

TRAFFIC COMMISSIONER FOR SCOTLAND
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Mr David Fowlis
Inquiry Manager
Competition Commission

By email: david.fowlis@cc.gsi.gov.uk

Dear Mr Fowlis

Market investigation into the supply of local bus services

I refer to your letter of 10 February in which you asked for information in terms of Appendix B to your letter. My response to Appendix B is contained in Colin Flower's letter of 26 February sent on my behalf. Please do not hesitate to revert to either Colin Flower or myself if any further statistical information is required. Since sending that Appendix to you we have received a new complaint claiming interference by a dominant operator in another operator's operations. I am not able to pass any details to you just now but will bear in mind the Commission's interest in actual cases. We will advise the complainer of the existence of your investigation and contact details.

This letter is my response to your request for views but I stress that as I am not an economic regulator I am not privy to nor do I have any expertise in the commercial aspects of bus operation. My response relates to Scotland.

Scotland is similar to the rest of the UK in that the major cities have a near monopoly bus provider with the immediate surrounding hinterland having a near monopoly bus provider – a city and county pattern. Thus, Edinburgh has Lothian Bus whereas the surrounding counties have Stagecoach; Dundee has Travel Dundee (National Express) and the counties have Stagecoach; Aberdeen has First Aberdeen and the counties have Stagecoach. Glasgow is slightly different but the dominant provider is First Glasgow with Stagecoach dominant in Ayrshire and down to Dumfries and Galloway and Arriva having a dominant presence in Paisley though with competition from McGills. Throughout the Greater Glasgow area there are numerous other operators serving local communities sometimes in competition with the dominant provider or with other smaller operators. Curiously such competition is viewed by some as “a problem.” Glasgow / Greater Glasgow is the one area in Scotland in which the local monopoly by one provider is not complete and the dominant operator would appear to want to extend its reach. The dominant provider does provide a cross city network.

Larger bus companies are viewed as good partners for initiatives such as quality partnerships and punctuality improvement partnerships and for contributions to infrastructure improvements.

In general terms the dominant PLC providers are seen as having the quality edge to many small operators. The dominant PLC providers cannot claim to be perfect and many of them have faced and will face regulatory action by myself in relation to maintenance standards and punctuality. However, I correct those who would equate “small” with inferior standards. There are some excellent smaller operators in Scotland and in the west of Scotland. There are also many whose standards require regulatory attention and action and I am on a sustained course of action to secure compliance with the Public Service Vehicle operator licence requirements, including revocation and disqualification where necessary. I believe I am achieving enhanced standards within the industry in Scotland and far more accountable operation.

I am assisted in my task by reports from VOSA officers – Vehicle Examiners, Traffic Examiners and Bus Compliance Officers. There are 6 of the latter, 2 funded direct from VOSA and 4 funded by the Scottish Government. In addition I receive reports from Bus Monitors appointed by Strathclyde Partnership for Travel and from Glasgow City Council in relation to alleged breaches of the Glasgow TRC. I have a dedicated bus team in my office in Edinburgh whose job it is to scrutinise and process local service registrations; to advise and liaise with their colleagues in the Office of the Traffic Commissioners’ Central Licensing Unit in Leeds; and to prepare papers for Public Inquiries. As an office we liaise closely with those other public bodies who have an interest in standards in the bus industry – notably Transport Scotland for its interest in concessionary fares (and BSOG administration to come); local authorities transport officers; Scottish Government; and SPT. It would be fair to say that there is a level of engagement in regulating compliance as never before.

The regulated environment allows for the registration of a local service and for it to be mandatory for me to accept that registration provided the necessary particulars are given. Where it becomes difficult is when an operator registers a service to run slightly in front of an established service and the suspicion is that it is to be predatory rather than simply offering a better service to the travelling public. Buses registered to run slightly (ie couple of minutes to say 5 minutes) ahead take the bulk of the passengers and also crowd bus stops. This is vexing to the travelling public when there then is a large gap to the next service whereas running half way into the head room of the existing service would be more useful to the public. My powers in relation to such are limited to repute and section 26 of the Transport Act 1985 and any road safety issues. Increasingly I am indicating these powers to operators and have had some success in averting or mitigating what might be predatory activity. I consider that there may be merit in my having some regulatory discretion in relation to the registration of local services to prevent congestion at bus stops and on routes, in the interests of traffic management and the travelling public.

It would be very difficult for a small operator to survive competition from any of the city dominant operators unless that operator could offer lower fares or some other attraction. If a competitor comes on to a route with free buses (a free bus service does not have to be registered though the operator has to be licensed) to tempt passengers on to a new service it may be difficult for a small operator to survive the loss of passenger revenue. Concessionary fares payments do assist the survival of small operators.

A major problem for local authorities and passengers is the reduction in availability of bus services in the evenings and to less populated areas. The industry has not solved this for itself ie the dominant providers in cities do not take it upon themselves to provide city wide 24/7 services at a level which would serve the economic and social needs (including social inclusion) of the population. The bus industry can be distinguished from supermarkets. The industry operates by requiring public subsidy.

For the public the bus industry and an individual's "bus" to work/town/doctor/hospital is so very critical to the success of that individual as a participant in society and well being. I continue to be struck by this.

Current regulation does impact on competition in that anyone wishing to operate a bus service has to be licensed by the Traffic Commissioner and to satisfy the legal tests for that licence. Thereafter the operator cannot simply start up a fare paying bus service but has to register that service with the Traffic Commissioner and provide a timetable and route to which the operator must adhere. Periods of notice before which an operator cannot start a service, vary a service or cancel a service are prescribed. Thus a person cannot get a bus, start a service, see how it goes and chop and change it according to what other buses are on the road or passengers at any given bus stop. There is no free for all. It is likely that this level of bus service regulation will have to be maintained in some shape or form if only to serve traffic management and bus passenger information requirements.

That the granting of a licence to one who can satisfy the criteria set out in statute can be achieved in 12 weeks or so is hardly a barrier to entry. Longer will be needed if there are any regulatory issues and given that these issues will be public protection and fair competition issues then time has to be taken to ensure that licences are only granted to those with repute, finance, professional competence and the arrangements to meet the licence undertakings.

As Traffic Commissioner I have no locus in relation to the matter of level of fares. I do not see merit in there being a reversion to the days when the Traffic Commissioner set bus fares.

Not recently, but in the past I have had to intervene with operators to ensure that the tensions of competition on a route have not led to incidents between drivers. I take a dim view of any operator which instructs its drivers to interfere with or obstruct the services of another operator or to create an unpleasant environment for the travelling public. In a small jurisdiction such as Scotland it is possible to intervene in this way.

There are many instances of co-operative working between bus operators and local authorities. ATCO in Scotland can provide details as could the Scottish Government. I am not placed to comment on the extent to which competition for tendered services is effective as I have no role in the pricing of such services. ATCO or SPT may be able to provide useful evidence.

I am fortunate in Scotland in that Scottish Ministers have supported the bus compliance function of VOSA in the interests of supporting my role. There is close and developing working with other public agencies. I now have a settled resourced team in my office in Edinburgh and we are well positioned to use the regulatory tools available to us to secure safe bus travel and more and more work is being done to ensure punctuality and reliability. However, any reduction in the availability of reports from VOSA officers or reduction in the team here would impact on my effectiveness as a regulator. We are a small team committed to growing our effectiveness in the interests of the travelling public.

Do please let me know if I or my office can be of further assistance to your Investigation.

Yours sincerely

Joan N Aitken SSC
Traffic Commissioner for Scotland