6 Views of other interested parties and representative bodies

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Introduction

6.1. In this chapter we summarize the views received from all the parties who gave evidence to us apart from the DOT, the Franchising Director and the Rail Regulator (see Chapter 5) and NEG (see Chapter 7).

Train operators

6.2. We received evidence from BRB and three TOCs which were wholly-owned subsidiaries of the Board: Central Trains (paragraphs 6.7 and 6.8), North West Regional Railways (paragraphs 6.13 and 6.14) and Regional Railways North East (paragraph 6.15).

British Railways Board

6.3. BRB stated that it would be inappropriate to make general representations about the impact of the merger on competition, since it was in the process of divesting itself of all passenger operations. OPRAF had let eight franchises so far and issued documentation for all the remaining franchises. It was possible that within the next six months BRB might cease to be an operator of passenger services.

6.4. BRB did not believe its interests were materially affected by the merger. It said that even at the current stage of the franchising programme, the services it still operated competed with MML services only to a very limited degree.

6.5. Market research carried out while MML was in BRB ownership suggested that rail and coach operated in very different market segments. Coach journey times in the MML corridor were substantially longer than rail journey times and coach frequencies far lower.

6.6. Standard rail fares were significantly higher than coach fares, reflecting the higher quality of service. However, on some routes APEX fares had been introduced on rail services and these were much closer to coach fares.

Central Trains Limited

6.7. Central Trains did not make representations either in favour of or in opposition to the merger.

6.8. It stated that while its services paralleled those of MML over certain sections of the route, principally between Leicester, Loughborough and Nottingham, it tended to operate complementary services. Central Trains predominantly provided local services while MML catered for the long-distance flows to London. The relationship between MML and the NEL coach operation was not therefore of material importance to Central Trains.

InterCity East Coast Limited

6.9. ICEC (recently renamed as Great North Eastern Railway) started its rail franchise in April 1996. Its operation is described in Chapter 4.

6.10. ICEC had no objection to the principle of the combined ownership of coach and rail services with significant control of the infrastructure and market in a given area, except where that control was deemed sufficient to prevent the development of other similar services addressing the same market. Indeed it supported such a combination where it offered scope for economies of overheads and an ability to rationalize and achieve an integrated network of routes and services. This could be very much in the interests of the public served.

6.11. In the specific case of MML, ICEC had a minority share of the market for rail passengers between London and Sheffield, Nottingham and Chesterfield. None of its services were direct and it relied on connecting trains run by another TOC to feed the East Coast route. Its access to this rail market was protected by the ORR and it believed no further safeguards were necessary.

6.12. Additionally, however, an unidentified number of passengers drove to ICEC locations such as Doncaster, Retford, Newark, Grantham and Peterborough from the fringes of MML's area. ICEC considered that there was further scope for encouraging such `rail-heading' with the use of specific coach services co-ordinated with its own train services. Such services might also appeal to those who disliked driving or had no car. The continued ability to plan such options was therefore seen as very much in the public interest.

North West Regional Railways Limited

6.13. North West Regional Railways Limited told us that it had no particular involvement in the provision of services in the area covered by our inquiry.

6.14. It drew attention to an advertisement from the local press in the North-West, which might be considered as evidence that at least one coach operator considered car, rail and coach to be in competition. Stagecoach operated a significant number of services on the advertised route and there was evidence to suggest that North West Regional Railways' passenger journeys might have been affected.

Regional Railways North East Limited

6.15. Regional Railways North East Limited did not make representations either in favour of or in opposition to the merger.

Bus and coach operators

Barton Buses Limited and Trent Motor Traction Company Limited

6.16. Barton Buses Limited (Barton) and Trent Motor Traction Company Limited (Trent) are sister companies and Mr King is Managing Director of both. He provided a written submission which was amplified at an oral hearing. He told us that each company operated independently. In 1986 Mr King led a management/employee buy-out of the Trent company from NBC and three years later the group acquired the long-standing family-owned business of Barton.

6.17. Trent ran local bus services and had divested itself of coach services and other interests. Barton was in the final stages of divesting itself of coach services and would soon concentrate exclusively on bus services.

6.18. Trent acted as subcontractor for NEL on the Derby-London and Nottingham-London routes. On the Derby-London routes Trent operated two out of the four round trips a day and on the Nottingham routes Trent operated all the day-time services but not the night-time service.

6.19. Mr King told us that he saw no conflict of interest in the acquisition by NEG of MML since the principal competitor for both coach and rail services was the private car. He was of the view that when both rail and coach services were operating on the same corridors they were to a large extent providing for different markets, and in the case of the rail market this had a number of different segments.

6.20. He further expressed the view that given the deregulation of the express coach market, should NEL abuse its position as prime operator of coach services on the corridor, there was every prospect of entry into the market of other operators (possibly those already with a substantial operation adjacent to the routes) to compete on quality, price and whatever else was felt to be lacking in the NEL product. Trent itself was not a potential competitor. Mr King said that he did not believe common ownership of coach and rail operations would alter the prospect of competition between them.

6.21. Mr King could envisage benefits from the merger from the point of view of the economy of the East Midlands, given NEG's plans to invest in a multi-modal interchange close to the M1. This would provide connecting facilities not only for motorists wishing to park and ride, but also for rail passengers wishing to transfer to EMIA (also owned by NEG).

6.22. He did not favour behavioural undertakings (should remedies be necessary) since enforcement was difficult and they tended to go against the grain of operating in an unregulated environment.

An independent coach operator

6.23. An operator of independent express coach services informed us that he noted with interest that NEG had suggested that this merger would have no effect on competition because coach and rail travel appealed to different markets, and costs of entry to the express coach market were very low. When on past occasions complaints had been made to the OFT about NEL's anti-competitive actions, NEL had indicated that its main competition was not other coach operators but railways. NEG was using different arguments to defend different situations. Regrettably the OFT had a reputation of being a `toothless tiger' and of either doing nothing to control anti-competitive behaviour or doing too little too late. It was NEL's aim to eliminate any competition in the coach express market, as was shown by the significant reduction of operators in recent years and the unwillingness of others to enter this area. Moreover, costs of entry into the express coach market could not be considered to be very low: new coaches cost about £250,000, a major investment for smaller operators.

6.24. It was evident that NEL's policy was to lower prices where it was in competition from other coach services but, where it had no such competition, to raise prices considerably to a level just below that of the railways. If it was in a situation to control both rail and coach services in a particular area the resulting fare structure was likely to be detrimental to the consumer.

6.25. He had no doubt that firms such as NEL sought to remove all forms of competition by a variety of means and quoted examples of NEL reducing fares in areas where they had competition. He applauded the OFT's concerns about the merger and trusted that suitable action would be taken to control the predatory policies of such companies for the benefit of smaller operators and the overall good of the consumer.

Operators of both train and bus/coach services

Stagecoach Holdings PLC

6.26. Stagecoach Holdings PLC (Stagecoach) is a major operator of urban bus services in various parts of the UK and has also developed a range of `inter-urban' coach services operating between adjacent major towns and cities but without offering a national network coverage of the sort operated by NEL. Stagecoach is a subcontractor to NEL for some of the latter's long-distance express coach routes. NEL work amounted to some 3 per cent of Stagecoach's UK business outside London. In the 1980s Stagecoach had operated long-distance express coach routes in its own right under the title of Stagecoach Express Services, but in August 1989 this business was acquired by NEL.

6.27. Stagecoach was also emerging as an active participant in the privatized rail industry. It had acquired the franchise to operate South West Trains, and the franchise operating the line on the Isle of Wight. It intended to bid for further franchises as these became available.

6.28. It did not see the merger as necessarily being against the public interest. It noted that in the Saltire report NEG had argued that its actual and potential competition came from rail passenger services. It said that during the 1980s competition from coaches was able to undercut rail fares but that since then there had been a greater concentration in the long-distance express coach market and higher fares as a result. It also pointed out that the car represented serious competition to both coach and rail where there was appropriate car parking. As regards fares, Stagecoach said that coach fares had to be pitched at between 30 and 50 per cent lower than the competing rail fare in order to compensate for the typically slower journey times offered by coach.

6.29. In Stagecoach's opinion, NEL's pre-eminent position in the express coach market resulted from the fact that what had been a nationalized monopoly in 1980 had not been significantly dismantled when it was transferred to the private sector during the 1980s.

6.30. Stagecoach had had some experience of introducing coach services on routes operated by NEL (for example, in the north-west of England) but had not experienced an unsustainable response from NEL.

6.31. Its strategy was not to seek to re-enter the long-distance express coaching market in the UK, although if particular opportunities presented themselves it would not ignore them. We were told that the Chairman of Stagecoach had, during the period when NEG was discussing undertakings with the OFT, written to NEL offering to acquire the coach services on the reference routes. The matter had not been fully evaluated but remained a possibility.

6.32. Stagecoach referred to the position in overseas markets and particularly in the USA where Greyhound's historic position was arguably similar to that of NEL in the UK. In the early 1990s NEL experienced some of the problems arising from its size and national network which had beset Greyhound. However, in both countries the pre-eminent national operator had survived the competition including that from air (which was now emerging in the UK). Competitors in the USA had decided to concentrate on particular routes or areas rather than trying to replicate Greyhound's national network. Such local or corridor competition offered the opportunity for successful competition with NEL in the UK.

Victoria Coach Station

6.33. VCS is the main London hub of national coaching services, handling some 9 to 10 million passengers a year of whom about 30 per cent changed coach at VCS rather than terminating or starting their journey there. VCS has been owned by London Transport since 1988 before which it was (like National Express) a subsidiary of NBC.

6.34. It told us that it currently had spare capacity for additional coaches at all times. The only slot when capacity was currently tight was at 9 am and this was only in summer. The tariffs charged by VCS were the same for all coach operators but three discounts were offered: first, for operators with more than 1,500 departures a year; secondly, for continuity of service; and thirdly, for operators of shorter-distance services.

6.35. VCS sold tickets for coach services (as well as providing its coach facilities). All coach operators received equal treatment in this retailing operation: there was only one ticket hall and a single queue with all sales staff qualified to sell all operators' tickets.

Local authorities

Bassetlaw District Council

6.36. Bassetlaw District Council in north Nottinghamshire believed the merger had mixed implications for residents. On balance, however, the scope for service improvements and integration of bus with train services might outweigh the disbenefits associated with a limited range of providers.

6.37. It was feared that NEG, by assuming control of the two major public transport routes between Nottingham and London, as well as owning EMIA, could exercise monopoly powers. Over the past 15 years it had emerged as the dominant long-distance coach operator in the area. Although the company had recognized that its customer base was very price-sensitive and that investment in new vehicles and improved facilities for passengers was essential in order to maintain and expand market share, the purchase of a significant competitor, MML, could reduce the company's fare risks.

6.38. Action should be taken to stop NEG using its strong market position to reduce service provision for passengers or charge `monopoly' fares. However, there were factors which favoured the merger of the two modes or already militated against adverse activity.

6.39. One factor which had allowed NEG to invest in improvements in its coach operations had been the absence of strong competition from other operators, enabling the company to invest long term with security and confidence. Providing that NEG maintained this commitment to provide a better service to passengers through the integration of its road- and rail-based operations and with significant rail fares pegged through the franchise agreement, then the acquisition of MML might bring benefits which could outweigh the risks.

6.40. Furthermore, NEG's market dominance was not absolute. For many travellers in Bassetlaw alternative routes were available, such as ICEC. Also, despite the barriers to new entry, if NEG introduced high fares or reduced service frequency, that would be a strong incentive for new competitors. NEG's ability to fight off such competition, if this were backed by one of the three major bus groups, would be much reduced compared with the 1980s when most potential rivals were smaller and less financially robust.

6.41. In the longer term it was competition with the private car which was the greatest challenge for public transport operators. The prospects of service improvements through integration of modes, such as envisaged through NEG's proposal for a new station near EMIA, could bring direct benefits including more effective competition with the private car.

Derby City Council

6.42. The submission from Derby City Council noted three main questions in assessing the benefits of the merger for the people of Derby and the local economy:

(a) Will it lead to increased investment in MML?

(b) Will it encourage more use of MML as an alternative, sustainable means of travel to the private car?

(c) Will the merger create or sustain jobs in Derby's rail industry?

6.43. The ten-year passenger rail franchise for MML awarded to NEG appeared to offer both improvements to rail services and investment in new and refurbished rolling stock.

6.44. The proposed pattern of services to be introduced in 1999 would provide a twice-hourly fast service alternatively to Derby and Nottingham via Leicester using refurbished HSTs. In addition, a service using new air-conditioned diesel multiple units would run twice hourly between London St Pancras, Wellingborough, Kettering, Market Harborough, Leicester and Loughborough with alternative trains servicing Derby (via Long Eaton) and Nottingham (via Beeston) during the week between 0700 and 2100.

6.45. This should provide a more regular and frequent service to most stations. The PSR for MML should safeguard first and last train times and non-commercial services close to current levels. The levels of service proposed by NEG provided a good basis for encouraging increased use of MML and the transfer of passengers from road to rail.

6.46. After the virtual absence of investment in new rolling stock during the transition to privatization, NEG's commitments were very welcome. Despite the loss of over 3,000 jobs since 1991, Derby remained an important national centre of rail engineering. The chance of competing for and winning orders for this new and refurbished rolling stock would provide a much-needed boost to employment in Derby's rail industry, the city's second largest employer.

6.47. An audit in April 1994 found 6,586 people in Derby employed in the rail industry, including 491 at MML. NEG had indicated that it was unlikely to relocate MML headquarters from Derby. With the prospect of increased train services and more emphasis on `customer care' services, many of these jobs could be retained in Derby with the merger.

6.48. The Council was aware that the involvement of NEG in providing long-distance coach services, operating EMIA and running MML passenger services meant the company would have a dominant role in passenger transport in the East Midlands. But this also offered scope for developing an integrated strategy for and investment in transport infrastructure and services. Construction of the new £14 million passenger terminal at EMIA was nearing completion. Also NEG's proposed new East Midlands Parkway station north of Loughborough, to provide a direct link between the airport and MML, would allow passengers from the region's major cities to reach the airport by train rather than driving.

6.49. Clearly there were some dangers of the company's dominant position being used in an anti-competitive way to raise fares. But the markets for passengers on MML and long-distance coach services were not the same. Coach travel would not be seen as an alternative by MML's sizeable number of business passengers, who were more likely to revert to private cars if an attempt were made to raise fares significantly. Logic suggested that commercial success for MML lay in enticing new passengers to use the service. Large fare rises would not achieve this and could well be counter-productive.

6.50. On balance, the Council was in favour of the merger because of the likely improvements to services and the promise of increased rail investment. It would be helpful if the proposed new investment could be made a condition of the merger.

Derbyshire, Leicestershire and Nottinghamshire County Councils

6.51. We received a written submission from each of these three Councils. Although they were generally in agreement, there were differences in emphasis and we have summarized each separately (see paragraphs 6.59 to 6.80).

6.52. We also received oral evidence from a councillor and an officer of Derbyshire, speaking on behalf of Leicestershire and Nottinghamshire as well as themselves.

6.53. In this oral evidence they stressed the counties' interest in attracting car users from the roads, particularly the severely congested M1. They supported MML's intention of attracting car drivers and believed this would constrain rail fare increases.

6.54. The development of NEG's proposed inter-modal interchange south of Nottingham was very important and they thought it unlikely that the company would fail to proceed with it.

6.55. The integration of NEG's rail and road operations, including the Channel Tunnel, could provide flexibility and choice for travellers. It had been proved difficult in the past for separate transport companies to co-operate to provide such flexibility because of the OFT's competition concerns.

6.56. NEG's coach operation was good quality in terms of reliability, staff conduct and quality of the vehicles.

6.57. NEG's bid for MML had been based on the PSR suggested by the three local authorities, which also had confidence in MML's management.

6.58. The authorities stressed that behavioural undertakings would be far preferable to divestment and this applied to the MML franchise as well as to NEL coaches.

Derbyshire County Council-written evidence

6.59. The Council stated that it was in the public interest for NEG to retain its coach operations alongside the railway. If it was forced to divest, there would be no guarantee of a successor willing to enter the market and maintain either the volume or standards of service offered by NEL. Also the national network would be fragmented. The Council considered that the OFT's advice to the Secretary of State was wholly inappropriate.

6.60. The number of coach services provided was very small and, in terms of capacity, minuscule compared with the railway. Competition between the two modes was at best marginal; any market interface was in leisure and possibly student travel. The time disadvantage for coach travel was likely to worsen. Passengers traded off prices for travel time.

6.61. There was nothing to prevent others entering the express coach market.

6.62. Although the Council had earlier had reservations that a cartel situation might develop, the more positive possibilities were now evident. Some interrelationship between coach and rail tickets could be established, opening up travel choice.

6.63. It should also be taken into account that the rail franchise had to be run by a separate trading company (albeit owned by NEG) and the coach services were themselves franchised out for others to run. They were separately accountable businesses.

6.64. The record of NEG on the EMIA was good and inspired confidence in its development of MML.

Leicestershire County Council-written evidence

6.65. The Council believed that the risk of abuse of monopoly in respect of coach and rail services from the East Midlands to London was minimal. Evidence suggested that the degree of overlap between the two markets was very limited and that NEG's overriding concern would be for MML to gain increased patronage through competition with the car. NEG had committed itself in the franchise agreement to imaginative steps to achieve this.

6.66. Competition between coach and rail was limited mainly to the leisure market, although the much cheaper fare structure of coaches restricted even that. There might be greater overlap for access from the East Midlands to Heathrow and Gatwick Airports.

6.67. Car was the major competitor with train business travel, which itself represented a high proportion of train users. There was limited car competition with the coach market, reflecting the age and lesser affluence of coach users. It followed that car competition constrained rail fares but had a lesser effect on coach fares.

6.68. Although entry to the coaching market was apparently easy, the lesson of 15 years of deregulation appeared to be that, in practice, having a national network was of vital importance and entry was very difficult for a new entrant, other than in a niche market. It followed that the OFT suggestion that NEG should use its best endeavours to attract new coach operators to its routes seemed scarcely plausible. NEG had virtually no competition on East Midlands routes at present.

6.69. Despite the provisions of the Railways Act, no convincing mechanism was yet apparent by which on-route competition between train operators could emerge, other than between franchises which happened to serve the same pairs of stations.

6.70. If NEG was to abuse a monopoly position, the likelihood of other coach operators moving in to compete with it would be small and of train operators doing likewise almost nil. This did not imply, however, that the company was likely to abuse its position. NEG's commercial imperative would be to compete with the car and the constructive integration of coach and rail services would help it to do so.

6.71. In the view of the Council, control by one company of both major public transport services in the corridor, together with ownership of EMIA, brought risks of service rationalization and price escalation. On the other hand, there were prospects of service improvements through integration of modes. These could bring welcome benefits, including more effective competition with the private car.

6.72. The Council feared that, by assuming control of the two major public transport routes between Nottingham and London, as well as owning EMIA, NEG could exercise monopoly powers. Over the past 15 years NEG had emerged as the dominant coach operator providing long-distance services in the area. Although the company had recognized that its customer base was very price-sensitive and that investment in new vehicles and improved facilities for passengers was essential in order to maintain and expand market share, the purchase of a significant competitor, MML, could reduce the company's fare risks.

6.73. The collapse of competition to NEG in the long-distance coach market by the mid-1980s had been due to several factors including NEG's superior access to well-located and well-provided terminals, ticketing and information outlets; its comprehensive network of services and interchange points; and its considerable marketing resources, finance and expertise to sustain a counter-attack from competitors. These factors also acted as barriers for any new operator to enter the industry. The increased dominance with NEG controlling both major operations must tend to make effective new entry more risky.

6.74. Rail and coach operators did compete with each other in some market sectors: leisure travel; travel with less stringent time limits; travellers less willing to pay premium fares for time savings; and low income groups (for example, students and elderly people).

6.75. Given that two out of three InterCity rail journeys were made by travellers for leisure purposes, it followed that competition from coaches was likely to limit rail fares for leisure travel and during off-peak periods. For example, as a response to the deregulation of the long-distance coach market in 1980, BRB introduced the discount Saver ticket. If Savers and SuperSavers fall outside the price control under the rail franchise, then the removal of effective competition between modes could see a rise in the price of off-peak rail travel.

6.76. While the Council agreed with the OFT that action should be taken to stop NEG using its strong market position to reduce service provision for passengers or charge `monopoly' fares, there were factors which favoured the merger or already militated against any adverse activity.

6.77. One factor which had enabled NEG to invest in improved coach operations had been the absence of strong competition from other operators, thus enabling the company to invest in the long term with security and confidence. Providing that NEG maintained this commitment to provide a better service to passengers through the integration of its road- and rail-based operations and with significant rail fares pegged through the franchise agreement, the acquisition of MML might bring benefits which could outweigh the risks from the exercise of market dominance. The proposals for service improvements laid down in the MML franchise indicated a welcome commitment by NEG to the long-term future of the line and its integration with other modes.

6.78. Furthermore, NEG's market dominance was not absolute. For many travellers, alternative routes were available, such as ICEC. Also, despite the barriers to new entry described above, a high-fare/reduced-frequency service provision by NEG would be a strong incentive to attract new competitors. The ability of NEG to fight off such competition, if this were backed by one of the three major bus groups, would be much reduced compared with the situation in the 1980s.

6.79. Finally, for continued viability in the longer term, it was competition with the private car which held the greatest challenge for public transport operators. The prospects of service improvements through integration of modes, such as envisaged through NEG's proposal for the East Midlands Parkway station near Kegworth, could bring direct benefits including more effective competition with the private car.

6.80. In conclusion, while the undertakings proposed by the OFT would undoubtedly remedy the adverse effects in terms of market dominance of the merger of NEG and MML, they could also remove the potential for modal integration and stronger competition with the car.

Erewash Borough Council

6.81. Erewash Borough Council supported the merger, provided that the improvements to services by MML were assured. The merger could provide a greater range and flexibility of public transport services in the area.

Kettering Borough Council

6.82. The Council was concerned about one company having control over the principal transport services linking the East Midlands to London, which particularly affected the Kettering area.

6.83. As part of the franchise award, NEG was to provide a bus link between Kettering and Corby. However, there was a local desire to have a restored rail link between these towns. It was important to ensure that the new bus service did not undermine the potential for a rail service.

6.84. The Council's concerns also related to the potential harmful effects of the merger on fares (bus and rail) and the use of the rail system.

6.85. Although the merger offered the potential for integrating the two forms of public transport, it was regrettable that the franchise award did not ensure such benefits. Measures should be introduced to ensure that the NEG's overwhelming interest in bus transportation did not lead to rail issues taking second place. The implications of that for rail would affect fares, investment and service levels.

Northampton Borough Council

6.86. The Council pointed out that MML did not run through Northampton itself, but some residents used the line from the nearest stations of Kettering and Wellingborough.

6.87. There was one NEL service through Northampton that might be said to duplicate the MML service: the Luton-Newcastle Service which ran via Northampton, Leicester, Derby, Nottingham, Chesterfield and Sheffield. The service operated seven days a week, one in each direction, and was a long-established route.

6.88. Both Luton and Leicester were also well served by Stagecoach.

6.89. Overall, the merger was unlikely to affect Northampton.

Northamptonshire County Council

6.90. The Council informed us that it had no reason to oppose the merger on competition grounds, as coach services from Northamptonshire towns on MML to London were provided by Stagecoach and not NEL. Furthermore, it was open to any bus and coach operator to provide coach services anywhere in Great Britain at any time.

6.91. The franchise agreement for MML proposed an enhanced rail service from May 1999 to Northamptonshire towns and the operator had just introduced a Corby-Kettering rail-link coach service. The Council welcomed these proposals and would not wish the MMC to take any action which would stop these proposed improvements being implemented.

6.92. There was one reservation about the franchising process which applied to all franchises but perhaps particularly to this one: the lack of protection for the SuperSaver fare. Although the higher-priced Saver fare was protected, the more popular SuperSaver, used mainly by customers who might otherwise use a car or coach, was not. A condition placed on the franchisee to maintain the SuperSaver fare as a fixed percentage of the Saver fare, and with the existing time and day conditions applying, would probably be sufficient to ensure that NEG did not withdraw the SuperSaver (the effect of which would be to price these customers off trains and on to their coaches).

6.93. Apart from this concern about fares, the merger was not against the public interest.

Nottingham City Council

6.94. The Council expressed concerns about the merger. With NEG already running express coaches between the East Midlands and London, as well as owning EMIA, there were clear dangers in a deregulated environment in one operator controlling all means of public passenger transport. NEG's refusal to discontinue its parallel coach operation was worrying.

6.95. The dangers had been highlighted because of the absence of a co-ordinated national transport strategy and the inability to effectively regulate public transport operation. The lack of co-ordination was most apparent in OPRAF's award of the service to NEG, without any apparent consideration of NEG's other areas of public passenger transport operation.

6.96. Transport integration was needed for the public good. To obtain proper integration, some sort of monopoly was needed. However, the private sector, in the absence of effective regulation, was not capable of running a monopoly for the public good. Without a change in Government policy, this was a problem that was difficult to resolve.

6.97. The problems with the NEG bid for MML showed the difficulties which the Government had got into in seeking to privatize both BRB and the bus industry. Privatization had not increased competition but concentrated public transport operation in the hands of large unregulated companies, which was not in the public interest.

6.98. The Council welcomed the promised, albeit long-term, improvement to the MML service, which NEG had included as part of its winning bid. However, these improvements would be devalued if the overall public passenger transport service between the East Midlands and London suffered, which was a real possibility in this private, deregulated monopoly situation.

6.99. The Government was right to intervene in the NEG merger with MML in the current transportation environment. Without sufficient safeguards, this private monopoly would probably fail to operate for the public good, despite the potential integration advantages.

Rushcliffe Borough Council

6.100. The Council was opposed to the merger on the basis that it would be anti-competitive and against the public interest.

Rutland District Council

6.101. The Council wished us to be sure that the merger would not affect competition between services to the extent that fares were unduly increased, the frequency of services was unacceptably reduced and the quality of service adversely affected.

Wellingborough Borough Council

6.102. The Council did not oppose the merger as at present no competition existed between NEL coach services and MML rail services on the route from Wellingborough to London. The only London coach service was provided by Stagecoach.

6.103. The Council had for many years attempted to receive a better rail service from BRB InterCity and there had been concern at the proposed level set by the Franchising Director under the PSR. This concern had proved unfounded as the franchisee for MML had indicated that the existing levels would be maintained until 1999 and thereafter improved with the introduction of an intermediate service. For Wellingborough this would mean an improvement on the existing interval of 90 minutes between services during the off-peak period to a service every 30 minutes between 7 am and 9 pm.

6.104. The Council wished no action to be taken which could jeopardize the proposed service improvements.

Trade unions

Associated Society of Locomotive Engineers and Firemen

6.105. The submission of the Associated Society of Locomotive Engineering and Firemen (ASLEF) stated that the union supported the concept of an integrated transport policy and was not opposed in principle to one company running both buses and trains in the same area. However, the regulatory framework must protect the public interest and prevent abuse of any monopoly position.

6.106. It believed that, while operators might set out with fine intentions about service levels, their overriding priority would be profits for their shareholders. There was little incentive to improve services, or even maintain existing levels, where they were not required to do so.

6.107. It quoted Sir James Sherwood, President and Chief Executive of Sea Containers Limited (and the successful bidder to operate the East Coast franchise), who had stated: `There will be no incentive for the franchisee to invest or maintain standards. His only incentive will be to provide the minimum service which the Franchising Director will tolerate and thus squeeze every penny of profit out of a deteriorating asset base.' In ASLEF's view, that incentive would be even greater where the operator knew that any reduction in rail services or increase in the cost of using them would be likely to result in business transferring to another part of its business group (that is, to buses or coaches).

6.108. The extent to which any TOC could control its costs was limited. They could achieve savings in four areas which affected service levels. They could reduce train lengths (saving on rolling stock costs); reduce train frequencies (saving on staff costs and Railtrack access charges); cut early morning and late night services (saving on staff costs and Railtrack access charges); or generally reduce staff levels.

6.109. A company that controlled both bus and rail services in an area could use any of these methods to save money, knowing it was likely that any lost business would transfer to another part of the group.

6.110. Where services were not protected by the PSR, the company would have the opportunity to reduce rail services and substitute bus/coach services. Equally the company might choose to delete some of its bus/coach services, knowing that passengers would transfer to its rail services. Customer choice would be removed in both cases.

6.111. Where fares were not price controlled, customers might have to pay monopoly prices, because they would have no alternative than to travel by bus if the train service were removed, or by train if the bus service were removed.

6.112. The service frequencies which MML had said it would provide were not guaranteed by the PSR but were a statement of business intentions, which could change.

6.113. To protect the public interest, ASLEF believed the full range of current fares should be protected. Changes to discounted fares should only be permitted where their availability was increased, not reduced.

6.114. The PSR also needed to be strengthened to protect existing service levels, including frequency, capacity, provision of first class facilities, buffet facilities, etc.

6.115. In conclusion, the union was against the merger of NEG and MML unless regulatory measures were strengthened to protect customers from excessive fare increases, prevent removal of discount fares and protect existing service levels.

Confederation of Shipbuilding and Engineering Unions

6.116. The Confederation of Shipbuilding and Engineering Unions (CSEU) consists of 19 affiliated unions, covering members throughout the engineering industry in general, the railway workshops, shipbuilding and ship repair and the aerospace industry. It provides a co-ordinating focal point for policy at national level.

6.117. It was neutral in relation to the merger, but believed safeguards should be sought. They were as follows:

(a) The merger should not lead to a severe worsening of terms and conditions of employment for those employed within MML. Throughout the privatization process these safeguards had been sought and obtained. The CSEU did not wish them to be circumvented indirectly through the merger.

(b) The CSEU had played a constructive role within the rail industry to achieve a competitive working environment. It did not wish this constructive relationship to be jeopardized. That could lead to a deterioration of industrial relations, as had become commonplace in the bus industry.

(c) Because of the close nature of bus and rail transportation, mergers could damage the necessary choice for the travelling public. This development of cartels both within the rail industry and in conjunction with the bus industry must be more closely monitored.

Other associations

The Automobile Association

6.118. The Automobile Association told us that its research had shown that modal choice was based on various factors. If the merger resulted in increased fares or a lower level of service, travel by car instead of bus or train would be made more attractive.

Bedford Commuters' Association

6.119. Bedford Commuters' Association (BCA) represents rail users travelling from Bedford and Flitwick stations on Thameslink and MML trains. Most members are commuters who travel to and from London, although others commute to or from St Albans, Luton, Bedford, Leicester and other East Midlands stations.

6.120. BCA stressed the importance of rail links to and from Bedford. The railway was important to the local economy. The Bed-Pan (Thameslink) electrification in 1982 had attracted more people to live in the Bedford area. It was vital that the benefits were not lost in the franchising of both MML and Thameslink, the main providers of longer-distance and local rail services.

6.121. It was concerned at the very poor level of main line services at Bedford. Express coach and stage carriage bus services at Bedford to and from the East Midlands were non-existent, largely because the M1 motorway passed to the west of the town and a lengthy diversion would be necessary. However, MML passed directly through Bedford on its route from London St Pancras to Wellingborough, Kettering, Market Harborough, Leicester, Loughborough, Derby/Nottingham, Chesterfield and Sheffield/Leeds.

6.122. NEG/MML had declared their intention of providing a broadly half-hourly frequency of rail service for the intermediate MML stations but Bedford did not feature in its proposals.

6.123. BCA was astounded that other similarly-sized towns on the route (for example, Wellingborough, Market Harborough, Loughborough, etc) were to be served half-hourly while the county town of Bedford (incidentally the interchange station with Thameslink and Marston Vale rail services) was not to be served on a frequent, regular interval basis by MML.

6.124. This was a major failing which NEG should address. Business and leisure travellers needed to make journeys from Bedford to the East Midlands and Yorkshire, while similar travellers from the North wished to make journeys to Bedford (for example, De Montfort University lecturers and students commuting between their Leicester and Bedford campuses). It was not a question of MML competing with Thameslink commuter traffic, which was a distinct market from Bedford and stations southwards to London.

6.125. However, MML services between Bedford and London were well used by commuters for the simple reason that they were faster, more comfortable and far more reliable than Thameslink services; those same MML services actually helped to relieve overcrowding on Thameslink. BCA believed that faster and better Thameslink services would only come about with competition from MML.

6.126. The question of how Bedford was to be served must be addressed by the MMC and satisfactory guarantees sought from NEG/MML.

6.127. It was also concerned that NEG could bid in the recently-announced franchising round for Thameslink services. Given its long-distance coach operations and the rail franchises for MML and Gatwick Express, the question of a private sector monopoly possibly raised its head. Since the monopoly argument was one of those used in deliberations about rail privatization, a successful NEG bid for Thameslink might be inappropriate.

Chartered Institute of Transport

6.128. The Chartered Institute of Transport had no objections to the merger and considered that it offered scope for benefits. The total share of the transport market held nationally or even regionally by public transport services was small compared with car travel (and walking and cycling at local level).

6.129. Creation of a larger transport group provided a stronger base for investment and market development, entirely in line with the aims of the Railways Act 1993 and the Transport Act 1985. Gains had already been seen in the expansion of services and investment in new vehicles secured by grouping of the main national bus companies.

6.130. Creation of a transport group with rail and coach operations allowed development of possible inter-modal links.

6.131. Coach and rail services had limited overlap in terms of market, competing only at the margins. Coach tended to be used by elderly people and students especially, for whom cost was more important than speed; rail was used more by business travellers, for whom speed and arrival time were more important. These groups were catered for by different fares, timings and travel speeds of MML trains and NEL coach services.

6.132. MML had committed itself to providing enhanced rail services for the period of the franchise. Any enforced change to its status or conditions of service might put this in jeopardy. Competition on rail was offered over parts of its network: by Thameslink in the south, by Central Trains in the Midlands and by Regional Railways North East in Yorkshire. The parallel East Coast and West Coast main lines were accessible by car for part of the potential travel market. There was, therefore, competitive pressure to maintain the level and quality of rail services.

6.133. NEL operated a comprehensive network of coach services; it was unlikely to reduce the quality and coverage significantly, as this would probably damage its market. There were plenty of well-established coach operators in the MML corridor, any one of which could mount effective competition if NEG tried to take a monopolistic approach to service provision.

Institute of Transport Administration

6.134. The Institute of Transport Administration was in favour of the merger.

6.135. Generally rail and long-distance coach services attracted different types of client, attracted by speed and lower charges respectively.

6.136. The number of passenger movements between the areas provided by the two operations was insignificant compared with total movements by other modes such as private car, hired vehicle, motor cycle and air. Therefore no monopoly had been created.

6.137. Coach deregulation meant that any operator had the ability to enter the market if an opportunity existed. This would discourage any abnormal price increases by NEL.

6.138. If NEL had to divest the services between London and the East Midlands/South Yorkshire centres the whole framework of through booking to any part of the country would be undermined.

6.139. With coach and train under the same ownership, opportunities for joint marketing and ticket interavailability were improved. This would make public transport more attractive and could reduce car movements, improving the environment.

6.140. After coach deregulation, the consortium of operators who marketed themselves in the early 1980s as British Coachways offered services between many centres including routes from Nottingham, Leicester and Sheffield to London King's Cross. These were in competition with NEL and failed after a period. One reason for the failure might have been that whereas both British Coachways and the rail service terminated in north London, NEL coach routes served Victoria, as they still did.

London Regional Passengers Committee

6.141. The London Regional Passengers Committee (LRPC) was established under the London Regional Transport Act 1984, amended by the Railways Act 1993. Because it represents the interests of users of VCS, although not the users of the coach services operating to and from it, it also has a limited statutory interest in NEL passengers, in so far as they use VCS.

6.142. LRPC is a member of both the Minister for Transport in London's Transport Working Group and the parallel official level Transport Co-ordination Group.

6.143. It had been consulted by OPRAF on the PSR for the MML franchise and later on the draft of the Passenger's Charter for the successful bidder. After the franchise had been let, it had met the Managing Director of MML and Group Projects Manager of NEG, to discuss its aspirations.

6.144. The overall picture given to LRPC by the new franchise operators of MML had been positive. The future for passengers, if the promised improvements were realized, must be regarded as significantly better than when the line was controlled by BRB. LRPC concluded that the merger was not against the public interest for the following reasons:

(a) NEG's successful bid for the MML franchise involved the payment of an annual premium to OPRAF from year three, assuming a ten-year franchise, or from year four with a seven-year franchise. In order to be able to make such a payment out of MML's own resources (that is, not having to subsidize MML from group profits), NEG had to grow the MML business substantially and/or make substantial operational savings between now and 1999. From measures it had already made public it was clear that it intended to grow the business, using substantial investment.

(b) The long-distance coach market was very different from the rail market. There was only minimal competition in this corridor between coach and rail for the commuter and the business traveller.

(c) OPRAF had imposed controls on some rail fares and NEG had given undertakings to limit increases on APEX fares to the RPI. It had publicly committed itself to reducing rail leisure fares. NEG's fares policy should attract more leisure passengers on to trains.

(d) In the leisure market there would be some competition, but this would be at the margins, with most potential passengers having the choice made for them by time and/or financial constraints and, for journeys crossing London, by ease of interchange. It was unrealistic to believe that any large number of passengers wishing to travel to or from the corridor via London would change mode in London. St Pancras station is some way away from VCS and the vast majority of passengers travelling to or from places to the south, east or west of London would choose to travel by rail or by coach/bus for their whole journey.

(e) Entry into the long-distance coach market was virtually unregulated. If NEG tried to fix fares on its coach services to divert passengers on to its MML subsidiary, there would be a real possibility that a competitor would enter the market.

(f) The principal competition on the corridor was between public transport (comprising coach and rail) and private car.

6.145. The merger should be allowed to continue, with the safeguard that MML be required to guarantee an agreed allocation of APEX and other discounted tickets.

Central Rail Users' Consultative Committee

6.146. The Central Rail Users' Consultative Committee informed us that it was content to leave any responses to the LRPC and the Rail Users' Consultative Committees for the Midlands and north-eastern England (see below), as the Committees responsible for representing the interests of passengers using the services of MML.

Rail Users' Consultative Committee for The Midlands

6.147. The Rail Users' Consultative Committee for The Midlands had no concerns about the merger's effect on competition.

6.148. If NEG was compelled to withdraw coach operations on the reference routes, coach users might be forced to use rail, because other coach operators might not come forward.

6.149. It queried whether it was practicable to force NEL to produce timetables for services over which NEL had no control.

6.150. Under the MML franchise agreement, NEG was committed to providing a certain level of passenger train service. Therefore it would not simply opt out of the rail service or reduce it so much that passengers were forced to use a coach service.

6.151. Because certain categories of rail fare were capped, NEG would not be able to manipulate them to the advantage or disadvantage of either rail or coach passengers.

Rail Users' Consultative Committee for North Eastern England

6.152. In contrast to the views of the LRPC and the Rail Users' Consultative Committee for The Midlands, the Rail Users' Consultative Committee for North Eastern England expressed reservations about the merger. It informed us that the reason for this divergence was that the needs of rail users in the north-eastern area differed from those living further south.

6.153. There would be less cause for concern if MML and NEG were equal members of a group, as stand-alone profit centres. If MML were a subsidiary, the Committee feared that a need for the group to make operational savings could result in a reduction in its non-PSR specified services and their replacement by buses.

6.154. MML planned to enhance certain services, but any enhancement of the service between towns such as Leeds and Nottingham/Leicester and/or Derby seemed less likely if the service provider had an option to run buses. Yet such journeys, not at the core of MML's business, were important to rail users.

6.155. Although certain fares were regulated and MML had indicated its willingness to limit increases to APEX fares, it did not follow that leisure travel by rail would increase. APEX fares were traditionally limited by quota, some trains having only a single figure allocation. For a regulated APEX fare to have any significant impact on leisure travel, the allocation must be substantial.

6.156. The Committee believed that people should continue to have a real choice between different modes of public transport. Even though many households had a car, often only one member used it regularly.

6.157. If the merger continued, the Committee considered that any undertakings given by NEG, or any conditions imposed, should be subject to independent audit to ensure compliance.

Southern Derbyshire Chamber of Commerce Training and Enterprise

6.158. The Southern Derbyshire Chamber of Commerce Training and Enterprise felt there were no competition issues as coach and rail markets were distinctly separate. The merger was in the public interest and would enhance service quality for both operations. It offered NEG the opportunity to provide two complementary services, to the benefit of travellers.

6.159. The proposed multi-modal interchange could provide a major economic boost to the East Midlands region.

Transport 2000 Derbyshire & Peak District Group

6.160. Transport 2000 is a coalition of environmental transport user groups, industry and trade unions, working for sustainable transport policies. The Derbyshire & Peak District Group was not against the merger and believed it would be against the public interest if NEG had to divest itself of the relevant coach services.

6.161. The Group told us that the MML rail franchise was one of only two franchise agreements so far to include a proposal for significant improvement in train services; it did not want to see the company's ability to deliver this affected. Any attempt to price customers off trains on to NEL coaches would fail due to the economies of scale of rail services.

6.162. NEL had a very good reputation locally for delivering good-quality services. Other companies had tried to offer competitive alternatives for travel from the East Midlands to London, but had failed because they could not match NEL on quality combined with frequency. Transport 2000 did not want to see the services handed over to some `fly-by-night' outfit which would give an inferior service.

6.163. It did not think NEL could use its monopoly position to increase coach fares. Any increase in real terms would lay NEL open to competition from the many other coach operators in the area, including those who had tried and failed before. Any reduction in the frequency of its coach services would damage its ability to offer a country-wide service through maximizing its opportunities for networking.

6.164. It was puzzled as to why NEG had been singled out, when others had been allowed to establish a monopoly of public transport provision over large areas, for example Stagecoach in the South-West. It was not suggesting that was necessarily against the public interest, but there was far greater danger of local fares consequently rising in that area than of increases in the East Midlands-London corridor.

Transport 2000 Leicestershire Branch

6.165. The Leicestershire Branch informed us that the Government had been warned by Transport 2000 and other groups, before the Railways Act became law, that rail privatization would lead to many rail operations being bought out by the major bus companies, replacing public monopolies with privatized monopolies.

Individuals

Mr M Condon

6.166. Mr Condon, a resident of Sheffield and a regular passenger on NEL and MML services, favoured the merger and considered its reference to the MMC a waste of time and money. These coach and rail services were competitively priced and excellent value for money.

Dr J Disney

6.167. Dr Disney, a senior lecturer in the Quality Unit at Nottingham Trent University, told us that the challenge to all rail franchisees was to attract private motorists on to trains, not to poach coach passengers. The merger opened up the possibility of an integrated public transport network between South Yorkshire/East Midlands and London and this should be encouraged.

6.168. Coach travel on the M1 was unattractive to most people, but NEL had a devoted small share of the market and these passengers were highly satisfied with its performance. The market would never attract private motorists while coaches were restricted to two lanes and 65 mph. Coach users generally did not have access to a private car and chose the coach for slightly lower fares, personal service by the driver, easy access at the northern termini from other local bus services and a wider range of pick-up and set-down points than the train. Neither journey time nor time of travel were major issues for coach users.

6.169. The rail market was a mixture of car and non-car users, and journey time and the necessity to arrive by a predetermined time were major prerequisites. Railway stations outside London tended to be less well served by local buses, and so rail passengers often arrived by car and used the station car parks; other passengers used taxis or local trains/trams to connect into MML services. Pre-booked rail fares compared well with coach fares. The rail services also had a walk-on facility at a premium fare which was much appreciated by the business community.

6.170. Thus rail and coach were not in direct competition but complemented each other. If NEG's acquisition of MML continued, then Dr Disney hoped to see the following developments in integrated public transport: a 24-hour service, interchangeable tickets between coach and rail and feeder coach services from less well-used stations to the nearest main line station, to allow trains to run at maximum speed.

6.171. If NEG was forced to abandon coach services on the route there would be little hope of any operator providing NEL's level of service on a sustainable commercial basis.

6.172. The only restrictions he would want to see placed on NEL were that it continued to offer at least the current coach services, with current fares linked to the RPI.

Mr M D Keates

6.173. Mr Keates of Leicester said that MML should not be merged with a coach company, as its line and railways in general were in direct competition with the bus industry.

6.174. Leicester railway station was now the only main line station in the county and MML was the foremost operator. As the main operator, it should be promoting tickets for non-MML routes, for cross-country journeys. This was not happening. His concern was the lack of advertising at Leicester station for any rail destination other than London. But NEL advertised its country-wide bus links in the local press. He feared that if NEG fully implemented this policy, it would be to the advantage of the bus industry and the disadvantage of the rail industry.

Mr B Knowlman

6.175. Mr Knowlman, a travel journalist and tourism consultant living in York, was not against the merger. He said that as NEL had no monopoly of express coach routes between London and Leicester, Derby and Nottingham it was open to any competent company to set up similar services. If NEL were forcibly divested of those services, it would not publicize the services of a replacement operator. History suggested that NEL was not an easy company to compete with.

6.176. NEL did not appear to regard the coach routes to Leicester, Derby and Nottingham as high priority operations. They were among the few trunk routes not offering the superior Rapide service and frequencies were not impressive compared with trains.

6.177. NEG was a successful transport operator which was spreading beyond coaches into other operations. It was this general expertise which rail privatization needed.

6.178. If the suggestion that NEG had an undesirable monopoly on the routes in question was accepted as a relevant factor in the matter of a rail franchise, other bus-inspired franchises might be looked at. Most importantly, he did not consider that MML and NEL coaches were in serious competition. The real competition was between all forms of public transport and the private car.

Mr T Stevens

6.179. Mr Stevens, a transport consultant and regular user of rail and coach services, thought the merger should be maintained. Rail and coach services were aimed at very different markets and both were in direct competition with the private car. It was in NEG's commercial interest to promote all the services they operated.

6.180. If NEG were required to withdraw its coach services on the route of MML, this would destroy a key part of the coach network and be detrimental to the interests of passengers.

Mr A Thomas

6.181. Mr Thomas, a resident of Market Harborough, thought the coach and rail markets were entirely different. His concern was that his local railway station, a significant asset for residents, should not be closed.

Others

6.182. We received comments from two other individuals. One informed us that, as a graduate in transport management and a rail user (resident in Swansea), he thought the merger was against the public interest and the longer-term interest of the UK. He believed the Government had awarded MML and Gatwick Express to NEG as a hidden subsidy to the Channel Tunnel Link (being built by L&CR, which included NEL).

6.183. He referred to the published views of Mr Adam Mills of NEG about the desirability of replacing certain rail routes by coaches and his wish to see the emergence of true, integrated, inter-modal `passenger transport companies'. This was an anti-competitive, monopolistic attitude.

6.184. He also said that NEG was desperate to gain funding to maintain a declining coach market throughout the UK and to counteract poor revenue generated by Eurostar.

6.185. He thought NEG would not invest in MML. It would resist new rolling stock and electrification.

6.186. Another respondent was concerned about the possibility of NEL coach services being withdrawn. As a keen train spotter he often travelled to London, but could not afford train fares. If coach services were removed, he and others on the routes in question would be unable to travel to London at all.