National Express Group PLC
and
Midland Main Line Limited

A report on the merger situation

MONOPOLIES AND MERGERS COMMISSION

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Presented to Parliament by the Secretary of State for Trade and Industry by Command of Her Majesty December 1996

Members of the Monopolies and Mergers Commission as at 22 November 1996

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[1]These members formed the Group which was responsible for this report under the chairmanship of Mr P H Dean.

Note by the Department of Trade and Industry

In accordance with section 83(3) and (3A) of the Fair Trading Act 1973, the Secretary of State has excluded from the copies of the report, as laid before Parliament and as published, certain matters, publication of which appears to the Secretary of State to be against the public interest, or which he considers would not be in the public interest to disclose and which, in his opinion, would seriously and prejudicially affect certain interests. The omissions are indicated by a note in the text.

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Part I

Summary and Conclusions

1 Summary

1.1. Under the reference (see Appendix 1.1) we have to investigate the merger in April 1996 whereby National Express Group PLC (NEG) acquired the whole of the share capital of Midland Main Line Limited (MML). The acquisition was made in consequence of NEG's successful bid for a passenger rail franchise for the services operated by MML.

1.2. NEG was formed in 1988 by a management buy-out of the National Bus Company's scheduled long-distance coach service business. It became a publicly quoted company in 1992 and subsequently made acquisitions of further express coaching activities, airports, buses and train operating companies. NEG's UK coach services are operated mainly by its wholly-owned subsidiary National Express Limited (NEL). In 1995 NEL made an operating profit of £5.2 million on turnover of £97.6 million.

1.3. MML was created in 1995 and was one of the second round of passenger train operating companies to be privatized under the Railways Act 1993. It operates InterCity passenger services mainly between South Yorkshire and the East Midlands and London St Pancras. In the year ended 31 March 1996 MML's total revenues were £116 million, including passenger ticket revenue of £63 million and financial support of £17 million.

1.4. Five coach services operated by NEL overlap with MML's rail services between central London and, respectively, Sheffield, Chesterfield, Derby, Nottingham and Leicester. The coach services are less frequent than the rail services; coach fares are cheaper and journey times longer. NEL's revenue on these services was about £4 million in 1995.

1.5. Around 90 per cent of NEL's passengers are travelling for leisure purposes. Most of MML's passengers are travelling for business or commuting; about 40 per cent are travelling for leisure purposes. We conclude from the full range of evidence presented to us that there has been an element of competition between NEL's coach services and MML's rail services for the leisure passenger. This competition has been lost as a result of the merger. Because of the absence of other strong constraints on fares or services we conclude that the merger may be expected to lead, over time, to higher coach fares or higher fares on both coach and rail, and/or a lower quality of coach services or a lower quality of both coach and rail services, than would have been the case had the merger not occurred.

1.6. We carefully considered a wide range of structural and behavioural remedies. As regards the former, we believe that if NEG were required simply to divest itself of the coach services concerned, there is a serious risk of service levels being reduced, particularly if alternative operators did not have access to the benefits of NEL's network such as inclusion in its timetable and use of its agents for sale of tickets. The interests of coach users would not be well served by such a remedy. But if divestment of the coach services were required subject to a requirement that NEL made its network facilities available to alternative operators, this would create an artificial arrangement within which effective competition could not be expected to flourish. The same objection would apply to a requirement on NEL to franchise the services. Divestment of MML would be disproportionate and inappropriate for other reasons.

1.7. We recommend by way of remedy a set of behavioural undertakings, which we specify in detail, relating to coach fares and levels of service. These undertakings will address the adverse effects of the merger in relation to both coach and rail.