

LOCAL BUS SERVICES MARKET INVESTIGATION

Consultation note on registration of local bus services

Introduction

1. The purpose of this note is to invite comments and evidence in relation to the application of the rules regarding the registration of local bus services, particularly in regard to the effects on the competitive process of the required time limits for registering new, changed or withdrawn services, and the consequences of different standards applying to timetabled and frequent service routes.

Background

2. All commercial and supported local bus services must be registered with the Traffic Commissioner for the relevant area. The Senior Traffic Commissioner reported that the registration system provided an important element of stability in the local bus network and ensured that passengers could have confidence that individual services would run according to the route and timetable.
3. Bus operators are generally required to give 56 days' notice to their local Traffic Commissioner of a registration, variation or withdrawal of a local bus service. The Senior Traffic Commissioner told us that the registration period had three purposes:
 - (a) first, it restricts how frequently operators may make changes to their services so that passengers are not confused or dissuaded from using the bus by frequent changes;
 - (b) second, it provides advance notice to other operators of forthcoming changes to the local bus network and allows local authorities time to decide whether to adjust their network of supported services to cater for the changes; and
 - (c) third, it allows time to update passenger information on service timetables.
4. In Scotland, bus operators are also required to inform local authorities of an application to register, vary or withdraw a service 14 days ahead of the 56 days' notice to the Traffic Commissioner. In 2010, the Department for Transport consulted on introducing a similar additional 14-day notice period to local authorities in England and Wales. This would allow local authorities time to discuss potential concerns with the operator (eg on traffic congestion and road safety) before an application is made, more time to consider whether changes to tendered services would be required, and more time to update passenger information. A decision on this proposal has not yet been announced.
5. However, operators are not required to provide the Traffic Commissioner with a full timetable or to notify changes to service frequency at times where the services already being operated have (and retain) an interval of 10 minutes or less ('frequent services'). The Senior Traffic Commissioner said that this was considered to be the frequency at which passengers were likely to turn up at a bus stop without checking the timetable, and so monitoring was focused on service intervals. Minor variations to timetabled services (those that involve a change to the timetable of less than 10 minutes' difference) are made at the Traffic Commissioner's discretion, and therefore the 56 days' notice is not always required.

Issues arising

6. We are considering whether the requirement to give notice of service changes imposes some prevention, restriction or distortion of competition in the market.
7. First, we are considering whether the requirement creates a barrier to exit because an operator cannot withdraw services until 56 days have elapsed if they are found to be loss-making. This would have the effect of increasing the risks of entry and expansion because the losses arising from unsuccessful changes to services could be higher.
8. Second, registrations of intended service changes are available for public inspection. Therefore, competitors will be aware when an operator registers a new or changed service. This means that entry or service changes which are not anticipated by incumbents are less likely to be effective as a competitive tactic and constraint in the local bus industry compared to some other industries. Operators are able to begin planning and implementing a response to a rival's decisions before the rival enacts them, such as responses of selective fare reductions or promotions. This would be significant if a period without a competitive response would facilitate the success of entry or expansion (eg it helps an operator become established, to publicize its services and to develop a customer base). The importance of this effect depends on how quickly an incumbent operator would be able to respond without this prior notice. In the case of timetabled services, the affected operator would of course need to give its own notice to the Traffic Commissioner of changes in the route configuration and timetables for its services (other than frequent services); in this respect the process of competition on service changes is delayed.
9. These registration conditions reduce the frequency with which operators can change timetables. This can help bring some stability to periods of competition which may otherwise be characterized by frequent service changes (which may have detrimental impacts on customers' willingness to use a service), and may mean that operators may be more likely to compete on other aspects of their offer rather than by changing the level of services and their timing.
10. However, if the incumbent operator has a registered frequent service, it has the ability to adjust its services (within the constraints of meeting the requirements for a frequent service) in response to actual and anticipated entry or service changes by a rival. For example, it could selectively operate more services on that route, either in total or at times when rival services will operate. This could represent a distortion of competition in that an incumbent operator, or one which operates a frequent service where rivals do not, or where entry is proposed, has the ability to compete through service changes in a way which is not equally open to those rivals, ie one operator could respond more quickly to service changes by a rival second operator, than would apply in reverse. This may be significant in distorting competition between them if differences in the delays in responses to service changes had a significantly different impact on the likely commercial success or competitive impact of those changes.
11. We note as explained in paragraph 3 that registration conditions exist to achieve important aims; as a result they can help bring stability into the market, can limit the potential for competition based on frequent service revisions, facilitate customer confidence in bus services and help encourage public willingness to use these services. However, we are required to consider whether there are any impacts on competition and in particular whether differential impact on operators from the application of the 56-day registration rule does distort competition.

Issues for consideration

12. We invite any observations or evidence on the issues addressed above. In particular, we are interested in the following issues:
- (a) Whether the 56-day notice period for withdrawal of service exacerbates the risks involved in changing services compared with no such notice period being required, and if so whether this creates a barrier to exit which affects operators' decisions on launching new services and service changes.
 - (b) Whether having to give prior public notice of intended new services or service revisions allows incumbent operators to respond in a way which has different, or more immediate, competitive consequences than if no such notice period existed, or if the information was not public and so not available to other bus operators, and whether this has a significant effect on the competitive process.
 - (c) Whether incumbents which operate high frequency services are at a further competitive advantage, in that they can more quickly and easily adjust their own services, and whether this has a significant effect on the competitive process.

If any party to this investigation has any comments on this issue, that party should inform the CC by no later than 5pm on 18 February 2011. Any comments should be addressed to Denis Kelly, the Inquiry Coordinator, by email to denis.kelly@cc.gsi.gov.uk, or in writing to:

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