

APPENDIX 1.1
(referred to in paragraphs 1.1 and 2.1)

Terms of reference and conduct of the inquiry

1. On 22 May 1997 the Department of Trade and Industry sent the MMC the following reference:

Whereas it appears to the Secretary of State that it is or may be the fact that a merger situation qualifying for investigation, as defined in section 64(8) of the Fair Trading Act 1973 ('the Act'), has been created in that-

(a) enterprises carried on by or under the control of National Express Group plc (a body corporate incorporated in the United Kingdom) have, within the four months preceding the date of this reference, ceased to be distinct from enterprises carried on by or under the control of Central Trains Limited; and

(b) as a result, the condition specified in section 64(3) of the Act prevails, or does so to a greater extent, with respect to the supply of public transport passenger services in the West Midlands, being a substantial part of the United Kingdom;

Now, therefore, the Secretary of State, in exercise of her powers under sections 64 and 69(2) of the Act, hereby refers to the Monopolies and Mergers Commission ('the Commission') for investigation and report within a period ending on 19 September 1997 the following questions:

(i) whether a merger situation qualifying for investigation has been created as a result of the matter described in paragraph (a) above; and

(ii) if so, whether the creation of that situation operates, or may be expected to operate, against the public interest.

In relation to the question in paragraph (i) above, the Commission shall exclude from consideration one of paragraphs (a) and (b) of section 64(1) of the Act if they find the other satisfied.

In this reference-

'public transport passenger services' means public transport passenger services involving journeys carried out wholly within the West Midlands; and

'the West Midlands' means the area comprised by the Metropolitan Districts of the City of Birmingham and the City of Coventry, and the Metropolitan Boroughs of Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

22 May 1997

(Signed) PAUL SALVIDGE
An Official of the
Department of Trade and Industry

2. On 18 September 1997 it was announced that the Secretary of State for Trade and Industry had agreed that the period for reporting on the reference should be extended to 3 October 1997.

3. The composition of the Group of members responsible for the present investigation and report is indicated in the list of members in the preface.

4. Notices inviting interested parties to submit evidence to the MMC were placed in:

West Midlands Express & Star

Coach and Bus Week

5. Written submissions were received from 46 parties, several of which also attended hearings (see Annex 1). In addition, factual information was obtained from a considerable number of transport operators.

6. Group members, accompanied by staff, visited operations of Central Trains, WMT and NEL at Birmingham, West Bromwich, Wolverhampton and Walsall.

7. Some of the evidence obtained in the course of our inquiry was of a confidential nature. Our report contains only such information as we consider necessary for an understanding of our conclusions.

8. We should like to thank all those who helped us in our inquiry, particularly NEG and the other parties which gave oral evidence.

Organizations and individuals who submitted written evidence to the MMC

(Representation at hearings is indicated by an asterisk)

Banga Travels
 Birmingham City Council
 Cambridgeshire County Council
 Cardiff County Council
 Chrimes, Mr S P
 City of Nottingham Council
 Confederation of Passenger Transport UK
 Department of the Environment, Transport and the Regions*
 Denholm, Mr M J
 Derby City Council
 Great North Eastern Railway Limited
 Great Western Holdings Limited
 Gwynedd Council
 Hanson's (Wordsley) Ltd
 Hereford and Worcester County Council
 Institute of Transport Administration
 Leicester City Council
 Leicestershire Chamber of Commerce and Industry
 Lincolnshire County Council
 National Express Group PLC*
 National Union of Rail, Maritime and Transport Workers
 Northamptonshire County Council
 North Birmingham Busways Ltd
 Nottinghamshire County Council
 Office of Passenger Rail Franchising*
 Office of the Rail Regulator*
 Passenger Transport Networks
 Pearson, Mr I L
 Rail Users' Consultative Committee for the Midlands
 Railway Development Society: Midlands Branch
 Redline Bus Company Limited
 Ring and Ride (West Midlands Special Needs Transport Limited)
 Shrewsbury-Wolverhampton Rail Users' Association
 Shropshire County Council
 Southern Derbyshire Chamber of Commerce
 Staffordshire County Council
 Stagecoach Holdings plc*
 The Birmingham Coach Company Ltd*
 The Chiltern Railway Company Limited
 The Railway Forum
 The Welsh Office
 Transport Salaried Staffs' Association
 Transport 2000 (Derbyshire and Peak District Group)
 Transport 2000 (Leicestershire Branch)
 Transport 2000 West Midlands and Transport 2000 Staffordshire
 West Midlands Passenger Transport Authority and West Midlands Passenger Transport Executive
 (Centro)*