can be encouraged or permitted. We also took it as evidence that the more competition there is in markets so that potential entrants can come in, the less the parties are likely to collude because they will understand that if they do so in ways adverse to the interests of passengers, others will be encouraged into the area and they will not be able to get away with any form of action that is against the passengers’ interests.

Q346 Jim Dobbin: This is an interesting discussion and the issue of collusion is one of the points I was going to raise as well. When deregulation occurred originally there were hundreds of little buses running all over the country, but it was not too long before the major companies came in and just shifted them off the road, one after another. That is why you have ended up with the situation where you have major companies now who quite happily talk to each other and say, “We won’t fight each other. We won’t compete”, in other words. That is very serious and it should be highlighted more in the report. We should be asking why this is the case.

There is a simple question: if you are not going to compete with each other, how open would you be to renationalisation?

Jeremy Peat: I am not quite sure the question is there.

Q347 Jim Dobbin: I am going to give some examples of where we identified specific problems rather than


Jeremy Peat: A major difficulty with this inquiry was that there were something like 240 different markets for buses across the reference area—that is England, Wales and Scotland, excluding London. Each of them is different. That was one of the great complexities we faced in working out how to look for ways of enhancing competition to the benefit of passengers across those areas.

We undertook 11 detailed case studies of areas and we learned a lot about those areas. We also learned a lot from visits to 15 or 20 areas and other bits of work about the markets in other areas, but we could never become experts on each and every one of the different areas. We therefore focused on looking at the factors that we thought lay behind good and bad competition performance. That is where we discovered, in our view, that there were impediments to entry and proper competition that inhibited the development of competition in a range of areas.

Q350 Kwasi Kwarteng: You have spoken incredibly generally about this. Other colleagues on the Committee have asked for specific details and I am going to do the same thing. Are there any specific markets that you think are working well and that you would want to see replicated across the country? Are there any things that we can learn from particular areas? You say you favour sustained head-to-head competition. I also want to know why this is not happening as much as you would like to see it.

Jeremy Peat: The three good examples in urban areas we have identified are Oxford, Nottingham and Sheffield, where we believe that that is working well. We saw in Norfolk a new entrant coming in and competing very strongly with the incumbent and the service improving substantially. We saw in North Devon and in Cornwall examples of good strong competition to the benefit of passengers. Those were examples of good, competitive performance that we would like to see replicated elsewhere across GB.

Q351 Kwasi Kwarteng: Why do you think this is not happening?

Jeremy Peat: We think it is not happening because there are barriers to entry and to proper competition. That is why our remedies focus on opening up the market to more entrants and to more potential competitors.

Douglas Cooper: I was going to give some examples of where we identified specific problems rather than
good markets. An example would be in the west midlands where there were issues with a large operator, who, through their network tickets, was able to make entry for any rival much more difficult. There are other examples where there seem to be operators sticking to their particular areas and patches without a willingness to encroach on other areas, presumably because of the fear of retaliation.

Jeremy Peat: Just to follow up with a specific on the west midlands, following our recommendations we are aware that there are significant changes taking place in the way ticketing is going to operate in the west midlands. That will lead to more multi-operator tickets that are zonal rather than across the whole area and where the pricing is determined in a way that is more appropriate rather than any one operator having dominance. There are significant changes that will be to the benefit of passengers.

Q352 Kwasi Kwarteng: Do you think this is something that can be easily replicated? You have identified where you think the strengths are in terms of the geographical location, which I appreciate. How difficult do you think it will be for you, or for us as a nation, to widen best practice?

Jeremy Peat: It is not going to be easy. I quite accept that this is a very complicated and difficult area. There will be a role for each local authority to look at the interests within its area. It can look from a slightly wider perspective than we can. There will be a need for traffic commissioners taking a role in looking at the way in which operators undertake their activities. There will be a need to look at how partnerships can be developed. That again will need the local authorities to work with the Department for Transport. We need the OFT to take a proactive view to policy so that small mergers, which can have a major impact in particular areas, are looked at rather than just being nodded through, which leads to the large operators getting more and more dominant in some areas.

We have covered all these points. There is no magical solution. There is no one remedy that we can hold up and say, “That is going to change the bus market across the whole of GB.” We do believe that the remedies we have proposed, packaged together with local knowledge built in, can lead to a lot of the positive lessons being passed around other parts of GB.

Kwasi Kwarteng: Thank you; that is very helpful.

Q353 Chair: Mr Peat, I am a little perplexed. You have just mentioned Oxford as an area where competition has been affected. Yesterday a number of members of this Committee went to Oxford. We saw a very successful partnership scheme operating where competition had failed. It is very curious that you quote that as an example. It does not give us much reason to feel that what you are saying is based on solid fact.

Jeremy Peat: I think you will find that in Oxford there are numerous examples of the two major operators competing on specific routes within a context that has been set which gives a lot of priority to buses per se and therefore makes the market a good one for the bus sector, but there is still competition between operators within that partnership context.

Chair: The partnership scheme we saw was about the operators working together with the local transport authority. It was not to do with more competition. I know that Mr Stewart wants to ask something.

Q354 Iain Stewart: I want to refer to one of the aspects we found in Oxford yesterday—the multi-operator ticketing system that they use. That seemed to be working very well with no animosity, with fair play and a good system for divvying up the revenue. But that is within a partnership arrangement. I am interested to know, where there is competition and multi-operator tickets out with a partnership arrangement, how you can have fair play. There is evidence that some dominant bus companies will make the tickets unviable or unattractive. Who should be policing it? Is it the local authority, the Department for Transport or the traffic commissioner?

Jeremy Peat: We have suggested what is effectively a three-stage process for multi-operator tickets. We see no reason why the parties cannot work together in the best interests of the passengers now and improve along the lines of the approach to multi-operator ticketing that we have set out in our report. The governance arrangements are sort out so that you do not have one party dominant and fixing the prices to suit them. You will have a bus-only ticket in the zones where people travel rather than some area that suits particular operators rather than others. There are various changes that we have proposed. We believe a lot can be done and a lot is happening. Strathclyde has already decided to move to zonal bus tickets, which they did not have before. There are other things that are happening in other locations. There is stuff that can be done now and it is happening.

The Department for Transport is working on guidance on multi-operator ticketing, which it hopes to get out this year. That will again provide further information and advice to local authorities and others. We hope there will be a follow-up with legislation during the course of 2013, which will provide an enforceable context, which does not exist at the moment. We do believe there can be, and will be, significant progress along the three lines I have discussed.

Q355 Iain Stewart: Who would enforce? That is what I am trying to get at. Who takes ownership of this? I agree with you on the guidelines and legislation if necessary, but you need someone to make sure that it actually happens.

Jeremy Peat: You will often find that the passenger transport executive or the local transport authority are the bodies that would have responsibility for making sure that it operates appropriately, just as with our Bus Station Access Order, which we ourselves are going to put out within the next month or two. That will be an order allowing full and fair access to bus stations for all parties, whoever owns them. There may then be a role for LTAs in dealing with any disputes. We will introduce the rules and then it will be for the LTAs to make sure that they are fully and properly implemented.
Q356 Kwasi Kwarteng: For my own elucidation, looking at your report, again it was very general, and I was just wondering whether there was a reason for that. You mentioned Oxford and then the Chair tackled you on that. Why was the report couched in such general terms and why did I have to push you to give examples? From private sector experience, if I were going to look into this, I would say, “Here are the five best practice examples. This is why they are a good thing and this is how we are going to implement this nationally.” There seems to be a reticence on your part.

Jeremy Peat: My reticence is because, as I said, there are 239 different markets.

Q357 Kwasi Kwarteng: Sure, but you are an intelligent man. You can distil large amounts of information.

Jeremy Peat: We have attempted to do that. We did 11 very thorough case studies and we visited other areas. We learned a lot of lessons from them. What I am aware of is that I am not an expert on any one area; we cannot be. In an ideal world, one would have detailed studies undertaken in each of the major metropolitan areas and elsewhere, but that was not possible within the context. We have endeavoured to do sufficient work on particular areas to learn lessons, to listen to examples of good and bad practice and examine those, and then to draw out general threads of what leads to good and bad practice and activity and see how we can work to encourage the good practice and discourage the bad. I am sorry if that is a general answer, but that is the way this had to work given the amazing diversity of the market that we were examining.

Q358 Kwasi Kwarteng: I was struck by the fact that the report itself was quite thin on concrete examples. I found that bizarre.

Jeremy Peat: There are full appendices on each of the case studies that are there. We are not usually used to our reports being called “thin”.

Q359 Chair: Is the answer perhaps to Mr Kwarteng’s question that the solution is not so clear-cut and that there are areas where you see encouraging more competition as the answer but equally areas where you are looking at partnership solutions?

Jeremy Peat: That is certainly right, Madam Chairman. The answer is that there is no one solution for this sector, and one should not believe that that is the case. One is not going to get to a position where you have a different regulator for each of the 239 urban areas that we identified who works to impart different remedies in each of those areas that are appropriate for those areas. We had to work in a way that was practical and could lead to remedies that we believed could be implemented with a degree of local participation in the way they took place and taking account of the local differences, but with a menu of remedies that we genuinely believe would work in different packages in different locations.

Q360 Julie Hilling: My question probably follows on from that. The one place where I have seen competition work is in Manchester. There are buses through Mr Leech’s constituency at a frequency of more than one a minute. There is a stop in the night, where overnight, the buses stop for five minutes before they start again—going through the student quarter. What I do not understand how your proposals are going to assist in my constituency, or in an area like that, where the concern is wanting more frequent buses than maybe one an hour or every half an hour, where the routes clearly are not greatly revenue-producing and where people want more routes. I do not understand how your proposals are going to assist in an area like that.

Jeremy Peat: We did divide the bus sector into two components. There was the commercial sector and the tendered services. What we have across GB is about one third of the services—I think that is right—supported by the public purse in different locations because they are not sufficiently profitable to operate in the way that you and other residents would wish, fully on the basis of commercial considerations. In those areas, the question for DfT, the Scottish Government and the Welsh Assembly Government is to consider how much they wish to devote to supporting such services and then trying to develop the best procedures they can for getting a good number of tenders to get efficient delivery of the services they deem appropriate in particular areas.

We have recommended that the tendering procedures could be improved. It has been agreed by DfT, and I believe by the Scottish and Welsh Governments, that they will look again along the lines we have proposed at improving the tender process so that we get more people responding to tenders and we get better information to people who want to come in. You should get a better delivery of services for the same amount of money. Then it is up to the Governments to determine how much funding is available.

Q361 Julie Hilling: But these are not just tendered services; they are commercial services. The market would not produce more. Are you therefore saying that we need more quality contracts, where there is a package of services and people then tender for both commercial and tendered services? I do not see how competition is going to solve it.

Jeremy Peat: Our analysis shows that if you increase competition—if you add one more operator on a service—you get a significant increase in the frequency of service. The main impact of increasing competition is on frequency, and that is what our analysis demonstrates.

Douglas Cooper: I want to clarify something. When we talk about “frequency” it is not the number of buses per hour; it is also the time they start and the time they run in the evenings, whether they run on Sundays and so on. That is because for a monopoly operator it is easy to cut services at the margin and try to focus people on their core services. When they are in competition, we found the evidence was that they were looking at their competitors and trying not to leave a gap open for them where someone could get a foothold in their territory.
Jeremy Peat: We do believe that competition will lead to a better service in the purely commercial area for people in the areas you are describing.

Q362 Chair: But it is the local authority who decides which tendered services they want to go for, isn’t it? This is not done nationally. It is done on a local basis.

Jeremy Peat: Then there is the question of the funds that are available for that. We were not looking at the question of what funds were appropriate to allocate to it because that is beyond our remit.

Q363 Chair: Your remit was pretty narrow, wasn’t it?

Jeremy Peat: Our remit was as laid down by Parliament.

Q364 Chair: But it was still pretty narrow because it did not allow you to think about these things.

Jeremy Peat: I gather that under the legislation that may be considered following the Queen’s Speech there may be an opportunity for Parliament to revisit that, but that is for others and not us.

Chair: We will see.

Q365 Graham Stringer: You estimate in the report that the lack of competition has a cost of up to £305 million. I think that is the figure.

Jeremy Peat: That is correct.

Q366 Graham Stringer: How much will the remedies and measures in the report reduce that cost of £305 million?

Jeremy Peat: Do you want to answer that, Adam?

Adam Land: Thanks for that. It is hard to tell. When we estimated the detriment associated with lack of competition we came up with a range. It was quite a wide range of between £115 million to £305 million. When we looked at the remedies we were looking at their impact and proportionality as well. In terms of their effectiveness and how they will address that, when we looked at the main barriers to competition, among the things we identified were difficulties with ticketing. There were other barriers associated with responses to entry and difficulties in accessing key facilities and so on.

We think the remedies that we have are targeted at a number of the main problems. I could not put a number on it, but we think we will be able to address quite a lot of the causes of the detriment that we have found. We also looked at the costs and estimated that the ongoing costs of our remedies were pretty modest. They were less than £10 million per year, so we were comfortable that the remedies were going to do substantially more good than harm.

Q367 Chair: How much more good?

Adam Land: I do not think that was something we could state with—

Q368 Chair: You did not quantify the amount of good.

Adam Land: We quantified the harm. We formed a view about the effectiveness of our remedies on that. We reached a judgment that we would comfortably recoup the costs that we would be putting on to the industry. Putting a precise number on it is a very difficult task and it was not a task that we felt comfortable doing. There are a lot of things that need to happen, not least in the implementation of our remedies, to see it through.

Jeremy Peat: The first point is that we are very keen to see full and proper implementation. A lot of that is outside our hands now. It is for others to implement.

Q369 Graham Stringer: Remedies 64(a), (b) and (c) are rather good. The question I am really asking is whether they go far enough. There is nothing wrong with those remedies in terms of improving competition, but why have you not looked at divestiture? You also found evidence, when we talked in private, of excessive or very high returns on capital employed. You have said yourself that there are areas where there is very little competition. You have all the powers to order businesses to divest themselves. Why didn’t you look at that as a remedy because that would have really dealt with some of the competition issues?

Jeremy Peat: We did at a very early stage. We looked at divestiture as a possible remedy. The difficulty is to whom do you divest? If one divested the operation of one major operator in an area to another operator, and there still was not scope for proper competition and risks of competition, then there was nothing to prevent the new owner from retreating into the bad practices of the old owner. We felt that in order for this whole system to work, you had to have the ability for people to enter this market and exert competitive influence. Divestment alone would not work.

Q370 Graham Stringer: That is rather a weak argument. All Members of Parliament look at their own areas, but if you look at my area, which is dominated by FirstGroup, if you divested their interests and put two operators in there and allowed them both to use their depots, why would that not work? Your recommendation (c) on access to bus stations is a good recommendation. If you divested to two operators in those bus stations, why would that not work?

Chair: Was that considered, Mr Peat?

Jeremy Peat: Certainly; we looked at divestment. We were not sure that it would have the effects that were required, and it would have been a very intrusive measure that would have required a lot of detailed action across the whole of the area we are talking about. Each individual area would, again, have had to be looked at individually. It would have been very time-consuming, very costly and very intrusive. We did not believe it would necessarily have the benefits that you and we were seeking, without, at the same time, opening up to competition in the way that we now believe can be achieved.

Q371 Graham Stringer: I have a final question. One of the consequences of on-road competition is congestion, which has very negative impacts on people. What weight did you give to congestion in your studies and investigations?

Chair: Did you look at congestion?
**Douglas Cooper:** Not as a direct and specific issue itself. We were aware that through partnerships and the traffic commissioners’ restrictions there were systems to control congestion should that aspect of competition get out of hand.

**Jeremy Peat:** We were aware of examples of what we call “cheap exclusion”, where one operator deliberately runs more and more buses in order to inhibit the action of a potential competitor, or running a bus just ahead of a competitor’s. The role of the traffic commissioner is extremely important in that and in other areas.

Q372 **Chair:** Do you agree that the traffic commissioners should be strengthened?

**Jeremy Peat:** I read the evidence that the senior traffic commissioner gave you. I was disappointed that she said that she did not have the resources to work on a code of conduct. We tried to limit the amount of extra work we put to the commissioners because we are aware of the inhibitions, but we believe they have a very important role to play. I would be disappointed if their resources prevented them going forward with the limited extra work that we believe is very important.

Q373 **Chair:** Does that mean that if they could show they needed more resources to do what you consider very important work, you would support that?

**Jeremy Peat:** Personally, I most certainly would. I believe that they are a very important part of this whole process. They are on the ground and knowledgeable, and very much respected by the operators and the LTAs. They have a critical role to play.

Q374 **Chair:** Did any of the passenger groups who spoke to you say they wanted more competition?

**Jeremy Peat:** We tried very hard to speak to passenger groups. We carried out a major passenger survey. We held a whole host of focus groups, and we spoke to Passenger Focus and others. We received a variety of evidence, but there was considerable support for the outcome of competition without necessarily believing that the competition—

Q375 **Chair:** You are making an assumption there about the outcome. Did any passenger groups say that they saw more competition as the solution to the problems?

**Jeremy Peat:** Passenger Focus was supportive of that.

**Adam Land:** When you look at some of the remedies, in particular in the ticketing area that we have been discussing, as you will have heard yourself, there is strong support from passenger groups and from passengers.

Q376 **Chair:** So they supported some of the remedies you put forward, but did any of them see this as the total solution to the problem?

**Jeremy Peat:** There were very different views. Frankly we got limited views from some of the passenger groups that we spoke to, but we got very clear views from passengers we spoke to that what mattered to them was frequency, reliability and quality of service. That is what they were really interested in.

Q377 **Chair:** They were talking about the outcome; you are looking at the means. They spoke about the outcome and not the means.

**Jeremy Peat:** That is right. We can discuss the outcome with them but it is difficult to get into the technicalities.

Q378 **Kwasi Kwarteng:** Picking up from the Chair’s question, how conscious of competition do you think passengers are? As a consumer you are focused on the outcome and you do not really care about how it is provided, whereas clearly you are interested in the mechanism by which it is provided. How conscious do you think consumers are?

**Jeremy Peat:** First of all, we are interested in the outcome. That is what we are really interested in. The process is a means to that end. I was surprised when I got on a bus or when we were travelling round that people knew what the different competitors were and they knew how they worked. Those passengers out there were pretty well informed.

**Chair:** Thank you very much for coming and answering our questions.

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**Examination of Witness**

**Witness:** Norman Baker MP, Parliamentary Under-Secretary of State, Department for Transport, gave evidence.

**Q379 Chair:** Good morning Minister and welcome to the Transport Select Committee. How satisfied are you with bus services outside London?

**Norman Baker:** I am never fully satisfied, which is why we attempt to change the arrangements for BSOG, for example. It is why we have been looking at particular incentives through the Better Bus Area, the Green Bus Fund and so on. Essentially, I want to make sure that bus services are as attractive as possible to people and that they represent a mode of transport of choice rather than by default in particular areas. We are making progress in that respect but there is more to do. I note that Passenger Focus in their analysis of satisfaction levels, as they measure them, came up with a pretty high figure for satisfaction. I think it was 89%; it was very high—if we could get 89% as politicians, we would be doing rather well in terms of satisfaction with bus services. Even the lowest was about 75%, so there is satisfaction from those who use them. There is probably a less
impressive percentage from those who do not use them and have chosen not to use them. Therefore, it is perhaps skewed in that way. Even that high figure is not to say that we could not make improvements.

**Q380 Chair:** Do you want to expand the market for buses?

**Norman Baker:** Do I want to expand the market in what sense?

**Q381 Chair:** Do you want more people to use buses?

**Norman Baker:** Absolutely.

**Q382 Chair:** What do you intend to do as a Minister to support that?

**Norman Baker:** First of all, you have various strands of funding that are designed to achieve that end. If you look at the Local Sustainable Transport Fund, for example, which is £560 million, a large number of the Tranche 1 projects—£155 million was approved last year—were bus-related matters. I am sure that Tranche 2, when it is announced very shortly, will have further bus-related projects. Those projects can look, for example, at punctuality and problems with punctuality along particular routes. If we can get particular junctions sorted out or bus priority lanes put in—and that is what some of this is funding—that will improve the offer that the bus can make.

We are also improving the quality of the bus through the Green Bus Fund to make sure that people feel good about the bus they use rather than feeling it is a clapped-out vehicle that they don’t want to use. By all those means, and those are just two examples, we are seeking to make the bus more attractive and therefore push up the number of bus passengers.

**Q383 Chair:** Do you see the Competition Commission’s report as being important in improving bus services? Which of its recommendations do you intend to take forward?

**Norman Baker:** Yes, I do see it as important. We did not commission it; they commissioned it themselves. We inherited it. It was a long process and we have published a formal response to it, which says that, by and large, we will take forward nearly all of their recommendations, which I think are reasonably well judged. I am particularly interested in the ones that relate to multi-operator ticketing, which has proven to be successful in Oxford, for example, and Liverpool.

That has the potential to improve the offer for the passenger. I am also interested in the recommendations on operator behaviour in terms of notification periods. We are taking those matters forward as well.

**Q384 Chair:** What about their view that head-to-head competition is the solution?

**Norman Baker:** I tend to agree with them that, in some areas at least, head-to-head competition, and competition in the market rather than for a market, is the appropriate method, provided it can be handled in a way that is sensible and does not end up with the bus wars we had in the late 1980s. Equally, I accept that there are many who believe that competition for the market—i.e. through a quality contract or other such mechanism—is another appropriate way. I do not think it is for us in the Department for Transport to decide what is best in each particular area as to how the buses are organised.

**Q385 Chair:** So you support quality contracts.

**Norman Baker:** Chairman, you will know I am on record as having done so before the last election. They are there in legislation. They are there as part of the Local Transport Act 2008. They remain on the statute book. There is no intention to repeal those provisions, but it is up to local PTEs, ITAs or councils, whatever it is, to make up their own minds as to whether or not they wish to avail themselves of those powers.

**Q386 Chair:** If local transport authorities want to go forward with quality contracts or quality partnerships, is that something the Department would facilitate rather than seek to obstruct?

**Norman Baker:** We certainly would not seek to obstruct it. We will help local councils if we are asked to, just as we would help local councils who want to look at Better Bus Area applications or other methods to help the bus in their area. We are neutral in a sense, as a Department, as to what the outcome should be for each particular area. It is for elected local councillors and others to decide what they want to do.

**Q387 Kwasi Kwarteng:** I appreciate your concerns for localism and local decision making, which are obviously part of the Government’s broader agenda, but I want to ask a very general question. You as the Minister have a good sense of bus operators in Britain and what the problems are. Do you think very broadly that more competition is needed across Britain or less?

**Norman Baker:** There is no simple answer to that. It depends on the area and the individual circumstances. There are places where you might argue that the lack of direct competition has caused detriment to the passenger and to the public purse. The Competition Commission themselves identified the cost to the passenger as being a minimum of £115 million and a maximum of £360 million from the faulty application of competition. Therefore, it could be argued in that sense that the lack of competition has caused a market failure to the detriment of the passenger.

Equally, however, there are certain routes for which clearly competition would not be viable because the routes simply could not sustain two operators going head to head and, therefore, a different solution may be necessary. That is why I think there is no blueprint that the Department for Transport can produce that can be applied equally across England. The situation in Manchester may be different from the situation in Brighton and the situation in Exeter.

**Q388 Graham Stringer:** The Government have said they are going to fully implement the recommendations of the Competition Commission. Is that right?

**Norman Baker:** I do not know that we said “fully”. For example, there was a suggestion that BSOG might be used for a particular purpose, which we do not intend to take forward. By and large we are implementing the recommendations, yes.
Q389 Graham Stringer: What is the schedule for doing that?

Norman Baker: It depends. Each recommendation has a different arrangement. For example, the operator behaviour recommendations will require secondary legislation. That should be in place by April 2013. We are producing the multi-operator ticketing guidance now. We will have that ready as soon as we possibly can. If multi-operator ticketing requires primary legislation, because we have not been able to persuade local authorities and bus companies to work together on that successfully, then obviously that requires a slot in the House of Commons from the Leader of the House, which will be later in this Parliament, I hope. Each recommendation will be taken forward as soon as it practically can. That will depend on whether it can be done right away or whether it requires either secondary or primary legislation.

Q390 Graham Stringer: What about access to bus depots?

Norman Baker: The Competition Commission identified particular failures in particular geographical locations relating to access to bus stations. They have suggested that should be remedied for those particular locations. Clearly if further legislation is required on that, then we will look at it, but I understand that can probably be done without legislation.

Q391 Graham Stringer: Can you expand on that? Is it by secondary legislation or is it the Competition Commission who can make an order on that?

Norman Baker: The Competition Commission has clearly made this recommendation.

Q392 Graham Stringer: I am looking at the implementation, Minister. Who will implement that recommendation? It is a good recommendation, but who will implement it?

Norman Baker: As I understand it, there is now a requirement for fair access to be the norm. I would expect that, in sense, to be self-regulating. If it does not become self-regulating, then that is a matter that we will look at.

Q393 Graham Stringer: You said in the “Green Light for Better Buses” paper that you would look at legislation by the end of Parliament to force disclosure of information on newly deregistered services.

Norman Baker: Yes.

Q394 Graham Stringer: Wouldn’t it be a good idea to bring that forward so there can be improvement in the buses? It is urgent for many of our constituents.

Norman Baker: It depends on what can be done and how quickly it can be taken forward. Apart from the requirement for legislation, which necessarily imposes a timetable on us or any other Department looking to do things, we also have to take into account the capacity of the Department to respond to the changing scenario that I and others at ministerial level are creating for officials. We have a major programme coming to take forward to secondary legislation, for example, on operator behaviour. I am also requiring a consultation on BSOG, which is quite complicated to get right. We have to be realistic about what we can ask officials to do all at one time, particularly at a time when civil service numbers are declining.

Q395 Graham Stringer: You have said that it is up to local people in integrated transport authorities or county councils to decide whether they want to go for quality contracts. In the way the BSOG system is likely to work under the Better Bus Areas and quality contracts, is there not there a disincentive for the quality contracts? In effect, the bus operators can stop the BSOG being transferred and you would get a BSOG plus top-up under the Better Bus Areas. That is complicated, but there are two different parallel systems. One gives a disincentive for quality contracts. What can you do about that?

Norman Baker: The first thing is that, obviously, if local authorities can work together with a bus company in a partnership arrangement, there is a financial reward. That is quite right because we want to encourage co-operation for common purposes. As far as the passengers are concerned, if you can get those two sides working together rather than opposing each other, that has to be better for the passenger. That does not take away the right of the local authority to opt for the powers within the Local Transport Act 2008 to have a quality contract. As far as the final financial outcome in terms of incentives or otherwise, that has not yet been decided. That is the straight answer. There will be a consultation formally on BSOG later this year. That narrow but important matter will be considered as part of that consultation.

Q396 Graham Stringer: My final point is that in the real world Stagecoach, Arriva and FirstGroup are not going to co-operate with quality contracts, are they? They are at war with the concept of quality contracts.

Norman Baker: I am glad you have asked that question because it gives me the opportunity to say that I would expect any bus company to adhere to the law as Parliament has passed it. It has been through a proper process in this House and through Parliament by the previous Government; it is there on the statute book and has been enacted. That is the law, and local authorities are entitled, if they wish to do so, to go down the quality contract route. There are risks to that, as you appreciate very much from having been on the Committee with me, which local authorities will have to take on board. Clearly some bus companies will be unhappy if a quality contract route is chosen. That will necessarily, I imagine, affect their relationship on a day-to-day basis with the local authority. That is a matter that the local authority needs to factor in. However, I would expect bus companies to respect the law. Certainly if a bus company were to adopt a scorched earth policy or anything similar in the face of a local authority wishing to exercise its right under the 2008 Act to have a quality contract, I would take a very dim view of that. The senior traffic commissioner has already said that she would take a dim view of that. That might cause reputational harm to that particular company.
Q397 Chair: Would you make that view very clear to any company who does threaten a scorched earth policy?

Norman Baker: I hope I have just done so.

Chair: That was it. I think your words might be noted and just might be repeated elsewhere.

Q398 Mr Leech: You are the Minister for Buses and the Minister for Cycling. I know you are a regular cyclist, but when was the last time you used a bus?

Norman Baker: I use a bus nearly every day in London, as a matter of fact.

Q399 Mr Leech: In your opinion are bus services in London better than in most other parts of the country?

Norman Baker: In some respects they are and in other respects they are not. London is a compact area, and the population and the geographical nature of London lends itself to good bus services in a way that is more difficult for, say, a small county town to justify. We therefore have a frequency level of buses and a route choice of buses that is highly desirable, and that other places would doubtless like to have.

Having said that, the model in London does have downsides. I am not personally convinced that it is as efficient as it might be. There seem to me, as an observer and a user of buses, to be quite a large number of buses running around London well below capacity. I wonder whether a more efficient timetable might be applied. I do not want to generalise on this but I suppose I am about to do so, but it is also the case that the engagement between the driver and the passenger is slightly different in London than it seems to be elsewhere. I think that is because of the nature of the farebox arrangements in London, where the buy-in from the passenger appears to me to be less important in London than it might be elsewhere. On the upside, it is a very good service, and if you go to a bus stop a bus will turn up pretty quickly. It is called real-time information. By and large the bus fleet is new and clean. I would say there are advantages both ways. It is not an either/or.

Q400 Mr Leech: The Competition Commission concluded that enhanced competition was generally a better solution than the franchise system we have in London. Would you agree that it would appear, on the face of it, that the basis for that assumption was simply that the bus system in London costs more?

Norman Baker: I am not sure that the London bus system actually does cost more. I asked my officials to work out the cost per passenger to the public purse from buses in London and elsewhere. From memory, it is 45p per journey or per mile in London. I probably need to look at my notes on that. The total net Government support per passenger journey in London is 45p. In the English Met area it is 57p. In the English non-Met area it is 71p. That is when concessionary travel reimbursements are taken into account, so I am not sure that issue about the cost is entirely accurate.

Q401 Mr Leech: The argument is that sustained head-to-head competition will improve services for passengers, but the Competition Commission also accept that sustained competition is rare. Will their recommendations actually lead to more sustained competition? Is there a potential downside, where there has been sustained competition, that other services will lose out as a result of sustained competition on certain routes?

Norman Baker: The Competition Commission clearly believe that the remedies they have identified and put forward will deal with the problem which they sought to paint. They identified the detriment to the passenger in the quantification I gave you a moment ago and they put forward a series of recommendations. They clearly believe that they will deal with that, otherwise, presumably, they would have gone further in their recommendations.

Q402 Chair: They did make those recommendations, but when we questioned them this afternoon about what evidence they had that lay behind some of those recommendations, it either was not forthcoming or it seemed pretty thin. Will you be asking more questions before you accept all of these points?

Norman Baker: I do not know what they said and if they were or were not able to justify their recommendations. What I would say is that they have produced a very full report which would weigh quite a lot and therefore is packed full of their analysis. Perhaps they were not able to explain their analysis rather than the analysis not being there. It certainly seems to me that some of their recommendations will deal with the competition point. The operator behaviour issues, the length of notice period given and so on seem to me to be sensible steps that will help competition.

I should say that we in the Department are also trying to help competition in our own way. For example, I have allocated £50 million to help with smart-card enabling for small and medium-sized operators to make sure that they can compete fairly against the big five. I do recognise that it is important to make sure that we do not end up with a concentration of bus services in a very small number of hands.

Q403 Iain Stewart: I was intrigued by some of your initial comments about the Department being neutral in the type of arrangements that local authorities can have. I very much agree with the localism that they have, we not seeing a trend emerging whereby different types of model will work in similar areas? For example, we were in Oxford yesterday and that partnership arrangement looks as if it could easily be applied in other small cathedral-type cities. There will be another model that would work in larger urban conurbations. While not compelling any local area to follow a particular model, should the Department not be taking more of a lead to say, “Hang on, this model that works in Oxford could do well in your area”?

Norman Baker: I entirely agree with you that the model that might work in one place would be different from the model that might work somewhere else. That is one of the reasons why I say we are neutral on the model to be used. It would be quite wrong to try to impose from the centre a model that says, “This is what you will do.” That is clearly not going to be as effective as allowing local authorities and areas to work out what is best for them.
We provide guidance of all sorts from the Department across the range of our functions. I want to stress that in the era of localism we are now moving into, the local government family itself has a role to play in identifying best practice in a way that it has not always done before. In drawing the conclusions that you have just drawn, they have a role to play as well as the Department.

For example, PTEG has done good work over the years, I think, in identifying some good practices within its member authorities. The same has not necessarily been the case, in my view, across county council areas. More can be done within the local government family to identify best practice, but in so far as we issue guidance and keep an eye on matters we will continue to issue guidance. The recent paper “Green Light for Better Buses” of course does set out far as we issue guidance and keep an eye on matters where they have not been able to look at corridors in the way they ought to have done. One of the steps that my colleague Theresa Villiers is taking is to look at the devolution of some railway powers to local government, to encourage them to look at transport in a more holistic way and to make those sorts of assessments and choices that hitherto they have not been able to do.

In terms of bus versus car, if you put it in those terms, although I do not necessarily see it in that way, local authorities have to make the judgment—they can do so already—as to whether or not they want to provide, for example, priority bus lanes for public service vehicles. I would argue that it is not bus versus car, because if you get the bus working well it takes a large number of cars off the road and eases congestion as well. Those sorts of judgment are already there.

There are plenty of examples of good and bad practice, frankly, around the country. Any local authority that wants to look at its transport system seriously, I would have thought, would want to look around the country to see what has worked and what has not.

Q405 Kwasi Kwarteng: An issue has been raised about excessive profits. What are your views on that? Do you think that outside London there is a case for suggesting that companies are making too much money as operators?

Q406 Kwasi Kwarteng: So you are broadly supporting the Commission’s findings on that.

Q407 Julie Hilling: Minister, I want to pick up on a couple of comments you have made and ask for some explanation. You did say that there need to be other solutions on routes that cannot sustain traditional competition. What do you see those other solutions as being?

Q408 Julie Hilling: That takes me to the next question. We have talked in today’s session and other sessions about Stagecoach’s threat to adopt a scorched earth policy if a local authority introduces the quality contract. You said previously that there would be reputational damage. However, I am not sure that that would be enough. Is there anything else you can offer from a departmental position to a local authority who may want to take the other options that you have just outlined?

Q409 Kwasi Kwarteng: As I say, the option is there in the legislation and they are free to adopt options that are legally available to them, if they wish to do so. In terms of reputational damage, I would not underestimate the impact that has. Gerald Ratner was the first person who came to mind. You can have reputational damage that can be quite significant for your company. The idea that a particular operator, whoever they might be, would risk that and become potentially—depending on how it is presented to and interpreted by the public—some sort of pariah is not a risk that they would want to take. The threat of damage to reputation is a real one.
Q409 Julie Hilling: Is there nothing else that you can offer?
Norman Baker: Clearly any operator has to work within the law. There are restrictions on what operators can do as well as there are on local authorities.

Q410 Julie Hilling: One of the issues that affects my area is when an operator decides that a route is no longer commercially viable and really puts a local authority in a position of what I would say is extortion: “We are going to stop running this route. The only way we will run this route is if you then take it on as a tendered route.” Do you have any solutions to that under the current system?
Norman Baker: That is part of the question that Mr Stringer asked earlier about tendered bus services in particular. There is some belief among some people that if a route is deemed no longer viable, the expectation is that it will then be tendered and the local authority will effectively provide a subsidy for a route that may or may not be commercial. That is particularly believed to be the case in areas where the tender is unlikely to be subject to competition and there is likely to be only one bidder for that particular route.

Part of the recommendation from the Competition Commission was that local authorities would be provided with extra powers to request and to make available information from operators about the revenue and patronage of commercial bus services if they were deregistered. We believe that would be a useful step to take. We are committed to taking that forward. Mr Stringer would like it done right away. We think it probably requires primary legislation, which is why we have to wait, but that is a useful remedy for that particular problem.

Q411 Paul Maynard: The senior traffic commissioner was at one of our earlier evidence sessions. I paraphrase this, so she might well complain, but she was struggling to fulfil all her duties due to lack of resources, particularly in terms of VOSA. How would you respond to her perspective on her ability to do her duties?
Norman Baker: It is a long established principle with the traffic commissioners that their activities are covered by the fees which come in. They have to be broadly in equilibrium with each other, and indeed they broadly are. Last year the traffic commissioners spent £14.2 million and the fees that came in were about £12 million. The difference was covered by the wider VOSA budget. Any organisation or element of the public service may well argue that it needs more money. Indeed, I argue with the Treasury that we need more money at the Department for Transport. We all do those sorts of things, so I am not surprised that the senior traffic commissioner wants to have more resources. I entirely understand that.

Q412 Paul Maynard: In the general wider bus community there seems to be a perception that the traffic commissioners are that rare beast—a regulatory success story. Do you think there is any scope for widening their role in the light of the Competition Commission report and the provision of bus services generally?
Norman Baker: The Competition Commission do not really propose very much widening of the role for traffic commissioners. They talk about different arrangements for termination periods and so on, but that is just different deadlines within existing rules. I do not see the traffic commissioners’ role being much more onerous as a consequence of the Competition Commission’s recommendations that we are taking forward. I agree with you that they are a success—they are seen to be a success—and I think Beverley Bell does a good job.

Q413 Paul Maynard: Given that they are a success, is there no scope for you to think parallel to the Competition Commission? Why should you be restrained solely by the Competition Commission’s findings? Could you not create your own ideas?
Norman Baker: We do, I have to say. Indeed, “Green Light for Better Buses” is a distillation of our ideas in the Department. We were aware that the Competition Commission were reporting on a range of areas, obviously dealing with competition primarily. At the same time, we have business plan commitments to look at; for example, the allocation of Bus Service Operators Grant. We have other policy commitments, such as making sure our buses are greener and cleaner. What I wanted to do, and I made it very plain to local authorities and operators alike at an early stage, was to try to get one package together so that we could deal with any changes to the structure of the bus industry at the same time, rather than coming back with a series of incremental changes that they were not expecting. I have learned one thing from talking to business over the years, as an MP, a Minister and indeed as a council leader before: you can ask business to do almost anything, providing you don’t keep chopping and changing, and there is some certainty of direction as to where you want them to go. What I try to do is give certainty of direction. The combination of the Competition Commission recommendations and our response, with our own initiatives that the “Green Light for Better Buses” policy document produced, gives that direction of travel.

Of course there are other things we could have done, but you have to work out in any one situation whether or not any steps you take are going to be beneficial, or whether they are simply going to create work for somebody, and whether they help with our objectives to use the bus industry to create growth and facilitate access to employment, help cut carbon and provide socially necessary routes. Do they do those things? We think our proposals do. I do not think we should just add further proposals to make it look fuller.

Q414 Graham Stringer: Peter Hendy, who was our first witness, said that there are people in the bus industry who should not be there. Basically they are rubbish bus operators. He did not use those words, but I do. He thought that the reason there were people in the industry who were still there was because the traffic commissioners did not have sufficient resources.
to deal with them, and that VOSA generally needed more resources. Everybody wants more resources and you gave a good general answer, but there is a particular problem here, which we are dealing with in the Competition Commission report where the bus industry is not providing a service as well as it could do. Do you not think that Peter Hendy is on to something, and that there should be more traffic do. Do you not think that Peter Hendy is on to industry is not providing a service as well as it could in the Competition Commission report where the bus you gave a good general answer, but there is a more resources. Everybody wants more resources and it is a wide range anyway—it would be very difficult for them to be 100% certain as to what their measures would do. I would have expected them to have concluded that if there was a problem of a particular magnitude, then the measures they are taking would deal with that problem in the average and I would expect the measures to reflect that.

Q415 Graham Stringer: On the recommendations in the Competition Commission report, you have said the timetable is not clear but you are accepting most of them. When we asked the Competition Commission whether those recommendations would deal with the burden of up to £300 million that they had identified, they were not sure what percentage of that cost would be dealt with by the recommendations. Do you not feel that the Competition Commission could have gone further and that the Government should look at extra measures to improve the bus industry?

Norman Baker: On the last point, we are looking at extra measures, which are set out in the parallel document “Green Light for Better Buses”. That takes significant steps to improve the industry. For example, the proposal to devolve BSOG to local authorities for tendered services is a very welcome step forward and one that local authorities appear to be supportive of and the bus industry sees the sense of. I think there are wider steps we are taking.

In terms of the Competition Commission’s recommendations themselves, if they say—I have not heard them say it but you tell me they have—that they are not sure how much of the £300 million, which of course is the top level of the estimate, is going to be dealt with by their measures, it could be that all of the £300 million will be dealt with by their measures, or maybe it won’t be. I am not sure it necessarily means an underperforming outcome from that. Given that there is such a wide range of detriment identified—and it is a wide range anyway—it would be very difficult for them to be 100% certain as to what their
1. Overall

(i) The Competition Commission report into the bus market contains few surprises and seems not to have added much to the wider question of how to increase the use of bus services.

(ii) It appears to have continued to follow a rather pure and perhaps simplistic view of the benefits and nature of competition when applied to bus services, which seems to have been the approach of competition authorities ever since bus services were opened up to their scrutiny under the 1985 Transport Act. The approach seems to have been one which favours a rather academic, theoretical view of the benefits of competition, which may not reflect the reality of how people use bus services.

(iii) It is true that there is a sector of the bus-using population for whom there is no alternative, but we do believe overall that bus use has to be seen in the context of an overall passenger transport market, that includes modes including walking and cycling, private car use, taxi and rail. Including these other modes changes substantially the dynamic against which competitive pressures on the bus industry are measured.

(iv) It is also true that network benefits, stability and simplicity are valued by bus users and often outweigh the benefits that accrue from competitive pressures: all three can be undermined by a competitive situation, which is often short-term.

2. Has the Competition Commission addressed the issues of most importance to the bus passenger?

(i) Passenger Focus has identified the issues of most importance to bus users as reliability and frequency, and we would agree with that analysis. Reliability is largely a factor of allocating adequate road space and suitable traffic measures to bus services. Indeed improved bus corridors increase bus use and can thus increase the opportunities for competition.

(ii) Frequency can be affected by competitive factors (though is undermined by a “purist” view of competition that would see competing services arriving simultaneously to give a genuine choice).

(iii) The research rates fares levels as the sixth highest priority for bus users, though it needs to be remembered that this research included concessionary pass holders for whom fares are not an issue. Clearly fares are an issue to those on low incomes who are not entitled to concessionary travel, and this can have a significant effect on people’s opportunities to engage in economic, educational, health and social activity. It is noted in the Competition Commission report that competition does have a beneficial effect on fares, though for many journeys a day ticket provides greater value for money and can be undermined in a competitive environment.

(iv) It is also notable that the desire to have tickets which are valid on all services in an area are higher up the priorities identified by Passenger Focus than fare levels, and we very much welcome the emphasis in encouraging multi-operator ticketing in the Competition Commission report: especially as a perceived fear of the competition implications by operators has hampered development of such tickets so far.

(v) The introduction of multi-operator ticketing has had beneficial effects in Oxford, as part of a package of measures which have included a degree of coordination amongst the parties involved. Though such coordination would seem contrary to the purist view of competition it has resulted in effectively a higher-frequency service for passengers yet involving a smaller number of buses, which seems to be an excellent outcome all round.

3. How effective are the remedies proposed by the Competition Commission likely to prove?

(i) Ticketing: Multi-operator ticketing is likely to be effective in growing demand for bus services: the ability to have a single, value-for-money ticket valid on all services has been one of a number of factors promoting use of bus services in London and we so no reason why it shouldn’t have a similar effect elsewhere. It should also remove one of the barriers to entry to the market where strong single-operator ticket regimes exist, although the yield per journey from such tickets will be less than would be the case from cash fares, which new entrants will need to factor in to business plans.

(ii) Increased registration notice periods and changes to frequent service registrations: It is true that the ability to change service patterns relatively quickly in the face of competition enables incumbent operators to put up strong opposition to new entrants and also creates the effect of service instability. However such restrictions will be comparatively short-term in their effect and are likely to delay rather than eliminate “tit-for-tat” service changes. It also seems a perverse manipulation of the “free” market to restrict operators’ ability to protect their existing business from incursions by new entrants. It may however have some effect in enabling new entrants to gain a firmer foothold.

(iii) Access to bus stations: this will have differing effects in different locations. New entrants will sometimes seek to avoid departure costs to lower their cost base, and often bus stations are not the key objective of a bus service, especially where there are on-street stops closer to main shopping centres. There have also been instances (Manchester was the prime example) where the introduction of a service into the bus station by a new entrant created considerable difficulty to the efficient operation of the bus station and indeed created congestion in a wider area as a result. An independent review of the capacity of bus stations
may be required, with maybe an independent assessment of how finite stand space should be allocated. It is also questionable where stand space is finite for incumbent operators to be required to vacate space to enable newcomers to occupy bus station space. In theory creating a “level playing field” in terms of bus station access as a barrier to entry, but in practice could be more difficult to implement than it seems. Some means of imposing independent review on bus stations (eg Newport, Isle of Wight) which are owned by a bus company would need to be considered. Such an independent review would also need to be extended to the provision of information and other facilities to ensure all operators were being treated equitably, beyond the simple issue of access.

(iv) Best practice guidance for tendered services: Tendered services are frequently the way in which a newcomer gains entry into the market. A firm base of a few tendered services creates a firmer foundation for competing in the commercial market than simply starting by competing against commercial services. Ensuring that newcomers have the opportunity to compete fairly in the tendering process will help operators to become established in an area. Against that benefit needs to be weighed the experience local authorities have had in the earlier years of deregulation, of new entrants understimating the rigours of providing regular services. Many tendered services were undermined by poor-quality operation from inexperienced and underfunded operators, and it was not uncommon for such operators to fail, resulting in short-notice disruption of services and a need to issue emergency contracts to ensure continuity of services. Local authorities can also sometimes reach a cost-effective solution to providing marginal services by negotiating with existing operators, who may be able to reallocate existing resources in a cost-effective manner, with the added bonus of retaining network benefits for users and without the risks associated with using an inexperienced newcomer.

(v) Information about newly deregistered services: This is likely to generate major benefits. It will give new entrants to the market and other operators a more informed basis on the level at which to pitch for tenders, and will create a transparent basis for negotiation over tendered services. It is also likely to give existing operators cause to consider more carefully whether a service should actually be surrendered in the hopes of regaining it after the tendering process, as it will require them to make public potentially sensitive information and also give other operators a clearer indication of where to pitch their tenders.

(vi) Effective competition enforcement and compliance: There seems to have been an inordinate amount of interest in some fairly minor bus company mergers over a long period of time. One of these, that between Preston Bus and Stagecoach, was required to demerge and resulted in newly-gained network benefits being lost to passengers in that area: where day and season tickets had been valid on both interurban and local services in the area that facility was lost to users and resulted in commuters using the services of both operators being forced to pay more. There is also evidence that some of the larger operators are beginning to look to dispose of some of the marginal operations (eg First in Bury St Edmunds) and are being deterred from allowing other operators to acquire the operations for fear of falling foul of the competition authorities: thus services are being disrupted unnecessarily when a planned transfer to another operator would at least enable the service to continue uninterrupted.

(vii) Partnerships: It needs to be recalled that most partnerships involving local authorities and bus companies, are created primarily to ensure quality is delivered. There are many examples that encompass a number of operators (and indeed a number of local authorities in some cases) and there is little evidence of local authorities using partnerships as a means to reduce competition. There have been challenges to some (Nottingham City Centre was a case in point) on the basis that the partnership discriminated against some operators because of their difficulty in reaching the required quality standards (in the case of Nottingham the low emissions specification required for entering the central area). It would be difficult to drive up the overall quality standards were it necessary for all schemes to be reduced to the lowest common denominator, and such an approach would hold back the development of good bus services and in particular environmental initiatives. It would of course be unacceptable for such partnerships to be deliberately discriminatory against individual operators to restrict competition, but partnerships do need to be capable of containing quality thresholds or become pointless.

(viii) BSOG: We remain concerned that changes to the way BSOG is paid to bus operators will reduce its effectiveness in retaining certain marginal services and in preventing fare levels being even higher.

4. Is sustained head-to-head competition feasible or desirable?

(i) Many bus routes are capable of sustaining only one operator. Dilution of the revenue between two or more operators is likely to make the majority of routes unsustainable. However where there is sufficient traffic to create the possibility of sustained head-to-head competition there is likely to be downward pressure on fares levels and, where operators are fairly evenly matched, the likelihood of improvements in quality.

5. What role should Quality Partnerships play?

(i) As suggested above Quality Partnerships should aim, as their name suggests, to create an overall improvement in the quality of service, through a combination of accessible, low emission vehicles, well-trained staff and improved infrastructure, including bus priorities. They should create an increase in overall ridership and give scope for environmental benefits.
(ii) Part of that aim to increase ridership may well include some coordination of competing operators to give overall frequency and convenience uplifts. They should not seek to exclude operators from a corridor or area, but operators involved in providing services to that corridor should be prepared to put in the investment to comply with the requirements of the scheme in order to benefit from it.

6. Has the Competition Commission adequately considered the franchising option?
   (i) As the option for franchising has not been taken up anywhere it would be difficult to consider the franchising option in any evidential way.
   (ii) Franchising by definition would eliminate on-the-road competition and would involve competition only at the tendering stage. While franchising has the potential to create lower fares, improved integration, wider network coverage (by area and by time of day), strong network benefits and higher quality, the driving force to achieve these aims is moved from the competitive arena to the political arena and benefits achieved can be put under threat by a change of political control.
   (iii) While competition for the franchise might in itself bring about at least an intention to improve quality, the ongoing realisation of quality will be down to other factors, such as adequate supervision of the meeting of franchise targets, and in the absence of competitive pressures is likely to be achieved at considerable cost to the public purse.
   (iv) That no franchising regime has yet been achieved, despite legislation enabling it now being 12 years old, would seem to indicate that there is little real appetite to make franchising work.

7. What action should local government and central government now take?
   (i) Multi-operator ticketing is clearly a desirable end in its own right and clear guidance as to how it should be implemented needs to be drawn up, possibly using the experience of the Oxford scheme as a model.
   (ii) Consultation is needed with local authorities over the best way forward for the tendering process, especially given hard decisions having to be made over funding reductions.
   (iii) We would also welcome greater involvement of users in consultation over changes in local authority funding arrangements and if there are to be changes in the registration process we should like to see greater notice to the travelling public of changes incorporated as a requirement of the registration process.
   It seems likely that major changes to the registration process could require primary legislation.

16 February 2012

Written evidence from Campaign for Better Transport (National) (LBS 33)

1. BACKGROUND

   1.1 Campaign for Better Transport has a long track record of working on issues related to the provision of bus services. We supported measures in the Local Transport Act 2008 to enable local authorities to develop voluntary or statutory partnerships or quality contracts. We have had some detailed involvement in the issue of competition legislation and the bus industry; we commissioned an opinion in 2007 from John Swift QC on the application of competition law to buses, and followed this with a detailed discussion with the Office of Fair Trading. The effect of this, and subsequent changes in the Local Transport Act and associated guidance, has been, as the Commission’s report recognises, to promote more statutory and voluntary quality partnerships. We have also worked closely with bus operators to encourage more use of buses, including joining with them to call for bus service operators grant to be safeguarded during the spending review.

   1.2 In February 2011 we launched the Save Our Buses campaign, which has worked with local campaigners to protect bus services and has gathered research on the extent of cuts to bus services and on the impact of this to those who use them.

   1.3 Our response to the questions from the Transport Committee follows. A key point in the response is that moves to engender sustained on-street competition should not make cooperation between bus operators and local authorities for the benefit of passengers more difficult. Despite our concern about whether the report overall recognises this, there are some of the recommendations from the Competition Commission that could if implemented have direct benefits for passengers, in particular:

   — Multi-operator ticketing.
   — Requirements on operators over changes to service patterns.
   — Improvement in local transport authorities commissioning of tendered bus services from operators.

2. Has the Competition Commission addressed the issues of most importance to the bus passenger?

   2.1 The report from the Competition Commission¹ starts from the premise that competition is axiomatic with meeting passengers’ needs. The report does not seek to actually define what passengers would want as

¹ Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London), Competition Commission, December 2011.
the basis for the inquiry and then how competition would meet these needs. As part of this approach, the report
effectively suggests that passengers themselves were failing in their duty to support a competitive market by
just catching the first bus that came along. This seems to be a perverse way of approaching how to improve
the operation of the market to benefit passengers or to meet wider public policy goals to ensure access to shops,
employment or services for those without a car and to reduce congestion and carbon emissions from transport.

2.2 From our work with passenger groups, three areas in particular stand out as important for passengers:

– Reliability—both in terms of reliability that the service is running (particularly important in
more rural areas with lower frequencies of service) and in terms of journey time.
– Convenience—both in terms of bus services that serve the locations people want but also
providing information that enables people to make informed choices about travel.
– Affordability—particularly fares that enable flexible journeys across different buses and
operators, and with the potential to integrate with other public transport (such as Oyster in
London).

2.3 Passenger Focus has also conducted research into passenger priorities for improvement. The main areas
for improvement for passengers included information on fares at bus stops, real time information about services,
punctuality, value for money and frequency. It is unclear from the Competition Commission research how
its recommendations to try and achieve more sustained on-street competition will lead to improvements across
these areas, beyond increased frequencies on some routes and some limited evidence that this might reduce
fares.

2.4 However, some of the recommendations in the final report from the Commission could address issues of
concern to passengers—but these are more from the impact of the recommendations themselves directly rather
than through any impact on increased levels of on-street competition. In particular, mandating multi-operator
ticketing, stricter requirements on notification of timetable changes and improving the efficiency (and therefore
outcomes) from tendering supported services could all have a direct benefit to passengers without necessarily
coming from any increase in on-street competition.

2.5 The improvements for passengers could be delivered through measures already available to local
transport authorities from the Local Transport Act 2008, namely voluntary or statutory partnerships or quality
contracts. Many of the improvements that passengers want need cooperation between operators and local
authorities, particularly on joint ticketing and better information provision at bus stops or online. Attempts to
force competition should not mean that the benefits of cooperation are lost.

2.6 The Competition Commission report also does not provide much in the way of context for the bus
market at the current time when national and local government support for bus services is being cut back. While
this is not surprising given the Commission’s remit, the recommendation to produce best practice guidance on
tendering bus services by local authorities does seem quite tokenistic when funding for services is being cut
across the vast majority of local authorities in England. The average 28% cut to transport revenue funding for
local authorities is now being felt on the ground. In the summer of 2011 research by Campaign for Better
Transport found that 74% of local authorities had already decided to make cuts to buses while even more could
not rule out cuts in the future. Outside the metropolitan areas in England one in five LTA supported buses had
been cut back. In addition, bus service operators grant (BSOG) is being cut in England, Wales and Scotland—
with the Wales government cutting BSOG by 25% with just four months’ notice for operators (and cutting
funding the Local Transport Services Grant by 27%).

3. How effective are the remedies proposed by the Competition Commission likely to prove?

3.1 If the Committee means by effectiveness whether the remedies will achieve sustained competition, then
it is doubtful whether they will be effective. As the Commission’s own report shows, there are a range of
structural and customer behaviour issues that are difficult to overcome and efforts to force competition could
damage the positive outcomes that can come from cooperation between operators and local authorities (as set
out below in the section on partnerships).

3.2 However, some of the suggested remedies from the Commission could result in positive outcomes that
are effective in meeting passenger priorities for improvement. These include:

– Giving local transport authorities additional powers to determine the characteristics of
mandatory multi-operator ticketing schemes, which could give passengers more flexibility with
integrated ticketing and with information and reassurance about fare levels before they board
(which will be particularly important as smart ticketing and e-purse technology becomes more
widespread).
– Recommendations for restrictions on changes in service frequency through increased
registration notice periods and changes to frequent service registrations, which can help ensure
timetable information is reliable (particularly important as new channels of information on
timetables are developed with the open data agenda) and that passengers can plan well in
advance for changes in service.

2 Bus passenger priorities for improvement, March 2010, Passenger Focus.
4. Is sustained head-to-head competition feasible or desirable?

4.1 As the Commission note, there are few examples of sustained competition between operators on the same routes, though there may be periods of “bus wars” on a short-term basis and some crossover of services on some routes. Sustained competition may have many desirable consequences, as the Commission believe, but there policies that are intended to promote or even force this need to be checked to ensure that they do not cause unintended negative consequences for passengers. In particular, the role of the Office of Fair Trading in developing a forum for discussing the competition test in local bus partnerships needs to be carefully thought through.

4.2 The history of bus services in the United Kingdom and comparisons with other European countries also suggests that sustained on-street competition does not occur, whether through the difficulty of maintaining competition or through deliberate public policy by national or local government bodies. Given the difficulty of maintaining on-street competition, the role of public policy and regulation should therefore be focused on meeting passenger needs and wider public policy goals through, for instance, public funding or regulation of service standards, timetabling and ticketing.

5. What role should quality partnerships play?

5.1 As noted above, we have helped to promote greater co-operation between bus operators and local authorities, since we believe in the benefits of planning public transport on an area-wide basis. In particular, we have been supporting and developing an area-wide quality partnership in St Albans in Hertfordshire. The Memorandum of Understanding for this partnership has been signed up to by five bus operators, two train operators, St Albans District council and the University of Hertfordshire, as well as Hertfordshire County Council as the LTA.

5.2 This partnership has developed a number of the features identified by the Commission—joint information, a joint ticketing scheme and also various infrastructure measures to improve the efficiency of the buses operating in the town. We would be happy to provide further details if the Committee is interested. It is worth emphasising that this is an open partnership—two other operators have started services in the town and were immediately offered membership of the partnership. One has since withdrawn their services, but the other has joined and is already part of the working group which has set up the joint ticketing arrangement, which is of course led by and supervised by the LTA. We did seek further legal advice on this scheme, and this is available.

5.3 However, it is important to note that while the partnership has maintained full and open competition, this was not its primary aim. The Local Transport Act allows LTAs to enter into partnerships provided there is a public benefit, and we think it is important that this is decided by the LTAs themselves. In the case of St Albans, a primary motivation has been to reduce air pollution and provide attractive alternatives to the car. Multi-operator ticketing and information is seen as a key part of this, but other measures under discussion include traffic management measures in the city centre which could advantage bus services but may also be accompanied by measures to move terminating movements away from the city centre. Various other elements in the partnership, such as mobile e-ticketing and real time information, require participation by all operators to achieve their full wider benefits. These could in theory involve moderation of competition to achieve wider benefits if a new operator refused to join in with them and was then required to do so.

5.4 We believe that partnerships—on an area wide as well as route basis—should be one of the options open to local authorities to improve bus services, alongside others. We would have liked the Competition Commission’s report to have been more positive about the wider benefits of such partnerships (as in fact was the case with its earlier provisional findings report). We think that while it is important to have a contestable market, the local transport authority should be the arbiter of public benefit, and should be able to trade some aspects of competition to achieve this benefit, providing that this is done in a fair and open way.

6. Have the Competition Commission adequately considered the franchising option?

6.1 Campaign for Better Transport believes that quality contracts (franchising) can be a useful option in improving bus services, alongside consideration of other measures like voluntary or statutory quality partnerships. The evidence from London is that the franchising system there delivers well for passengers as part of a wider transport approach, and that the role of the public and private sectors complement each other with the public sector (Transport for London) setting standards on branding, timetabling, levels of service, ticketing and information, and the competition for the market between private operators delivering efficiency and cost savings.
6.2 We do not automatically recommend the use of quality contracts in other areas but the Competition Commission does seem to have given more weight to what seems to be an ideological view that favours competition in the market rather than either partnerships between operators and local authorities or competition for the market through franchises or quality contracts.

7. **What action should Local Government and Central Government now take**

7.1 Although the recommendations of the Commission are important, far more important in terms of the short- to medium-term challenges that bus services face are the cuts in funding and the wider economic situation that can make bus services no longer financially viable. Campaign for Better Transport has identified four potential areas for action by national and local government.

Reverse the decision to reduce BSOG and reconsider the changes to concessionary funding

7.2 The fuel tax rebate for buses is administered through the Bus Service Operators Grant (BSOG). Currently 70 to 80% of fuel tax is rebated to bus operators, but this will be reduced by 20% from April 2012. This will affect many community transport schemes as well as all local buses, and could be the straw that breaks the camel’s back for some parts of the transport network. It is incongruous that the aviation industry continues to benefit from overly generous tax breaks, yet the most popular form of sustainable passenger transport, the bus, is effectively facing a tax hike. Reform to BSOG has been discussed in government, including moving to a locally administered system. Any plan to localise BSOG should ensure that the funding is extra and ringfenced, supports the provision of bus services and does not displace current local funding for tendered services.

Reverse the decision to reduce BSOG and reconsider the changes to concessionary funding

7.3 In addition, the Department for Transport needs to re-examine and revise the formula for [the impact of changes to] the funding for concessionary fares, given emerging evidence that this is leading to cuts to both commercial and tendered services.

**Joined up thinking: Pooling budgets, partnerships and integrated services**

7.4 The integration of services and pooling for budgets, at both local and national levels, can ensure that public money is made to work harder. Some local authorities have already made savings by integrating the way they contract public bus services, school buses and social services transport. Partnerships between councils, operators and big institutions like hospitals and universities have had good results. Taxi buses, NHS transport, travel schemes for post 16 students and social enterprises all have a part to play. In some cases core routes linking towns are met by demand response village services at request stops. However, councils are currently being unrealistic if they expect volunteer run community projects to fill gaps left by deep bus cuts.

Review the statutory powers and duties on local transport authorities and the Traffic Commissioners

7.5 We commissioned a full barrister’s note on the existing legal powers which sets out local authorities’ duties to research the impact of proposals on vulnerable groups, to consult the public properly and to secure the provision of appropriate passenger transport services. These duties exist to ensure that difficult choices are made properly, but front loaded funding cuts have resulted in some LTAs rushing through poor and possibly illegal decisions. However, the statutory framework for bus services must be strengthened to include clear and measurable minimum standards.

7.6 As part of this, the Traffic Commissioners role should be reviewed. In addition to their current focus on safety, reliability and licencing, the Government should consider expanding this remit to include highlighting good practice, setting minimum standards for services and monitoring local authority performance.

Cultivate the market: Smartcards, marketing and low carbon technology

7.7 Buses can play an important role in a low carbon economy. Hybrid and hydrogen buses are already up and running. Multi-operator, multi-mode, smartcards, like the Oyster scheme in London, are proven to make door to door public transport journeys a realistic choice for large numbers of people. These passenger friendly cards could boost to the bus network outside the capital and provide a more efficient way of delivering concessionary fares. The instillation of card readers are already a condition of BSOG, however more needs to be done to implement smartcard schemes and ensure they offer an integrated and affordable product across different operators. Moreover, government must encourage creative ideas from operators to grow the market, and push for greater marketing and promotion within the sector.

17 February 2012
Written evidence from Passenger Focus (LBS 07)

1. INTRODUCTION

1.1 Passenger Focus is the statutory watchdog for bus passengers in England (outside London).

1.2 This response draws from our evidence to the Competition Commission’s original inquiry and our subsequent submission on their draft recommendations.

2. COMPETITION COMMISSION REMEDIES

2.1 Ticketing

2.1.1 The Competition Commission suggests a number of potential remedies under the following three categories:

— increasing the number of multi-operator ticketing schemes;
— increasing the effectiveness of multi-operator ticketing schemes; and
— additional measures to prevent multi-operator ticketing schemes from being undermined.

Number of Schemes

2.1.2 Passenger Focus supports the provisional conclusion that something needs to be done to increase the availability of multi-operator ticketing. The availability of multi-operator tickets is one of bus passengers’ top priorities for improvement. In March 2010, Passenger Focus published Bus passenger priorities for improvement, a report on the findings of a survey of 3,800 passengers in England outside London: http://www.passengerfocus.org.uk/bus-news-and-publications/document-search/document.asp?dsid=4393. Passengers ranked as their fourth highest priority “tickets and passes are available that entitle you to travel on all bus services in your local area, not just those operated by a specific bus company”.

2.1.3 This research showed a widespread desire to address the issue across the country. Passengers in every English region rated the availability of multi-operator tickets and passes as a high priority: passengers in Eastern England rated it third; passengers in the North West rated it eighth.

2.1.4 Improving the availability of multi-operator tickets is a higher priority for passengers in metropolitan and urban areas than those in rural areas; however, even rural passengers rated it as a relatively high priority.

2.1.5 Bus services are, by definition, local. So, while we would encourage the development and sharing of best practice, it is not important per se that common standards should be established. However, many passengers, particularly those living close to a local authority boundary and whose nearest town centre lies within a different local authority area, would benefit more from schemes which took this into account, and this is likely to require a level of cooperation and consistency between neighbouring authorities and operators.

2.1.6 We are aware of bus routes in Greater Manchester and West Midlands on which daytime services are operated by one large company, with services after 6pm operated by a different, much smaller company: commuters have found that, in the absence of a multi-operator ticket, they are forced into the expensive option of buying two singles.

Effectiveness of schemes

2.1.7 We believe there is little point in increasing the number of multi-operator ticketing schemes if passengers do not know about them, or find them unattractive. Passengers want:

— Ticketing products to be available which correspond to the journeys they wish to make and which enable them to catch the first bus that comes along, thus negating the inconvenience of having to buy another ticket.
— To be aware of the existence of those ticketing products.
— A clear understanding of the terms and conditions of the ticket.
— To be able to buy it as easily as the single-operator ticket with which it is competing.
— To be able to buy it at a cost which reflects, in a fair way, the value to the passenger of the additional flexibility and convenience of being able to travel on any bus.

2.1.8 In determining the range and pricing of multi-operator ticketing products, care should be taken to ensure that operators cannot undermine the multi-operator ticket with single-operator tickets for which there is no close multi-operator equivalent. We support the idea of placing conditions on multi-operator tickets to make them attractive, if as seems likely, this cannot be consistently achieved on a voluntary basis. The conditions should reflect the principles outlined above. Consideration may need to be given to an appeals mechanism should the operators be unable to agree how much to charge for a multi-operator ticket.

2.1.9 We are not clear how it is proposed that a multi-operator bus ticket or pass would work in an area with an existing LTA multi-modal ticket. In our Bus Passenger Priorities for Improvement research, passengers...
rated the availability of multi-modal tickets as their 9th highest priority for improvement. The benefits of any such multi-modal ticket should be preserved and extended by the introduction of any multi-operator scheme.

Preventing multi-operator ticketing schemes from being undermined

2.1.10 The Competition Commission identified the need to consider restrictions on large, incumbent operators should they attempt to undermine the impact and viability of multi-operator ticketing schemes. Possible measures are:

- Restrictions on the ability to issue particular types of ticket, especially where there is a similar multi-operator ticket in existence.

2.1.11 We recognise the right of operators to compete with each other on price as well as on quality of service. Genuine competition between operators creates choice for passengers. So it would seem reasonable for passengers to have a choice between a multi-operator ticket offering travel on any operator’s bus and a cheaper version offering travel on a specific operator’s buses. Passengers would be poorly served by a requirement which created a disincentive for operators to reduce the price of their own tickets.

2.1.12 On the other hand, however, choice and competition would not be delivered if operators were able to add a disproportionate premium on the multi-operator ticket, either by setting the cost of the multi-operator ticket high in the first place or by virtue of significantly undercutting it by reducing the cost of a single-operator product.

2.1.13 Much depends therefore on the motive behind an operator’s actions—and while we recognise that it can be difficult to determine a process that takes motive into account, we believe that this is something will need to be considered.

2.1.14 For us, the overriding principle to be followed is one of delivering sustainable, long-term benefits to passengers. Operators are free to reduce their fares now. One might question their motives were they only to reduce them under competitive pressure from multi-operator tickets. This might bring a short-term benefit for passengers but, having “seen off” the competition from the multi-operator ticket (and from the other operators who rely on its attractiveness to support their entry into, and continued existence in, the market) would the large incumbent operator simply be able to put up fares again, unconstrained by competition? The price cut would only be a real benefit if it could be sustained.

2.1.15 Ultimately, passengers are saying they want multi-operator tickets. In determining a process to deliver them, it will be important for the Competition Commission to guard against the law of unintended consequences.

2.1.16 We would not support the suggestion that restrictions should be placed on operators’ ability to issue particular types of ticket. As a general rule, and so long as the principles which we outlined above are adhered to, passengers should benefit from more choice, not less.

2.1.17 Passenger Focus plans to commission more research into bus passengers’ attitudes to fares and tickets in the coming financial year. We also hope to work with the Department for Transport on a major piece of research looking at smartcards and new ticketing technology. We believe that this work will shed much more light on passengers’ attitudes and expectations when buying tickets.

2.2 Restrictions on Operator Behaviour

2.2.1 The Competition Commission is considering the following measures:

- large incumbent operators increasing service frequency in response to new entry;
- large incumbent operators making substantial reductions in fares in response to new entry, especially those reductions that are specified to the routes on which entry has been experienced rather than network wide;
- stand-blocking and other forms of “cheap exclusion”; and
- actions taken by an operator that undermine the viability of a municipal or independent operator during a sales process.

2.2.2 Passenger Focus supports the intention of bringing about sustainable improvements to bus services for passengers, particularly where they reflect passenger priorities.

2.2.3 In our report on Bus Passenger Priorities for Improvement bus passengers rated “buses run more frequently at times when you want to use the bus” as their second highest priority for improvement. Naturally the priority accorded to frequency varies from one region to another, but it is in the top five in all areas.

2.2.4 Our research also demonstrates that passengers favour stable services. In our research “Bus Service Changes” we found that 66% of bus passengers did not find it acceptable to make changes to bus services.

2.2.5 So we would support measures which resulted in sustainable improvements in frequency. It follows that we would not support the introduction of measures designed to block such increases, ie a new power for the Traffic Commissioners to refuse to accept frequency improvements from large incumbent operators. It also follows that we would support the suggestion that the Traffic Commissioners should be given the power to refuse to accept subsequent changes (eg to reduce frequency on the route) following the exit of a new entrant.

The introduction of such a measure would make a large incumbent operator think twice about increasing frequency in the short term in order to see off a rival, by preventing them from subsequently reducing service frequencies in the wake of their competitor’s exit from the market. New entrants should have to play by the same rules and be subject to the same constraints should they see off the incumbent.

2.2.6 We would also not wish to see regulation preventing operators from co-operating when this would be beneficial to passengers. As said, the important feature should be one of sustainable improvements for passengers.

Substantial reductions in fares in response to entry

2.2.7 The CC is also considering whether any restrictions are needed to prevent large incumbent operators bringing in short term fares reductions in the hope of seeing off a new rival.

2.2.8 Our Bus Passenger Survey, published in July 2010, found that passengers in the 14 areas surveyed were generally significantly less satisfied with value for money (ranging from 46–68% satisfied) than they were with their journey overall (84–92% satisfied). And our Bus Passenger Priorities for Improvement research found that passengers rated “bus fares, tickets and passes that offer better value for money” as their sixth highest priority for improvement; those paying for their journeys rated it second.

2.2.9 So, as with frequency, we would not support measures designed to constrain operators from lowering fares. We would be concerned if this were a short-term tactic and that the incumbent operator were free to raise fares again once they had seen off the competition. Any action should be targeted at ensuring that fares cannot be raised for a significant period of time after a rival operator has exited the market.

2.3 Franchising and Partnerships

2.3.1 The franchising model appears to work well in London where bus patronage is much higher than in other parts of the country and has risen significantly in recent years, on the back of high levels of investment. Passenger satisfaction levels have always been lower in London than in many other parts of the country, but there are some suggestions that this may reflect a different user base and correspondingly higher levels of expectation.

2.3.2 The evidence of how such a contractual model might work in other parts of the country—with a different user base and travel patterns and with lower levels of investment—is inconclusive.

2.3.3 However, in general we accept the argument that it would be appropriate to introduce a franchise model where it can be demonstrated that on-road competition has not met passengers’ needs and improved services over a sustained period of time. The best way of testing this is to ask the passengers. Any such passenger satisfaction research would need to distinguish between those elements of the bus service which are under the control of operators and those which are the responsibility of the local authority.

2.3.4 The Transport Act 2008 has made it easier for Local Transport Authorities to introduce quality contract schemes. Before doing so the LTA has to be satisfied that the quality contract will:

— increase the use of local bus services;
— bring benefits to people using them through the provision of services of a higher quality; and
— contribute to the implementation of the authority’s local transport policies.

We welcome the emphasis placed on quality of service for passengers. We strongly believe that any quality contract schemes should include performance targets reflecting passengers’ priorities. We also believe that passengers should then have a role in monitoring performance against these targets.

2.3.5 Regular testing of passenger satisfaction would also help to determine the relative impact that a partnership approach, a quality contract or a competitive environment has on passengers.

22 March 2012

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4 Bus Passenger Survey—Spring 2011. Passenger Focus
5 It removed the requirement for quality contract schemes to be the “only practicable way” of implementing policies set out in LTA’s bus strategies.
Further written evidence from Passenger Focus (LBS 7A)

BUS PASSENGER SURVEY

I understand our recent Bus Passenger Survey was mentioned at the Transport Select Committee this week. The report includes over 21,000 responses from passengers across 23 areas within England, outside of London. This probably amounts to the biggest ever published snapshot of bus passenger opinion ever carried out beyond London. Leading the pack were operators in Nottingham City and Tyne and Wear, with over 90% satisfaction, closely followed by Surrey and Dorset operators at 88% satisfied. However, across all areas the research found wide disparities, with passengers’ ratings of satisfaction and value for money, varying dramatically between different operators and services within the same area.

The other statistic that the bus industry needs to take action to improve came from the antisocial question which revealed almost one in five bus passengers have felt worried or uncomfortable by another passenger/passengers’ behaviour.

A summary of the full report is enclosed for your information. A copy of this letter has been e-mailed to you so the links can be easily used.

Passenger Focus’s latest video showing the key stats from the survey can also be seen at: http://player.vimeo.com/video/38254591

To see the breakdown of areas and operator reports please go to: http://www.passengerfocus.org.uk/bus/news-and-publications/document-search/default.asp?go=1&topic=4491&x=26&cy=5

Please go to here to be taken to a new service which will allow you to analyse the data behind the Bus Passenger Survey. You can look at particular aspects of the research and make your own charts: https://manager.dapresy.com/manager/login.aspx?target=RM9GeeDsPg45W70QJhutUJZ9GW1mFZO1pknW0JJSxIo%3d

I hope you find this data useful and please contact me if you have any further questions.

19 April 2012

Written evidence from Essex County Council (LBS 19)

1. Has the Competition Commission addressed the issues of most importance to the bus passenger?

1.1 No. Surveys suggest that bus passengers consider a range of issues to be important when making decisions about using bus services. These include to:

— Convenience of use.
— Service reliability.
— Network stability.
— Service frequency.
— Value for money.
— Service quality.
— Accurate up to date information.
— Tickets that can be used irrespective of operator.

The Competition Commission has largely focused on the competition aspects and the potential benefit deriving from increased competition, ceteris paribus. It has largely overlooked the importance of reliability, stability, quality and information standards. For passengers these will influence the mode of travel chosen, far more than marginal fare differences.

“Choice” of bus operator is a very low priority for many users especially as concessionary fares insulate a substantial proportion from price changes and for them other factors are of higher importance. This is reflected by low brand loyalty—ie the tendency to board the first bus coming along a route, regardless of operator. Operators provide a range of pre-purchased tickets at a discount to retain use of their services.

1.2 The recommendation that multi-operator ticketing schemes should be easier to introduce is welcomed, but to be effective there needs to be a mechanism by which operators can be required to participate.

2. How effective are the remedies proposed by the Competition Commission likely to prove?

2.1 The remedies proposed by the Competition Commission will assist with some aspects of service delivery but look at the issue from the competition rather than a passenger transport perspective. They also mainly focus on the effects in large conurbations and it cannot be assumed that they are equally applicable to smaller urban and rural operations. In less densely settled areas the market is often insufficiently large to support

* Not published with this document.
multiple operator service provision, with passenger growth and the use of services being insufficient to match the additional costs incurred.

For the specific remedies suggested:

(a) **Ticketing** (see Figure 15.1 and paragraphs 15.11 to 15.109);

The County Council welcomes the approach taken to developing ticketing schemes as these will make bus services more attractive to the public, but notes that experience in smaller urban and rural areas suggests ticketing schemes tend to be developed as a consequence of increased competition.

(b) **Operator behaviour** (see Figure 15.2 and paragraphs 15.110 to 15.221);

The County Council welcomes moves to extend the notice period for service registration changes as this will help to stabilise networks and reduce the potential for predatory or poorly thought out service revisions. However, the County Council feels that the 14 day pre-notification will still be subject to the rules governing commercial confidentiality, so will limit the Councils ability to react by, say carrying out early public consultation. We believe that the increase to 90 days and a statutory code of conduct will have more effect.

The system is only as good as its enforcement and administration and the Traffic Commissioner needs sufficient resources to ensure that poor quality or predatory registrations are effectively challenged. Our current experience suggests that increased resources are required for Traffic Commissioner to be able to perform this role adequately. The opportunity for greater cooperation between local authorities, in their role as transport provider of last resort, and the Traffic Commissioner’s Office over these areas should be explored. Deregulation which brought a free market approach required strong enforcement and this has not taken place.

(c) **Access to bus stations** (see Figure 15.3 and paragraphs 15.222 to 15.290);

The County Council generally welcomes the proposals for opening up the use of operator controlled bus stations, but feel the impact of this measure will be marginal as this generally exists. Some “fair pricing” mechanism for controlling departure charges will be required to make it effective.

(d) **Supported services** (see Figure 15.4 and paragraphs 15.291 to 15.339);

The County Council would welcome guidance on this issue, provided the balance of considerations set out in the recommendation are taken into account and Councils retain the flexibility to tender contracts in the best way to meet the public interest. There are essentially two networks with supported services having to be designed to avoid abstraction from commercial services. The impact of these changes would seem limited given the relatively small proportion of the network controlled by local authorities. Many Local Authorities have problems getting operators to bid for services, but in general this has not significantly increased commercial network competition. The provision for compulsory disclosure of passenger use data for use within tenders would also be welcome.

(e) **Effective competition enforcement** (see Figure 15.5 and paragraphs 15.340 to 15.372);

The County Council supports the proposal to have the OFT monitor mergers etc more closely but the OFT has been content to allow the current situation (ie with five nationally dominant service providers), that is now identified as anti-competitive, to develop effectively unhindered over the last 25 years. Operators have grown networks mostly be acquisition thereby reducing overheads.

(f) **Partnerships** (see Figure 15.6 and paragraphs 15.373 to 15.422);

The County Council considers that the existing partnership provisions are effective in meeting the local authority’s aim to ensure high quality, reliable, affordable and accessible public transport services and the commercial operator’s duty to maximise the return to its share holders. There are already significant constraints on local authority actions set out in the legislation and the opportunity exists for decision to be challenged both under the statutory process and through judicial review. Therefore while the County Council accepts the general thrust of the Commissions arguments over the potentially anti competitive effect of partnerships and welcomes the drive toward improved information provision, it sees little need for further legislation of regulation in this area. The lack of use of some aspects of legislation suggests it is not fit for purpose.

(g) **Bus Service Operation Grant** (see Figure 15.7 and paragraphs 15.423 to 15.428).

The County Council; strongly opposes changes. There has been a consistent attempt to eliminate Fuel Duty Rebate for the bus industry over a number of years. Proposals have rarely been well thought out. As an example, changes adversely affect rural services, often run by smaller operators, running a small number of services. This will raise the fares of passengers and reduce the commercial viability of the rural network. This will in turn increase pressure on County Council service support funds. There is a reduced level of service as a result, adversely affecting the ability of service users to get to work, education, health services or shops. This would have
the effect of removing competition for both County Tendered Services and commercial operations.

3. Is sustained head-to-head competition feasible or desirable?

3.1 The affect will vary according to the geographic location and demography of the area concerned. Even in moderate sized urban areas, sustained competition within a broad geographical area between commercial operators is clearly feasible. In Essex, two large towns, Colchester and Harlow have had multiple service providers since 1986, as has neighbouring unitary authority, Southend Borough Council, although direct head to head competition is limited to certain core markets. While this significant level of competition between commercial operators has led to lower fares, operators long term investment in service provision also tends to be lower, leading to older, less attractive and less reliable fleets.

It is also clear that, except in a relatively few areas where the demand for bus services is very strong and grows as a result of competition, there is an inevitable tendency for direct head to head competition over routes to be fairly short term as one or all operator fail to make sufficient return on their investment to justify their continued provision of the service.

As noted by the Competition Commission this leads to division of available routes between operators and a natural reluctance to challenge “incumbents”. In these cases it can be argued that the individual route’s market is just not big enough to sustain multiple operator services.

While this can in theory allow an effective monopoly situation to occur, with the risk of over charging that this involves, it also seems likely that the theoretical benefits to be obtained by enhancing direct head to head competition are limited.

The market distortion created by the concessionary fares regime insulates a significant number of service users from the market pricing mechanisms that make competition work. In addition, the reduced reliability and investment outlined above serves to make bus services a less attractive option for passengers. This suggests that, while the opportunity for direct head to head competition needs to be retained to prevent market exploitation, it should not be seen as a beneficial force in the way the report suggests.

3.2 Where there is sustained competition, generally Local Authorities have been forced to provide financial support for services at less popular times of the day or week, as reduced earnings from each vehicle reduce the ability to cross subsidise these aspects of the service, which are then often commercially withdrawn.

3.3 Where operators choose to compete, it is unrealistic to expect them to co-ordinate timetables and these would be a restriction on their commercial activity and put them at risk of accusations of collusion.

3.4 Deregulation requires the Traffic Commissioner to take appropriate action to ensure operators achieve the timetable as regulated and there has been a total lack of adequate enforcement. The recent decision to disband VOSA’s Bus Compliance Unit has had a very negative effect.

4. What role should Quality Partnerships play?

4.1 Quality Partnerships offer an effective means for local authorities to work closely with operators to produce high quality, reliable, affordable and accessible public transport services. The County Council therefore welcomes the support given to partnership approaches by the Commission’s report, particularly the focus on information improvement.

However, for partnerships to work successfully there have to be equal commitments from and a reasonable expectation of benefit to all parties. This can be a difficult balance to achieve, particularly given the future constraints on capital funding being faced by local authorities and the risk of predatory competition by non-partner operators undermining the potential return a commercial partner seeks.

Pressure to change the focus of partnerships to promote competition, as suggested by the report could therefore prove counter productive and serve to discourage further partnership work. The Council sees no need for changes to the legislative framework or guidance for partnerships to this end.

5. Has the Competition Commission adequately considered the franchising option?

5.1 The County Council feels that while there are examples of successful franchising which can bring benefits (ie the elements of the increased passenger growth in London), there can be clear disbenefits.

5.2 However, a franchising model can take a number of forms that do not have to follow the “totally planned” London model. These could focus on areas or routes where either there was already no, or very limited commercial operation, or where the network is proving too unstable to provide the level of service which passengers should expect to have. It might be based on identification of a key “core” of routes to be franchised, while other routes are left open to the market. Alternatively operators could be asked to pay a premium or guarantee minimum investment in return for a license to operate some services, or groups of services.
6. What action should local government and central government now take?

6.1 The Competition Commission findings reflect their belief in the direct competition and their assumption of the benefit that it produces. This is not necessarily the best or only way to ensure maximum benefit to the public and over reliance on competition can be counterproductive.

6.2 Essex County Council therefore believes that the Competition Commission’s report should be carefully considered by the DfT in conjunction with the Local Transport Authorities who have to implement them and that only those elements which are considered to offer a clear overall benefit are introduced.

14 February 2012

Written evidence from the Local Government Association (LBS 42)

1. INTRODUCTION

1.1 The Local Government Association (LGA) is a voluntary membership body and our member authorities cover every part of England and Wales. Together they represent over 50 million people and spend around £113 billion a year on local services. They include county councils, metropolitan district councils, English unitary authorities, London boroughs and shire district councils, along with fire authorities, police authorities, national park authorities and passenger transport authorities.

1.2 The LGA welcomes the opportunity to provide written evidence to the Transport Select Committee’s inquiry into Bus Competition.

1.3 The first section of our evidence sets out the reasons underpinning our support for franchising, relating them to recent welcome DfT initiatives on localism. The second section illustrates the need for subsidy reform to accompany franchising and the final section discusses the remedies proposed by the Competition Commission.

2. KEY MESSAGES

2.1 Franchising by Local Transport Authorities (LTAs) will offer the most effective remedy to the problems caused by a lack of competition in the bus market and will provide a more efficient and effective service to the public in many cases. This option should be available to LTAs.

2.2 Although we generally support the measures proposed by the Competition Commission, we do not believe these will effectively address the lack of competition in local bus markets, or deliver the wider benefits councils seek.

2.3 There should be a single stream of subsidy to local bus services, locally controlled.

2.4 We support DfT’s moves toward localism and hope to work with the Department to ensure these deliver maximum benefit to users.

3. FRANCHISING

3.1 The LGA strongly supports the Competition Commission’s finding that competition within local bus markets is limited and that this has an adverse impact upon services and outcomes for bus passengers. The LGA believes that the most effective way to remedy this would be to shift the focus from on-road competition to competition between operators for contracts to operate services franchised by LTAs.

3.2 Therefore, the LGA supported the Commission’s interim conclusion in favour of such an approach and regrets the fact that this solution was not put forward in the Commission’s final report. The Commission’s final report did, however, acknowledge both that franchising could address the problems it had identified, and that LTAs, with their wider remit, might see additional benefits in franchising.

3.3 Local councils and LTAs are uniquely well-placed to consider the demand for bus services in the context of stimulating local economic growth, relating transport provision to other local priorities such as environment health and community safety—in all of which transport has a role to play—and in terms of connecting people to vital services, job and shops. Councils already have a great deal of experience in commissioning services in their area in response to need, for example through the development of joint Strategic Needs Assessment (JSNA) used to commission local health services. Similar principles can and need to be applied to local transport.

3.4 As the Committee has previously recognised, congestion costs the UK economy billions of pounds every year. LTAs already have a range of tools with which to address this issue and would therefore be able to franchise bus services as part of a holistic approach to congestion.

3.5 Passengers want affordable convenient and reliable services. At the moment the issue of greatest concern to many passengers will be whether their service will still exist in three years time. As the Select Committee has recognised, the English bus industry currently faces its greatest financial challenge for a generation. Moreover we believe that by encouraging effective competition and integrating bus services with other local...
policies and their funding, council-led franchising has the potential to help the industry meet that challenge by delivering better value for money. Existing park-and-ride service contracts may offer lessons here.

3.6 The LGA therefore feels that, as a result of its inevitably limited remit, the Competition Commission was unable to fully address the issues of most importance to the bus passenger or to adequately consider the franchising option.

3.7 Given the very local nature of bus services, decisions about the best model of procurement of services need to take account of features of the local market, including demand, market size, neighbouring markets, capacity and historic relationships with operators. LTAs need access to a range of tools to influence competition in the bus market, as was recognised in the Local Transport Acts of 2000 and 2008. We therefore oppose prescriptive national guidance or mechanisms to impose franchising models or blanket recommendations to “types” of area. Different approaches to franchising may suit different areas and in others LTAs may feel it is not for them. These are decisions which should be for local determination in a framework that provides for a range of approaches, including partnership, selective or temporary franchising and franchises that allow for a degree of competition modelled on “open access” rail operators. There are cases, Norfolk is an example, where smaller private operators have been able to compete effectively, in part through the provision of good customer service.

3.8 In principle Quality Contracts offer a mechanism for local authorities to franchise bus services. However, this approach has not yet been adopted by local authorities because the process and requirements for putting a Quality Contract in place are complicated, costly and involve considerable risk for LTAs. The current process sets a high bar to protect competition. However, as the Commission’s investigation demonstrates that the market does not operate freely and competitively, the remedies should focus on making it easier for LTAs to implement franchising models by enhancing their powers to implement Quality Contracts and simplifying the franchising process.

3.9 The DfT has recently made a number of very welcome steps towards implementing a localist agenda in a number of areas including bus subsidies. We hope to work more closely with the Department in future on a variety of transport areas and hope this will include support for LTAs that wish to explore Quality Contracts.

4. Subsidy

4.1 If the benefits of franchising are to be maximised, stronger franchising powers should be accompanied by reform of the current bus subsidy system.

4.2 The LGA has long argued for the current subsidy package (BSOG, Concessionary Fares and subsidy for tendered services) to be replaced with a devolved single stream of public subsidy for bus services that would empower local transport authorities to commission bus services from providers and purchase concessionary fares schemes locally.

4.3 The LGA welcomes DfT’s review of BSOG and the possibility that at least some of it will be devolved to local LTAs. Ideally the devolution of bus subsidy should be combined with other localist measures to strengthen the ability of LTAs to consider local transport needs holistically and target funding where it will protect the vulnerable and bring best value to local communities.

4.4 At the moment taxpayers subsidise private bus operators to the tune of £2.6 billion. DfT figures for 2008–09 show that 60% of bus industry turnover—or £2.9 billion—came from public subsidies. This money is given to operators irrespective of the profitability of a service and they decide what services to run and when. LTAs only have a small say in where the subsidy money goes. For every £5 of public money given to bus companies, only £1 is controlled by local authorities.

4.5 The need for reform to break the cycle of fare increases and service reductions is now even more pressing. Not surprisingly bus companies always look to cut first the services which are making them the least money. Unfortunately, these can also be the ones that are the most vital, particularly to those who are vulnerable or live in villages and rural areas. At a time when some 70% of LTAs are being forced to consider cutting subsidies to bus services, it is time to review the use of public funds to subsidise profitable routes.

5. Critique of and Comments on Competition Commission Findings

5.1 We do not agree that the limited measures suggested in the Commission’s report will be as effective in addressing customer detriment as franchising, although they are not without merit.

5.2 The LGA believes that the current structure of the bus market has developed over a quarter of a century and its fundamental shortcomings are so deeply ingrained that they will not be alleviated without significant reform; nor will the measures proposed bring about the wider benefits of a franchising process fully-informed of local needs and integrated with local priorities.

5.3 The Commission’s findings show that head-to-head (ie on-road) competition can be sustainable and desirable where it has been possible to differentiate services in some way or where “a sufficiently high level of demand along a route to support more than one operator providing frequent services” exists. However, it
found such competition to be unusual and that head-to-head competition tends instead to be unstable and short-lived (it also found that where head-to-head competition is sustainable it can involve “a degree of timetable coordination”, calling into question whether such “competition” is in fact competition).

5.4 A key reason for this is that passengers generally want to get on the first bus available and if they commit in advance to using a particular operator the frequency of service is a significant factor. Head-to-head competition therefore tends to encourage the provision of more services than demand can support and after a short period of intense rivalry one competitor leaves the field. There are not necessarily any long-term benefits to the passenger as a result.

5.5 Unsurprisingly, there appears to be no great appetite within the industry to engage in this type of competition and, given the financial challenge the industry currently faces, we suspect operators’ appetite for such intensity of competition is unlikely to increase in the next few years. If it did, the unsustainable nature of the competition would not necessarily benefit passengers.

5.6 The Commission has made recommendations designed to remove barriers to entry in order to encourage head-to-head competition. However, these will not increase operators’ appetite to engage in a struggle that is expensive and short lived because it is conducted on the grounds of service frequency.

5.7 We agree that LTAs should have additional powers to determine the characteristics of mandatory multi-operator ticketing schemes; but integrated smart ticketing products could be implemented more simply through franchising, which would allow an LTA to stipulate participation in a multi-operator ticketing scheme as a condition of the contract. In the absence of such arrangements care will need to be taken over the detail of these powers to ensure LTAs can achieve the outcomes the Commission hopes for. As the Commission acknowledges, LTA powers in this field are unlikely to be extended through legislation in the near future.

5.8 The Commission has further sought to regulate operators’ behaviour in a manner that might reduce the intensity of such competition through restricting changes in service frequency. We submit that the impact of this will be limited because it will not increase demand for a service or the ability to differentiate services in a manner that creates sustainable competition. Moreover, if competition is not conducted on the basis of service frequency then the element which appears to be most important to the passenger—service frequency—has been removed, or at least diminished, reducing the benefits of competition significantly.

5.9 The Commission’s recommendations will increase the powers (and therefore the workload and cost) of LTAs, OFT and the Traffic Commissioners, creating a bureaucratic multi-agency system of regulation which will require legislation. In our view, LTAs are far better placed than a national regulatory body to understand local bus markets and to monitor and intervene where necessary. LTA regulation of local markets would be less costly, more timely and responsive than the proposed enhanced role for national regulatory bodies.

5.10 We support and would encourage genuine partnership working between LTAs and bus companies. We also welcome the announcement of the Better Bus initiative which provides an opportunity to take partnership working further and we hope to work with DfT to support LTAs participating in this scheme. However, the scheme cannot cover the entire country and the power imbalance in the existing system means that LTAs enter into partnerships in a weakened position while bus companies need not enter them if they do not see advantage in doing so. This is not the ideal basis for partnership. Franchising powers would redress that balance even where councils choose not to use them. On this basis we think partnership working can be one of a number of tools at LTA’s disposal.

5.11 We also support the Commission’s recommendations in relation to supported services, subject again to the caveat that these form part of an overly complicated set of piecemeal solutions which we find less attractive than franchising.

5.12 Given that there seems, from the Commission’s report, to be limited appetite among operators for on-road competition, we are not convinced that the above measures will have a significant impact, because they are designed to remove barriers to competition for which there is no appetite in the first place. This problem would not apply to a franchising process.

6. Conclusion

6.1 On-road competition has proved over 25 years to be unfeasible in the vast majority of cases and while it can—in those cases where it is feasible—bring benefits to the passenger, those benefits can be better achieved by a franchising system, particularly against a backdrop of massively increasing financial pressure and declining patronage.

6.2 In the absence of further action on franchising, improving Quality Contracts, perhaps through DfT-supported pilots aimed at a less bureaucratic approach, would be the next best option.

6.3 However, franchising which can take full account of the whole spectrum of local need, as LTAs can, will offer a more effective, competitive and less bureaucratic means of ensuring a better service to the public than the solutions proposed by the Commission.

21 February 2012
Further written evidence from the Local Government Association (LBS 10A)

Further to the written evidence we submitted to your inquiry in the findings of the Competition Commission in respect of local bus markets and our oral evidence to the inquiry, we felt it worth submitting this supplementary note by way of clarification on our views regarding franchising and Quality Contracts.

The LGA believes that local authorities should be given the powers to franchise local bus services either as a whole or by areas or routes. Local authorities are best placed to decide whether or not this option will address the needs of passengers in their locality and a one-size-fits-all approach would not be appropriate.

Existing legislation provides for a form of franchising—Quality Contracts—which has yet to be taken up by local authorities. We believe that the complexity and risk involved in Quality Contracts have deterred authorities from utilising this provision to date.

However we think councils should have the option of utilising tools provided by existing legislation—including Quality Contracts—where the authority in question feels that is the best way to meet passengers’ needs. While we would prefer new legislation offering greater and more effective franchising powers, we would support any attempt by central government to support authorities utilising Quality Contracts and would support any effort by authorities to do so.

15 March 2012

Written evidence from South Yorkshire Integrated Transport Authority (SYITA) and South Yorkshire Passenger Transport Executive (SYPTE) (LBS 30)

1. Executive Summary

South Yorkshire Integrated Transport Authority (SYITA) and South Yorkshire Passenger Transport Executive (SYPTE) believe that:

1.1 The Competition Commission initially focused on what bus passengers wished to see, but then made the erroneous ideological step of believing that the needs of passengers could be met by competition in the market. This is erroneous because competition itself does not take place to any significant degree in the market.

1.2 The proposed remedies put forward by the Competition Commission, whilst helpful in some points of detail, do not fundamentally challenge the structure of the bus market such that bus operators will deliver the product or service which customers wish to enjoy. As a consequence we believe the bus market will continue to decline in the absence of any intervention.

1.3 Sustained head-to-head competition is unlikely to occur and without some form of control is not in itself a good thing. A customer wishing to travel from A to B will usually only have the choice of one bus operator. Just because another bus operator has a service running between point C and D, this is of no consequence or benefit to the first customer. This is not competition.

1.4 Quality Partnerships7 have a significant role in improving the customer offer and have been shown to work. Such Partnerships whilst workable, depend on operators being willing or obligated to engage in such Partnerships. Partnerships aspiring to customer quality have been shown to grow the market in South Yorkshire.

1.5 Franchising is an alternative option that genuinely offers accountability through a contract to an Integrated Transport Authority (ITA) or Local Transport Authority (LTA), it is also a significant factor in encouraging operators to engage with the more collaborative partnership option. It is disappointing that the Competition Commission fails to grasp the potential this option affords as it is the only way of ensuring competition for every route or network (via tender).

1.6 In taking forward the bus industry, Government should strengthen the ability to better meet customers’ ticketing and delivery needs, by allowing Authorities to:

(i) Obligate operators to enter into partnerships including those offering affordable multi-operator ticketing schemes including zonal products;

(ii) Require multi-operator schemes to be offered on a “smart” platform;

(iii) Such tickets should be marketed and retailed equally alongside operators own products;

(iv) It should include an e-purse option;

(v) Operators should be obliged to offer the customers the best product for their travel needs; and

(vi) The cost of tickets should be linked to the price of the secondary operator, or another formula independent of the dominant operator.

7 Quality Partnerships can be made up of: Qualifying Agreements (QAs) allowing co-ordination of timetables; Multi-operator Travel Cards (MTCs) and Multi-operator Ticketing Cards (MITs) allowing customers to have flexible ticketing; Voluntary Partnership Agreements (VPAs) and Statutory Quality Partnerships (SQPs) allowing quality issues to be addressed.
2. INTRODUCTION

2.1 The South Yorkshire Integrated Transport Authority (SYITA) is the Transport Authority for the area, the main conurbations of which are Sheffield, Doncaster, Rotherham and Barnsley. The Authority, through South Yorkshire Passenger Transport Executive (SYPTE), has fully engaged with the Competition Commission (CC) throughout the Local Bus Service Market Investigation and has also worked with the Passenger Transport Executive Group (PTEG) in formulating responses on behalf of the six Passenger Transport Executives. For the purpose of this response Authority means jointly the SYITA and SYPTE.

2.2 As with any such remedy, the ability for it to be effective in any meaningful way will be dependent upon both the legislation, and statutory guidance that implements it, and on the willingness for those affected to work proactively to achieve the desired outcome. We are concerned that to achieve the outcomes which the CC aspires, legislation will need to be altered.

In terms of the willingness for operators to work proactively, Operators could achieve many of the proposed remedies already. The fact that they do not do so suggests it is not in their commercial interests. This will not change following any new legislation, so we doubt operators will engage enthusiastically when compelled to participate; compelled to introduce products (eg bus only or restricted zones) and compelled to restrict their pricing freedom.

2.3 The Local Transport Plan and Transport Strategy for the wider Sheffield City Region sets out 4 main strategic goals as follows:

(i) To support economic growth;
(ii) To reduce emissions;
(iii) To enforce social inclusion and health, and;
(iv) To maximise security.

Delivery of these goals is the main focus of the Authority.

2.4 In principle the Authority welcomed the Competition Commission’s study into the local bus market, a market which has seen progressive decline in patronage in South Yorkshire since the time of bus deregulation, notwithstanding recent steps to increase bus use eg through the English National Concessionary Scheme, SQPs, VPAs, etc.

![SOUTH YORKSHIRE BUS PATRONAGE](image)

2.5 Market research for the Authority area and customer comments tell us customers want. Customers do not seek competition, although they do seek the benefits competition might bring, for example:

- Competitive affordable fares.
- Services on time.
- Proper customer care both on and off bus.
- Decent quality buses and bus stops/Interchanges.
- Understandable, easy to access travel information.

In reality customers do not enjoy bus competition, since for all but two bus routes in South Yorkshire (#52, #120) there is no competition between bus operators (other than for the most inner urban areas where operators routes converge on the approach to the Town or City Centre). The Competition Commission have therefore made the erroneous assumption that competition is what customers want, when in reality customers want the benefits that competition might bring. However, customers are unlikely to see this in many areas as they do not see operators behaving in a way which provides a high level of service such that customers might choose to use the bus, rather than it being increasingly a distressed purchase.
2.6 In contrast to London where central bus routes typically have a Peak Vehicle Requirement (PVR) of 20–30 (and in one case as many as 70), locally bus routes have an average PVR of below five. Therefore the nature of the market is such that the market for individual routes is seldom so big to make competition sustainable or attractive.

2.7 Bus patronage is falling in almost all parts of the County, except Barnsley\(^8\) and where VPAs\(^9\)/SQPs\(^10\) have been introduced. This falling patronage trend is unsurprising given the very low levels of customer loyalty as shown by the -43% Net Promoter Score which compares very poorly against the retail sector benchmark of +75%, and also against the tram and train. Together these two pieces of evidence demonstrate that customers are critical of the bus offer. If the Authority is to achieve its strategic goals, described above, then change is needed.

### Net Promoter Score: by Frequency of use and Mode

<table>
<thead>
<tr>
<th>Frequency of Use</th>
<th>Net Promoter Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than a year ago</td>
<td>-100.0</td>
</tr>
<tr>
<td>Less than once a month</td>
<td>-80.0</td>
</tr>
<tr>
<td>About once a month</td>
<td>-60.0</td>
</tr>
<tr>
<td>Less than once a month</td>
<td>-40.0</td>
</tr>
<tr>
<td>Once a fortnight</td>
<td>00</td>
</tr>
<tr>
<td>Once a week</td>
<td>+20.0</td>
</tr>
<tr>
<td>1–2 days a week</td>
<td>+40.0</td>
</tr>
<tr>
<td>3–4 days a week</td>
<td>+60.0</td>
</tr>
<tr>
<td>5+ days a week</td>
<td>+80.0</td>
</tr>
</tbody>
</table>

Source: 'Wave' Surveys SYPTE/TDR

2.8 It has been evident that some bus operators have pursued short-term profit above long-term sustainable growth. This approach is undermining efforts to achieve modal shift away from the car leading to congestion and pollution, which in turn make travel more costly for business and for those for whom bus is not an option. It is this competition against the car which the Competition Commission has failed to acknowledge or grapple with, but which if allowed to continue without check will continue to lead to the decline in the bus market, a market which in South Yorkshire directly employs 2,700 jobs.

2.9 This absence of competition allows bus operators to become complacent of customer need and focus more on market share and short term profit, rather than a longer term strategy of growing the market. This is where the role of Quality Partnerships (combining the options of SQPs, VPAs, MITs/MTCs and QAs), offer an alternative solution to both the status quo and the franchise option. In this Authority’s view, the Quality Partnership option needs a degree of compulsion to encourage operators to actively and positively engage.

At present there appear to be three motives to enter Partnerships:

(a) **SQPs**—these are compulsory in that operators comply or vacate the market. This precedent can be expanded to QAs/MIT/MTCs/VPAs, etc.

(b) Under threat of franchise—where operators defend their market by entering a partnership rather than risk not winning a franchise.

(c) Through their own motives to grow the market or to draw down ITA/LTA investment—in which case partnerships are actually seldom needed.

2.10 Here is where Government can help: by supporting the Quality Contract option and reducing the risk of implementation through market spoiling tactics by incumbent operators. This could mean Government initially underwriting risks to prove whether the QC model works. Franchising/Quality Contracts offer genuine competition quality through specification and customer accountability through the Local ITA/LTA, which will lead to a better customer offer. This option works in the rail industry, the London bus market to why can’t it be a realistic option for the rest of the UK?

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\(^8\) Stagecoach acquired the Yorkshire Traction group in December 2005 and have since revamped the bus network to offer customers a stable, affordable service offered with punctuality and quality above that previously provided. This SQP and the BMBC funded miCard, offering free travel to young people, has led to patronage growth in Barnsley.

\(^9\) The VPAs introduced in 2011 on two corridors in Sheffield (Optio Orange and Red) have led to a patronage growth of +1.9% and +5.16% respectively.

\(^10\) Over the last year the Sheffield SQP scheme has grown the market by 3.35% while the SQP in Barnsley has seen growth of 0.24%. These compare to a background decline in patronage of 0.76% over the same period.
2.11 Government can also support Quality Partnerships as an option too, by introducing a degree of compulsion either through political pressure linking collaboration to changes in Bus Services Operator Grant (BSOG) or via a legislative change, to compel operators to engage in raising quality standards, making the bus offer both affordable and easy to use.

2.12 When looking at the Competition Commission’s remedies, the Authority believes they fail to address these customer led fundamental issues with the market. That said, the individual remedies have some localised benefits but do not lead to a step change. Ticketing remedies are a particular help and should be both adopted and strengthened, reflecting customer feedback.

2.13 How could the Transport Select Committee help:

(a) Strengthen the partnership option to afford a greater degree of compulsion for operators to engage to deliver attractive, affordable and stable services offering customers a high level of performance and a quality customer service offer, commensurate with that found in the retail/service sectors. This might be achieved via withholding BSOG to unco-operative operators, or subject to allocation by a Local ITA/LTA.

(b) Adopt and enhance the Competition Commission’s ticketing proposals and take on board Passenger Focus’s research regarding customer needs. Government could therefore further propose:

(i) To link the price of tickets to a formula offering customers a good product at a price linked to the secondary operator in the area, not a premium above the primary operator. In South Yorkshire this creates excessive fares (as illustrated in the following graph), which shows that fare levels by the primary operator are set at a premium level, and because the primary operator’s fares are so far above the secondary operator’s fares, this means the multi-operator product is a premium purchase above a premium fare, a mark-up out of line with other areas of the UK.

(ii) The multi operator ticket should be supported by powers to allow zonal coverage.

(iii) Adoption of ITSO compliant smartcard technology on bus.

(iv) Changes are needed to ensure it can also be retailed and marketed by operators on a comparable and equal basis to their own products. This would include the obligation to advise customers of the best ticketing option for their need.

(v) Additionally customers say they want an “Oyster Card” type flexibility, therefore mandating operators to agree to an e-purse pay-as-you-go product has considerable merit.

![Multi Modal / Operator Ticket Premium](image-url)
2.14 For its role, it is beholdent on ITAs/LTAs to use these tools to broker a better solution for customers and in turn they need to be held accountable for their actions by the electorate.

17 February 2012

Written evidence from Dr Roger Sexton (LBS 05)

1. I will start by addressing your third question, “Is head-to-head competition feasible or desirable”.

2. I have always considered that on-the-road competition as highly undesirable. Buses jockeying for position at stops endanger road safety. But above all British bus deregulation damages the environment. What we have seen over the last 25 years is our city centres, and the main roads out of them, clogged up with too many buses. Buses become the cause of traffic congestion and pollution, rather than the solution to those problems.

3. Another highly undesirable effect of on-the-road competition is that it has led to many operators (particularly smaller ones) concentrating their efforts on weekdays 0700 to 1900 approx, and ignoring evenings, Sundays and holidays. Bus deregulation was meant to make buses market responsive. Yet most operators have blissfully ignored the fact that (unlike in 1986) Britain is now a 24/7 365-days-a-year society.

4. As to the feasibility of increasing on-the-road competition, I think that in the current economic and social climate an increase in competition between operators is highly unlikely. Bus operators in early 2012 face a bleak future with considerable losses in revenue because of cutbacks in reimbursements for carrying Seniors and Disabled for free. Moreover, the high level of unemployment means that many under-60s make fewer work and leisure trips.

5. Fuel costs are going up, particularly with the reduction in the (misnamed) Bus Services Operators’ Grant. Cut-backs in tendered services will make things very difficult for smaller operators who survive on a mixture of tendered and commercial work.

6. The result of these economic pressures will be that smaller operators will go out of business, while larger operators will withdraw from routes which were marginally profitable but become loss-makers.

7. Generous reimbursement for carrying Seniors encouraged smaller operators to start up competitive services, particularly on main road routes in big cities. With cuts in reimbursements and increased costs, this is unlikely to happen in the future.

8. It should be emphasized that the free market ideology which underlies bus deregulation has been heavily undermined by the introduction of free travel for Seniors. For a large proportion of passengers (I am 64) price is no longer a factor which influences our choice of bus. We just get on the first bus which comes along.

9. Contrast this with the plight of passengers under 60, who find that (usually) their return, all-day, weekly or monthly season tickets are confined to one operator. This leads neatly to your first question, which I will simplify to ask, “What does the fare-paying bus passenger really want?”.

10. The Commission gives a sensible answer to this question in effect saying, “The bus passenger wants reasonably priced tickets valid on all bus operators.” However this answer assumes that bus passengers never use a local train, tram, or local ferry. What the public transport user wants is reasonably priced tickets valid on all forms of local transport.

11. The Commission does propose (in effect) a system of compulsory joint bus tickets. There are three objections to this proposal.

12. Firstly, it clearly conflicts with the ideology of deregulation, one aspect of which is that operators should have free control over fare levels.

13. Secondly, the proposal excludes tram, local train and local ferry from the joint ticketing. It thus discriminates against the many passengers whose journeys involve a bus and some other mode of public transport.

14. Some of these passengers may be able to re-organise their journeys so that they can be made entirely by bus. If that happens, then the joint ticketing discriminates in favour of the bus as a mode of transport, and against the more environmentally friendly modes of train, tram and ferry. (These forms of discrimination already happen with free Seniors’ bus passes.)

15. Thirdly, complex primary legislation would be required to set up regional groups of local authorities with the powers to set the price levels of the joint tickets and to adjudicate how the income from the joint tickets should be divided between operators. A smart card system would help this latter problem but all operators would have to equip their buses, and with the same system. (Currently, in my home city of Nottingham, both major operators have smart card systems, but they are totally incompatible.)

16. As I have said before nationwide franchising is the answer to the British problem of getting good, integrated and affordable bus services. I would refer the committee to what I wrote in 2007. See parts one to six of my memorandum of 4 June 2007 set out in the Transport Committee’s ninth report for session 2006–07,
volume two at (evidence) pages 109–111. I adhere to everything I said in parts one to six, except that my example of unrealistic scheduling has now been corrected by the operator.

17. The Competition Commission’s report is yet another attempt to tinker around with a machine—bus deregulation—which is hopelessly broken down. In particular, enacting complex legislation to impose joint ticketing would not solve the environmental problems caused by overbussing, nor would it guarantee 24/7 365-days-a-year public transport.

18. Complex and comprehensive legislation is indeed, in my view, required. But the legislation I propose is not trying to mend a machine which is beyond repair. Rather it is to give to the rest of Britain outside London, the comprehensive integrated public transport system already enjoyed by Londoners and by many of our European neighbours.

10 February 2012

Written evidence from Neil Anderson, Associate Director, Capital Traffic Management Ltd (LBS 01)

SYNOPSIS

The submission identifies stability, reliability, punctuality, affordability and accessibility as key to the retention of bus modal share. It applauds both the significant benefits arising from geographic market segregation and franchising as the obviously successful model for widespread adoption.

It deplores the Competition Commission’s preoccupations with theoretical models and ideological concerns remote from the real world. While conceding that there are improvements required in the bus industry, it identifies the objectives of their findings as irrelevant and antagonistic to the concerns of passengers.

The submission is sceptical about Quality Partnerships and recommends cross-industry consultations on a series of issues.

1. INTRODUCTION

1.1 Your Committee has invited evidence pertinent to the Competition Commission’s recent findings on competition in the local bus market, and posited a number of questions.

1.2 My submission comments on the UK Bus Industry (section 2.), critically reviews some of the Competition Commission’s (CC) findings (3.), and attempts to answer the Committee’s questions and in doing so makes some suggestions as to the way forward (4.).

All references to the findings are by paragraph numbers in the CC Summary.

2. THE BUS INDUSTRY IN THE UK

2.1 Passengers primarily require bus services which are stable, reliable, punctual, affordable and accessible (in the broadest sense of the latter term). These are the keys to the retention of bus modal share.

The last thing that passengers require is instability brought about by competing services on bus routes. Head-to-head competition at the service level is invariably destructive and confusing to bus users, and wholly undesirable.

Both employers and employers want to be assured of reliable public transport in making critical location decisions. While buses cannot offer the assurance of fixed rail services, many who do not drive or have access to a vehicle are highly dependent on public transport.

In order to carry out its function, the bus industry must be profitable.

2.2 The London model of bus regulation provides for competition in the procurement of services. While the process and provision could no doubt be improved, it has been effective in meeting the needs of passengers, and is respected internationally.

Integrated Transport Authorities (ITA) for rationalised “city regions” and/or the larger well-defined sub-regions (eg North-East of England, Wales) should define routes and services, select operators for long-term franchises, design and promulgate service information and upgrade modal interchanges to a passenger-friendly standard wherever indicated.

It is extraordinary that there are 132 LTAs in the Competition Commission’s study area. This must entail completely unnecessary duplication of effort and multiple conflicting policies and practices. All bus operators, especially those who offer services in more than one LTA area, would benefit from a rationalised and simplified system.

2.3 Geographic market segregation has facilitated better information provision, route and service stability and greater passenger satisfaction. Where bus operators have provided a reliable service, their reputation is often high and modal share is easier to maintain. The commitment of the Brighton and Hove Bus and Coach Company to their community is an exemplar that the whole industry should be encouraged to emulate.
The dominance of the larger operators has been hugely positive for quality control and the long-term survival of routes. The ability to cross-subsidise poorer-performing routes, no doubt anathema to the Competition Commission, is a strength that passengers in many areas appreciate, even if the service is infrequent. There are important economies of scale in bus service provision.

2.4 Many operators—large and small—have been innovative in major respects of service provision (eg discounted and multi-trip tickets, passenger comfort, multi-operator ticketing schemes, diversified services). If we wish to increase bus modal share however, there are aspects of the bus industry that ought to be carefully reviewed.

2.5 The industry tends to be conservative, often for very good reasons. Business risk is not something any manager wishes to flirt with if avoidable, as it has career-threatening implications. Applying a tried and tested route and service pattern ensures a reasonable return to stakeholders, whereas sufficient investment in a new route or area could be expensive over the duration of the commitment.

2.6 Most bus routes in cities and towns are radial. Yet in mature cities like Melbourne or London, about 44% of movement is orbital. Orbital routes are often expensive to operate by bus and would depend on efficient interchange with radial routes (bus, rail). Orbital light rail would be more appropriate in London and larger cities, as in Paris.

Many bus routes have a historic pedigree, reflecting land uses of long ago that have now changed. Dramatic changes of land uses are relatively rare, and frequent route reviews are unnecessary. Any reviews of bus routes in cities and large towns should take more account of significant traffic generators in suburban and outer areas (eg hospitals, supermarkets), and facilitate the development of polycentric urban forms.

2.7 The industry (and its local authority partners) should be congratulated for its efforts to make buses more accessible to people with mobility impairments. Huge strides have been taken in the last 20 years that have benefited a much wider constituency than just disabled people.

In relation to wider or service accessibility, the picture is much more mixed. While it is possible to exaggerate the importance of this aspect, bus routes and services are often opaque to current non-users and visitors. Yet the latter constitute a huge potential market.

At least 80% of people in most locations choose not to use a bus, so the quality of service or information provided is effectively irrelevant. Tourists will choose a taxi rather than wrestle with the intricacies of local bus routes, stop locations, frequencies, identifiers and operating conventions. Multiple service providers, whether competing or not, compound the problems of communication, dissemination and interpretation.

Nevertheless, and at the margins, there are gains in ridership and revenue which could be made by paying closer attention to information design, especially at passenger terminals.

2.8 The revenue per seat-km or per passenger-km to the bus operator has always been low. As a result, bus companies, especially small ones, conspicuously lack middle-tier management, cannot justify expensive marketing, and are constrained from investing in research or external consultancy. Competent bus inspectors, of which there are many, are often under-qualified and under-trained for the more sophisticated elements of modern-day bus operations and management.

3. The Competition Commission’s Findings

3.1 The CC Summary para 7 estimates the costs of adverse effects on competition (AEC) in the range of £185–375 million annually, while para 10 notes that 2.9 billion passenger journeys were made in 2010–11. I calculate from this that the cost to passengers of AECs is between 6.4–12.9p/journey. This must surely be a small proportion of typical fares, and barely significant.

Furthermore, the CC Summary (paras 17, 29, 49) highlights the predilection of passengers to be relatively unconcerned about features (price, service quality) that the CC nevertheless focuses on!

3.2 One is tempted to conclude that the CC report is much ado about nothing, a true arrow sadly misdirected. The OFT and the Competition Commission should recognise that head-to-head competition, rare and ineffectual enough in the rest of the economy in restraining cost inflation, is wholly inappropriate for the bus market.

Bus operators are already chasing a small proportion of the travel market, and neither they nor passengers are well-served by the application of arcane theories of textbook-pure competition far away from the real world. Perfect competition implies a zero rate of return, hardly helpful in any industry or enterprise, and certainly not in one where under-investment is an issue.

The real competition for buses arises from the low marginal cost of private transport.

It is disappointing to see intellectual effort of a high-order being distracted from the more substantive issues that face the UK economy.
3.3 I conclude that the Commission’s recommendations are likely to be counter-productive, even if they proved workable.

4. The Committee’s Questions

4.1 Has the Competition Commission addressed the issues of most importance to the bus passenger?

In the Commission’s perfect world, a reduction in the cost of 6.4–12.9p/journey might appear like success. Yet the loss of that revenue could render some services and operators unviable, thereby reducing competition.

The Commission appears to have acted with flagrant disregard for the passenger, and interpreted its brief too literally. The answer to the Committee’s question is therefore, on its own admission, self-evidently not!

4.2 How effective are the remedies proposed by the Competition Commission likely to prove?

The case that the system is broke is unproven. Let’s not fix it!

It is clear from the Commission’s report that the difficulties of sustaining competition over time are considerable and the gains near-invisible. While there may be a temporary victory for doctrine, changes in the manner they recommend are likely to be ineffectual.

It is really unfashionable to believe that more interference by bureaucrats is a good thing. A reality check appears to be required.

4.3 Is sustained head-to-head competition feasible or desirable?

As 4.2. It may be theoretically feasible, but it is probably impractical, certainly undesirable and clearly unsustainable without inviting more cost than benefit.

The bus industry should not be experimented with in such a superficial and cavalier manner, even in the pursuit of ideological purity.

4.4 What role should Quality Partnerships play?

Quality Partnerships are a probably step in the right direction, and reflect much current practice. I doubt that they will be sufficient to positively impact modal share to the point where traffic congestion would reduce. They should be monitored and critically reviewed.

4.5 Has the Competition Commission adequately considered the franchising option?

No.

Bus ridership in London has increased, while outside of London, the trend has been downwards (the Commission claims stable). There would appear to be ample reason for them to favour the London model in the interests of both passengers and operators.

Certainly the London model would eliminate the exclusionary conduct and misrepresentation they cite (paras 39 and 42). Clearly, transparency and accountability ought to be important requirements.

4.6 What action should local government and central government now take?

In the first instance, I return to my earlier encouragement to the Committee (February 2011) to recommend:

— a thorough inquiry into current and future urban and rural public transport provision;
— application of the London model of bus regulation and franchising throughout the UK in the short-term; and
— positive consideration of Light Rail for mainline routes in larger towns and cities.

Second, implement more Quality Partnerships and review the results carefully in conjunction with the industry.

Third, sponsor a series of roundtable cross-industry talks about a way forward for the whole industry, and fund appropriate research.

There are many substantive issues to canvass:

— the contribution the industry can make to energy conservation;
— eco-driving (as in Freight Best Practice);
— participation in multi-operator ticketing as a condition of bidding for franchises;
— ITA responsibility for passenger information;
— surface access strategies for major rail stations and other key destinations;
— the role of niche operators;
— light rail substitution;
— complementing bus services with taxis;
— growing ridership; and
— reviewing and developing the quality partnership concept, etc.

1 February 2012

BRIEF BIOGRAPHY

Passenger transportation has been the focus of my professional career. Inter alia, I was an elected Deputy Chair and Member of the Christchurch Transport Board (municipal bus operator, New Zealand, 1977–83), lead author of the Central London Bus and Coach Survey (1989), Strategy Manager, Jubilee Line Extension, and Senior Consultant (LUL/LT, 1990–96), a university researcher and lecturer (various) and Principal Transportation Planner (Rail) (LB Hackney, 2005–06).

I have written extensively on transportation issues, including conference papers on accessibility, information design and utilising light rail for freight.

Currently an Associate Director of Capital Traffic Management Limited, I head the transportation planning division. Our Clients include passenger services providers and suppliers.

Further written evidence from Neil Anderson, Associate Director, Capital Traffic Management Ltd (LBS 01A)

SYNOPSIS

This supplementary submission follows on from the author’s February 2012 submission and appearance before the Committee on 28 February 2012.

It was clear from the Committee’s questions during that evidence session that the deregulated UK bus market outside of London, and the Competition Commission’s report were not favoured as the bases of a way forward.

Accordingly, the present submission outlines a proposed “Office of Bus Regulation” (Ofbus) and scopes out possible roles for complementary bodies (e.g. the Traffic Commissioners), and proposes a UK Bus and Tram Council to lead the urban public transportation industry.

The submission makes a case for the inclusion of on-street light rail/trams within the parview of Ofbus, and discusses a number of other relevant issues in some detail.

1. INTRODUCTION

1.1 The Transport Committee staff invited supplementary evidence relevant to the present inquiry.

1.2 In my submission and evidence before the Committee, I contended that competition in the provision of bus services was inappropriate, counter-productive and unlikely ever to result in satisfactory outcomes without excessive cost in administration. The report of the Competition Commission fully indicates the latter.

1.3 My submission advocated the regulation of the UK bus industry along the lines of the London and continental European models. To the Committee, I proposed the creation of an “Office of Bus Regulation” to oversee the urban bus (and tram) industry.

1.4 These supplementary submissions make comments on points raised by the discussion at the Committee (2.), further outline my concept of an “Office of Bus Regulation” (Ofbus) (3.), provide a rationale for the inclusion of on-street light rail/trams within the ambit of Ofbus (4.), scope the complementary roles that could be played by a “UK Bus and Tram Council”, the Traffic Commissioners, the independent transport authorities and other stakeholders (5.), recommend a criterion for the appropriate size of franchise areas (6.), discuss financial issues, (7.) suggest penalties for non-compliance and incentives for growing ridership and modal share (8.) and finally, propose some interim measures pending the establish of Ofbus (9.). Conclusions (10.) complete the submission.

Note. The term tram is used herein to refer to light rail vehicles or ultra-light rail vehicles (LRVs or ULRVs respectively).

2. COMMENTS ON THE DISCUSSION AT THE COMMITTEE

2.1 While not belittling the successful efforts made in Cornwall and Norfolk to increase bus ridership, it was not explained whether this had occurred because of sustainable head-to-head competition between operators on the Competition Commission model, or because of good cooperation between operators and local authorities. It is surely the latter we need to facilitate.

Further, in a period of rapidly rising fuel costs, increasing bus ridership should be expected.
2.2 While local authorities might bridle at my suggestion that all 132 LTAs may not have the appropriate levels of expertise to procure services and manage franchises, viable Travelcard/franchise areas will require much fewer ITAs and will be able to afford the necessary specialist staff.

Ideally, the boundaries of ITAs should coincide with those of regional government for all other functions.

2.3 One member of the Committee expressed their view that the Traffic Commissioners currently have an undesirable confusion of roles. I concur, and believe a fundamental review of the sector is required, and that the roles of all parties should be clearly defined.

2.4 Positive comments were voiced about Quality Partnerships, and there are some which have been effective.

However, Quality Partnerships cover a wide variety from the truly innovative to the merely cosmetic and superficial. Furthermore, they provide very little leverage to the LTAs.

Their haphazard outcomes suggest more uniformly successful arrangements are required.

2.5 While bus drivers were only mentioned in passing, I contend that the delivery of quality passenger services depend critically on the goodwill of passenger-facing staff.

Efforts should therefore be directed at ensuring appropriate training and the design of workplace roles that are conducive to good employer—employee relations and especially good staff—passenger relations (refer also to 7.4).

3. AN “Office of Bus Regulation”

3.1 I defer to the expertise of others in establishing the detailed legal and administrative structure of the office and the objectives of the proposed Regulator, Ofbus.

Were the proposal accepted, I understand that legislation would be required, though a Shadow Regulator could make substantial progress in the interim refer to 9).

3.2 The primary roles of Ofbus are envisaged to be:

3.2.1 to take over-arching responsibility for the sector;
3.2.2 to devise policy for the urban passenger transportation sector;
3.2.3 to determine national terms and conditions for operating franchises;
3.2.4 to set national standards and guidelines (safety, engineering, quality); and
3.2.5 to act in the interests of passengers.

3.3 Ofbus would also initiate reviews of bus routes for possible conversion to light rail in conjunction with the regional Integrated Transport Authority (ITA), and other otherwise act as an advocate for light rail at the national level (refer to 4).

3.4 Ofbus would be advised as appropriate by VOSA, DfT, HA etc.

4. Light Rail/Tram and Bus

4.1 I contend that the relative failure to establish light rail/tram networks in the UK has been in part due to the heavy rail philosophy that has dominated engineering and safety standards.

While this has been successful in ensuring a high standard of safety on the railway, the standards are inappropriate for on-street tram. Unfortunately, it has also ensured that UK tram networks are unnecessarily over-engineered and over-expensive.

4.2 A clear division ought to be made between (segregated) Heavy Rail tracks and rolling stock and on-street Light Rail tracks and rolling stock.

The first should continue to be administered by the Office of the Rail Regulator (ORR), while Light Rail should come within Ofbus on the grounds:

— that LR serves much the same transportation functions as urban bus;
— that LR and bus can share the same facilities (stops, terminals);
— that many major bus routes in cities would justify conversion to LR;
— that all urban transportation networks should be designed to enable bus to complement LR (and HR); and
— that widespread deployment of electrically-powered LR in urban public transportation would contribute markedly towards a shift to renewable energy and energy conservation objectives.

4.3 In respect of tram-trains or trams that share tracks with HR trains, Ofbus should work in conjunction with the Office of the Rail Regulator (ORR).
4.4 The division proposed above would give major impetus to LR in the UK, bring down costs and facilitate both private and public funding of networks.

4.5 Ofbus would then regulate both bus and light rail networks, setting appropriate standards for both.

4.6 Ofbus should also facilitate the utilisation of taxis to provide on-demand and/or scheduled off-peak services, in association with bus operators.

5. COMPLEMENTARY BODIES

5.1 For efficient management of the sector, clarity of objectives, roles and responsibilities will be required. A sticker plaster approach should be avoided.

Below, I offer a first-cut proposal for the roles of each body, but it is appreciated that some rationalisation and adjustment may be necessary.

5.2 The Traffic Commissioners

The Traffic Commissioners should have four primary roles:

5.2.1 to ensure the compliance of operators with safety, engineering and quality standards, and the compliance of services with the terms and conditions of the franchises;

5.2.2 to review the local franchise terms and conditions as proposed by the transport authority, to ensure due process in the assignment of franchises, and a just apportionment of revenue from Travelcards;

5.2.3 to adjudicate and resolve disputes between the transport authority (refer to 5.3) and the franchisee (Ofbus to act as the appeal authority); and

5.2.4 to levy penalties for non-compliance.

5.3 The Transport Authorities

The integrated transport authority for each franchise area should:

5.3.1 design routes and specify services having regard to PTALs and other criteria;

5.3.2 provide stops, efficient interchanges and passenger information;

5.3.3 identify bus routes for potential LR conversion;

5.3.4 improve existing interchanges;

5.3.5 prepare franchises and select operators or consortia for routes;

5.3.6 administer the area travelcard and apportion revenue (schemes to be approved by the Traffic Commissioners);

5.3.7 collect all revenues and disburse funds to franchisees;

5.3.8 monitor and analyse ridership;

5.3.9 monitor service performance;

5.3.10 work with operators to promote bus and tram services;

5.3.11 license taxi and other paratransit services;

5.3.12 have the ability to provide services itself if required; and

5.3.13 incentivise and reward increases in bus ridership.

5.4 The UK Bus and Tram Council

The Council should:

5.4.1 act to promote and lobby for the interests of urban passenger transportation in the UK;

5.4.2 ensure representation from both major and small operators. Associate members/observers should include representatives from ATOC, the transport authorities, coaches, taxis and passenger interests (eg Passenger Focus) and employees/trade unions;

5.4.3 sponsor appropriate research and an annual conference; and

5.4.4 make representations on behalf of its members (all franchise holders/operators) and their collective interest to Ofbus and/or the Traffic Commissioners where appropriate.

5.5 Passenger Focus

5.5.1 the present remit of Passenger Focus appears adequate but should be reviewed in the event of new legislation and the respective roles of other parties; and

5.5.2 Passenger Focus should meet with other passenger interest groups and other bodies (eg Councils) and understand their concerns.
6. CRITERIA FOR FRANCHISE AREAS

6.1 Previously, I had been of the view that devolution of responsibility for franchises should devolve to local authorities or combinations thereof that are large enough to provide the necessary expertise to ensure effective and efficient management (refer to 5.3).

I now consider that this is an insufficient criterion, though it remains highly desirable to reduce the number of LTAs substantially from the present 132.

6.2 The key criterion should centre on an area’s being geographically large enough to provide a value-for-money multi-modal travelcard. Wales should be one such franchise area.

The area should be contiguous to a major urban centre (or centres), and have cognisance of the extent of inward commuting. The latter imposes significant costs on peak transportation provision, so discounting for long-distance peak travel should focus on user convenience rather than financial benefit.

6.3 Rural areas should be assured of at least a lifeline bus service being provided as part of route or urban/sub-regional franchises. This should also apply to off-peak, overnight and Sunday services.

6.4 The livery for each franchise area should be a standard colour, and the key identifier become the 3-digit route number (000–999). A systematic and nationally consistent approach should be taken towards route numbering for ease of identification and interpretation.

6.5 The franchise conditions should include:
   6.5.1 full reporting of key data (fuel consumption, working hours, passenger-kilometres etc) is carried out and made available to the Transport Commissioners and the Transport Authorities;
   6.5.2 accountability for all public funding;
   6.5.3 provision for a reasonable return on investment for the franchisees;
   6.5.4 maintenance of off-peak services. In recognition of the 24hr economy that exists in most cities, tram and bus services should run 24/7/365; and
   6.5.5 encouragement on a route-by-route or area sector basis for joint ventures between major and smaller bus companies.

7. REVENUE, SUBSIDIES AND FARES POLICY

7.1 The ITA should collect all fare-box revenue and adopt procedures to ensure transparency of ridership data for performance monitoring, route reviews and other purposes.

7.2 Energy use should not be subsidised. Instead, rewards and incentives should be given for energy conservation and benefits for passengers.

7.3 Increasing ridership should allow increasing returns to scale, and the potential, after the interim transition period, for a reduction in public subsidy.

7.4 Noting the high turnover of staff and training costs, a joint inquiry by operators and trade unions should establish means by which driver retention is improved, including offering long-service, safe driving, fuel economy and other incentives.

The use of conductors should be facilitated on major routes.

While conditions in driver’s cabs have much improved in recent years, depots are often poor quality in respect of staff comfort. Standards should be set for food quality and cleanliness.

Working shifts should be designed to promote family life. Staff should be encouraged to use public transport for their journey to work, and for leisure use.

7.5 Simplified and nationally-consistent fare structures should be designed to encourage ridership and the use of travelcards.

Concessionary passes that provide free travel should be subject to a management fee set by the transport authority, and payable on renewal.

Concession fares should be available to children under 16, young people 16–25 (partly to encourage and maintain the public transport habit), people with temporary or permanent mobility impairments, families and pensioners. At present, those who are 16–18 appear to fall into a gap.

Concession fares and cards should provide for part-time workers.

7.6 Recognising the contribution that public transportation makes to a city, consideration should be given to establish a versement transport-style tax that would be contributed to by employers, retailers and Council Tax payers. This should be designed to be fiscally-neutral but shift the burden from national taxpayers to the regions (ITA areas).
8. **Penalties and Incentives**

8.1 The Traffic Commissioners currently have the power to revoke licences. This is much too draconian to ever be applied, as the loss of a city’s bus service would be a penalty incurred as much by passengers.

It is therefore a meaningless sanction.

8.2 Instead, I propose a graduated scale of penalties and incentives that directly target the profitability of the operating company.

8.3 First, at the lowest level, the penalties and incentives could be applied on a route or selection of routes basis. These could be expanded where required or merited respectively, and be for set time periods.

Second, the penalties should relate to all of the standards laid down in the terms and conditions of the contract. Where there is difficulty in quantifying the extent of the breach, the penalty should be assessed conservatively.

8.4 For penalties, I propose that they be set at fixed percentages of the Contract Price (eg 0.5%, 1%, 2% etc) depending on the seriousness of the breach) for periods of three or six months.

Repeated non-compliance and sub-standard services should result in the loss of contracts on a route basis, provided time is given for improvements to be instituted. However, maintenance of the service should be given priority.

The Contract Price should be paid in advance instalments to ensure an adequate cashflow for the franchisee. Provided due process is observed, penalties should be levied promptly.

8.5 Incentives should relate especially to sustained increases in ridership, but improvements to service efficiency, staff retention and passenger satisfaction should also be rewarded.

For the former, I propose a rising proportion of the total fare-box revenue, say 1%, 2% or 3%.

Alternatively but less preferably, a proportion of the incremental revenue could be paid to the operator. Their focus should on all passengers, not just new passengers.

Incentives should be paid on an annual basis, but measured quarterly.

9. **Interim Measures**

9.1 The transition to fully-franchised services should be anticipated to take three to five years. It will therefore be necessary to provide some interim measures to protect the interests of the existing operators.

Already, many small operators have been eliminated by current trading conditions. Yet they have been positive for quality and innovation, and would provide a significant contribution to future sector growth. Action should be taken urgently to ensure their continued participation in the sector.

9.2 First, a Shadow Ofbus should be created with powers to:

9.2.1 consult all interested parties;
9.2.2 institute a review of potential franchising models;
9.2.3 draft the primary legislation for the Office of Bus Regulation;
9.2.4 commission research into key issues—appropriate Travelcard/TA areas, staff retention, route analysis and design, fare structures, optimum franchise lengths, appropriate roles for the Traffic Commissioners, provision of rural services etc;
9.2.5 design and trial short-term franchises; and
9.2.6 implement measures to assist smaller operators, including review the potential of consortia and joint ventures with larger operators.

9.3 In carrying out these tasks, the Shadow Ofbus should encourage the development of new partnerships among the parties, and help determine objectives for the sector as a whole.

9.4 A series of national bus conferences should begin as part of the consultative process.

10. **Conclusions**

10.1 The present paper contains more detail than would ordinarily be required for the Committee’s more usual strategic approach.

However, the paper has been primarily designed to contribute specifically towards a way forward, expanding on proposals made in my earlier Submission.

10.2 While agreement with all the details included is unlikely, they raise issues which ought to be fully canvassed in the appropriate fora once a new process is established.
10.3 While the operators currently aspire to increase profitability and reward investors, once the former is assured under the proposed franchising regime, a more collective approach by the sector as a whole will be facilitated.

The real competition for public transportation is the private car—more especially the private car wilfully and inefficiently used. It is not in the national interest for the latter to continue.

This is not to make an enemy of motorists, but rather encourage *trip-specific modal choice* (using the most appropriate mode for each journey), and hence lower household transportation costs and reduce traffic congestion—which would benefit motorists.

10.4 Transportation policy in the UK is conflicted by incompatible policies that on one hand, encourage mobility (whether efficient or not, in the name of choice and profits), and on the other, are supposed to encourage efficiency and energy conservation.

Highly pertinent in this context is that the Committee has recently made comment lamenting the lack of a *national transport strategy*.

A clear and consistent role for public transportation, newly configured for ridership growth rather than to defend territory, would contribute substantially to a wide range of social and environmental objectives, and offer the real choice of *affordable access for all*.

27 March 2012

**Further written evidence from Neil Anderson, Associate Director, Capital Traffic Management Ltd**

(LBS 1B)

**Synopsis**

This second supplementary submission follows on from the author’s February 2012 and March 2012 submissions and appearance before the Committee on 28 February 2012.

The submission regrets the support of the UK Government for certain recommendations of the Competition Commission, and reiterates the contention that these are likely to prove ineffectual if adopted. It suggests that the Response is insufficiently critical given the extent of the commitment of public finance to the sector.

The Response is identified as internally inconsistent and confused, and fails to identify or posit any mechanisms by which value for money and other criteria may be quantitatively assessed over time.

1. **Introduction**

1.1 The Transport Select Committee has invited supplementary evidence relevant to the continuing inquiry and specifically to the Government Response.

1.2 In my first submission and in evidence before the Committee, I contended that competition in the provision of bus services was inappropriate, counter-productive and unlikely ever to result in satisfactory outcomes without excessive cost in administration and micro-management. The report of the Competition Commission exemplifies the latter.

1.3 My submission advocated the regulation of the UK bus industry along the lines of the London and continental European models. To the Committee, and more fully in my supplementary submission, I proposed the creation of and outlined the functions of an “Office of Bus Regulation” to oversee the urban bus (and tram) industry.

1.4 In these second supplementary submissions, I critique the Government’s Response to the Competition Commission’s report(11) (2.) and offer brief conclusions (3.).

2. **A Critique of the Government Response**

2.1 Recent announcements made by the Government (as listed in Appendix 1) indicate positive engagement with the bus industry, and are, in the main, to be warmly welcomed.

The initiatives made in respect of eco-friendly buses, strengthening the role of and increasing funding for local authorities, better targeting of public funds, breaking the link between fuel use and subsidy and encouraging integrated and smart ticketing are important moves in the right direction.

2.2 To the extent that the Competition Commission has endorsed these improvements, their report has merit. Nonetheless, one might question the unnecessary duplication of much of this work.

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11 http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/g/12–689-government-response-competition-commission-local-bus-services-investigation

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Otherwise however, the Commission has perpetuated the evidence-free belief that—somehow—on-street competition between transportation providers will both lower costs and bring benefits to bus users. This is in stark contrast to their provisional findings.

Rather than querying this apparently ideologically-based position, the Government has accepted it, albeit in small and token measure, while at the same time emphasising the more substantive changes noted in 2.1. The latter are likely to have a wholly desirable impact on the sector, while the former—ironically requiring more regulation and guidance—struggle to find either recognition in practice or in beneficial experience since bus de-regulation.

2.3 Certainly the evidence offered by the CC is paltry and risible in the extreme (refer to 2.5).

This issue goes to the heart of the rationale for the OFT’s and CC’s involvement in the bus sector (my previous submissions refer). It is extraordinary that despite their no doubt diligent and long-term activity in promoting competition, they admit that the benefits of de-regulation have not yet been fully realised!

How long will we have to wait?

More particularly, how are their remedies to be tested? How will it be demonstrated that the new de-regulation regulations will have been effective in achieving whatever they are intended to achieve?

The potential of all the other measures endorsed by the Government and that rely on cooperation and partnerships between otherwise competing interests could well be undermined by an unwarranted and inappropriate adherence to competition theory.

2.4 It is profoundly disturbing that the Government has been insufficiently critical of the blatantly contradictory CC recommendations.

While advocating SMART criteria in many contexts, the Government has, in this instance, failed to examine whether the recommendations are, for example, Measurable, Attainable or Relevant.

The blunt weapon of competition cannot easily be fine-tuned to avoid unintended consequences. It may that changes in the BSOG have already prompted mergers as the result of some routes and companies becoming unviable. On-street competition would introduce a wild card with inevitably random outcomes, and more mergers could become unavoidable.

It may be that there is a lack of expertise within the DfT, BIS or elsewhere that could have ensured that the relevant SMART criteria would be met in any policy proposals. And, more pertinently, to challenge the CC for its lack of a rationale for more competition.

2.5 In para 2, the Response cites the OFT as saying:

…it had found evidence that limited competition between operators tended to result in higher prices and lower quality for passengers and that it was concerned about single operators dominating areas.

(emphasis added)

In para 6, it quotes the Competition Commission estimate that:

…overall, the annual detriment to consumers and tax payers caused by the lack of competition identified is in the range of £115 million to £305 million.

In para 21, the Response describes the size of the detriment as significant.

2.5.1 Analysis

Para 7 of the Competition Commission Summary (CCS) estimated the costs of adverse effects on competition (AECs) in the range of £185–375 million annually (including the £115–305 million mentioned above).

CCS para 10 notes that 2.9b passenger journeys were made in 2010–11.

I calculate from this that the increased cost to passengers of the AECs is between 6.4–12.9p/journey.

Given a typical urban bus fare of, say, £2.00, the higher estimate of the AECs is equivalent to 6.45% of the fare.

2.5.2 Comment

It is difficult to comprehend why the Government considers that a mere 6% of fares due to AECs is in any way significant. Surely a sense of proportion is lacking here?

Furthermore, the CCS (paras 17, 29, 49) highlights the predilection of passengers to be relatively unconcerned about features (price, service quality) that the CC nevertheless focuses on!

The onus should be on the Competition Commission to demonstrate that their remedies will have the desired effects, and that their activities in respect of buses are in the public interest.
2.5.3 Conclusions

I contend that casual acceptance and advocacy of untested and inconsistent assumptions by the Government will continue to prove expensive and time-wasting. The case made by the CC in relation to competition is unproven, and trivial with so little to play for!

With respect, profound scepticism about this aspect of the Commission’s report should be voiced by the Committee.

Even more usefully, the Committee would be on firm grounds to query and advocate a review of the role of the OFT and the CC in relation to the bus sector.

2.6 In para 6, the Response states:

In the view of the CC, this lack of competition in the commercial and tendered market can result in a combination of higher fares, fewer services and lower quality services.

2.6.1 Analysis

While such an opinion can readily be stated, the CC has found it impossible to produce any convincing or non-trivial evidence to support it.

2.6.2 Comment

It is wholly implausible to accept that the small per journey impost caused by AECs have been instrumental in producing more than marginally higher fares or other significant impacts.

Higher fares are much more likely than lower fares to facilitate the retention of services and to improve quality.

2.6.3 Conclusions

The CC might be asked to illustrate on what basis it has formed their view, and the Government why it has endorsed it.

2.7 The CC’s remedies listed in paras 8–19 are, in general, compromised by their muddled thinking about the desirability of competition. For example, they advocate:

...partnerships with certain characteristics... to facilitate increased competition...

(para 18).

It will be intriguing to see how this particular logical contortion will be achieved in practice!

2.8 Para 17 of the Response notes the CC concedes that:

...franchising may have a role to play in some areas...

...but claims that...

...the CC ruled it out...

2.8.1 Analysis and Comment

From my reading of the CC report, it is not clear that the CC has ruled franchising out. It is more the case that the study was deliberately directed at bus competition outside of London, thus avoiding the highly relevant comparisons that ought to have been made.

2.8.2 Conclusions

The Committee could consider asking the Government if, given their and the CC’s confidence that the new package of measures for buses outside of London will be successful, they are considering removing franchising from London so that Londoners might also gain the benefits of the new regime posited by the CC?

Conversely, if the Government is happy with the outcomes of bus policy in London (increasing ridership, high satisfaction levels), why not adopt franchising in other areas?

Further, what criteria will the CC and the Government apply to determine which areas would be appropriate for franchising?

Finally, given the success of the London Model and the universal adoption of franchising in Europe, why have the OFT and the CC been encouraged to perpetuate a system which has demonstrably failed, by applying more sticking plaster?

2.9 The Government Response beginning at para 20 outlines the objectives of policy, including, inter alia...

...ensuring passengers and taxpayers receive best value for that funding and on setting the conditions in which bus services can be improved and patronage increased.
2.9.1 Analysis and Comment

No mechanism appears to be in place to distinguish and measure the impacts of the various policy strands in terms of best value, and especially to measure the impact of the changes now advocated by the CC.

As it has long been the objective of successive Governments to increase bus ridership, it must surely be a matter of concern that despite near-continuous tinkering with policy, the results—outside London—have been indifferent at best. Re-arranging the deckchairs comes to mind…

2.9.2 Conclusions

The Committee might inquire as to how the Government plans to measure the outcomes of each of the proposed policies.

2.10 In para 21, the Response identifies:

…the further external costs to society resulting from the congestion and environmental impact of potential bus users forced into purchasing a car by the poorer quality services provided in less competitive markets.

2.10.1 Analysis and Comment

This comment is ingenuous in the extreme, highlighting a minor and marginal phenomenon and ignoring the much larger impact of a great many more potential bus users who choose to buy cars and to use them, despite the very good bus services often available!

2.10.2 Conclusions

A sense of proportion is lacking.

2.11 In para 22, the Response states that the Government is:

...committed to improving bus services and increasing bus patronage by providing the funding and regulatory framework for local transport authorities and bus operators to work in partnership to make the bus a more attractive option.

Paras 23–33 outline some specific actions it intends.

2.11.1 Analysis and Comment

The CC alleges that it has identified a set of problems, including a lack of competition, maintained to be the root causes of declining bus ridership outside of London. It proffers a set of remedies it believes will address these problems—despite the fact there is already a successful model in London to follow.

The Government has chosen not so much to re-invent the wheel, but to modify it by accepting the remedies, some of which are London-lite while others are competition-heavy.

2.11.2 Conclusions

This other wheel has of course, not yet been created. Given that a solution to basically the same problem is available (ie the London Model), one might ask why bother?

Even more challenging will be designing a model sufficiently different from the London Model but emulating its success!

Given that the whole of Europe (and London) has adopted franchising for all local circumstances, the legislative, regulatory and administrative effort (paras 24, 25, 26, 27, 28, 29, 32) to be given to developing this unique new wheel (different from the unique old wheel), is surely wasteful of public money.

The Committee should consider comparing and contrasting the practical advice given by transportation specialists at the DfT (as in para 31) with the theoretical and ideologically-driven advice apparently given by microeconomists at the OFT and the CC.

2.12 In para 34, the Government praises the CC’s…

...thorough report and measured remedies.

The Response highlights their belief that…

...in many local bus markets competition between local bus operators is prevented, distorted or restricted and that this has significant adverse effects on the provision of bus services on which passengers rely.

In para 35, the Government then claims that it…

...is a measure of the degree of seriousness with which the Government has considered these findings that…we have agreed to pursue all the recommendations made to us to address this shortfall in competition.
2.12.1 Analysis and Comments

The portentousness of the latter claim aside, it is difficult to believe that the consideration given to the CC report was sufficiently scrupulous.

2.12.2 Conclusions

The Committee might consider requesting the Government to provide more detail as to the nature of its consideration, and asking whether it had anticipated and subsequently discounted the many criticisms of the CC report that I and others have made, for good and proper reasons.

2.13 I welcome the Government’s recognition in para 36 of the requirement for:

...a stable, reliable and integrated service

...in order to retain and attract further passengers.

It is completely unclear, and not discussed in either the CC report or the Response, as to how on-street competition would contribute to the stability, reliability and integration of such services.

2.13.1 Analysis and Comments

Para 37 continues with this ambivalence and lack of clarity, and concludes with what is tantamount to a fudge.

With barely a nod to competition, though still exposing operators to the vagaries of competition law, monopolies, partnerships and coordination are lauded. What the newly pro-active OFT will police, might, after all the bluster (eg AECs, referring mergers), turn out to be competition-lite.

2.13.2 Conclusions

The impression of clumsy compromise and confusion overshadowed by ideology is reinforced in this final paragraph of the Response.

3. Conclusions

3.1 It is highly regrettable that the Government has failed to take up the challenge of real reform, and to accept the manifest desirability of uniform UK-wide bus regulation based on the London and European models.

3.2 Given the stringent financial discipline being imposed by the Government, and the substantial savings that could be reaped with a thriving fully-integrated bus industry by households and funding authorities, it is surprising that the central issues do not appear to have been fully canvassed.

The opportunity cost of continued inaction will be substantial.

3.3 It is improbable that an appropriate and effective funding and regulatory framework (para 22) will emerge from the Government, if based on the CC report.

3.4 The Committee might consider recommending that the outcomes of the new regime (outside of London) are scrutinised in the next Parliament.

In order to facilitate this, the Committee should encourage the Government to adopt quantitatively measurable targets and an appropriate monitoring programme.

3.5 Re-regulation of buses outside of London is surely inevitable.

23 April 2012

APPENDIX 1

REFERENCES

Major package of reforms to increase passenger numbers. An extra £15 million for smart ticketing and bus payments devolved to local authorities (Department for Transport, 26 March 2012).

http://www.dft.gov.uk/news/statements/baker-20120326a/

£101 million bus boost for passengers. More low carbon buses and better partnerships to increase growth and cut emissions (Department for Transport, 23 March 2012).

http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtran/1550/155004.htm
**Written evidence from the TAS Partnership (LBS 45)**

**BACKGROUND**

1.1 **Introduction**

1.1.1 This forms a written submission on behalf of the TAS Partnership Ltd in relation to the call for evidence subsequent to the publication of the Competition Commission’s (the Commission) full report in December 2011.

1.1.2 TAS was asked to attend an oral evidence session on 28 February and this submission is subsequent to that meeting, following a request from the Committee Specialist.

1.2 **The TAS View**

1.2.1 This investigation differs in nature from our submission to the previous Select Committee investigation into Bus Services after the Spending Review. In the earlier case we concentrated on interpretation and statement of facts. In this case there is more of a focus on opinion. The opinions of other parties differ considerably, particularly in relation to franchising. Our clients include both the major operator groups and PTEs. We therefore must take an impartial view but nonetheless one still based on fact and high likelihood.

**THE COMMITTEE’S QUESTIONS**

1.3 **Has the Competition Commission addressed the issues of most importance to the bus passenger?**

1.3.1 In our opinion the Commission has followed its remit in that its investigation concentrated on the issue of competition in the bus industry. It was not its remit to focus on issues of most importance to the passenger and this formed only a small part of its investigation.

1.3.2 The first oral evidence session attended by representatives of Passenger Focus, the Campaign for Better Transport and Bus Users UK showed a very high level of agreement concerning the issues of most importance to passengers. This indicated that price (or value for money) is placed somewhat down the list of passenger priorities, although no doubt this varies with local fare levels.

1.3.3 During the course of the Commission’s investigation it was clear that its attitude changed significantly. In previous investigations and the early stages of this inquiry the Commission placed a heavy focus on competition almost solely on the basis of price. The Commission now appears to accept that other factors can be more important to passengers.

Example: In a rural area two operators provide hourly services between A and B:

— The previous approach taken by the Commission would seem to have preferred both operators to provide closely timed services but at different fare levels.
— The end stage appears to accept that there is public benefit in the equal spacing of these services and that other factors will also influence passenger choice.

1.3.4 The Commission’s estimates of the value of financial detriment to passengers as a result of a failed competitive market is based on a series of assumptions and at first glance appears substantial, but as other submissions have pointed out, spread over the number of passenger journeys and if the Commission’s figures are accurate, represents a fare premium of between 6p and 12p. Set against an average single fare of around £1.9112 this is a small percentage and probably equivalent to the increase in fares required to offset the 20% reduction in BSOG from April 2012.

1.3.5 Our main criticism of the Commission’s approach continues to be its handling of the bus market as something which sits in splendid isolation from other transport modes, yet it clearly does not. As evidence of this we state that:

— A switch from being a household without a car to a car owning household reduces bus use by 80%.13
— Car ownership continues to increase above UK average rates in the north.
— Recent research shows that between 25% and 40% of bus users have a car available for their trip.

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12 TAS Fares Survey 2011.
13 Source: National Travel Survey.
Light rail lines and, in some cases, the national rail network reduce bus usage due to modal shift.

Expanded tram networks in Manchester and Nottingham will have attracted passengers away from buses.

1.3.6 Acknowledgement of this would have helped the Commission to understand why (as it stated) it found that operators in an apparent monopoly situation appeared not to have increased fares by as much as a monopoly market would suggest.

1.3.7 Finally in this section, it is clear that some areas of innovation and development which would be of benefit to passengers have undoubtedly been quashed by fear of infringing (or even by a lack of understanding of) competition law. Specific guidance issued by the OFT to accompany legislation (principally under the provisions of the 2000 Act) has further clouded the issue. It is encouraging to see the Commission make significant movement in some of these areas.

1.4 How effective are the remedies proposed by the Competition Commission likely to prove?

1.4.1 The Commission’s recommendations fall into seven categories and vary in their likely efficacy related to:

(a) ticketing remedies;
(b) operator behaviour;
(c) access to bus stations;
(d) supported services;
(e) competition enforcement and compliance;
(f) partnerships; and
(g) BSOG.

Ticketing Remedies

1.4.2 The availability of multi-operator tickets rates highly in the list of passenger requirements and the Commission’s shift from actively discouraging such schemes to one of encouraging the introduction of such schemes is to be welcomed wholeheartedly. Multi-operator tickets are quite simply a “good thing” and most issues surrounding them have related to apportioning revenue. The English, Scottish and Welsh national concessionary schemes are all reimbursed on the basis of revenue forgone (with the obvious adjustments) and, if this is accepted as a satisfactory method for calculating concessionary reimbursement, we fail to see why both OFT and the Commission still find it so unacceptable as a basis for allocating revenue from multi operator products purchased by the user.

1.4.3 A function of the Commission’s view of the bus industry in isolation is its dedication to single mode tickets—this is a nonsensical view both in those areas with light rail systems and where heavy rail functions in a similar way (eg Merseyrail). If various bus services are designed to feed into light rail systems it seems perverse to focus on bus-only tickets. Most light rail systems (the principal exception being Manchester Metrolink) have fare structures broadly in line with local bus fares, so it is not immediately apparent what price advantage such a modal limitation would give.

1.4.4 Other laudable measures are the suggested introduction of multi-operator tickets for smaller areas, to expand methods of purchase and to encourage their introduction in areas where they do not currently exist. Local Authorities have been empowered to enforce the introduction of multi-operator tickets since 2001, but few have done so.

1.4.5 In our experience the failure to progress such schemes has resulted not from the failure of the legislation, but from the limitations added by the OFT in relation to pricing and revenue reimbursement. Despite some of these being relaxed by the subsequent Ticketing Block Exemption and the 2008 Act, fear of instituting an illegal scheme has continued the inertia. The Commission’s recommendation for a review of the Ticketing Block Exemption and of acceptable e-purse arrangements related to smartcards is also commendable.

1.4.6 We have concerns with regard to the rather prescriptive method of price-setting suggested by the Commission, however:

— it does not reflect the method by which multi-journey tickets are priced in general; and
— it is a formula based on three variables where it is distinctly possible that none of the appropriate values is known and that these could be manipulated to arrive at any suggested value.

1.4.7 Most parties accept that multi-operator tickets will incur a premium above single operator equivalents, on the basis that a higher price reflects greater validity and flexibility for passengers—although the acceptable size of this premium is moot—but the Commission is reluctant to accept this as a concrete rule, only that it “would not expect” multi-operator products to be priced at a lower level than equivalent single operator tickets.
Operator Behaviour

1.4.8 The majority of concerns expressed by the Commission with regard to operator behaviour relate to competitive service registrations and unacceptable operational practices.

1.4.9 For an organisation whose purpose is to promote competition, it seems somewhat perverse to prevent competitive responses by incumbent operators. The extension of the notice period from 56 to 90 days (Around three months in itself and over three months with the additional 14 days’ notice to local authorities) will reduce operators’ ability to respond to market changes quickly and could lead to an increase in the number of overlapping pending changes to registrations.

1.4.10 To have varying notice periods for different services appears perverse, unmanageable and even unenforceable. The assumption appears to be that competing services will always follow exactly the same route, whereas in practice this is very rarely the case.14

1.4.11 The Commission’s concerns regarding on-street behaviour can be summarised under two headings:
(a) What it calls “cheap exclusion” by blocking stands, “touting” for passengers etc.
(b) “Misuse” of frequent service registrations.

1.4.12 All of the examples referred to by a) above are covered by existing legislation. Local authorities and Traffic Commissioners already have powers to impose Traffic Regulation Conditions to regulate behaviour on certain roads. The issue is chiefly one of enforcement and reduction or removal of the VOSA Bus Compliance team will make this distinctly more difficult and less effective.

1.4.13 The Commission’s recommendation for the specification of frequent services seems unduly complex. If it was considered that the registration of frequent services allowed too much flexibility and enabled operators to add multiple “unscheduled” buses, the simplest solution is to delete the “frequent service” specification and to require registration of a timetable for all services. A working timetable is usually supplied for information purposes in any case and operators certainly have working timetables for scheduling purposes. Even the most frequent services run on behalf of TfL have a working timetable.15

Access to Bus Stations

1.4.14 Our view is that this is almost a non-issue. Following test cases in the early days of deregulation, we do not believe there is a great level of discrimination by those managing bus stations against certain operators. Where this might occur it is likely to be on capacity or safety grounds. We would expect any incumbent operator (of whatever size or ownership) to have grandfather rights and any newcomer to consider stand availability at the outset. We see no reason for incumbent operators to be required to move stands or retime services to accommodate a newcomer.

1.4.15 The focus on bus stations is probably unmerited. Many UK bus stations are inconveniently placed and their chief function is as a parking area away from main town or city thoroughfares. In such cases access to key central bus stops is of equal, if not greater, importance.

Supported Services

1.4.16 The Commission’s investigation of supported services and their market characteristics seemed to focus unduly on information supply, which we feel is less of an issue than the Commission appears to make out.

1.4.17 We are aware of a very few local authorities which have failed to collect usage information for their contracted services, but this can be easily remedied within the appropriate conditions of contract. From responses received from operators and local authorities there also seems to be few issues of obtaining data relating to services or journeys being deregistered. If anything, the impression given is that the fault is one of communication. If operators were asked for relevant information, it would be supplied. It seems the main objections which operators would make relates to frequency reductions, where they see no need to supply information when a commercial service will continue to be supplied.

1.4.18 Several submissions to the inquiry made reference to difficulties posed by revised and complex procurement procedures. These were generally overlooked by the Commission but are of great importance to transport coordinating officers and operators. Over the years since deregulation, local transport authorities have successfully lobbied for relaxation of the de-minimis limits, whereby a bipartite agreement can be made between a local authority and a single operator to the benefit of both parties and the travelling public. This was an especially useful tool for small-scale contracts to supply small numbers of journeys in the early morning, for example.

1.4.19 Now, however, within many local authorities, procurement processes are lengthier and remote from the commissioning officers and there is no or little flexibility in relation to the size of contract. This leads to increased expense in procuring and inevitably leads to there being many small contracts where there is only one feasible bidder, also leading to the appearance that the average number of bidders per contract has fallen.

14 The main exceptions to this are Rotala’s services in the West Midlands, which generally mirror the routes and service numbers of National Express West Midlands.

15 For example see http://www.londonbusroutes.net/times/038N038.htm
COMPETITION ENFORCEMENT AND COMPLIANCE

1.4.20 In our opinion the competition authorities have satisfactorily monitored competition issues within the industry. In fact, the bus industry appears in many ways to have been subject to a disproportionately high number of investigations.

1.4.21 The Commission has recommended that the OFT thoroughly investigates bus company mergers to include deals involving turnover of as little as £1 million per year—this could relate to as few as seven or eight buses. This not only appears disproportionate in relation to other businesses but is likely to have the unintended consequence of devaluing the worth of smaller operators. Larger operators may decline to buy such businesses if there was an implied automatic transition from acquisition to an OFT inquiry.

PARTNERSHIPS

1.4.22 Are discussed further in 1.6.

BSOG

1.4.23 The Commission’s recommendations for a change to BSOG appear bizarre. In effect it seems to suggest that operators should be incentivised through BSOG to comply with the law.

1.5 Is sustained head-to-head competition feasible or desirable?

1.5.1 Although there have been some large scale instances of head-to-head competition in the past, which were largely unsustainable, the ability of operators to compete does appear desirable. It is important for other operators to be able to enter a market where the network offered by the dominant operator appears weak or under-provided. This now appears to be the main focus of competition.

1.5.2 Whether competition is sustainable depends on the size of the market being contested. There are areas where competition has been sustained over a significant period, for example in Liverpool, Oxford and Sheffield—in these three cases the competitive services have been or are progressively moving towards partnership arrangements, which nevertheless still maintain profitable markets for more than one operator.

1.5.3 It is unrealistic to expect head-to-head competition to be sustainable in all markets. Where there are markets (at service level) which barely support one operator, then two operators would not be sustainable.

1.5.4 Head-to-head competition has something of a reputation for the activities referred to by the Commission as “cheap exclusion”. In our experience, even where these practices are employed they only persist in the early days of competition and activity settles down after a short period, not least because they are very expensive practices to oversee.

1.6 What role should quality partnerships play?

1.6.1 Whatever the regulatory regime, local authorities have a key role in the provision of bus services, through their functions as highway authority and infrastructure provider. In many areas, local authorities continue to play a vital role in the provision of information too.

1.6.2 A close working relationship between bus operators and local authorities is therefore an essential pre-requisite to running a successful bus network. There is clear evidence that, where those relationships exist—even without formal partnership agreements—bus networks are more successful and more highly regarded by their customers. This is clear from experience over the last 20 years in such places as Brighton, Nottingham, Oxford, Cambridge and Edinburgh.

1.6.3 Specific project-related partnerships have been capable of delivering major schemes which are hugely successful and transform local bus networks, such as the Fastrack scheme in Kent, the Crawley Fastway scheme, the Cambridge Busway and the Greater Bristol Bus Network. Others are in the pipeline or under construction.

1.6.4 The legislation provided in the 2008 Act enabled local authorities to achieve significantly greater influence over key issues such as frequencies and hours of operation and as such offer the opportunity for authorities to remedy many of what they have long regarded as the weaknesses of the 1985 Act. The Act also granted powers to protect the value of key infrastructure investments by requiring certain minimum standards from operators using the facilities.

1.6.5 We therefore believe that partnerships between local highway authorities, local transport authorities (not always the same bodies, alas) and bus operators are an essential pre-requisite for delivering improvements to bus services and achieving modal shift.

1.6.6 Our central contention when giving evidence to the Competition Commission enquiry in 2010 was that the public made its travel decisions on the basis of time, price and quality and not on price and quality alone. It follows that it is overwhelmingly in the public interest that the total cost of travelling by public transport (measuring journey time, waiting time, access time and price) is minimised. At the same time, a better balance needs to be achieved between the full costs of public and private transport.
1.6.7 A focus on this approach will maximise economic efficiency, reduce congestion, improve air quality and minimise carbon emissions. Partnership working between bus operators and local authorities is by far the most effective way of delivering these outcomes.

1.6.8 It is important also to understand that a move to franchising of bus services would not remove the need for such partnerships—in many areas, a franchising authority would not be the organisation acting as the highway authority: bus priority and other measures to reduce the total cost of public transport use would be just as essential for the successful operation of franchised bus services as for commercial networks. It was, after all, a partnership between London Regional Transport and the London Boroughs that delivered the London Bus Priority Network in the 1990s.

1.7 Has the Competition Commission adequately considered the franchising option?

1.7.1 We consider that the Commission actually made quite a reasoned and dispassionate examination of the merits and disbenefits of franchising. It did conclude that the regime does not affect the basic equation of costs and revenue, which is something TAS has been stating for a number of years. There is no doubt that, as the Commission reports, franchising removes any competition in the market, does not allow an operator to respond to perceived weaknesses in the franchised network and is, in effect, an “exclusionary” regime.

1.7.2 There are two principal areas on which promoters of franchising focus in its support:

(a) that patronage in London (in the franchised market) has continued to grow; and
(b) that billions of pounds of public money are paid to the bus industry every year and this should be reflected in greater public control (see 1.8).

1.7.3 The London market is very different from the rest of the UK in a number of ways:

(a) Uniquely among UK regions, car ownership levels in London have fallen by 5% between 1995–97 and 2008–09.16
(b) London has much greater population density, with the result that a given geographical area generates much higher levels of demand for bus services.
(c) London’s population roughly doubles every night as a result of visitors on business, for leisure and for tourism.
(d) London has adopted a consistent policy of bus priority on the strategic highway network for over 20 years.
(e) Significant additional public money has been used to support an expanded network, increased frequencies, low fare levels (through Oyster), a major real-time information network and free travel for young people.
(f) The Central London network has a unique role as distributor of large numbers of commuters arriving at London railway termini.
(g) It is exposed to a much greater degree of political influence.

We would never denigrate the achievements of the expanded London network, but it does have some inbuilt inefficiencies.

1.7.4 A more appropriate comparison with the situation outside London is the regime in Northern Ireland, with two publicly owned operators which suffered many years of decline. TAS worked with both Belfast Citybus (now Metro) and Ulsterbus in 2005–06 to revamp both networks to take a more “commercial” approach to try and arrest the decline in patronage.

1.7.5 A high-frequency simple network was introduced in Belfast and improved and simplified interurban services implemented in the rest of the province. This reflected the approach taken by the commercial operators outside London. The decline was indeed arrested but has resumed in more recent years, as shown in Table 1 below. Thus decline has been experienced in a state-owned and state-specified network with broadly unchanged levels of service supply.

### Table 1

<table>
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<th>Year</th>
<th>Ulsterbus Patronage (millions)</th>
<th>% Change</th>
<th>Citybus/Metro Patronage (millions)</th>
<th>% Change</th>
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<td></td>
<td>20.3</td>
<td></td>
</tr>
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<td>−4.3%</td>
<td>20.2</td>
<td>−0.5%</td>
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</tr>
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<td>19.5</td>
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<td>45.2</td>
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<td>19.9</td>
<td>+2.1%</td>
</tr>
<tr>
<td>2005–06</td>
<td>43.4</td>
<td>−4.0%</td>
<td>23.8</td>
<td>+19.6%</td>
</tr>
</tbody>
</table>

16 National Travel Survey, Table NTS9902.
17 Source: Transport Statistics Northern Ireland, Chapter 6, Table 6.3.
Administration of Franchises

1.7.6 We accept that some of the larger units of local government (PTEs and larger shire counties) have or could have the necessary resource and expertise to design and administer a network of franchised services. However, this belief does not extend to all layers of local government and some of the smaller unitary councils would definitely struggle to cope.

1.7.7 An issue of the structure of local government is the random nature of boundaries and how these would be dealt with. The Commission has rightly concluded that bus passenger journeys reflect demand patterns and not local authority boundaries. A Transport Scotland report states that “as bus services and their client groups often cross local authority boundaries, strategic bus planning forums might be most appropriately established at regional level”.

1.7.8 As a general rule the smaller the authority, the more parochial its approach. As an example, recent cuts to tendered services funded by Stockton on Tees Borough Council led to withdrawal of all supported services across the boundary into Middlesbrough, despite its being the major retail and leisure centre. We would expect such issues to appear on franchised networks.

1.7.9 But there is a wider issue with boundaries where potentially different regimes apply either side of a local authority boundary. There are possible mixes of franchised services crossing boundaries (thus distorting the commercial market outside the area); cross-boundary services not being allowed to carry passengers within the franchised area (thus limiting their viability) or any number of compromises between the two regimes.

1.7.10 We already have this situation at the boundaries of TfL on the edges of Greater London. A report by London TravelWatch in 2009 found significant cross-boundary issues, stating that:

“while TfL has systematically enhanced the overall frequency of service offered to passengers within London (in itself a policy to be welcomed), users of services which happen to cross the boundary have not always shared equally in the benefits delivered to their fellow passengers elsewhere in the capital”.

And that:

“The Greater London Authority Act 1999 imposes a duty on the Mayor (and thus on TfL) to “develop and implement policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within Greater London. The Act clearly places cross-boundary travel within TfL’s ambit of responsibility. A similar duty applied to its predecessor, but LT never sought specifically to develop such routes. When pressed by London TravelWatch’s own predecessor body, LT took the view that this power was purely ancillary to its role within Greater London and that actively facilitating access by public transport between points within Greater London and points beyond was not primarily its function. Unfortunately, because the neighbouring authorities tended to the opposite view, there was—and is—no clearly defined locus of responsibility for preserving and promoting such links, with the danger of their users becoming the victims of an administrative and financial stand-off (our emphasis).”

Commercial Influence

1.7.11 One of the drivers of demand for Quality Contracts (QCs) has been inconsistency in the quality of delivery of commercial networks in some areas. There is no doubt that there have been changes implemented in some areas as a result of central diktats which have countermanded local expectations and in some cases partnership agreements, including additional fares increases, service reductions and transferring of vehicles. These activities have not been universal, but we can understand why they cause disquiet.

Political and Public Influence

1.7.12 All of the promoters of QCs with whom we have worked acknowledge that there needs to be a solid core network of simple profitable routes as a basis for the network and there still needs to be a quasi-commercial approach. No-one is suggesting a return to complex service patterns as applied pre-deregulation.

1.7.13 Any public response to withdrawal of marginal services is on the lines of “there are all those buses going to “X”, surely they could divert one an hour here”. All our evidence suggests that if there is, for example,

\begin{tabular}{|c|c|c|c|}
\hline
Year & Ulsterbus Patronage (millions) & % Change & Citybus/Metro Patronage (millions) & % Change \\
\hline
2006–07 & 43.4 & +0.0% & 24.1 & +1.3% \\
2007–08 & 43.9 & +1.2% & 26.0 & +7.9% \\
2008–09 & 44.0 & +0.2% & 26.5 & +1.9% \\
2009–10 & 41.9 & –4.8% & 26.5 & –0.8% \\
2010–11 & 40.8 & –2.6% & 25.8 & –1.9% \\
\hline
\end{tabular}
one scheduled 20-minute gap in a ten-minute frequency, the passengers lose confidence and patronage falls. Commercial operators understand this and resist such pressures. Although LTAs might understand this equally well, with political control of the franchised network it will be much more difficult to resist such calls and viability could be undermined as a result.

**Cross-Subsidy**

1.7.14 It is a matter of opinion whether the cross-subsidy of loss-making services by profitable ones is correct in principle and how closely the cross-subsidy should be applied (day to evening; within a local authority area; between areas etc). There were extreme examples in the pre-1985 regime with, for example, National Bus Company’s profitable companies in the north financing new vehicles for loss-making companies in the south.

1.7.15 There is, however, a fundamental issue of equity, in that the profitable services do, in general, serve areas where incomes are lower and it must be questionable whether it is correct for these people to subsidise those in better-off areas—a type of reverse social inclusion.

**Functioning of Commercial Businesses**

1.7.16 We consider that this heading would be the focus of legal challenge to the introduction of a Quality Contract regime. Although the 2008 Act correctly protects the employment rights of bus company employees by application of TUPE conditions, it is probably a unique situation where a change of regime would, by definition, prevent the continued trading of commercial businesses with multi-million pound annual turnover without any compensation.

1.7.17 This would be without precedent, certainly in the bus industry. When the state-owned Transport Holding Company acquired the UK bus interests of BET totalling around 11,000 buses in 1967, despite the state already having significant shareholdings in these companies as a result of former railway shareholdings, a sum of £35 million (worth around £550 million at today’s prices) was paid by government. In June 1973 when West Midlands PTE took over control of around 400 buses from the state-owned Midland Red company, it paid £3.6 million (£40 million at today’s prices).

1.7.18 Indeed the 1968 Act which created the PTEs included provision (under clause 19 schedule 6) precisely to deal with a similar situation, to enforce payment of compensation to operators where the right to run certain services was withdrawn or where viability was endangered.

**Government Spending on Buses and their Passengers**

1.8.1 The title of this section was chosen carefully as it is somewhat depressing that various parties continue to regard any state or local authority funds paid to the bus industry as “subsidy”. We feel that this is an incorrect assertion.

1.8.2 The industry receives three main sources of public funds:

(a) Bus Service Operators’ Grant (BSOG).

(b) Payments for Secured Services.

(c) Reimbursement for Concessionary Travel.

1.8.3 BSOG remains the only direct subsidy to the bus industry; currently it broadly maintains its stated purpose on introduction in 1965, to suppress fare levels.\(^{20}\) It remains targeted directly towards buses and we do not believe that that principle would be maintained if BSOG funding was redistributed to local authorities.

1.8.4 There is some historical perversity in that BSOG, as it stands, rewards high fuel consumption and there are simple alternative bases on which to apply it—on miles operated or service hours operated; but it will require brave and potentially damaging decisions to restructure it significantly.

1.8.5 Payments for secured services are clearly a case of local government purchasing a service where there is no likelihood of it being provided on a commercial basis. The contract price will include some profit margin for the operator, but another parallel would be health service payments for out-of-hours pharmacies, or schools contracting a cleaning firm to clean the school. Both of these are equivalent examples of purchasing a service from a private sector service provider.

1.8.6 We also argue that it is the users of secured services who are being subsidised, rather than the operators. The users have a service which would otherwise not be there, at a price which does not cover the costs of providing the service.

1.8.7 Reimbursement of Concessionary Travel is clearly a subsidy to the user not the operator and is defined as such by DfT. The legal position is that operators should remain no better off and no worse off than they

\(^{20}\) The 1965 Budget speech made reference to the threat of double-digit percentage fare increases reflecting the underlying rate of inflation if there was no action taken to reduce operating costs.
would be in the absence of the scheme. Thus a service which is very profitable without a concessionary scheme should remain so and one which is loss-making should not have its position altered by concessionary travel funding. Few voices are heard objecting to “huge subsidies” to, say, Boots’ for making profit from the fulfilment of free prescriptions for the over 60s.

March 2012

Written evidence from Mrs Beverley Bell, Acting Senior Traffic Commissioner, Office of the Traffic Commissioner, North Western Traffic Area (LBS 49)

Further to the oral evidence that I gave to the Transport Select Committee on 17 April 2012 in answering questions I was asked about matters as Traffic Commissioner for the North West of England, in addition to my role as Acting Senior Traffic Commissioner and I am keen to ensure that my answers regarding the North West are not confused with my answers as Acting STC where I speak for all of the traffic commissioners. I therefore set out below those matters where I consider that my evidence could have been clearer or requires further explanation and I am grateful to the committee for this opportunity to clarify and add to that oral evidence. This is an open letter and I have no objection to its publication.

The Role of TCs

During questioning it became clear that the role of traffic commissioners is not easily or well understood outside the industries that we regulate and TCs have often felt this to be the case. You might like to know that we have drafted a leaflet containing basic information about us: “Traffic Commissioners, What you need to know”. That document is available in hard copy but I attach an electronic copy. All TCs continue to work closely with officials to promote a greater understanding of our role by all who take an interest in road safety and fair competition—from the parents of the school children who send their loved ones off to school on the bus every morning to the Police who notify us of convictions of criminals trying to obtain an operator’s licence for the purposes of carrying out serious illegal activity.

In a recent VOSA fees consultation this multi faceted approach was endorsed by many who replied confirming the value of TCs leaving the confines of their public inquiry rooms and getting out and about engaging with all manner of stakeholders—our annual reports give us a chance to report on this work—thereby making us truly specialist independent regulators and consequently highly valued by the industries that we regulate.

A real challenge is the complicated nature of our role—not always easily understood by licensed operators let alone the public! That role is also ever changing as the industries that we regulate change, as society changes and as our powers are altered by legislation. Whilst writing I would like to clarify an error that I made in my evidence to the committee—the powers that TCs used to have with regard to the requisitioning of commercial vehicles in times of civil crisis have now been repealed and are now covered by equivalent civil contingencies and other legislation. I apologise if I inadvertently misled the committee.

The primary role of commissioners is to decide who should have and who should keep a licence to operate large goods or passenger vehicles. Some of those decisions are made at a public inquiry; the majority are made based on documentary submissions. All are judicial rather than “quasi-judicial” and are frequently reported in the trade press.

Passenger Transport—The Bus Appeals Body

When questioned I was asked a specific question about referrals from the Bus Appeals Body, which I answered from my own experience. My colleagues tell me they have had a number of hearings with operators who had not implemented rulings from the Bus Appeals Body mainly because the operator did not understand its role. In each case this was corrected and operators confirmed that future rulings would be implemented in full.

Passenger Transport—Passenger Complaints

Another issue raised during my evidence related to passenger complaints. TCs have always welcomed the powers that we have regarding the PSV industry generally as we see ourselves as a “passenger champion”—indeed this is an area of our work in which we feel that we can make a difference to driver and operator behaviour in support of government’s sustainable transport policy. We could make a much greater impact if a relatively small amount of additional resource was available to manage complaints properly.

I was struck by a member’s comment about there being no national complaints service and a general lack of knowledge of to whom passengers should complain. TCs agree with this comment but our ability to contribute is restricted by the paucity of resource available to investigate. Responsible service providers will

21 We have, however, expressed concerns that some reimbursement rates may have fallen below the no better off/no worse off position in recent years.
use a complaints process to improve quality of service provision but there is still a need for an effective and easily understood complaints process for those operators who do not respond appropriately.

**Passenger Transport—Quality Contracts**

Consequently the combination of TC functions does make it more difficult to answer direct questions such as whether TCs support quality contracts. Our experiences show that it would appear that ITAs are most likely to seek quality contracts and our overall impression is that the bus industry prefers quality partnerships and views them as easier to achieve. We find that a key issue is the resourcing of actual monitoring for local services; where the authority operating the Quality Partnership is perceived to be failing there is an expectation that the local TC will take action. However as TCs have commented in the past that any public inquiry and thereby the ability of any one of us to take action, will rely on the quality of evidence and the resources available.

**Operator Licensing—Fees and Budgets**

The Chair commented at the commencement of the hearing that operator licence fees paid to support us are apparently substantially in excess of the actual costs of running the operator licence regime. I indicated that I had recently been made aware of the detailed financial position from VOSA but didn’t have the figures to hand to be able to answer the point. I am working with colleagues and with VOSA in considerable detail to see just how those licence fees are used by VOSA. Should the committee require any further evidence on this please let me know and I, assisted by VOSA, will do all I can to assist.

**Operator Licensing—Staffing Levels**

In order to assist the committee further I would also like to clarify and amplify the answer that I gave with regard to staffing levels—again I did not have the exact figures in front of me and again I gave my answers with regard to the North West traffic area only.

The table below sets out staffing levels for both the staff in the Offices of the Traffic Commissioner who support regulatory action of licensed operators, and those who are involved in the day to day granting, monitoring and administration of licences.

### Resource Supporting the Traffic Commissioners

<table>
<thead>
<tr>
<th>Compliance Teams</th>
<th>Caseworker</th>
<th>Administrator</th>
<th>Supervisor</th>
<th>Unit manager</th>
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<td>1</td>
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<table>
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<td>1</td>
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<td>11</td>
<td>19</td>
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</tbody>
</table>

VOSA has a small senior management team of three supporting these staff.

As Acting Senior Traffic Commissioner I have one assistant and there is one Information Officer.

### A Final Point of Clarification

It would be remiss of me not to raise a small point of clarification. I told the committee that until recently all five of the (then) serving TCs were solicitors. In fact three were previously solicitors before they took up their posts and the other two were barristers.

### And Finally

Despite the matters that I have set out above I want to formally acknowledge in this letter the commitment of all the staff that I have referred to above in assisting TCs in their role as specialist independent regulators as well as those individuals in VOSA and DfT who remain committed to ensuring that we remain as fit for
purpose in 2012 as we were in 1932 when the First Annual Report of the Traffic Commissioners 1931–1932 was published some 80 years ago.

17 May 2012

FOR MORE INFORMATION ABOUT TRAFFIC COMMISSIONERS:

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Traffic Commissioner for the East of England
City House
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Traffic Commissioners’ Central Licensing Unit
Hillcrest House
386 Harehills Lane
Leeds
LS9 6NF
Tel: 0300 123 9000

TRAFFIC COMMISSIONERS

What You Need to Know

Our Mission: to champion safe, fair and reliable passenger and goods transport.

Key facts about Traffic Commissioners:

— As regulators, whilst we carry out judicial functions, we can be more flexible than judges to achieve those aims of safe, reliable and fair transport of passengers and goods.
— The system for Traffic Commissioners is the cornerstone of a fair licensing system.
— Operator licensing is about managing risks to safety, allowing fair competition whilst also seeking greater reliability for passengers.
— We represent a modern approach to regulation, allowing independent and value for money decision making.
— We are committed to being a good partner—working with others to improve safety, competition and the reliability of road transport.

Part of the TC Modernising Agenda
Issued: April 2012

There may be times when members of the public become concerned about the conduct of an operator, or want to object to the granting of a proposed operating centre in the vicinity of where they live, or are unhappy with the punctuality of a local bus service. If there is anything upon which you think that a Traffic
Commissioner could take action then you can contact us at our offices or ask VOSA staff to investigate by contacting their national number: 0300 123 9000 or by e-mail: enquiries@vosa.gov.uk.

VOSA provides a range of licensing, testing and enforcement services with the aim of supporting improvements in the standards of roadworthiness of vehicles so that operators and drivers can comply with road traffic legislation.

The Service we Provide

As Traffic Commissioners we share an objective in promoting the following values in the course of our work:

Proportionality

Where operators and/or drivers have fallen short of expectations, the action taken by Traffic Commissioners will be proportionate to the shortcomings revealed in the evidence brought to them.

Accountability

We give reasons for our decisions (for example following refusal of a licence application or at the end of Public Inquiries or other hearings). As mentioned already those decisions can be appealed. In other areas we are accountable to the Secretary of State and also fall within the supervision of the Administrative Justice and Tribunals Council and its Scottish Committee.

Consistency

We aim for consistency of approach. This should not be mistaken for uniformity in an area where discretion and judgment have to be applied on a case by case basis. We act within published guidance, Practice Directions and case law. We supplement this approach with regular meetings, the sharing of good practice and training.

Transparency

We want all stakeholders and the wider public to understand our role and are committed to increasing the profile of our work in support of wider road safety and the public transport agenda. Much of our work and hearings are in public. In addition we use a variety of media including training and seminar events to get our message across.

Targeting

We do not want to overburden well-run, compliant operators. We have to trust operators to adhere to their undertakings until there is evidence to the contrary, when we will take action. We therefore support efforts to focus regulatory intervention on those who cannot, or choose not to, run their businesses properly, or on those individual drivers who fall short in their conduct. We can act swiftly to target corrective attention rather than let unsafe or unreliable operations continue.

Who are we?

There are seven full-time Traffic Commissioners in Great Britain who are supported by a number of part-time Deputies. We have backgrounds in transport management and regulatory law. We licence the operators of public service (buses and coaches) and large goods vehicles (via a centralised office). We also register local bus services and consider the conduct of drivers who hold or apply for licences to drive large goods and passenger-carrying vehicles. We take action where road safety and/or environmental concerns are raised; against licence holders who fail to comply with road safety and competition rules; bus operators who fail to operate their services on time and decide whether impounded vehicles should be returned. More detail on what we do is set out below.

As use of these vehicles directly impacts on the lives of other road users, pedestrians and on passengers who rely on public transport, we use our powers to ensure that people operating these vehicles are reputable, competent, and adequately funded. Our actions are intended to encourage all operators to adopt robust systems, so that there is fair competition and that the operation of goods and public service vehicles is safe.

Who we work for

We are appointed by the Secretary of State for Transport, who is responsible for providing our resources, but we work on behalf of everyone. We work at “arms length” from the Department for Transport (DfT). This is often described as a “modern” approach to regulation. In reality it allows decisions to be open and transparent. We are regulators but when we decide a case at a public inquiry we are acting in a judicial capacity. That means that we have to ensure that, like any other tribunal in GB, the proceedings are fair and free from any unjustified interference or bias. This removes from Ministers the burden of operational decision making, protects the rights of interested persons and avoids overburdening the civil courts so that decisions can be made more quickly.
We delegate and supervise work undertaken on our behalf by staff provided by the Vehicle and Operator Services Agency (VOSA) and work closely with other Government officials to ensure that we have the level of support needed to undertake our functions in an efficient way. We also contribute to the development of policies by providing advice and by responding to consultations. We welcome the opportunity to engage with elected representatives from UK and devolved legislatures on general issues as well as other stakeholders. Traffic Commissioners are independent of VOSA and DfT.

High standards are expected of people such as Traffic Commissioners who work in public life. As we act on behalf of the public it is right that we are accountable. Traffic Commissioners are answerable to the Secretary of State for the way in which we discharge our general duties and we have terms and conditions of appointment. However in order to ensure that everyone can be satisfied that decisions to be taken at hearings are fair, the Secretary of State cannot exert control over those “judicial” functions. In those cases we are answerable to the Upper Tribunal, which hears appeals against our decisions. We also provide an annual report to the Secretary of State. The publication of that report and other documents and plans allows members of the public to see what we have been doing and what we hope to achieve on their behalf.

WHAT WE DO

Traffic Commissioners are responsible for the granting and issuing of public service vehicle operators licences, the registration of local bus services, and the granting and issue of goods vehicle operator licences. We also take regulatory action against members of industry to ensure that they always comply with their obligations and in those cases where operators have no intention of complying or are incapable then we can take them off the road or put them out of business. We also impose financial penalties against bus companies for failures to run registered local transport services on time. Where vehicles have been impounded for operating illegally we decide if they will be returned.

We are also given responsibility to consider on behalf of the Secretary of State the fitness of drivers or those applying for passenger carrying vehicle or large goods vehicle driving licences based on their conduct. Traffic Commissioners seek to ensure that drivers whose conduct might impact on the safety of the public, and in particular those driving public service vehicles, can be trusted with those responsibilities.

We can also be asked to impose traffic regulation conditions to prevent danger to road users and/or reduce traffic congestion and/or pollution, which has been particularly effective in reducing “bus wars”.

When not involved in hearings we actively engage with our stakeholders: listening to industry, meeting with local authorities, trade organisations, passenger groups and operators and presenting seminars. We try to assist Parliament and the devolved administrations when new legislation is proposed, for example by giving evidence before the Transport Select Committee. External contacts are important to Traffic Commissioners both for information gathering and as part of our wide role of encouraging compliance and fair competition.

OUR HEARINGS

It is the Traffic Commissioner who ultimately decides whether to call an operator or driver to a hearing. This is an important part of our duties and allows us the opportunity to examine, in a formal setting, the applicant or licence holders, before reaching a decision on whether to grant or refuse an application or to take action against the licence holder.

Whilst our hearings are termed “Public Inquiries”, as regulators we can be more flexible than the courts in achieving our object of safe, reliable and fair transport of passengers and goods. If we are not satisfied that a person should hold an operator’s licence then we can refuse them that licence; if an existing operator does not keep to the rules designed to ensure road safety and fair competition then we can reduce the number of vehicles that they can run under the licence, suspend or revoke that licence and so stop them from running the relevant vehicles; we can also disqualify people from and/or stop them from being involved with the operation of a goods or public service transport business; or take less drastic action, depending on what is most proportionate.

Written evidence from Arriva plc (LBS 26)

1. OVERVIEW

1.1 Arriva welcomes the opportunity to provide evidence to the Committee in connection with the Competition Commission’s (CC) report on local bus services (Report).

1.2 The CC acknowledges in its Report that provision of local bus services is particular to the local area where the services are delivered, whether the services are delivered by operators local to the area or by larger operators who operate in many local areas. Local bus services play a significant role in delivery of Local Transport Plans developed by individual local authorities and in stimulating growth in local economies. Long-term decline in bus patronage has recently been halted partly by operators focusing on passenger demands but also by external factors making the alternatives, in particular making the ever increasing availability of the private car, less attractive, for example by the continued growth of congestion and increased parking charges.
1.3 Arriva cannot say if there will be a return in the future to the historic decline in bus passenger numbers because there are so many contrary drivers. Provided that there is no change in government policy, concessionary travel will continue but reimbursement for it (note: on a “no loss no gain” basis) may fall due to economic pressures on local authorities. Reductions in disposable income may drive commuters from the car to bus or it may simply reduce journeys and rising fuel prices may affect car usage but may also impact bus fares.

1.4 Arriva’s philosophy is to focus on meeting the needs of existing passengers and increasing usage, even occasional usage, by potential passengers—primarily those who would otherwise have used the private car. This cannot be done entirely in isolation and must involve local stakeholders, including users and local authorities.

1.5 Arriva’s strategy for delivery of its commercial objectives is to:

1.5.1 Become partners of choice for Local Authorities;

1.5.2 Deliver focused growth through:
   (a) consistency at the bus stop;
   (b) a passenger-focused culture;
   (c) marketing investment;
   (d) pricing; and
   (e) network refreshing.

1.5.3 Underpin the above through greater operational efficiencies and in this way provide a viable alternative to the car.

1.6 The bus industry is in the midst of a long period of change and disruption: with the significant changes emanating from the Transport Act 2008 yet to be fully implemented; three years of responding to the current market investigation, starting with the OFT Market Study at the beginning of 2009 and moving into the CC Inquiry in January 2010 with its Report at the end of 2011; the continuing financial and economic impact of the imminent cuts to BSOG, reductions in reimbursement for concessionary travel and continuing austerity cuts impacting the ability of local authorities to procure tendered services. The Committee recognised this (and the continuing demand for investment in vehicle fleets to meet statutory requirements, including the requirement for deployment of only DDA compliant vehicles by 1 January 2017) in its report on Bus Services after the Spending Review. On the back of all of these changes the local bus sector is crying out for a sustained period of stability.

1.7 Arriva recognises that the CC approached its inquiry, including its review of service delivery in recent years, and analysis of potential remedies in a very detailed and thorough way. Arriva believes the Remedies, if implemented appropriately, can make a significant contribution to improving the quality and efficiency of service provision in the local bus sector. The Committee will have noted that:

1.7.1 The CC found that the evidence in its inquiry did not confirm the OFT’s initial belief that profits, prices and local concentration were related;

1.7.2 As regards head to head competition, the CC itself demonstrated that there is much more competitive overlap on bus routes than the OFT had originally portrayed; and

1.7.3 The propensity of individuals to use the bus is driven more by factors such as income and lifestyle, many of which are outside the control of bus operators.

1.8 The Report confirms the results of Arriva’s regular independent surveys of passengers that their preference is on punctuality, frequency, cleanliness and value for money. Arriva’s surveys have consistently shown high levels of overall customer satisfaction, with the last five surveys (each of c 19,000 passengers) showing overall customer satisfaction in excess of 91%. This is well in excess of the satisfaction ratings which other industries providing consumer goods and services typically report.

1.9 Each of the Committee’s specific questions is discussed below but in this overview, Arriva would like to highlight two important points:

1.9.1 Arriva agrees with the CC that on-road competition can, and indeed does, work. There is a competitor at some point on over 90% of routes in the CC’s reference area and many of the Report’s remedies are intended to stimulate competition further in what is now a mature market. The CC also recognises that in some circumstances head-to-head competition can be unsustainable; the key to preventing that unsustainability is to increase demand in both the short- and long-term in order to increase the profitable opportunities open to new entrants.

1.9.2 Arriva is a strong advocate of Quality Partnerships and looks forward to their continuing roll-out and development. This is reflected in the strategy Arriva adopts throughout its UK bus business of becoming partners of choice for local authorities and Arriva is proud to participate in over 40 Quality Partnerships in England and Wales. Arriva’s view is that the most effective

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23 The CC noted that “although almost all routes… faced some overlap from a rival operator… effective head to head competition… is uncommon” Report Summary para 56.
1.10 There are certain issues which were not covered in the Report that the Committee may wish to consider further. In particular, the Report did not really address: the impact of alternative modes of transport (e.g., the motor car) on the bus market; the various issues around developing integrated transport; the role of bus services as a catalyst for local economic development; or the contribution the bus industry can make to wider societal concerns such as pursuing environmental benefits and reducing congestion and carbon emissions via modal shift.

1.11 In summary, Arriva considers that many of the CC’s remedies will be beneficial to passengers, local authorities and operators, especially the proposals around tender process and for revised guidance from the OFT. There is much to gain from the CC’s remedies but only provided that they can be appropriately implemented. Arriva hopes that the Committee will be able to use the Report as a platform from which to take the debate onward and make a material contribution to the issues facing delivery of better public transport provision.

**RESPONSE TO THE COMMITTEE’S SPECIFIC QUESTIONS**

2. **Has the Competition Commission addressed the issues of most importance to the bus passenger?**

   2.1 The Commission has focused on prevailing fares and relative levels of customer satisfaction. This is sensible in any consumer service industry. The logic of the Commission’s approach cannot be faulted.

   2.2 As the Committee would expect, Arriva expends a great deal of time and resource in trying to identify and understand what passengers and potential passengers’ value and to identify ways in which it can better meet their needs. One way Arriva does this is through independent annual passenger satisfaction surveys and it is proud that the surveys in years 2007 to 2011 show very high overall customer satisfaction, of 91% or greater. Arriva’s key performance indicators (KPIs) are set in order to further improve that figure.

   2.3 The CC’s Report reflected the outcomes of Arriva’s own surveys and highlighted the finding of Passenger Focus’ independent research of customers’ priorities for improvement. The top 10 are, in order:

   - Punctuality; frequency; ability to get a seat; availability of multi operator tickets; a wider range of destinations; better value for money; bus driver conduct; timetable details available at all stops; multi modal tickets and bus shelters at every stop.

   2.4 By restricting itself to considering travel by local buses as a distinct product market, the CC disabled itself from considering the wider impact of bus travel as part of the larger travel market which would include the motor car. As a result, Arriva considers the CC unduly downplayed the importance of the competitive pressures on bus operators (even where they are the only operator on a specific route) primarily to get people out of the car and to the bus stop. Bus travel is a derived/complementary function in that it allows people to travel to carry out other desires, eg work, shopping, recreation etc. It competes with all other transport modes by which people can get from home to attractor or between attractors. Arriva found the CC’s dismissal of the motor car as a robust competitor to the bus as puzzling as so much management effort is directed to retain passengers or to win them back from the motor car (which, in our experience, is extremely challenging).

   2.5 However, other stakeholders have an interest in the functioning of the bus market, including:

   - Local Authorities, both as purchasers of supported services and as generators of their own local transport plans; and
   - Citizens and National and Local Government for the contribution bus travel can make towards environmental gain, not least by encouragement of modal shift, and local economic growth.

   2.6 This inquiry may provide an opportunity for the Committee to consider the Report in the light of these wider issues of concern to stakeholders and passengers, such as encouraging modal shift to mitigate issues of congestion and environmental concerns.

3. **How effective are the remedies proposed by the Competition Commission likely to prove?**

   3.1 It is too early to evaluate the impact of the CC’s remedies and their exact effects will depend on how they are implemented. Nevertheless, Arriva sees significant grounds for optimism and considers that they may bring significant benefits for passengers and stakeholders if implemented appropriately.

   3.2 Bus services are not delivered in isolation and effective bus services, making material contributions to local transport plans, require strong, effective relationships between operators and stakeholders. There remains a need to develop and build on existing relationships between those concerned.

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25 Appendix 5.1 para 10 of the Report.
3.3 Arriva has two concerns with the Remedies:

3.3.1 The remedies addressed towards facilitating the introduction of more head to head competition may be too optimistic. This is a mature market, with few barriers to entry. If there are profitable opportunities for new entrants, there is no reason to believe that bus operators would not have spotted them. Remedies directed towards yet more head to head competition ignore the fact, not really contradicted by the CC, that if there is not the demand there will not be more competition; and

3.3.2 the unfair and asymmetric changes proposed to the service registration regime seem to favour short-term opportunists who will come and go in the knowledge that incumbents cannot really respond in good time. This type of remedy, favouring competitors not competition, is not advisable. It is a departure from the CC’s past practice, and is unlikely to have any long-term benefit to consumers.

3.4 The changes run the risk of returning to the bad days of “over-bussing” because:

3.4.1 The CC did not stipulate any requirement that a new entrant had to continue the service for a minimum period after registration, (in Scotland there is a minimum period of 90 days and Arriva cannot see any principled basis why England and Wales should be treated any differently); and

3.4.2 The CC failed to require that new registrations should not simply replicate or be scheduled immediately in front of existing registered services (business stealing) rather than be spaced evenly around the clock to enhance the service frequency offered to the passenger. It is hard to see the benefit to passengers of protecting opportunistic short-term behaviour. No doubt the Committee will ask the CC what it had in mind.

3.5 Arriva particularly welcomes the remedies addressing tender processes, managing privately owned bus stations in the same manner as publicly owned ones, encouragement of further partnerships agreements and refreshed and updated guidance from the OFT.

4. Is sustained head-to-head competition feasible or desirable?

4.1 Arriva agrees that sustained head-to-head competition is both feasible and desirable. It notes that the evidence gathered by the CC itself demonstrated that there is much more competitive overlap on bus routes than the OFT had originally supposed. The CC concluded that head-to-head competition can work, and many of its remedies are intended to stimulate such competition further.

4.2 However, bus usage has been in decline. That decline has been recently halted and usage may have been sustained by concessionary travel. Arriva cannot judge where demand will be in five years’ time. An increase in demand involves many factors outside the control of bus operators but increases in demand are necessary to sustain additional long-term competition over routes.

4.3 While head-to-head competition is feasible, in particular on high demand routes, it should not be regarded as the “ultimate goal” of competition policy in the local bus market. To do so would be to overlook many other factors that are important to passengers and authorities, including the need to avoid increased congestion and over-bussing, enhancing safety and comfort, inter-availability of tickets and responding to passengers’ changing travel demands. Greater demand, coupled with maintenance of existing low barriers to entry, would stimulate competition but the Report regretfully misses the opportunity to address these areas by focusing on supply-side concerns.

4.4 Service provision in the local bus market is driven by demand; however, it cannot be said (and the Report found no evidence to establish) that demand is stimulated by service provision. Arriva’s experience is that service provision must follow demand; if Arriva runs additional services on a new route without first establishing that demand is there, it would not expect passenger numbers to increase in line with the level of additional services. The correlation between supply and demand is weak, whereas between demand and supply the link is strong.

4.5 Arriva provided the CC with evidence and economic research showing that that the vast majority of routes would not be capable of sustaining competition additional to that already existing on those routes. It is unclear from the Report how the relatively modest barriers to entry identified contribute to this, although such barriers as exist will be addressed by the CC’s remedies. The real reason behind the perceived lack of greater actual competition is the lack of demand—greater demand would create profitable opportunities for more competition. This industry needs stimuli that make it more attractive for people to use the bus instead of the car.

5. What role should Quality Partnerships play?

5.1 Quality Partnerships offer a huge opportunity for improvements in the industry. They assist in delivery of local transport plans and address issues of concern to the passenger and operator such as punctuality, while drawing on the experience, expertise and responsiveness to passenger demands of both operators and local authorities.

26 The CC concluded that 36% of passenger journeys (over one million in 2010–11) are concessionary travel journeys. Report Summary paras 10 and 11(a).
5.2 Arriva is in the forefront in entering into such partnerships, particularly through voluntary partnerships which in our experience are far and away the most effective format. They can address issues identified as of importance to passengers, such as: punctuality and reliability—by infrastructure re-design, which of necessity also involves local highway authorities; and quality—by operators’ continued investment in better vehicles.

5.3 As recognised by the CC and advocated by Arriva as an operator, local transport is very much a local matter and it is only by closely working together that local authorities and operators can develop improvements in local delivery of good bus systems. It is essential for Quality Partnerships to work for local authorities to have the financial and human resources and powers to allow them to devise an effective local transport strategy with Quality Partnerships at their core and then follow through to implement and refine their part of the partnership. Arriva hopes that the Government’s localism agenda reflects this.

5.4 Arriva is proud to participate in over 40 Quality Partnerships in England and Wales and recognises the efforts and ambitions of local authorities, such as those in Chester, Greater Manchester, Gwynedd, Luton, Maidstone, Medway, Milton Keynes, Southend, Royal Tunbridge Wells, Tees Valley, West Yorkshire (among others) who have actively embraced the opportunities offered by Quality Partnerships.

5.5 Quality Partnerships carry the significant benefit of stimulating private sector investment by offering a framework which offers operators a long-term degree of confidence in their investments which franchising might not. This factor is particularly important for the future of the bus sector given the challenges it faces from reductions in public funding, possible reductions in demand caused by economic factors and investment requirements arising, for example, from regulation.

6. Has the Competition Commission adequately considered the franchising option?

6.1 The CC discussed franchising in great detail in its Report and Remedies. Arriva endorses its conclusion and considers that the concerns expressed by the CC, that franchising would not deliver a more efficient remedy and would be more expensive to the public purse, actually understate issues that might arise.

6.2 Arriva has, from its operations in London and on mainland Europe, considerable if perhaps unique experience in operating in both regulated (franchised) regimes and deregulated regimes. Each has its benefits and challenges. Arriva did indicate and the CC agreed that there is no example in Europe of a regulated regime having been created out of a deregulated regime. Each franchised regime was designed to be so from the moment of privatisation.

6.3 Any movement to a franchised regime would create huge uncertainty, transitional costs, likely disinvestment and probably legal challenge. It would be a protracted and damaging experience.

6.4 The CC recognised that there already exists and continues to exist for local authorities scope for franchising through Quality Contracts, The Quality Contracts regime is designed to assist local authorities deliver their transport plans if they are not being delivered through agreement with local operators.

6.5 It is unclear if, and if so why, local authorities seek to have yet another form of franchising in addition to Quality Contracts.

6.6 Arriva also considers that there is the risk of a material consequential disbenefit arising from franchising, particularly in sustaining interest in renewing competition for the franchised market. The CC was right to conclude that franchising would not offer (and would actually suppress) on-going rivalry and commercial innovation in relation to all aspects of bus operators’ offer, including the dynamic benefits associated with new entry, that competition “in the market” provides.

6.7 Most local authority markets are comparatively small, especially compared with TfL’s market in London. If franchising were introduced in an area there is a significant risk that any remaining bus service provision would be of such small attraction that other operators would withdraw from the area, which would create a material barrier to re-entry into the area on franchise renewal, whether by reason of needs for planning permission for depots or the cost of investment in expensive capital assets with a service life much longer than the franchise period.

6.8 It is Arriva’s view that there are no areas in which competition is so weak or fragile, and where customers are so ill-served, that they would be better served by the provision of a monopoly service for a fixed franchise period.

6.9 Arriva’s evidence, presented to the CC, was that it applies a consistent approach to quality irrespective of the presence or absence of competition in any area (a fact not contested but not given the weight due to it in the Report). There is no robust relationship between concentration and fares: it would be unwise to base a case for franchising on the CC’s econometrics and it is unlikely that a franchising system would inevitably result in lower fares.
7. What action should local government and central government now take?

7.1 The action to be taken in respect of the remedies depends upon the individual remedies:

7.1.1 As regards multi-operator tickets, local governments should be encouraged to open dialogue with local operators on the needs for their local area. In due course the DfT, local authorities, operators and other stakeholders should conduct a central dialogue to determine what if any change to primary legislation would be required to deliver the remedy.

7.1.2 As regards changes to service registration notice, the DfT should consult relevant bodies, including local authorities and the Traffic Commissioner, to determine if such change should be made, whether the benefit exceeds any disbenefit, and whether there should be a minimum period for operation of a new service after registration.

7.1.3 As regards BSOG negotiations/reform, they should continue between the relevant parties reflecting concerns that it is possible the CC suggestions may be tainted by State Aid considerations.

7.1.4 The OFT should reflect on the CC’s guidance as to how it should exercise its statutory powers in respect of mergers in the bus market in the light of its statutory duties and quickly issue guidance as to how it will treat such applications.

7.1.5 The other remedies should be progressed as the CC recommends.

7.2 Thereafter it would assist the bus industry to have a period without further significant disruption to address the substantial challenges presently facing it. As the Committee itself found, the recent changes to public funding has created the greatest financial challenge for the bus industry for a generation.

17 February 2012

Further written evidence from Arriva plc (LBS 26A)

In response to questions from the Committee:

1. Regarding the Differences between the OFT Findings and those of the Competition Commission (Q178)

Response

The First and prime difference whether there was any price differentials between areas where there was one or more large operator. On the basis of their own economic analyses the OFT found there was the CC did not.

The statement in the OFT’s report that there were material differentials in fares in areas where there was one or more than one “National Operators”, as defined by the OFT. The OFT’s “conservative” estimate was a 9% difference in fares. This was challenged at the time of the Report by independent economists, Frontier Economics, appointed by a number of larger bus operators.

This is summarised in para 1.6 in the OFT’s Executive Summary of the OFT’s Reasons for making a market investigation reference to the Commission of January 2010.

The OFT’s differentials were not replicated by the Commission’s own price concentration analysis, which found no such differential but “mixed evidence”. Reference to Appendix 7 of the report indicates that the Commission found that, if there was any evidence of an impact on fares, that seemed to occur in areas where the competition was from small or medium sized operators.

This is summarised at para 7.37 of the Final Report Appendix 7 to the Commission’s Final Report.

2. Regarding the Oxera Report Comparing Bus Services Across Europe (Q233)

Response

The Oxera report, in fact a presentation given by Oxera a copy of which is attached, was related solely to analysis within the UK. It shows that Govt support for passenger journeys was 31p in London and between 13p and 19p outside London.

Reference was made in the answer to information about support per passenger journey in Copenhagen at an average of £1.30 per passenger journey. That data came from the Danish Transport Authority’s report “Key numbers for public bus transport 2011”. The report identifies the support as varying between £1.10 and £2.30 and gives the average of £1.30.

We have been informed by Oxera that the data was sourced from DfT Statistics.

25 April 2012

28 Oxera: Competition “on the road” or “for the market”? ACE Conference, Dr Gunnar Niels, Director, 17 November 2011
Written evidence from The Confederation of Passenger Transport (UK) (LBS 18)

BACKGROUND
1. CPT represents the operators of bus, coach and light rail services across the UK. We have more than one thousand enterprises in membership.

2. We would like to offer some practical observations on the remedies identified in the Competition Commission’s report. We followed this market investigation closely, but we have no facts to support particular views on the Committee’s other questions. The matters that we address are potentially relevant in all markets and are not intended to refer to any particular cases from the investigation.

3. We hope that some of these practical problems can be “ironed out” by the Government in the detailed implementation of the CC’s recommendations.

TICKETING REMEDIES
4. The CC proposes that Multi operator Travel Cards should be available for journey to work areas as well as the areas of major operators. Zones covering an entire journey to work area will be a major challenge in places where LTAs are small. For example, the Reading journey to work area is covered by at least six LTAs.

5. The formulaic approach to MTC pricing appears to make it possible for an incoming competitor to attack the revenue of existing players by offering very low single fares, leading to MTCs priced below existing single operator products. This might cause supply at some times of day to become unprofitable and services at those times to be withdrawn, to the detriment of some consumers.

6. In our view, the CC should have considered the calculation of the average fare by reference to tickets sold, rather than tickets offered for sale. This would also make it possible for operators to sustain a higher quality—higher price offering in the market rather than see quality driven down by pricing that it cannot control.

7. Although we can see the rationale for immediate participation in MTCs by new market entrants, we think it will need to be possible for schemes to limit the frequency of price changes for MTCs. Weekly tickets tend to be the biggest sellers, and having a price change every few weeks will be impractical, and confusing for consumers.

OPERATOR BEHAVIOUR REMEDIES
8. We believe that the 90 day notice period to change a service is disproportionate to any competition benefit that it might generate and likely to work, on balance, against the interest of consumers. There are numerous reasons to change routes and timetables and operators are not always aware what will happen 90 (or even 56) days in advance. For example, trains, boats and planes change their timetables, major traffic objectives relocate, schools and colleges change their opening times and shopping centres decide when to trade over holiday periods. Placing an obligation on operators to seek special dispensation to make changes at less than 90 days notice will overload the operators as well as the authorities that decide whether to grant the changes at short notice. A long period between the introduction of a service and the earliest date when it can be withdrawn increases the risk for innovative operators (the hoped-for passengers may not materialise) and may actually dampen competition.

9. At the request of local authorities, many operators observe a limited number of voluntary “stability dates” for implementing service changes during each year. As a result, the current 56 day period is often the minimum period which the operator is obliged to wait. It can be much longer if the first agreed date falls some weeks after the 56 day period. If the registration period was extended to 90 days some operators would probably abandon the voluntary agreements.

10. The proposal on additional detail for services registered as “frequent” is unduly cumbersome, in our view. The objective could equally be achieved by requiring operators to specify the number of buses per hour, for time bands of their choosing, as a relatively narrow range, such as 6–8, 7–9, 8–10 and so on. This makes it easier to register services that might slip from 9 buses per hour to 8 (for example) as traffic congestion builds up and caters for the fact that the time bands for a particular frequency will vary along the route as resources are added and taken away. A bus added at one end of a route that takes one hour per single trip will take two hours to enhance the frequency of the whole service.

BUS STATIONS
11. The principles proposed in the remedy should be extended to bus stations operated by local councils and PTEs because they are operators, or potential operators, of services (even if they use contractors to physically run them) and are not, therefore, impartial.

12. The proposal that the costs of unused capacity should be borne by the managing company creates a competitive imbalance. We believe that, where the managing agent is also an operator, all costs that can be fairly allocated to the operation of the bus station, and are not met by a third party such as a council or a shopping centre operator, should be borne by the users in proportion to their use of the facility.
PARTNERSHIP REMEDIES

13. The original dynamic of the partnership elements of the 2000 and 2008 Transport Acts was to improve operators’ confidence to invest by stabilising competition and making it harder to compete with a low quality—low price mix (which was seen as contrary to wider policy objectives).

14. It is possible for authorities to invest public money in a way that makes local transport markets more dynamic and draws in new players, but the consequences for investment by existing operators are uncertain.

BSOG

15. As the DfT officials conducting the review are aware, BSOG potentially falls to be considered as State Aid under EU rules. It would therefore be illegal to grant it in exchange for doing something—such as following an enforceable code of conduct, or participating in a statutory ticketing scheme—that is a legal requirement. It can be used to reinforce desirable but voluntary behaviours, but the nature of the current review, with no more money available, means that there is unlikely to be a net benefit for consumers.

14 February 2012

Written evidence from FirstGroup plc UK Bus Division (LBS 24)

1. Has the Competition Commission addressed the issues of most importance to the bus passenger?

1.1 The CC’s statutory remit means that its investigation was, of necessity, focussed solely on competition in the bus industry. It is therefore important to recognise that the CC was never going to take a wider view of the industry as a whole except, to a limited extent, in assessing the impact of any remedies that they felt were necessary to address the competition issues they had found. This has been a source of frustration to many involved in the industry, but when we remind ourselves of the constraints within which the CC is obliged to work, we should not be surprised if there are issues of importance to passengers and others involved in the industry that the CC’s inquiry did not address or take account of.

1.2 Principal amongst these issues is the availability of a bus service. The bus industry is facing a great many cost pressures, including reductions in BSOG, fuel price rises and reductions in both local authority budgets and concessionary fares reimbursement. Added to this are the pressures on the demand side—the recession and higher levels of unemployment have led to fewer journeys (both leisure and commuting) and public sector cuts mean that a strong recovery in employment in the future is unlikely.

1.3 Indeed, the Transport Committee’s report Bus services after the Spending Review published in August 2011 stated that:

“The combination of the reduction in local authorities’ revenue expenditure and changes to the DfT’s concessionary fares reimbursement guidance in 2011–12, with the 20% reduction in BSOG in 2012–13, has created the greatest financial challenge for the English bus industry for a generation”.

1.4 We believe that the impact of this financial challenge will be felt most acutely on those bus services where economic performance is near the margin, as these will either suffer a reduction in frequency, or will be withdrawn altogether. As the Transport Committee report stated:

“Some of the most vulnerable people in society, including the elderly, will be most affected by these changes”.

1.5 In the past, local transport authorities might, in some cases, have stepped in, and endeavoured to replace services withdrawn as commercial operations by letting contracts for supported services. But local authority budgets are also being cut at present, with existing tendered services being withdrawn or not renewed, so the opportunity to replace services that are no longer commercially viable may not arise. Many local authorities have been re-prioritising their spending: in many cases, we have seen supported services being cut in order to pay for such new requirements, and we believe that this is likely to continue for the foreseeable future.

1.6 To the extent that bus operators’ costs are, as we fear in some cases, likely to be increased by some of the CC’s remedies, these pressures may be exacerbated.

1.7 We believe that the CC’s work on profitability was flawed for a number of reasons. Whilst we still have some technical concerns, the issue which is most relevant now is that the CC’s work was backward looking, based on historic financial information. Their work therefore does not reflect the impact of the recession and macro economic factors which are now being felt and which will continue to be felt for a number of years into the future. When assessing the CC’s recommendations, we therefore think it is essential for Government to take into account the current economic situation.
1.8 Turning to priorities for passengers, whilst the CC necessarily focussed on competition and choice of operators and ticketing products, the overwhelming majority of submissions to the CC from operators and local authorities alike recognised that customer research did not place these issues at the top of passengers’ list of priorities. The CC’s own research and that of most of the operators tells us that what customers want most is reliable and punctual services. In our view, the CC’s remedies do not necessarily assist in meeting these priorities and it is therefore for us as operators to continue working in partnership with local authorities and the PTEs on bus priority and improved customer communication channels to achieve these aims.

1.9 It is important to remember that national customer satisfaction surveys show that people are generally pretty satisfied with their local bus services. The Passenger Focus Bus Passenger Survey results from July 2010 show that:

“The proportion of passengers satisfied with their bus journey was generally high and varied relatively little across the 14 areas surveyed, ranging from 84% to 92% being very or fairly satisfied”.

1.10 However, we are not complacent about these results. We want to work with local transport authorities to make this even better. In its March 2010 report *Bus passenger priorities for improvement* Passenger Focus states that:

“Improved punctuality was ranked as the number one priority for improvement. This was followed by increased service frequency (second) and all passengers being able to get a seat for the duration of their journey (third)”.

1.11 David Sidebottom, Bus Passenger Director of Passenger Focus, commented on the CC’s provisional decision on remedies that:

“... (Passengers) will particularly welcome the need for better working between bus operators and local authorities on the number one area for improvement which is improved service punctuality and to focus on multi-operator tickets, which they told us was their fourth most important priority for improvement”.

1.12 We recognise the need for multi-operator ticketing where there is local demand, but have some concerns about the CC’s detailed proposals as set out in this response.

1.13 In summary, the bus industry is facing considerable challenges at present, and will continue to do so for the foreseeable future. We believe that these challenges can best be addressed through partnership working with local transport authorities, currently best demonstrated by the work being undertaken with South Yorkshire PTE in Sheffield. Again, the Transport Committee’s report states:

“It is also clear that closer partnership working between local authorities, bus operators and community transport operators will be necessary post-Spending Review, in order to better utilise diminished resources”.

We endorse this whole heartedly.

2. How effective are the remedies proposed by the Competition Commission likely to prove?

2.1 The economic competition theories used by the CC investigation meant that it did not consider the private car to be part of the same market as bus services. This is despite most operators, local authorities and other interested parties submitting to the CC that the private car is the main competitor of the bus, and inter-operator competition is effectively subservient to this. Whilst bus industry costs are increasing, motoring costs which are recognised and met by their users continue to fall in real terms. This makes operation of an attractive alternative to car use even more difficult.

2.2 The CC’s investigation focussed primarily on head to head competition. The difficulty with approaching the bus market from a purely competition angle is that we don’t think that the CC took sufficient account of the real driver for bus operators, which is demand from passengers.

2.3 Some bus routes have sufficient demand for two or more operators to compete. But for a large number of routes, this is unrealistic. Whilst the CC found that most routes had some flows on which more than one operator was present, they believed that this could or should be replicated across the whole length of the route (or at least a very large percentage of it). We are not aware of anyone in the industry who thinks that this degree of head to head competition is possible.

2.4 The CC’s remedies do not address what we believe to be the fundamental issue, namely, lack of demand as opposed to lack of competition. There are any number of ways to stimulate demand, including bus priority, partnership working, parking and car constraints, capital investment, marketing, new ticketing methods, and service frequency and quality. If there is sufficient demand on a route, other operators will see the opportunity and may therefore enter and be prepared to compete. We therefore believe that measures targeted at increasing demand are far more likely to result in sustainable competition than those aimed at increasing head to head competition for an existing pool of customers, where demand is insufficient to sustain more than one operator.
2.5 Whilst the CC found high concentration in many areas across the UK bus market, we believe that this is not a result of actions by operators but rather that it reflects the levels of demand in the relevant area. It is interesting to note that whilst the CC found that increased competition could lead to increased frequency in bus services, although it noted that higher prices “could” be a result of concentrated markets, in practice, on the evidence, it did not find that prices were higher where there was higher concentration.

2.6 Some of the CC’s remedies may help to stimulate demand in some areas, but without additional measures being taken by all the industry stakeholders to increase demand, especially in the current economic climate, we are doubtful that they will have a transformational impact, which must cause us to question how effective they will be.

2.7 Turning to the Committee’s specific questions about the effectiveness of the remedies proposed.

**Ticketing**

2.8 In general, we are supportive of multi-operator ticketing as these products serve a segment of the market that cannot be served by one operator alone and can stimulate demand. However, we have concerns that mandatory application of this remedy across the board could have adverse consequences. Provision of multi-operator ticketing is, and should remain, demand led. Where there is potential demand for such ticketing, where such demand is latent, operators will develop ticketing schemes (as they have done in the past). Recent examples of the development of such schemes include Northampton, Hampshire and Norfolk. Operators should not be obliged to spend time developing schemes which have no demand, as staff resources are too valuable and the costs would be disproportionate.

2.9 Further, mandatory application of the pricing mechanism suggested by the CC could also have adverse consequences. The ultimate consequence of the average single fare mechanism is in our view likely to lead all operators to choose to charge similar fares to avoid constant downward pressure on their own ticket prices, thereby reducing any incentive to compete on single ticket prices. Alternatively, we are concerned that operators may “game” the system with artificially low prices which could cause the financial stability of other operators to be undermined and could lead to further service cuts or withdrawals. We are therefore relieved that this proposal remains only a suggestion and will continue to work with local authorities to determine pricing mechanisms that are appropriate to local conditions. Given the above, we do have some concerns as to whether the remedies proposed on ticketing will be effective to increase competition and we believe that there is significant risk of unintended consequences if its application were to be made mandatory.

**Bus Stations**

2.10 Management and operation of bus stations is an appropriate area for the CC to propose remedies, and the process of implementation has already begun. The principles embodied in the proposed remedy are almost entirely appropriate and practical. However, one problem potentially arises where there is surplus capacity at a facility, although the proposal suggests that the cost of this should be absorbed by the bus station manager. This is not appropriate, especially given that many bus stations are historic facilities with excess capacity and where the operator holds that position not through choice, but through having “inherited” its role by historical accident. Imposing such a burden on the operator is not appropriate and itself represents a market distortion which is likely to lead to many operators giving up the management of bus stations due to the costs involved. Local authorities made it clear when responding to the CC that they are unlikely to have the desire or “the surplus financial resources to purchase significant assets such as city centre bus stations” (BaNES’ response to the CC’s provisional decision on remedies), so it is not clear who, if anyone, will run these bus stations in future (with the clear possibility that many of them will be sold and converted to other uses).

**Frequent Services**

2.11 The CC proposed that changes are effected to the mechanism by which operators of local bus services register services to operate “at frequent intervals”, permitting departures every 10 or fewer minutes without notification to the Traffic Commissioner. The proposal, to restrict the amount of variation than an operator can make to such a service, needs careful consideration to avoid undue inflexibility of such services. Any route providing a service every 10 minutes or more frequently is operating a level of service which the public would consider to be very good, therefore there is unlikely to be public benefit in unduly constraining operators in their ability to adjust service provision to meet market conditions.

**Cheap Exclusion**

2.12 The proposed remedy to address “cheap exclusion”, if it takes the form of a Code of Conduct requiring operators not to use improper, illegal or dangerous tactics in dealing with their competitors, is welcome. Responsible operators do not engage in activities such as stop blocking, passing off, head running or dangerous manoeuvres on the road.
Tendering

2.13 The CC has recommended a review of local authority tendering procedures. This is welcome as we believe that there are several trends at present towards mechanisms which reduce transparency in tendering, and potentially distort the market. By addressing these issues in the review, competition in tendering will be enhanced. The areas we feel should be covered are:

- The growing use of e-tendering, with bidders competing in real time to force down the tender price, is likely to be unsustainable as desperate operators bid to keep assets occupied. This procedure has been known to be adopted as a second stage of tendering, following the traditional invitation of sealed bids, where the lowest original bid has been used to form the starting point for the e-tender.
- The use of framework contracts, whereby a tendering authority runs a competition for one or more operators to “pre-qualify” based on a subjective or judgmental scoring system, with those excluded from this original exercise being unable to submit priced bids for contracts for the duration of the framework contract, often several years.
- Encouragement of local transport authorities to publish sufficiently detailed and clear guidelines on how they intend to score tender bids. Failure to do so can lead to highly subjective outcomes, increasingly the subject of costly and time-consuming challenges.
- Publication of tender results. The Transport Act 1985 obliges local transport authorities to publish (without demand), for each contract awarded, the successful bidder, the price at which the contract was let, the basis of award (minimum cost or minimum subsidy), the number of bids and the highest and lowest bid. We believe adherence to this requirement is essential to improve the competitiveness of tenders.

Mergers and Acquisitions

2.14 The CC indicated that there should always be a presumption that acquisitions or divestments in the bus industry should be investigated by the competition authorities. There seems to be no objective justification for this level of quasi-mandatory investigation. The risk of investigation in every such instance, with its attendant costs, long timescales and productivity burdens, is likely to cause many operators to reject such actions as not being cost effective. This will have potential unintended consequences; in particular, it will ossify the industry structure as it creates uncertainty and removes exit mechanisms for many operators (including smaller family-run concerns).

2.15 It could also stifle expansion into new areas (and thereby competition). Exit through sale of a business is usually preferable to closure. As a business is likely to be continued following its sale, even where that sale is to the majority operator in an area, the public will still benefit from continuity of service. Lack of certainty of an exit mechanism means that the operator may be dissuaded from entry in the first place—an operator that is minded to try expansion into a new area may decide that this lack of certainty of exit, should the opportunity prove unsuccessful, and consequent inability to recover the sunk costs incurred in that entry, make entry not worthwhile.

2.16 We would submit that neither of these outcomes is in the public interest.

3. Is sustained head-to-head competition feasible or desirable?

3.1 While in certain circumstances head-to-head competition (ie two or more operators operating along a substantial proportion of the same route) can be, and is, both sustainable and desirable, as mentioned above it is not always achievable, therefore we do not believe that it should be an end in itself. In practice, head-to-head competition can often lead to perverse outcomes which are detrimental both to passengers (eg overbussing or head running) and operators (eg unsustainable service levels operating at or below the breakeven point).

3.2 As mentioned above, the CC found that increased competition would lead to increased frequency of bus services. The CC’s “detriment” calculation is based on the increased frequency that they say would result from more competition. We have serious concerns about the methodology used by the CC in coming to this finding and would question whether many areas could actually sustain the increased levels of frequency that the CC’s work implies would result, either in terms of congestion or demand. For example, if the CC’s calculations are correct, there are between 120,000 and 210,000 weekly bus movements “missing” from the UK bus market (Great Britain, excluding London). This is approximately equal to one to two times the size of the Manchester bus network. The effect in the Leeds area would be a further 3,400 to 4,500 weekly bus movements—a number which we doubt that the already congested road network could accommodate.

3.3 In our experience, operators chasing the same dwindling pool of passengers can lead to over-bussing and “wasteful” competition, and what is really needed is growth of the overall market. We believe that this growth is best achieved through consensual voluntary partnership with local transport authorities involving discussions about how to measure and stimulate demand, using whatever measures are appropriate including priority infrastructure, parking policy, land use planning, innovative services and marketing, maximised efficiency in service delivery, Smartcard/EMV technology, passenger information and multi-operator ticketing.
4. What role should Quality Partnerships play?

4.1 Quality partnerships bring substantial benefits to the customer and to society in general. Voluntary partnership agreements will, by definition, generally achieve more than statutory partnerships. This is because in a voluntary partnership, each party comes willingly to the table with an offer of what they can do to improve the bus service. In a statutory partnership, even with exemplary pre-statutory consultation with the operators, a local authority is calling the shots and requiring operators to meet particular standards of service which they may or may not wish, or be able, to achieve either in a cost-effective manner or indeed at all. Examples of recent and forthcoming successful voluntary partnerships include those involving multiple operators in Oxford and Chester, and single operator partnerships such as that for the South Hampshire BRT project.

5. Has the Competition Commission adequately considered the franchising option?

5.1 First considers that the franchising option has received sufficient consideration in both the CC inquiry and in general terms. This option remains open to those authorities who consider that they can make a case to demonstrate a serious structural fault in the operation of the market and that other interventions have failed to remedy this. The cost of implementing a franchising remedy would be substantial and it would be difficult to justify such costs in the current economic climate. In addition, franchising would lose the beneficial effect of firms competing to respond best to passengers’ needs. As above, we believe that voluntary consensual partnerships, which align the interests of local authorities and bus operators and can achieve many of the features of a franchised market, are a far better and more cost-effective option.

5.2 In the current economic climate, the real issue is how to provide bus services for the future in a sustainable manner. Competition is an important aspect of this but ought not to be the sole or primary driver of the thinking or decisions of either operators or the local authorities. The CC found that markets are very local and therefore a one size fits all model simply won’t work, hence the need to explore appropriate solutions at a local level—a “solution” of prescriptive franchising is not the answer.

5.3 We would like to encourage a reasoned debate about the extent to which bus services are funded by the government (directly or indirectly), local transport authorities (through locally raised funds) and the passenger, and where that balance lies. Private operators have, in the last 25 years, brought innovation and investment to the provision of local bus services and delivered many new developments which maximise the societal benefits for both users and non-users. These include accessibility through low floor buses, environmental improvements through less polluting, more fuel efficient vehicles including alternative fuels and hybrid power, passenger information, ticketing technology and products, and modern attractive vehicles, all in large part provided without operational subsidy. Operators see their role as building upon what has already been achieved and growing bus use in partnership with local transport authorities, bringing increased efficiency to the provision of services.

6. What action should local government and central government now take?

6.1 There is a defined process for taking the CC’s proposed remedies forward. It is for various government departments affected by the proposals, specifically the Department for Transport and the Office of Fair Trading, to consider the proposals, the comments made by third parties including bus operators, passenger groups and local authorities, and then to draw up an implementation plan. This implementation plan may include the rejection of CC proposals, their implementation through codes of conduct or other voluntary self-regulation, and/or legislation (primary and/or secondary) as appropriate. It is also a matter which will be treated differently by the UK Government for bus services in England and the devolved governments in Scotland and Wales. Until these decisions have been taken and an implementation plan published, it would be inappropriate and premature for any body to seek to take any steps to implement the proposed remedies, and the law remains unaffected by these proposals.

16 February 2012

Written evidence from The Association of Local Bus Company Managers (LBS 14)

1. The Association of Local Bus Company Managers (ALBUM)

1.1 The role of ALBUM is to represent the “non-aligned” sector of the bus industry. The Association has 140 members, representing over 50 companies in the independent, state-owned and municipal sectors, who between them operate almost 5,000 buses, which is about one bus in twelve nationally. This makes ALBUM members collectively Britain’s fourth largest bus operator—in the same league as the big five multi-national groups. First Group runs 8,000 buses in the UK, Stagecoach 7,000, Arriva 6,200, ALBUM members 5,000, Go Ahead 3,900 and National Express 1,600.

1.2 ALBUM members serve an agglomeration of many small markets, more detail of which will be supplied in due course. Given the dominance of major group operators in London, these figures may understate ALBUM members’ importance in the non-London market, with which the Competition Commission’s Local Bus Market Investigation was concerned.
2. Remit for the Transport Committee Inquiry

The Competition Commission (CC) concluded that sustained head-to-head competition between bus operators was uncommon and that bus operators avoided competing in another operator’s core territories. This led to Adverse Effects on Competition (AEC), which were detrimental to consumers, resulting in less frequent, poorer quality services and higher fares and insufficient competition for tendered services costing local authorities £5 million to £10 million a year through higher contract prices.

3. ALBUM’s overall verdict

3.1 The CC’s Narrow Perspective

The CC has addressed the main issues, but has been too narrow in its analysis of them, appearing to view competition as an end in its own right, rather than as a means by which to improve customer benefits. It has adopted too rigid a view of competition in the short term, which has prevented it from seeing the bigger picture; that over time buses and cars are in strong competition; and that internal bus-bus competition dominates only in the very short term.

3.2 Mature and Immature Competition

The CC has failed to distinguish between different types of inter-operator competition: between immature competition “to the death” and mature competition that sees competitors surviving alongside one another in the market. Mature competition is not “perfect competition”, the illusive theoretical concept that, as every economics undergraduate is taught, does not exist in practice; yet there are aspects of the CC study that assume it to be an achievable objective.

3.3 The theory and Practice of Competition

A key aim of this submission is to demonstrate that the bus industry operates in the real world, not in a theoretical cocoon; that there are imperfections of information; the playing field is not absolutely level either within the industry or vis a vis its main external competitor, the car; and that passengers have every right to board the bus of their choice, without a competition theorist berating them for behaving anti-competitively.

We now address the specific questions put by the Transport Committee. Paragraph references, unless otherwise stated, are to the CC’s final report.

4. Has the Competition Commission addressed the issues of most importance to the bus passenger?

4.1 Importance of Customer Benefits

The Competition Commission’s remit for Market References is laid down in Part 4, Sections 134–138, of the Enterprise Act 2002. The CC is required to identify any Adverse Effects on Competition, which may take the form of higher prices, lower quality, less choice or less innovation (S.134 (4) and (5)). These are the aspects on which the inquiry concentrated. However, the Commission has paid insufficient attention to customer benefits (S.134 (7) and (8)).

4.2 Network and Integration Benefits

We reject the CC’s view (paras. 15.489–90) that factors such as network effects, comprehensive network coverage, integrated ticketing and, in some circumstances, integrated timetables are not relevant to market investigations, but only to merger situations. We consider these to be relevant customer benefits, which the CC should not dismiss. The CC displays confused thinking in respect of these features of the local bus market, opting to support integrated ticketing and partnerships, but not inter-operator co-ordination.

5. How effective are the remedies proposed by the Competition Commission likely to prove?

5.1 Price Competition

An important element of competition between bus operators is price competition. This is particularly significant where an incumbent’s high fares have been a major issue; and where a competitor with lower costs and/or profit margin aspirations may succeed in entering the market. Whilst there is a good case for multi-operator (and sometimes also multi-modal) ticketing on grounds of enhancing effective service frequency and network coverage (enabling passengers to board the first and most convenient service without financial penalty), the loss of effective price competition will be a significant disbenefit. Setting prices too high would disadvantage or deter price-sensitive customers, as well as enabling opportunistic “low cost” operators to earn unduly high profit margins. Too low a price could erode profits or discourage service provision. The formula-based approach set out in para. 15.48 fails to take into account the range of different fare levels and structures competing operators may have.
5.2 Multi-operator Ticketing

Factors to consider when setting up multi-operator ticketing schemes are set out in paragraphs 15.39–15.50. The proposals show how complex the issue is; for example (para. 15.46) different operators may have different fare structures and offer different ticketing products, which it would not be easy to assimilate into a single structure without losing some of the commercial benefits to the operators and market advantages to passengers, for example of route-based fare scales. Multi-operator ticketing is a price-fixing arrangement that will over time expert upward price pressure, leading to excess profits, which are contrary to the consumers’ best interest. Local authority political involvement may, contrary to this, provide such downward pressure on fares that operators quit the market, negating the reason for a multi-operator ticket, and, with the lack of choice for consumers, also being manifestly against their best interests as well. We therefore do not support the CC’s hypothesis (para. 15.57) that the proposed formulaic approach is consistent with the maintenance of price competition.

5.3 Governance

We are not convinced that governance through a voting structure will enable the commercial requirements of all the participating operators to be met. As well as needing to consider the views of the operators, we reject the suggestion that Local Transport Authorities (LTA) should also be involved (para. 15.39), as their criteria for setting fares would not be determined by commercial considerations. Under present financial policies, it is unlikely that LTAs would be able to provide the necessary funding to enable fares to be determined by social criteria. If LTAs are to be required to create more attractive multi-operator ticketing schemes (paras. 15.84(b) and 15.101), membership of the schemes should be permissive, not mandated, and fares must be determined by the participating operators, not by the authority.

5.4 Technologies

Further considerations include applicability (eg whether just to multi-journey cards or to include individual return tickets); potential benefits of linking with smartcard or SMS ticketing schemes (para. 15.71); and whether elements of the flat fare PlusBus multi-operator rail add-on experience are transferable. We agree with the CC that smart technology may make some aspects of multi-operator ticketing easier to implement, although warn against excessive technical complexity and sophistication (which are a potential barrier to entry by smaller operators) and note that not all bus users can be expected to possess, or be able to afford, the necessary high-tech phones etc (para. 15.76).

5.5 Bus Service Operator’s Grant

The CC (para. 15.423) recommends making the payment of BSOG conditional on activities such as participating in multi-operator ticketing and information partnerships and compliance with competition law. This would fundamentally change the concept of BSOG, by breaking the link with fuel use. We see merit in encouraging fuel efficiency, a feature which could be built into a revised BSOG formula, but this must not place additional burdens on operators of low-margin services, such as rural routes. We oppose the wholesale re-orientation of the grant away from a mandatory payment in respect of fuel use to become a discretionary contribution for other, less quantifiable purposes (15.423 (a) and (c)). The concept of paying a grant in return for compliance with the law (15.423 (b)) is frankly bizarre.

5.6 Notice Period for Registrations

We would question the placing of a proposal to extend the notice period for service changes under the heading of “operator behaviour” (Figure 15.2); it is a matter of regulatory control. The proposal to create an effective 104 day notice period—some 3.5 months—is unjustified and would place unnecessary restrictions on the ability of bus operators to relate service changes to market requirements by deterring (a) experimental services, (b) legitimate business risk-taking, (c) new entrants to the market, thereby stifling competition per se. Factors influencing the need to change a bus service or introduce a new one commonly occur at much shorter notice: occupancy of a new residential development, knowledge of how many students will attend a college in the new term, closure of a works, etc. Without wishing to encourage instability, we recommend that the bus industry must be permitted to respond in a timely manner to such changes in demand.

5.7 Short Notice Registrations

The facility for short notice applications does not always work in practice. For example, East Yorkshire wishes to re-instate some missing village links; a small change that would not be controversial and would benefit the residents—a good example of where a short notice registration change should be sanctioned without delay; and by the time a 104 day notice period had elapsed, the passengers would have been lost to public transport. In some areas, VOSA will not consider short notice unless the service concerned is subsidised by the public authority, misunderstanding that a commercial service can need to change as legitimately as a subsidised one, and that there is not necessarily a link between financial support and the need for change. It is therefore vital for short notice registrations to be placed on a sound footing. Whilst supporting the general principle that a rapid and frequent succession of service changes is not to be recommended, we do not
understand the CC’s thought process that extending the notice period would increase the likelihood of competition being sustained (15.151).

5.8 Code of Practice

We broadly support the proposal for a Code of Practice on operator behaviour (15.112), which will send out the “right signals”. However, outlawing “cheap exclusion” must be paralleled by assurance that “cheap entry” is also prevented. An example of this practice is provided by the commencement of a summer-seasonal service between Scarborough and Filey, running five minutes before the existing half-hourly service; and which began before the registration had been completed and accepted by VOSA.

5.9 Municipal Company Sales

The proposal (15.112 (c)) to outlaw predatory service registrations against a municipal operator that is in the process of being sold will not be sufficient to deter malpractices. Of particular note is the ability of a competing operator—and potential bidder—to entice staff away from the municipal company, to the extent that its continued ability to trade is jeopardised.

6. Is sustained head-to head competition feasible or desirable?

6.1 Market Size

Head to head competition in the same market can only survive in the long term if the market is large enough to sustain more than one operator; if each party is satisfied with its scale of operations and market share; and if the parties are content to work alongside their competitors. A condition for this situation to prevail is that the competition authorities should not interfere to upset the status quo, eg by preventing even-interval service intervals between the different operators. The situation outlined here is, though, likely to be deemed “anti-competitive” by the competition authorities and to imply a “cosy” relationship between operators. It is moreover open to overturning by the arrival of a new, more combative competitor; ie the threat of competition and its ultimate actual occurrence.

6.2 Market Growth

Head to head competition is therefore only likely to prevail if the market is growing, so that operators can increase their earnings and profits without taking business from their competitors. Evidence shows that attention to service quantity and quality, reliability, marketing and pricing can bring about increases in the overall demand for bus travel in an area. We do not support the CC’s contention that the market is static in size and that operators can only increase their share by “stealing” from competitors (the term “stealing” is in any case inappropriate, as the additional business will generally be earned by legitimate competition). Possible routes to increased business include encouraging existing users to travel more, exploiting new traffic objectives and by encouraging modal transfer (eg via “travel planning” schemes). Contrary to the CC’s scepticism, market research does show that passengers can be won from the car, given the right circumstances. Service improvements in King’s Lynn (see paragraph 6.4 below) led to a patronage rise of 80%, through a combination of increased travel by existing users encouraged by better services and lower fares, transfers from car and the impact of marketing campaigns such as low fare offers.

6.3 Market Differentiation

A more likely scenario is for there to be some element of market differentiation, in which each operator concentrates on different aspects of the market or market niches. This might be by market segmentation, price and quality differentiation, route variations, different journey times and locations served; or less tangible elements such as image, local identity and branding. Some of the largest national/multi-national operators have found it difficult to compete successfully against locally based businesses with greater local knowledge and lower overhead costs, notably in market towns and rural areas such as parts of the West country and East Anglia. The long-standing separation of urban from regional, inter-urban and rural services lives on in many places, with the different service groups provided by different operators, complementing more than competing with one another—a concept that had to be explained to the CC, which considered all buses running along the same road as being in competition with one another.

6.4 Reasons for competition

New competitive activity will tend to be more likely, and more sustainable, where the new entrant does so because of failings in the incumbent’s product offer and/or pricing structure. This is especially so where the new entrant perceives that it can add value to customers by creating its own unique selling points. Norfolk Green entered the market in King’s Lynn by offering a more direct route than its competitor, low floor buses and cheaper fares. After six years of price and service level competition the original operator eventually withdrew, having been unable to sustain the self-imposed financial burden of excessively high service levels (it offered up to 20 buses an hour on a route that had previously had four; Norfolk Green’s service ran three times an hour) and very low fares. Price cutting on its own is unlikely to be sustainable for either the incumbent or new entrant in anything but the short term.
7. What role should Quality Partnerships play?

7.1 Fair bus—car competition

A key role for quality partnerships (QP) is to encourage and enable local transport authorities to improve the competitive balance between local bus services and congestion-inducing private transport for the use of scarce road space. The failure seriously to consider bus-car competition is a major shortfall in the CC’s analysis.

7.2 Parking Income

Urban and suburban car travel (and in particular parking—especially free private, non-residential parking in town and city centres) is under-priced and under-regulated, enabling congestion to become one of the main contributors to unreliable bus services. A key factor in the unfair competitive balance between car and bus is that district and unitary authorities benefit significantly (representing perhaps a third of the council’s income) from car parking as a source of revenue, whereas providing bus priorities, information systems, infrastructure and tendered “socially necessary” services is a cost. In an area with two-tier local administration, the county bears the cost of supporting bus services, but the district receives the revenue from car parking, further complicating the policy impact. And parking charge increases usually incur the wrath of retailers, who still believe that a huge proportion of their business comes from car users, which is not necessarily true, despite the opinions of Mary Portas. A study in Hull showed that over 50% of people shopping in the city had come by bus.

7.3 Service Co-ordination

QPs may also be seen as a way of legitimising, in the eyes of the competition authorities, some element of service co-ordination between competing operators. The competition authorities’ enthusiasm for multi-operator ticketing, while disapproving of service and timetable co-ordination, is difficult to understand. It will however be important for partnerships to be open to new members and for them not to become closed and potentially anti-competitive cartels.

8. Has the Competition Commission adequately considered the franchising option?

8.1 Insufficient Research into Franchising

The CC came to the correct conclusion that franchising should only be considered as the preferred option in situations—none of which has yet been identified—where the current regulatory structure failed. However, the conclusion was reached in the absence of a serious investigation of the London system of franchising, under which virtually all services in the Transport for London area are procured as part of TfL’s monopoly.

8.2 London Comparison

Although the CC’s remit excluded London, it should have made at least a brief evaluation of the costs (which are very high) and benefits of the London system, in order to provide a reasoned comparison with “deregulation” in the rest of the country.

9. What action should local government and central government now take?

9.1 Benefits to Customers

Central government must ensure that competition theory does not get in the way of practical solutions that are of benefit to bus users specifically and more generally to all who use the nation’s public and private transport networks, including cars. In interpreting the CC’s recommendations, the government must ensure that benefits to customers (Relevant Customer Benefits: RCB) are appropriately defined and take precedence over the satisfaction of competition theory. Thus “greater choice of goods or services” (para. 15.486) includes the higher available service frequencies and network benefits that may arise if operators are permitted to co-ordinate some elements of service supply. It is not appropriate to berate customers—the CC should serve the needs of customers, not order them what to do—for boarding the first available bus or committing to the company whose operator-specific multi-journey ticket they own. We recommend that multi-operator ticketing schemes should be open to all operators, but recognise the determining the details of how schemes are set up will require some careful thought, to maximise the benefits to all parties—including operators and passengers.

9.2 Mergers and Acquisitions

The CC proposes taking a cautious approach in cases of proposed bus company mergers or acquisitions to the use of de minimis provisions (turnover £3 million to £10 million) and suggests reducing the £3 million threshold for investigating cases. We observe that the CC rejects the opposition of several major operators to this approach (paras.15.359–15.360). ALBUM wishes to support the major operators’ view, albeit from a different perspective. Many independent operators are owned and run by individuals who will eventually wish to retire, at which point they may wish to sell the company. The most likely purchaser would be one of the “Big 5”, in most cases the local one. If such an acquisition were to be vetoed by the competition authorities because a Significant Lessening of Competition (SLC) would arise, the most likely a outcome would be for
the company to be wound up, which would be neither in the interest of the consumer, nor the staff, nor the economy, nor for competition; and the SLC would still occur. The only alternative would be sale at a price well under the business’s true value; ie virtually giving the business away. No entrepreneurs who have devoted their lives to a business should be expected to throw away the fruits of their labours in such a manner. More serious consideration must be given to identifying an outcome that is beneficial and equitable to all affected parties.

9.3 Buses Vital Role in Transport Policy

Central and local government must ensure that more than lip-service is paid to the benefits of local bus services in minimising traffic congestion, reducing environmental degradation and improving accessibility for people from all parts of society. They must ensure that nothing is done that increases the cost of local bus travel relative to the car and reduces the bus’s competitiveness. The way government policy is going at the moment is doing exactly the opposite, despite its fine words about buses vital to the economy etc. The present policies are going to mean fewer buses (and thus less competition) not more—hardly what either the CC or the passenger wants, or the country needs.

17 February 2012

Written evidence from Unite (LBS 39)

1. Introduction

1.1 This submission is by Unite the Union. Unite is the UK’s largest trade union with over 1.5 million members across the private and public sectors.

1.2 Unite the Union’s current membership in transport, together with our membership in other trade groups, such as supervisory and administrative grades, and some maintenance engineering members, exceeds 250,000. Unite represents workers in all areas of transport including coach, tram, taxi, rail, road haulage, logistics, civil aviation, docks, ferries, waterways and, of particular relevance to this inquiry, buses.

1.3 Unite has 90,000 bus worker members and is continuing to grow. Unite has obtained the views of our members through our lay member committees at national and regional level. Therefore Unite is in a unique position to submit a response to the Transport Committee inquiry into the Competition Commission’s (CC) report on the local bus services market.

1.4 Unite welcomes the CC conclusion that in many areas bus operators face little or no competition. However, Unite does not believe that our membership and the passengers they carry will be better served by further attempts to stimulate more on-street competition. Many of these problems have been caused by the failure of deregulation, which sought to create more on-street competition in the first place.

1.5 Unite believes that the Local Transport Act 2008 and the potential for Quality Contracts within that could help to address the problems that deregulation has caused. However, due to opposition from operators, no Quality Contracts have been established. So perhaps the real question should be: “Are further statutory powers needed?”

2. Has the Competition Commission addressed the issues of most importance to the bus passenger?

2.1 Unite believes that the CC has made an honest attempt at doing this but have drawn the wrong conclusions by suggesting that more on-street competition is what is needed.

2.2 Unite believes that competition brought in by bus deregulation has been a failure, eg massive passenger loss especially in urban areas, increases in traffic congestion, fewer evening and off-peak services, instability and frequent confusing changes to services, high fares, loss of integrated through ticketing and interchanging services.

2.2 Unite believes that neither the commercial nor supported parts of the market appear to be working well for either the transport workers that deliver it, the public that travel on it or the wider taxpayer society that indirectly contributes to it and is affected by its environmental fallout.

2.3 Unite believes that the local bus services market tends to concentrate towards a monopoly or near-monopoly at the route, local and regional level.

2.4 Therefore Unite believes that there are a number of barriers to entry to local markets that make it difficult for new operators to get into these concentrated areas.

2.5 Incumbent bus operators can aggressively respond and damage incoming smaller rivals preventing them from entering the market because of the economies of scale and garage hub advantages they enjoy, which reinforces their financial dominance.
2.6 However Unite does not believe that it is always true to say that the smaller operators charge more and are being undercut by their larger operators. This is certainly not the case in Sheffield where smaller operators are charging lower fares than First South Yorkshire.

2.7 Historically the dominant (multinational) operator in a large town or city bought out and now operates the old municipal/Passenger Transport Executive (PTE) networks, complete with their uneconomic services, ie Sunday and evening services. Being the dominant employer it is only right they provide the best wages and conditions, although still too low from Unite’s perspective.

2.8 New operators only seem to come onto the main profitable routes during daytime hours Monday to Saturday with often non-union or poorly unionised labour at lower rates of pay, yet cream off the profits whilst often charging lower fares on those competing trunk corridors.

2.9 Competition therefore takes the effect of undermining the viability of the main operator’s network without really enhancing anything for the workers or passengers.

2.10 Operators then become engrossed in aggressive and destructive bus wars, which normally see the main operator withdraw from their less profitable off-peak services in order to maximise the profitability of their business.

2.11 The result is that no private competitor wishes to take on these uneconomic services abandoned by the main operator. Which means more mileage has to be put out to tender—at significant cost to the Local Authority which are having to intervene more with higher funding in order to save as much as it can of a shrinking bus network.

2.12 In some areas, particularly provincial areas, the main operators are now cleaning up the tender market by offering a good price for a large batch of services over a wide area, which no other local operator can match. But in urban areas small operators are winning these off-peak tenders on their lower costs—but it is a nonsense because different operators run the same route at different times of day, with no fare interchangeability to the detriment of passengers.

2.13 The operation of the concessionary fares regime (which is paid for by the tax payer) may be distorting the market. Unite has concerns that bus operators have been able to manipulate the regime to increase the amount they are paid for providing concessionary services.

2.14 Unite believes that in some areas supported services receive low numbers of bids in response to tenders—more bids tends to mean lower prices so this is a concern. Roughly a quarter of all tenders only receive one bid.

3. How effective are the remedies proposed by the Competition Commission likely to prove?

3.1 The Local Transport Act 2008 already gives Local Transport Authorities the powers to introduce some of the remedies proposed by the CC.

3.2 However, the problem is operators are blocking Local Transport Authorities attempts.

3.3 Unite’s view is that the proposed set of remedies, are very unlikely to succeed in producing any significant impact on the local bus market, in the absence of further statutory obligations on operators.

3.4 Proposals on ticketing would be beneficial and seem non controversial. However, even this may be difficult to achieve with the current levels of resistance from operators in the industry.

4. Is sustained head-to head competition feasible or desirable?

4.1 The market investigation and previous studies have suggested that many of the UK bus markets are not contestable. This raises the question as to whether the bus industry market has ever been contestable?

4.2 One of the central hypotheses of the 1984 Buses White Paper, of which the current structure of the industry is a direct result, was that the bus market was believed to be “highly contestable” or “partially contestable” once the primary barrier of restricted entry was removed.

4.3 Two of the main policy objectives of the 1984 White Paper were to improve the service to the passenger and reduce the public subsidy. Neither of these has occurred. If anything, service standards and provision have declined, especially on less profitable routes, and public subsidy has increased.

4.4 It is Unite’s opinion that the bus market was never contestable and that the industry is a natural monopoly or near monopoly. Therefore an appropriate regulatory structure to regulate the bus industry is needed.

5. What role should Quality Partnerships play?

5.1 Unite sees the Local Transport Act and the Quality Contracts, Quality Partnerships that it offers as a real opportunity to finally address the years of damage that has been done by deregulation.

5.2 Local authorities now have greater power to serve routes that are demanded in the local area, which have previously been dropped due to lack of profitability by private contractors, since deregulation.
5.3 As the main transport union, Unite has fought hard to protect bus workers’ employment conditions in a “Quality Contract” process by getting TUPE protection written into the Act under Clause 39.

5.4 In addition the company which is awarded the Quality Contract will have Admitted Body Status and can apply for access to the Local Government Pension Scheme or an equivalent scheme. Unite will be insisting that companies who win the Quality Contracts choose to apply for access to the Local Government Pension Scheme.

6. Has the Competition Commission adequately considered the franchising option?

6.1 Unite is concerned that the CC have not adequately considered the franchising option because they seem to have conducted their analysis based on a presumption that more on-road competition is what is needed.

6.2 Unite has already noted that the bus market was never contestable and that the industry is a natural monopoly or near monopoly. Therefore an appropriate regulatory structure to regulate the bus industry is needed. Unite believes that Quality Contracts are that regulatory structure.

6.3 Quality Contracts are in effect the franchising of a network of services, a number of routes or even a single route—similar to the way in which the majority of the rest of public transport in the UK is provided (such as bus services in London and the national rail network).

6.4 Quality Contracts would allow PTEs and Councils to specify and regulate bus routes. The routes could be networks covering the whole of a PTE area, a single town, or even a single route. Private sector companies would be invited to bid to operate the specified routes. Once a company was appointed it would effectively become a monopoly provider and would face no on-road competition, which would allow them to concentrate on developing the local market for bus travel, in partnership with the relevant PTE or Council.

6.5 Franchising should provide a better service than currently exists. At a minimum, franchised networks should benefit from:

- more stability—with less frequent changes to fares, times and frequencies;
- better reliability—because services would be thoroughly monitored and good performance would be incentivised;
- better integration—one brand, one family of tickets, simpler fares, improved links between different modes of travel; and
- being cleaner and greener—dirty old buses would be removed from the route area and contracts would require bus operators to provide newer, cleaner buses and to maintain them properly.

6.6 However, the stability of the network will rely on there being well paid and well trained staff. If Quality Contracts do not ensure that bus workers are well rewarded and well trained then Quality Contracts will not live up to their promise.

7. What action should local government and central government now take?

7.1 Unite believes that the Local Transport Act 2008 is a good piece of legislation, which is not being used to its full potential.

7.2 The Local Transport Act 2008 gives Local Transport Authorities options through Quality Contracts and Quality Partnerships to build long term stability into bus service delivery, which can be to the benefit of all the major stakeholders.

7.3 Whilst at the same time giving Local Transport Authorities discretion to use those tools in a way which meets local circumstances and aspirations.

7.4 Ultimately, however, if Quality Contracts are not being used then some further legislative change maybe required.

7.5 However the current Government seems to be reluctant to promote a piece of legislation that the previous Labour Government put on the statute books. So until there is some political or legal pressure to make operators comply, Unite will remain sceptical about what further progress will be made in this area.

8. Conclusion

8.1 Only a planned and integrated transport system can deliver best results. Competition can only distort it and destroy it, which is precisely what’s happened since 1986. The evidence is that deregulation has damaged the integrated networks entrusted to the private multinationals in these last 20 years. Tweaking competition methodology and simply blaming the main bus operators in the market is not an adequate solution.

8.2 One area which is not covered by this market investigation or previous studies relates to employment within the industry. Currently, especially for bus drivers, the turnover rate is similar to the service sector. This is actually an improvement on previous years, but unless this is reduced further, it will not be possible to provide the quality and level of services that the customer wants. But to stabilise the workforce will require an improvement in their terms and conditions of employment.
8.3 Ultimately, Unite believes that a properly regulated and supported bus industry is needed to enable it to become part of a more integrated and sustainable part of public transport. The bus industry and the public transport sector must become an attractive proposition that will encourage more people out of their cars and into public transport.

20 February 2012

Written evidence from The National Union of Rail, Maritime and Transport Workers (RMT) (LBS 34)

The National Union of Rail, Maritime and Transport Workers (RMT) represent over 4,190 bus workers across the UK and welcome the opportunity to submit written evidence at the start of the Transport Select Committee’s Inquiry into Competition in the Local Bus Market.

RMT concur with the wealth of research, from the Campaign for Better Transport30 and others into bus passenger attitudes which clearly shows people are only interested in three key tests of a bus service:

— Cost.
— Convenience.
— Punctuality.

Whilst we welcome detailed studies of the bus market, we do not think that the Competition Commission (CC) is able to conduct such work from a balanced view point, as it promotes a particular form of competition which could be described as pro-free market fundamentalism. This is confirmed by the profusion of academic, government and business interests represented by the CC members who conducted this inquiry, which include work to promote competition and privatisation in the NHS, links to two of the big four accountancy firms (PwC and KPMG) and links to law firms who have a direct commercial interest in cases which may result from the application of competition law in those markets identified by the Office for Fair Trading. This is illustrated by the CC’s clear preference for “head to head” competition for local bus services in the UK, rather than competition for bus routes tendered by the local authority or, potentially, other regulatory bodies, outside of London.

We therefore regard the CC’s conclusions as the result of an academic study of whether or not the local bus market is working in favour of de-regulated, free market competition, rather than a study of whether the local bus market is working in favour of passengers or bus workers. Buses are a key part of public transport provision and the free market in bus services consistently proves that it will not provide services if they are loss making, even if they are effectively lifeline services for passengers living in remote, rural locations. No amount of competition will remedy this, and neither do we expect private companies to provide loss making services, as they would only do so if they received large amounts of public subsidy.

We would also like to establish why the CC took over two years to produce a report which could have serious consequences for bus workers. We await the government’s response to the report, and to the eventual conclusions and recommendations of the TRANSCOM inquiry, with considerable interest.

COMPETITION COMMISSION’S CONCLUSIONS

Head-to-head competition

As indicated in the introduction, we do not accept the premise that competition between bus operators will result in improved bus services for customers and we are extremely concerned that enforcement of competition law in the bus industry could result in many of our members losing their jobs. Therefore, we do not regard head to head competition in local bus markets as desirable. Neither is head to head competition in local bus markets truly feasible, especially in metropolitan areas where a high turn-over of operators would have a particularly chaotic effect on the local bus market, including amongst the drivers and mechanics that make the industry work.

However, the current monopoly on local bus services enjoyed by a handful of operators, Stagecoach, Go-Ahead, First Group, Arriva and National Express, is clearly unhealthy for this form of public transport, as it leads to fare and wage instability, both of which have negative consequences for bus passenger services. We are disappointed that the CC did not take a more imaginative approach to prescribing remedies to the current unsatisfactory state of local bus services. Neither are we convinced that the benefits the CC ascribe to “sustained head-to-head competition” would be anything more than short term and would eventually be replaced by a monopoly operator free to impose fare increases and cut services, as well as holding down wages and cutting jobs—the formula of choice for private bus companies in their remorseless pursuit of ever increasing profit.

We note with interest the CC’s findings that “In many cases market structures reflect patterns of depots at privatization”. This clearly highlights the durability of the infrastructure and public memory of a national bus service run in the public sector, in spite of the fact that in most parts of the country the 30th anniversary of de-regulation/privatisation is fast approaching.

30 Competition Commission report: Local bus services market investigation. Pg 5.

The consequences for the workforce of head to head competition, or “letting the market rip”, would be serious, as such unfettered capitalism would result in operators going out of business on a regular basis, with serious instability in the bus market an inevitable further result. Such a scenario is clearly undesirable for passengers, employees and employers.

**Adverse effects on competition (AECs)**

We note the CC’s concern that there is no competition in the supply of local bus services across much of the national network. However, in many cases, this is the consequence of a private monopoly which the deregulated system encourages and inevitably leads to.

We support the CC’s finding that, “...the markets for the tendering of contracts for supported [sic] local bus services worked well”.31 However, we reject the CC’s assertion that the Adverse Effects on Competition (AECs) they have identified should be treated as any sort of priority by either government or industry. RMT support an expansion in the Quality Partnership system which is the only prospect, at present, for effective regulation within the bus industry.

The CC’s diagnoses of “AECs” are faintly ridiculous, as well as preventing a balanced discussion of the problems in the local bus market and how to solve them. The CC regards free market, de-regulated competition as a panacea for the difficulties in supplying reliable, affordable and extensive bus services across the UK. We do not share that view, and suspect that the vast majority of bus passengers and workers would share our position.

We would also question the CC’s attempt to price the cost to the consumer and taxpayer of the AECs identified in their report. The CC’s estimates vary wildly, from £70 million, to between £115 million and £305 million, so much so that we do not consider them to be reliable, as this level of variation is clearly down to subjective interpretations of competition law. Even before the 20% cut to the Bus Service Operators’ Grant comes into effect on 1 April 2012, net public funding for local bus services in England decreased by over 7% between 2009–10 and 2010–11. In this context, we regard the CC’s vague estimates of the cost of notional AECs as unhelpful.

**Remedies**

We welcome the CC’s recommendation to empower Local Transport Authorities to design and enforce mandatory multi-operator ticketing schemes, although we think this proposal should go further in terms of regulating fare levels charged by all operators.

Similarly, the proposal to increase Traffic Commissioners’ powers to introduce and enforce a local bus operators’ code of conduct is progress in the right direction but does not go far enough in terms of statutory regulation of the services and conditions of employment offered by bus operators. Whilst we acknowledge the potential for Traffic Commissioners to experience resource problems should they be equipped with these extra regulatory powers, no matter how “light touch”, we support statutory regulation over a code of conduct that would be enforced by a public body, most likely the local authority, including and beyond the remit of the Traffic Commissioner.

We support restrictions on the sale of municipal bus companies but would like to see guaranteed TUPE-like protections for bus staff transferred within the public sector, ie between municipal bus companies. This would most likely take the form of the Cabinet Office Statement of Practice (COSOP), last revised in 2007.

Increased access to bus stations is also supported by RMT, with the proviso that there should be a minimum level of bus provision for all local authority supported services, with the final provision decided by the number bus services operated in the area.

RMT agree that LTAs should continue to tender local bus services but remain wary as to the outcome of accepting the CC’s recommendations for how partnerships contracts, including Quality Partnerships, could be tailored to “facilitate increased competition”. An option could be for Traffic Commissioners to be equipped with the necessary regulatory power to oversee the operation of such partnership bus services developed under the Quality Partnership system. However, we note that the CC recommend that the OFT establish “a regular forum with operators to discuss issues relating to the competition assessment of partnership arrangements with LTAs and other stakeholders”.32 We would expect the trade unions representing bus workers, who are clearly stakeholders, to be invited to the OFT forum and to participate in its subsequent policy discussions.

Whilst we welcome the CC’s attention to local authority tendered bus routes, we recognise that this work is undertaken with the longer term view of promoting free market competition. Therefore, we would wait to see how the Department for Transport intended to revise the guidance to local authorities on tendering local bus services before commenting in detail. However, this does not mean RMT oppose any revision of the guidance.

The CC’s recommendation to require LTAs to regularly publish information about passenger numbers on particular operators and routes, as well as de-registered services, is welcome, although we again consider it too modest. We would argue that the regular publication of information on service performance on specified

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31 Ibid.
32 Competition Commission report: Local bus services market investigation. Pg 12.
services should also be accompanied by information about the financial performance of the bus operators in the local market, including the amount of any public subsidy (including BSOG) received by the operator from the taxpayer for the current year and in the previous five years. Such information should be presented in a clear and easily digestible format, and placed in a clearly visible location.

We are concerned by the CC’s proposal that the Office for Fair Trading step in to recommend those areas of the country where bus mergers should take place in order to promote competition. This has potentially negative consequences for the workforce of any bus companies earmarked in this way, as the immediate impact would most likely be job losses, especially in the current economic climate. We also believe that such mergers would not benefit passengers who would most likely have to adapt to another round of changes to routes and timetables.

The CC’s unfortunate recommendation for a list of “Frequently Asked Questions” to be published about the application of competition law to the bus industry, smacks of tokenism. Indeed, when reading the CC’s report one could be forgiven for thinking that bus services are 100% automated, with no people working on these buses as drivers or in garages as mechanics maintaining the bus fleet. There is an almost total absence in the CC report (outside of general references to “labour costs”) of any analyses of the consequences for the workforce of applying competition law in the bus industry. We would therefore support attempts to press the government to, as part of their response to the CC, make an assessment of the impact the CC’s recommendations would have on the bus industry workforce.

On Bus Service Operators’ Grant, RMT continue to oppose the 20% cut in BSOG announced in the last Comprehensive Spending Review and repeat our call on the government to reverse this cut when it publishes the findings and recommendations from its current review of BSOG. As noted previously, the BSOG cut will be introduced in April 2012 but research by the Campaign for Better Transport reveals that a pattern of severe funding and service cuts, particularly by Conservative-run local authorities, has been established before the BSOG cut takes effect. As the CBT research shows, two-thirds of the 88 local authorities in England have already taken the decision to make cutbacks to bus services. On top of this, 77% of local transport authorities in England are either planning to, or cannot rule out, further cuts in the future, presumably as a result of the BSOG.

It is also worth noting here that CBT’s work has established that over one thousand buses in total or semi-rural areas have already been reduced or withdrawn, which equates to one in five of all council supported bus services.

One example of this severe cutback in local authority funding for and provision of bus services outside cities is provided in the Bus Minister’s own constituency local authority, East Sussex, where the Conservative administration will cut bus subsidy by £500,000 over the next two years. 18 council supported bus services have already been reduced. Further service reductions and fare rises are expected to result. These bus funding cuts are in stark contrast to the £16 million East Sussex County Council will spend on a Bexhill to Hastings link road.

Whilst the experience of bus franchising in London has been successful in terms of increasing passenger numbers, this is because the system is also properly regulated. We would be wary of an extension of bus franchising outside of London, particularly if it were not accompanied by the same robust regulatory framework, although the current Mayor of London proves that even this is no guarantee for cheap fares if a pro-free market politician is in control. It is worth noting that Boris Johnson has increased the cost of an Oyster bus fare by 50% since he was elected in 2008, from 90p to the £1.35 it currently stands at.

Conclusions

RMT support greater regulation of the local bus market which we believe would help improve bus passenger services and the safety and conditions of service of our members and their colleagues in the bus industry. We suggest that a restored and robust regulatory system should go way beyond the CC’s recommendations. Our proposed regulatory system would be flexible enough to adapt to the very different bus markets in rural, semi-rural and metropolitan areas, through the statutory and strengthened role and input of Local Transport Authorities which would ensure that local bus services reflect and respond to local need.

The establishment of a cross-industry bus safety committee comprised of representatives from local authorities, trade unions, bus operators and the Department for Transport is a priority for the RMT. This would provide better protections for our members and their colleagues working on buses, the vast majority of whom are drivers. As it seems unlikely that bus conductors or similar non-driving on-board bus staff will return to the industry in any great number in the near future, one area of priority for RMT and other trade unions is CCTV. At present only 69% of the public and private bus fleet across the UK is fitted with CCTV. Outside of London the figure is likely to be smaller, which is why we are calling for 100% of the national bus fleet to be fitted with CCTV so that our members and their passengers can benefit from the extra safety and protection from crime which CCTV installations have been proven to provide.

33 http://www.bettertransport.org.uk/campaigns/save-our-buses
Given the enormous profits extracted from bus passengers and staff by the large bus operators since privatisation, we feel that completing the roll out of CCTV to all buses serving the public is affordable without public subsidy to the large operators (although the 11 local authority owned bus companies might have more difficulty in finding this extra money).

For example, Stagecoach’s regional bus division, operating in 100 urban areas across the UK, saw profits in the year to April 2011 rise by 2.1% to £893.6 million. Operating profits grew by 21%, in part due to fares increases.

In addition, the CC’s report acknowledges the unusually profitable nature of the bus industry “…operators representing a substantial part of the market have earned profits that were persistently above the cost of capital on a national basis, indicating that competition may not have been effective across the whole reference area”.34

17 February 2012

Further written evidence from RMT (LBS 34A)

Ahead of the Committee’s oral evidence sessions as part of the inquiry into local bus markets, RMT submit the following written evidence to supplement that which we submitted in February as part of this inquiry.

Costs of the Privatised Bus Industry

As part of a report commissioned by the RMT, the Just Economics think tank has established that railway industry leakage costs (profits that are paid out in dividends to shareholders) and interface costs (the transaction costs that result from having multiple service providers in competition with each other) have cost the taxpayer more than £883 million in 2009 alone and more than £6.6 billion between 1997 and 2009 (see following table).

| Costs of privatisation and fragmentation in £ millions, 2009 and 1997–2009 |
|---------------------------------|-----------------|-----------------|
| 2009 figure                    | Total 1997–2009 |
| Total additional debt costs    | 156.15          | 949.99          |
| Total dividend leakage*        | 433.30          | 2,414.18        |
| Total interface/efficiency costs | 293.92          | 3,258.80        |
| **Total leakage and additional costs** | **883.37**       | **6,622.97**    |
| Public subsidy                 | 5,213.00        | 35,875.00       |
| Costs of privatisation as % of subsidy (2000–09) | 16.95 | 18.46 |

* Comprised of TOCs (the “big five” operating companies), ROSCOs and Railtrack during its period of operation (for the 1997–2009 figure)

Sources: Jupe (2009); Shaoul (2006); annual reports (Network Rail, TOCs, ROSCOs); ORR (2010); RMT (2010) and author’s own calculations.

By taking the average of the past five years (£744 million) and projecting it forward for the next 10 years, Just Economics arrive at a discounted value of £6.7 billion in benefits to the tax—payer of reintegrating the railways under public ownership.

This is significant for the bus industry for two reasons. Firstly, the big five bus companies, Stagecoach, Arriva, Go-Ahead, First Group and the National Express Group, all have significant interests in the privatised rail franchise system, the substantial profits they have derived from which allow them to preserve their dominance in the deregulated local bus market. Such dominance resulted in a 20% real-terms rise in bus and coach fares between 2000 and 2010.35

Secondly, the potential savings of £6.7 billion from reintegrating our railways under public ownership would release extra revenue to fund and improve local bus services; such as:

— Free bus and rail travel for young people under the age of 16.36
— Half the annual cost for concessionary bus passes for pensioners (full cost projected to be £1.089 billion for 2011–12).37
— The current entire national government subsidy to the bus industry (based on Bus Services Operator Grant of £500 million a year).

34 Competition Commission report: Local bus services market investigation. Pg 5.
35 Hansard 5 April 2011, Col. 879W.
36 For buses DfT estimate an annual cost of £450 million. For rail the House of Commons library has estimated a cost of £60 million. Even if the policy resulted in three times as many young people using rail it would be sustainable.
37 Pg. 11, House of Commons Library Standard Note SN/BT/74199, 31 August 2011.
The dividends and highest paid director since 2000 at the big five bus companies are collated below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Arriva Dividends*</th>
<th>First Group dividends*</th>
<th>National Express Dividends*</th>
<th>Go-Ahead Dividends*</th>
<th>Stagecoach Dividends*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>£33.4m</td>
<td>£36.6m</td>
<td>£26.3m</td>
<td>£6.5m</td>
<td>£54m</td>
</tr>
<tr>
<td>2001</td>
<td>£33.8m</td>
<td>£38.8m</td>
<td>£28.6m</td>
<td>£7.6m</td>
<td>£49.3m</td>
</tr>
<tr>
<td>2002</td>
<td>£34.6m</td>
<td>£43.1m</td>
<td>£32.4m</td>
<td>£8.6m</td>
<td>£34.1m</td>
</tr>
<tr>
<td>2003</td>
<td>£35.3m</td>
<td>£45.5m</td>
<td>£35.1m</td>
<td>£12.7m</td>
<td>£34.3m</td>
</tr>
<tr>
<td>2004</td>
<td>£35.6m</td>
<td>£47.3m</td>
<td>£36.4m</td>
<td>£19.3m</td>
<td>£38.4m</td>
</tr>
<tr>
<td>2005</td>
<td>£39.1m</td>
<td>£48.2m</td>
<td>£41.6m</td>
<td>£21.5m</td>
<td>£37.2m</td>
</tr>
<tr>
<td>2006</td>
<td>£39.6m</td>
<td>£52m</td>
<td>£49.7m</td>
<td>£25.3m</td>
<td>£36.6m</td>
</tr>
<tr>
<td>2007</td>
<td>£41.9m</td>
<td>£57.1m</td>
<td>£54m</td>
<td>£28.9m</td>
<td>£41.5m</td>
</tr>
<tr>
<td>2008</td>
<td>£47.8m</td>
<td>£69.5m</td>
<td>£59.6m</td>
<td>£31.4m</td>
<td>£30m</td>
</tr>
<tr>
<td>2009</td>
<td>£50.3m</td>
<td>£84.6m</td>
<td>£15.2m</td>
<td>£34.8m</td>
<td>£41.8m</td>
</tr>
<tr>
<td>2010</td>
<td>£37.4m</td>
<td>£93.1m</td>
<td>£30.6m</td>
<td>£81m</td>
<td>£76.7m</td>
</tr>
<tr>
<td>2011</td>
<td>Not yet available</td>
<td>£113.2m</td>
<td>Not yet available</td>
<td>£23.8m</td>
<td>£15.8m</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>£428.8m</td>
<td>£777m</td>
<td>£428.9m</td>
<td>£315.9m</td>
</tr>
</tbody>
</table>

* Not disaggregated so are paid on the basis of profits made in rail/bus/light rail and international operations

There were some significant rises in payments to directors of the big five bus companies in 2011, with Stagecoach’s highest paid director receiving 62% more than the £762,000 paid to Brian Souter in 2010 and National Express’s highest paid director seeing their annual pay more than double to £1.3 million.

It is clear that this sort of profiteering from public transport is not popular with the public. In the bus industry itself, a majority of bus workers also have serious reservations over the impact that private profit has on the standard of bus services provided by private bus operators. An independent survey of 5,000 bus workers in 2007, commissioned by the RMT found that 69% of bus workers felt that the company they worked for was more interested in making profits than providing a service to passengers. Only 14% felt that their company was more interested in passengers than profits.38

Delivery of Bus Services: comparing UK to European countries

There remain some areas in the UK where municipally owned bus services are operating effectively and in the interests of passengers and the workforce, in Reading, Cardiff and Edinburgh for example. We would also point to the success of municipally owned and provided bus services in cities such as Bordeaux, Paris, Berlin, Rome, Turin and Madrid. Indeed, it is the case in most European countries that local bus services are publicly owned and run, and where they are not, the market is properly regulated in terms of fares and services.

In this context the RMT support the view of the Campaign for Better Transport that:

“All options for reform of the bus industry need to be considered, including whether there is a greater role for municipal ownership and not for profit services”.39

As with rail, there would be clear financial benefits arising from public ownership and greater regulation of bus services. As highlighted above, dividends just under £2.5 billion have been paid to the shareholders of the big five transport operators since 2000 from their combined public transport operations. The average total annual dividend of £200 million over that time easily exceeds the entire amount Passenger Transport Executives currently spend in supporting all non-commercial bus services.

13 April 2012

38 Survey of RMT members by Electoral Reform Ballot Services.
Written evidence from Peter Hendy CBE, Commissioner of Transport, Transport for London (LBS 50)

During my oral evidence for this inquiry on 16 May, I offered to write to the Committee with more information about the level of financial support currently provided for bus services in London. The Committee staff subsequently asked for this information to be listed for the past few years.

In 2011–12, subsidy for services totalled £393 million, which is equivalent to 17p per passenger journey. This figure is expected to decline to approximately £355 million in 2014–15 or 15p per passenger journey.

The following table shows the subsidy since 1999–2000, together with the number of journeys made in each year and the level of support per passenger journey.

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Bus network subsidy (£m)</th>
<th>Passenger journeys (m)</th>
<th>Subsidy per journey (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999–2000</td>
<td>-10</td>
<td>1296</td>
<td>-0.01</td>
</tr>
<tr>
<td>2000–01</td>
<td>24</td>
<td>1354</td>
<td>0.02</td>
</tr>
<tr>
<td>2001–02</td>
<td>118</td>
<td>1430</td>
<td>0.08</td>
</tr>
<tr>
<td>2002–03</td>
<td>241</td>
<td>1534</td>
<td>0.16</td>
</tr>
<tr>
<td>2003–04</td>
<td>384</td>
<td>1702</td>
<td>0.23</td>
</tr>
<tr>
<td>2004–05</td>
<td>422</td>
<td>1793</td>
<td>0.24</td>
</tr>
<tr>
<td>2005–06</td>
<td>446</td>
<td>1816</td>
<td>0.25</td>
</tr>
<tr>
<td>2006–07</td>
<td>461</td>
<td>2069</td>
<td>0.22</td>
</tr>
<tr>
<td>2007–08</td>
<td>500</td>
<td>2176</td>
<td>0.23</td>
</tr>
<tr>
<td>2008–09</td>
<td>563</td>
<td>2247</td>
<td>0.25</td>
</tr>
<tr>
<td>2009–10</td>
<td>540</td>
<td>2257</td>
<td>0.24</td>
</tr>
<tr>
<td>2010–11</td>
<td>428</td>
<td>2289</td>
<td>0.19</td>
</tr>
<tr>
<td>2011–12</td>
<td>393</td>
<td>2344</td>
<td>0.17</td>
</tr>
</tbody>
</table>

The subsidy shown covers the cost to Transport for London of all the contracts placed with private operators to run the bus service in London, including both their operational costs and capital expenditure, less fares income. Figures are in real terms.

The rise in subsidy shown in the first half of the table reflects the transformation of the network which has taken place since 1999, in both scale and quality. Growth was fastest in the period from 1999–2000 to 2004–05, with bus-kilometres operated increasing by approximately 30% over the five-year period. Excess waiting time (the principal indicator of service reliability) was cut by almost half over the same interval and customer satisfaction ratings increased. Since 2004–05 these gains have been sustained and built on. Patronage continues to grow and customer satisfaction has risen further.

This has been achieved by investment across the range of inputs driving customer satisfaction. This includes: adequate staffing levels and resilient schedules, modern vehicles, improvements to driving standards and customer service, and excellent passenger information and accessibility. Additionally, the network is kept under constant review so that it continues to support economic and social development across London, in terms of adequate capacity, comprehensive coverage and good connectivity.

**ADDITIONAL INFORMATION FROM TRANSPORT FOR LONDON**

Payments to TfL from the boroughs in respect of people using Freedom Passes are included in the calculations as TfL revenue. This is because these payments are intended to cover the fares that pass holders would have paid to TfL in the absence of the pass, after taking account of the travel-generating effect of the scheme itself, and the direct additional costs incurred. The payment in 2011–12 was approximately £208 million.

The money we receive from the London boroughs includes payment for journeys made on non-London passes (the local authority where the trip starts has to pay, not the authority who issues the pass). Out of the £208 million 2011–12 settlement about £6 million was in respect of journeys made with non-London passes.

The subsidy numbers above refer to the net cost of London bus services, ie the difference between the costs to TfL of the bus services and the revenue taken by those services, including reimbursement for concessionary fares. There are also other costs associated with providing the network, including: marketing and passenger information; the iBus system; ticketing systems; bus stations, stands, stops and shelters; liaison and consultation with local authorities, London TravelWatch and others. These costs totalled approximately £120 million in 2010–11, excluding depreciation.

*31 May 2012*
Written evidence from the Competition Commission (LBS 44)

I am writing in response to Mr Stringer’s question at our meeting on Monday 27 February. Mr Stringer asked whether it would have been appropriate for the CC in its Local Buses Report to have compared the profits of bus services operated in London with those operated outside London, and whether this would have been relevant in assessing whether some kind of franchise system may provide a suitable alternative to current commercial local bus service arrangements. I promised to write setting out details of any work we did on this question.

The CC did not seek to measure the profitability of London operations because this area was outside our terms of reference. Nor did we choose to use it as a comparator.

Our purpose in examining profitability is to see whether it indicates a failure of competition such that persistent excess profits are not competed away. We generally do this by examining whether the returns from activities exceed the cost of financing them. As set out in our report (see section 10, paragraphs 10.86–10.90), we found this to be the case, and this formed part of our assessment of whether there was an adverse effect on competition (AEC) and the extent of any detriment to bus passengers resulting from this AEC.

Comparison of profitability in the reference area with London seemed to us to be of limited relevance to this aspect of our investigation. This was because costs, risks and other factors are likely to be different under the different market system applied in London, that would make it difficult for us to attribute any differences in profitability to differences in competition between the two models.

However, we did carefully consider the question of whether franchising would provide a more effective remedy to the AEC that we found than the package of measures that we described to you on Monday. Our assessment of this issue is summarised in section 15 of our report (see in particular paragraphs 15.434 to 15.470), and is set out in greater detail in Appendix 15.6. We looked specifically at the operation of franchising in London in Annex B to Appendix 15.6, drawing on others research and on our own evidence.

It is fair to say that making comparisons between outcomes in London and the deregulated market outside London are far from straightforward. London provides an exceptionally large and dense bus network, in combination with features such as congestion charging, and the much higher level of public support to bus services in London, which are not replicated in the rest of the country. In the absence of these factors, outcomes in London could be very different.

For these reasons we did not make the comparison between profits in London and elsewhere. Nor did we feel that this would be informative on the relevant effectiveness of franchised and non-franchised systems, for example where franchised outcomes were achieved at the cost of greater public support. Nonetheless, we found the experience of franchising in London provided a useful point of reference in our assessment of the benefits and risks of different remedy options (see in particular Appendix 15.6).

However, we do note that some others have tried to make comparisons of profitability, and we received evidence on this. In particular, LEK was asked by the DfT to look at bus industry revenues, costs and profitability in England. In its report (LEK: Review of Bus Profitability in England, published April 2010) it found that the profitability (measured by return on capital employed) of all bus operators in regions outside London was 17.7%, and in London, was 16.7%. This difference is small; however we did have several concerns about the quality and completeness of the data that was available to LEK and about the method of analysis they followed.

1 March 2012

Further written evidence from the Competition Commission (LBS 44A)

Thank you for the opportunity to give evidence to the Committee on 16th May. A number of issues arose during the hearing where we said that we would write to the Committee with further information. We also wish to comment on a couple of points that arose during the Committee’s hearing with the Minister.

There was some discussion of the evidence behind paragraph 12.99 of our report, and in particular the risk that partnership arrangements could increase barriers to entry “if they specify unnecessarily high quality standards, or specify quality standards in an inflexible way” [emphasis added]. The point we were making in the report was a simple one that care needs to be taken not to unnecessarily over-specify the quality dimension of partnership arrangements to such an extent that this removes the scope for effective competition, as this could ultimately worsen rather than improve passenger outcomes. While we did not have specific concerns about any existing scheme this is, in our view, a general risk of partnership arrangements, particularly those which have the capacity to exclude operators from a market. Getting the balance right in specific cases is a matter for the relevant LTA. Clearly there need to be certain standards to ensure passenger safety, Traffic Commissioners require adherence to timetables, and LTAs may consider it appropriate to require a particular standard of service, but unnecessary “gold plating” could increase costs and reduce passengers’ ability to choose the type of service they think is appropriate and are willing to pay for. This is one of the issues that we would suggest be discussed in the partnerships forum that we have recommended be set up.
1. Has the Competition Commission addressed the issues of most importance to the bus passenger?

1.1 Bus services play an integral part in British life—bringing people closer together in work, leisure, education and health. What is of most interest to the Government, therefore, is that local bus markets work in the interest of passengers—both existing and potential.

1.2 In its final report, the Competition Commission has found that, on average, there are lower frequencies and higher fares than would be the case if there were more competition. That is not good for the passenger. On the other hand, a single provider of bus services, or a number of providers working together in partnership, is able to offer significant passenger benefits such as integrated networks and ticketing. There is, therefore, a delicate balancing act to ensure that the theoretical benefits of competition can be married to the improvements of cooperation between operators that bring no benefits to passengers.

There was also some discussion of the evidence on whether competition “for the market” would result in better outcomes than competition “in the market”, with our remedies are in place. As we discussed at the hearing, there is only one current example of franchising in GB (ie in London), and that this market has a range of other characteristics (including funding), which taken together mean that it is difficult to make comparisons even with the other large metropolitan areas. Our overall assessment of franchising as a remedy option is set out in paragraphs 15.434 to 15.470, our consideration of possible market outcomes from a move to franchising is at paragraphs 77 to 109 of Appendix 15.6 and our review of evidence about London (which accords with Mr Hendy’s oral evidence to the Committee) is at Annex B to the same Appendix. It is also worth bearing in mind that we were considering what would be a practicable and proportionate solution to the specific competition problems that we had identified outside London. This included an assessment of the costs of alternative remedies and their practicality, including the risks of moving from a deregulated to a franchised system, as opposed from public sector provision to franchising as had happened in London in the 1980s.

There were also two points that arose in the hearing with the Minister that we are able to clarify:

(a) The CC is implementing the remedy relating to access to bus stations using its own powers under the Enterprise Act 2002 (the Act). There is therefore no need for action by Government in relation to this remedy. We expect to make the Order putting these measures in place during June 2012.

(b) The CC does not initiate its own cases, rather it only acts on reference by other bodies. The reference to the CC of Local Buses was made by the Office of Fair Trading on 7 January 2010 under the market investigation provisions of the Act. While the precise terms of reference were set by the OFT, it is also worth noting that the focus of the market investigation regime on competition matters was specified by Parliament in drafting the Act. The CC’s powers and duties extend to the investigation of the process of competition and whether features of the market give rise to an adverse effect on competition. The CC therefore did not seek to review and evaluate other aspects of transport policy, which are a matter for national Governments and LTAs.

26 May 2012

Written evidence from the Department of Transport (LBS 38)

1. Has the Competition Commission addressed the issues of most importance to the bus passenger?

1.1 Bus services play an integral part in British life—bringing people closer together in work, leisure, education and health. What is of most interest to the Government, therefore, is that local bus markets work in the interest of passengers—both existing and potential.

1.2 In its final report, the Competition Commission has found that, on average, there are lower frequencies and higher fares than would be the case if there were more competition. That is not good for the passenger. On the other hand, a single provider of bus services, or a number of providers working together in partnership, is able to offer significant passenger benefits such as integrated networks and ticketing. There is, therefore, a delicate balancing act to ensure that the theoretical benefits of competition can be married to the improvements already being made by commercial operators and local transport authorities working together in the passenger interest.

1.3 In its initial submission to the Competition Commission inquiry into local bus markets (available online on the Competition Commission’s website40), the Department for Transport set out the evidence on what passengers want most from a bus service (see pp10–11): a reliable, punctual, and safe service on a stable network at a reasonable ticket price.

1.4 Further evidence on the importance of soft factors that may encourage bus patronage (such as ticketing and real time information) is available at http://www.dft.gov.uk/publications/role-of-soft-factors-in-the-bus-market-in-england/.

1.5 Building on recent initiatives such as the £50 million Better Bus Area Fund and the latest £20 million tranche of the Green Bus Fund, the Government intends to set out in due course its plans to secure these

40 Submissions from, and summaries of hearings with, third parties (including the DoT) can be found at: http://www.competition-commission.org.uk/inquiries/ref2010/localbus/index.htm
improvements, delivering better quality bus services and increasing bus passenger numbers, which will play an important part in growing the economy and cutting carbon.

2. How effective are the remedies proposed by the Competition Commission likely to prove?

2.1 The Government will formally respond to the remedies proposed by the Competition Commission in due course. It is not the intention to anticipate that response here.

2.2 Previous Department for Transport submissions to the Competition Commission inquiry, including the response to the provisional remedies (which vary little from the final remedies) are available online at the Competition Commission’s website. The Department broadly welcomed the provisional remedies and placed particular emphasis on the scope for effective and competitively-priced multi-operator tickets to open up local markets and improve the bus passenger experience.

3. Is sustained head-to-head competition feasible or desirable?

3.1 The Competition Commission has made clear in its report that it sees ongoing, sustained head-to-head competition as delivering significant benefits for passengers. Please see p10 of the Department for Transport’s initial response to the Statement of Issues published by the Competition Commission on 10 February 2010 for a description of the Department’s views.

3.2 The Government will in due course set out its response to the Competition Commission report and its vision for the future of local bus services.

4. What role should Quality Partnerships play?

4.1 The term “Quality Partnerships” (often with “Bus” inserted between the two words) is used to describe a variety of different agreements between operators and local transport authorities, ranging from informal agreements through statutory voluntary partnerships to statutory Quality Partnership Schemes as set out in the Transport Act 2000 (as amended).

4.2 The Government’s position on the use of these tools was set out on p14 of the Department for Transport’s response to the Competition Commission’s provisional remedies, available online at the Competition Commission website. There, we set out the strong message that local partners should not be discouraged from working together because of an ill-advised fear of being “anti-competitive”.

4.3 We will set out in due course our vision for the future of local bus services, along with a formal response to the Competition Commission’s final report.

5. Has the Competition Commission adequately considered the franchising option?

5.1 It is presumed that this question refers to Quality Contract Schemes or the reintroduction of a regulated market along the lines of the one in place in London, rather than the practice of sub-contracting tendered bus services paid for by a local transport authority.

5.2 The Competition Commission has made clear that what it calls “area-wide franchising” has the potential to reduce the detriment to passengers caused by a lack of competition, but that it preferred the rivalry and innovation it associated with competition in the market rather than competition for the market, which it is concerned may not be easily and effectively introduced.

5.3 The Government’s position on Quality Contract Schemes was set out on p14 of the Department for Transport’s response to the Competition Commission’s provisional remedies, available online at the Competition Commission website. We will set out in due course our vision for the future of local bus services, along with a formal response to the Competition Commission’s final report.

6. What action should local government and central government now take?

6.1 We will set out in due course our vision for the future of local bus services, along with a formal response to the Competition Commission’s final report.

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Further written evidence from the Department for Transport (LBS 38A)

Thank you for the opportunity to provide oral evidence to the inquiry into competition in the local bus market. Upon receiving the uncorrected transcript of my exchanges with the Committee, there are several areas where clarification of this oral evidence may be helpful.

1. Passenger Satisfaction Levels [Q379]

According to the recent Passenger Focus Bus Passenger Survey, the average proportion of passengers satisfied overall with their bus journey is 85%. It varied among the areas surveyed, from a low of 79% to a high of 91%.

2. The Origins of the Competition Commission (CC) Inquiry into the Local Bus Market [Q383] [Q419]

The market investigation was carried out by the CC following a reference by the Office of Fair Trading (OFT), made under section 31 of the Enterprise Act 2002, on 7 January 2010. Prior to this, the OFT conducted a market study of local bus services, announced on 5 March 2009, because it had received information from various sources that the market may not be working well for passengers. The terms of reference for the CC’s market investigation were confined by the 2002 Act and the OFT.

3. Detriment [Q387]

The detriment to consumers and taxpayers from the lack of competition in local bus markets was estimated by the CC to be worth between £115 million and £305 million.

4. Government’s Timetable for Implementing the Recommendations [Q389]

As the Government set out in its response to the CC’s final report, it is our intention to have drafted the secondary legislation necessary to implement the recommendations by April 2013. It is likely to be published later in the year.

5. Access to Bus Stations [Q392]

The CC has decided that it will introduce an Order requiring local bus operators that manage bus stations to provide access to bus stations for rival operators on fair, reasonable and non-discriminatory terms and to publish the Conditions of Use. There is no recommendation to Government regarding this measure.

6. Total Net Government Support per Passenger [Q400]

For 2010–11, total net (local and central) government support (including concessionary travel reimbursement and bus service operators’ grant) per passenger journey was 71p in English non-metropolitan areas, 57p in English metropolitan areas and 45p in London. Further details can be found in the Department for Transport’s publication “Annual Bus Statistics 2010–11”, which is available on the Department’s website.

24 May 2012