# COMPETITION AUTHORITY

# REPORT ON BUS AND RAIL PASSENGER TRANSPORT SECTOR

**PURSUANT TO SECTION 11 OF THE COMPETITION ACT 1991**

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# CHAPTER 1

## INTRODUCTION

**1.1** On 25 June 1999, the Competition Authority invoked its powers under Section 11 of the Competition Act, 1991, as amended by the Competition (Amendment) Act, 1996, to undertake, on its own initiative, a study of the rail and bus passenger transport market. The study was intended to analyse the structural barriers affecting the rail and bus passenger transport market and was conducted according to the following terms of reference:

> "To undertake a study and analysis of the licensing restrictions and other barriers and restrictions to entry into the rail and bus passenger transport market within the State, and their impact on delivery of passengers by intercity rail, intercity buses and urban buses."

**1.2** This study should be viewed in the context of the particular powers conferred upon the Authority by the 1996 Act. That Act conferred two additional powers on the Authority which are relevant here. First, the Authority was granted the power to conduct a study of a practice or method of competition on its own initiative. Prior to the 1996 Act the Authority was empowered to undertake such a study only upon Ministerial direction. Second, the Authority was granted enforcement powers and it now has the power to bring an action against a person for a violation of Section 4 or 5 of the Competition Act. Prior to the 1996 Act, the Authority had no such role in the enforcement of the Act.

**1.3** These new powers gave the Authority the ability to act independently to promote competition in the State in two different ways. First, as to actions which fall within the prohibitions of Sections 4 or 5 of the Competition Act, the Authority may initiate legal proceedings. Second, as to actions or other factors which restrict competition but which fall outside the prohibitions of Sections 4 or 5 of the Competition Act, the Authority may initiate a study under Section 11. In this instance, the Authority invoked its Section 11 powers to initiate a study as the existence of licensing restrictions and other legal barriers to enter a market are generally beyond the scope of Sections 4 or 5 of the Competition Act.

**1.4** The purpose of the study is to focus on the effects of the structural barriers affecting the rail and bus passenger transport market and their possible reform. It is not intended to identify actions taken by undertakings or associations of undertakings in the market in violation of sections 4 or 5 of the Competition Act, 1991.

**1.5** The Authority published its terms of reference on 25 June 1999 inviting submissions from interested parties by 30 July 1999. The deadline was subsequently extended to 31 August 1999. The Authority also wrote to a large number of parties involved in the rail and/or bus passenger transport market, as regulators, operators and consumers, inviting them to make submissions. In total 17 submissions were received. In addition, the Authority received very useful information from the Department of Public Enterprise.

**1.6** Submissions were received from the following organisations:

Bus Átha Cliath/Dublin Bus
Bus Éireann
Iarnród Éireann
Last Passive Limited, t/a Aircoach
The Director of Traffic, Dublin Corporation
Mr. Bernard Allan
Mr. Patrick Burke (of Burke's Coaches)
City Link
The Consumer Association of Ireland (CAI)
Drumcondra 2005
Dublin Transportation Office
Eirebus
European Transport & Telematics Systems Ltd.
Nestor Bus
Mr. Joseph Walker
The Department of Public Enterprise
Coach Tourism Council
IBEC

**1.7** In addition, the Competition Authority sent questionnaires to a number of private-sector bus operating companies asking about their experiences in the market, on the understanding that details of information supplied would not be disclosed to third parties, although an aggregate of the information might be used. The questionnaire covered details of route service licences, travel club operations and other services. A copy of the questionnaire is given in Annex II. A total of 29 replies were received. The Authority would like to thank all those who returned completed questionnaires.

**1.8** It was the Authority's original intention to afford all parties who had made submissions the opportunity to attend an oral hearing. Oral hearings were held with Drumcondra 2005, Consumers' Association of Ireland and ETTS (Consultancy Firm). However, in late 1999 the Authority experienced severe staff shortages, including the departure of the Member and the economist principally concerned with the study, which obliged it to suspend work on the study for a period. Meanwhile, the Department of Public Enterprise developed proposals for institutional and regulatory change in a number of areas[1], culminating in the publication of the policy paper, “A New Institutional and Regulatory Framework for Public Transport”, in August 2000. The Department invited submissions on this paper by 13 October 2000. In view of the short timescale proposed for institutional and regulatory reform, the Authority decided to complete the study in order to meet this consultation deadline. Unfortunately, the short timeframe did not allow for oral hearings to be held with all parties. This document is a slightly revised and updated version of the comments sent to the Department.

**1.9** The Authority wishes to express its gratitude to all parties who made submissions, completed questionnaires and provided information.

**1.10** The Authority would particularly like to thank Mr. Bill Prasifka and Ms Leonie Allen, formerly of the Competition Authority, for their work on this study.

[1] Cabinet Committee on Infrastructural Development and Public Private Partnerships, A New Institutional Framework For Public Transport. Department of Public Enterprise April, 2000 and Cabinet Committee on Infrastructural Development and Public Private Partnerships, Regulation Of The Bus Market In The Greater Dublin Area, Department of Public Enterprise May 2000

# CHAPTER 2

## INDUSTRY STRUCTURE AND COMPETITION IN THE PUBLIC TRANSPORT SECTOR IN IRELAND

**2.1** An efficient and well functioning public transportation system is a key determinant in the ability of this country to sustain the current levels of economic growth. There is now growing recognition of the importance of an open and competitive market, rather than state delivery of services, as a vehicle for achieving an efficient outcome in the public transportation system. However for much of the history of the State, transport has been subject to high levels of state intervention. The resultant restrictions on competition in transport continue to impose significant costs on society today. This chapter describes the current regulatory framework in the public transport sector and seeks to highlight some of the shortcomings under the existing system.

**2.2** Under the Transport (Reorganisation of Córas Iompair Éireann) Act, 1986, the board of CIÉ was required to restructure the organisation into a holding company and three major operating companies. The board of CIÉ consists of a chairman and seven members (non-executive), appointed by the Minister for Public Enterprise, and four worker directors elected by the employees. The number of full-time employees in 1998 was 10,708. Exchequer participation is by way of non-repayable State grants for public service organisations, which are paid in accordance with the relevant EU regulations governing state aid to a transport undertaking. The government requires the board to adhere strictly to the statutory duty imposed on it by Section 3 of the Transport Act (No. 2) Act, 1974, i.e. to conduct the undertaking so that, after taking into account payments made to the Board by the Minister, its operating expenditure, including all charges properly chargeable to revenue, shall not be greater, taking one year with another, than the revenue of the board.[2]

**2.3** The three CIÉ operating companies are:

*Iarnród Éireann*
Iarnród Éireann provides road and rail freight transport within the State, and operates catering services. It also operates Rosslare Europort. Mainline rail passenger services operate between Dublin and major cities and towns. The company operates the DART (Dublin Area Rapid Transit) electrified suburban rail system, and also provides diesel-based suburban rail services in the Dublin area. Iarnród Éireann jointly operates the Dublin-Belfast Enterprise service with Northern Ireland Railways, as part

[2] Source: IPA Yearbook 2000

of the European High-Speed Rail Network. Iarnród Éireann's revenues in 1998 totalled IR£136.6m; total expenditure was IR£197.1m; state subvention amounted to IR£92.5m; surplus for the year was IR£4.4m.

*Bus Éireann*
Bus Éireann operates a wide range of bus and coach services throughout the country. These include: Expressway coach services linking major cities and towns; local bus services in rural areas; city bus services in Cork, Galway, Limerick and Waterford; Eurolines coach services to Britain, with connections at London to all parts of Europe; a nationwide parcels delivery service by bus; and ancillary businesses such as vehicle testing and contract maintenance. Bus Éireann is also responsible for the operation and administration of the national school transport scheme on behalf of the Department of Education and Science.

*Bus Átha Cliath – Dublin Bus*
The principal objective of Dublin Bus is to provide a passenger service by road for the city and county of Dublin. Dublin Bus provides an extensive network of bus routes.[3]

**2.4** The Government controls fare levels for all CIÉ operations (bus and rail) through simple price control, i.e. any increase in fares must be approved by the Minister for Public Enterprise. The Minister does not direct on what routes CIÉ must provide services, other than mandating it to provide universal service. CIÉ may use its protected situation to cross-subsidise less economic routes, as well as receiving government subsidies[4]. Bus Éireann and Dublin Bus also get first options to provide school transport services in their relevant geographic areas and then decide how much of this service will be sub-contracted. They are also among the only service operators authorised to accept Social Welfare travel passes, for which they are reimbursed by the Government.

## I Buses

### (a) Greater Dublin Area – Dublin Bus/Bus Átha Cliath (BÁC)

**2.5** In 1998, just under 90 per cent of the total number of public transport passenger journeys in Dublin (covering buses, outer suburban rail and DART)[5] were made on buses. Demand for the company's services is currently running at about 190 million journeys per annum[6]. The vast majority of bus services in Dublin are provided by a single public sector company - Dublin Bus/Bus Átha Cliath (BÁC),

[3] Source: IPA Yearbook 2000
[4] Source: Bus Éireann's submission. See also, for example, "Public Transport at the Crossroads", Consumer Choice: The Magazine of the Consumers' Association of Ireland, March 1999.
[5] Source: CIÉ Annual Report 1998
[6] Source: BÁC submission

and although there are a few private sector bus operators in Dublin, the company is effectively a monopoly operator.

**2.6** The Road Transport Act of 1932 requires the Minister for Public Enterprise, in considering an application for a licence, to have regard to whether the proposed bus service "is required in the public interest having regard to the passenger road services and other forms of passenger transport available to the public on or in the neighbourhood of the route of the proposed service." The Act does not prohibit the Minister from licensing transport operators other than Dublin Bus to provide bus services both within the Greater Dublin Area. At present, however, licences cannot be obtained to operate on routes which are currently serviced by BÁC. Until July 2000, only 7 private operators held licences for routes within the Dublin Bus zone. Eleven new licences in the Dublin area were granted in July 2000. Unlike private operators, Dublin Bus does not have to apply for licences for new routes. In practice, it has been presumed that Dublin Bus provides an adequate service in the metropolitan area and Dublin Bus therefore operates a de facto monopoly in the provision of bus services.

**2.7** In the light of a recent court decision[7], it may actually be questionable whether quantitative restrictions on licensing such as those provided for by the practice of the Minister under the 1932 Act are constitutional and/or compatible with EC Treaty rules. In *obiter* remarks in the recent High Court "taxi case", Murphy J. commented on the extent to which EC-based legal arguments could have been relied on to challenge the taxi licensing régime in Dublin prior to recent deregulation. In particular, Murphy J. questioned whether such a licensing régime was compatible with Article 86 EC, which governs the conditions under which the rules of the EC Treaty, including EC competition rules, apply to certain categories of enterprises that enjoy a privileged status under national law.

**2.8** At present, if a licence is sought for a new route, or to extend an existing route, a private operator must apply to the Department of Public Enterprise. The Department's internal guidelines for implementing the 1932 Act are set out in its Freedom of Information Reference Book as follows:

The application is examined using the following guidelines:

- In considering an application, the Department is obliged under the 1932 Act to have regard to existing passenger transport available to the public on or in the neighbourhood of the route in question. The Department's policy, therefore, is to refuse an application for a licence where the route sought is similar to an existing CIÉ bus or rail service or to an existing licensed service provided by another operator, unless it can be shown that the proposed service meets a demand not already satisfied by existing services.

[7] See judgement of Murphy J. in Humphrey and others v. the Minister of Environment and others, delivered 13th October 2000, not yet published, at point 5.8.

- A "one operator per route" policy is applied unless there is evidence that the original licensed operator does not have the vehicle capacity to meet current passenger demand.

- Applications are considered on a first-come-first-served basis. The fact that a private bus operator may have been providing a service on an unlicensed basis before applying for a licence is not considered a relevant factor in assessing applications for a Passenger Licence.

- The Department is always open to applications for routes which are not directly served by the CIÉ companies or private operators. These routes can include:

    - 'feeder services' which provide links to the existing public transport network
    - 'orbital services' in major urban areas which link outer suburban areas to each other
    - radial services on routes not already served by CIÉ or licensed operators catering only for passengers with origins or destinations outside major urban areas, with set down and pick up points generally limited to not more than two locations within the major urban area and to locations beyond the major urban area boundary.

**2.9** State subsidies (£13.2m in 1999) are channelled through the CIÉ group to BÁC. There is no transparency in how subsidies are allocated to the different routes and CIÉ has never identified which routes are loss making. Studies on subvention levels in European cities show that subsidies are generally significantly higher than the subsidy rate available in Dublin. This means that most (96 per cent in 1998) of BÁC's costs have to be met from fare revenue, a situation which is not typical of public transport operators in other cities.

**(b) Intercity and Interregional (Bus Éireann)**

**2.10** Bus Éireann provides a road passenger service outside the BÁC zone. Bus Éireann has six distinct businesses[8]:

-Regional Urban Services (Cork, Galway, Limerick and Waterford)
-Intercity Services
-Cross-Channel Services (Eurolines)
-Rural Services
-Commuter Services
-School Transport Services

[8] Source: Bus Éireann submission

**2.11** These businesses have had mixed experiences over the last number of years. Urban services in cities other than Dublin have seen declining patronage in recent years (down from 20.616 million in 1994 to 18.938 million in 1997[9]) while Dublin passenger journeys are up by almost 10 per cent. However there has been strong growth in intercity services – from 2.040 million in 1987 to 5.428 million in 1997 – a rise of 166%[10].

**2.12** Bus Éireann faces some *de facto* competition for its services from private sector companies. Private sector operators can provide public transport services under licence, such licences being granted by the Minister for Public Enterprise when the proposed service does not duplicate one already provided by BÉ (see paragraph 2.8). In the case of intercity bus services, the proposed route must be scheduled an hour or more away from the existing Bus Éireann Service.

**2.13** Licences for private companies are easier to acquire outside Dublin; approximately 400 current licences for private bus operators are in existence, mainly in connection with the provision of local bus services in rural areas[11]. There also exist a number of unlicensed private operators in this market, operating on inter-urban routes, due to some legal loopholes in the licensing requirements. This has led to the growth of some operators offering regular private bus services using a "travel club" arrangement, which allows them to bypass the licensing requirements[12]. This option may be chosen by some operators due to the drawbacks in the procedure for obtaining a licence. Currently approximately one-quarter of long-distance scheduled services to and from Dublin is provided by private operators, with penetration varying across routes. Overall, private operators account for 15% of total inter-city/rural bus services and their market share is continuing to grow[13].

**2.14** As the intercity sector is inherently profitable, subvention levels to BE are low (IR£5.8m in 1999, compared to IR£123m for Iarnród Éireann). According to Bus Éireann, profits from Expressway (inter-city) services are used to reduce State support for uneconomic elements of services in other sectors such as city, commuter and rural services. Subsidies are not available to the private sector operators.

**2.15** Bus Éireann operates a monopoly service in the regional urban areas such as Cork, Galway, Limerick and Waterford. Unlike the intercity services, the regional urban market has seen a decrease in patronage in recent years and is operated at a loss by Bus Éireann[14].

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9 Ibid.
10 Ibid.
11 Source: Department of Public Enterprise
12 See, for example, "Public Transport at the Crossroads", Consumer Choice: The Magazine of the Consumers' Association of Ireland, March 1999
13 Source: Department of Public Enterprise, Statement of Strategy (March 1997)
14 Source: Bus Éireann submission

### (c) Shortcomings under Current System

**2.16** Within the current model, the Department of Public Enterprise is simultaneously shareholder, regulator and policymaker in public transport services. In many instances the regulatory function is *de facto* devolved to CIÉ. A primary requirement to enable the growth of effective competition is the separation of regulatory functions from operational ones, by removing any regulatory functions vested in the public service provider and entrusting them to a legally and functionally independent entity. Separate regulatory and operational functions are a necessary prerequisite to policy development in the sector. Such a separation has formed the basis for the liberalisation of various economic sectors, notably telecommunications and electricity. Without it, it is virtually impossible to create appropriate conditions for competition between public and private (or privatised) companies. It is a precondition for investment in the sector since investors want transparent, known rules. Regulation should be free from political interference and independent of the owners of enterprises in the sector.

**2.17** Any benefits which might be considered to be associated with a monopoly in terms of service integration and co-ordination have not been exploited in Ireland. Given that the overwhelming majority of public transport services are provided by three CIÉ operating subsidiaries, one would expect a high level of integration between the various services. However, considerable scope remains for further co-ordination of services. The Irish state-run public transport system is considered to have had significant scheduling failures. One example is the level of integration between the ferry and train services at Rosslare Europort**.** The ferry from Pembroke arrives at 7pm but the last train to Dublin departs at 6.20pm, 40 minutes earlier. In addition the ferry from Fishguard is expected to arrive just 20 minutes before the departure of the last train to Dublin. Ferry delays mean that this interval was often too tight for passengers to make the train service. In the past, this meant that passengers had to either wait two hours for a bus and repurchase their ticket, or else wait for the train the next morning. (However, nowadays if passengers miss the train they can transfer their tickets to the bus, and the frequency of coach services has been increased to one per hour). There is also a very narrow window of time, for passengers arriving in the morning from both ferries, within which to catch the train.

**2.18** Another example of the lack of integration is the use of Heuston Station, rather than the more central Connolly Station, as a terminus for the Kildare commuter service. Given the distance from Heuston station to the city centre and the business districts, this can then involve a long walk or a second journey by bus for commuters. There is currently no passenger rail link between Heuston and Connolly.

**2.19** In the move towards greater competition in the sector it is essential that the level of integration across the public transport network be improved. National transport policy should seek to maximise the network effect across the public transport system. If new operators enter the market then the introduction of "through-ticketing" and rail-bus cards should be made explicit in any franchise contract. (London Transport estimates that introducing the Travel Card increased bus passenger miles by one-fifth with underground use going up by one-third).

**2.20** It is important to emphasise that the monopoly provision of services is not the only solution to achieving an integrated transport system. Indeed, as the above examples show, the potential for integration in the Irish transport sector has not been realised, despite the *de facto* monopoly of CIÉ. The benefits from a unified network could just as easily be achieved through other means. The functions of ensuring integration of system planning, operations and fares/ticketing could be performed by either the independent regulatory agency or a separate company established for this purpose.

**2.21** Under the current system, a number of regulatory provisions or practices have led to allegations of regulatory discrimination in favour of CIÉ over private operators. Firstly, the CIÉ group and its subsidiaries are exempt from having to apply for route licences. It has been suggested that the DPE passed details of applications for route licences to CIÉ, who were given the opportunity to object, and in some cases proceeded to operate such routes themselves, possibly even with the benefit of competitor's market research.[15]

**2.22** Secondly, no subsidies are available to operators other than the CIÉ group. Moreover, subsidies are offered as a general grant to CIÉ without transparency or specific allocation to routes. It is known that the majority of the subsidy is channelled by CIÉ to Iarnród Eireann. In 1999 BÁC was given an additional subsidy of £4 million due to additions to the existing bus fleet and increased operating costs. This increased the total level of subsidy to BÁC in 1999 to over £13 million. (or 6.8p per passenger). Thirdly, private sector services which are not route licensed may not participate in the free travel schemes of the Dept of Social, Family and Community Affairs.

**2.23** Confining access to bus stations/stops to Bus Éireann/BÁC services may constitute a barrier to entry; it may be possible for other services providers to argue that they should have equal right of access to state-funded bus stations. The White Paper on the deregulation of the bus industry in the UK stressed the importance of equal access to bus stations for all operators. In its evaluation of Mid-Kent Buses, the Monopolies and Mergers Commission found that access to the Pentagon Bus Station in Chatham was not essential but merely desirable. Land use planning constraints and the availability of land made impractical the duplication of the bus station at a suitable location. In considering the public interest, the MMC mandated access:

[15] Barrett 1990

"We conclude that the failure by M&D to offer reasonable access operates or may be expected to operate against the public interest. We recommend that M&D should allow competitors' services equal access to the Pentagon Bus Station on reasonable terms, if necessary by surrendering a bay to competitors' commercial services and by rearranging or removing some of its own operations".

**2.24** While the Authority has taken no view in whether passenger interchange facilities or bus stations pass the essential facilities test, there may be circumstances where it is impossible to develop bus station sites in the ideal places. A bus station in an attractive location owned or controlled by one operator gives it an incumbent advantage on certain services, which may prevent effective competition from developing in the market. Consideration needs to be given to these issues on a case-by-case basis in the context of introducing competition into the market. There may also be an argument for separating station operations from Bus Éireann/BÁC. In this way stations could be established as commercial development opportunities.

**2.25** While the purported rationale for heavy regulation has often been quality and safety, in the past there were no quality standards and public transport companies were not accountable to any particular body for specific service performance. In April 1997 BÁC launched a Customer Focus 2000 project which aims to improve the standard and quality of product to the customer. A Customer Charter is being introduced as part of the Public Service Contract between the Government and the company for the provision of services.

**2.26** CIÉ continues to receive large amounts of public subsidy, with inadequate public accountability.

**2.27** Inadequate competition has had a negative impact. The National Prices Commission found that licensed provincial bus operators generally charged lower fares, in some cases much lower, than CIÉ (NPC, 1972a: 27)[16]. Massey and O'Hare[17] have shown that, in the case of CIÉ bus subsidiaries, average receipts per passenger increased by almost 40% more than the rate of inflation over the 1982-93 period, while passenger numbers remained static. Barrett (1990)[18] reported that in 1982 the CIÉ Expressway fare was 82% higher than that charged by the Midland Bus Company on the Athlone-Mullingar route. As already noted, since the early 1980s, some private bus operators have emerged to provide a degree of competition for Bus Éireann and Iarnród Éireann on long distance services. Barrett (1990)[19] observed that there were daily private bus services from

[16] National Prices Commission (1972a): *Bus Services in Ireland*, NPC, Occasional Paper No. 10.
[17] Massey, P., and O'Hare, P.: Competition Law and Policy in Ireland, Oak Tree Press, Dublin, 1996.
[18] See footnote 35
[19] See footnote 35

most regions to Dublin. Jakee and Allen (1995)[20] estimated that "rent seeking" in the case of CIÉ intercity and rural bus routes cost IR£14.4m in 1986.

**2.28** Regulation in transport has had many motives[21]. In many areas regulation was designed to favour particular activities (e.g. railways over road). In others it was designed to foster and protect state owned monopolies or particular interest groups. Regulation in the transport sector was often justified on public interest grounds, which predicted that the introduction of competition would have destructive effects. It was frequently argued that, without restrictions on competition, new entrants would engage in "cream-skimming" and leave the loss-making uneconomic routes. Such claims are not borne out by the evidence. Existing licensed private bus operators, which are mainly small, operate largely on remote rural routes in which CIÉ has chosen not to operate. While it might be that such operators would prefer to operate on more frequented routes, but are precluded from doing so by regulatory restrictions, nevertheless the evidence is that private operators are willing and able to operate, presumably at a profit, routes which have been rejected by the dominant operator, rather than the other way around.

**2.29** The move now must be toward a reduction in the level of restrictive regulation in the public transport sector. Any form of regulation should have clearly defined objectives and its independence should be such that there can be no possibility of an allegation that it has been captured by vested interests.

**II Rail Transport**

**2.30** Rail patronage has seen marked growth in recent years in certain market segments despite the shortcomings of the current infrastructure. According to Iarnród Éireann, mainline carryings increased by almost 34% between 1988 and 1998. DART and other suburban carryings increased by approximately 23% in the same period. Because of our island status, the costs and potential traffic of rail transport in Ireland are completely different to those facing our European counterparts. Our peripheral location means we have to rely on domestic traffic, yet our low population density makes this very costly.

**2.31** At present, a single state-owned entity operates all aspects of the rail network – track and signalling infrastructure, operation of passenger and freight services, and maintenance facilities. The rail network is basically a radial network centred on Dublin with a number of connecting lines. In many countries in Europe, railways make significant losses. This is because railways are subject to other non-economic objectives such as service guarantees and environmental objectives. This means that the objective of cost minimisation has largely been

[20] Jakee, K. and Allen, L. (1995): "Destructive Competition or Competition Destroyed? A History of Irish Transportation Legislation in light of Regulatory Theory, Economic Performance and Economic Rhetoric", Irish Economics Association, mimeo.
[21] See Annex 1 for a note on the historical development of road and rail transport in Ireland.

neglected. However, the poor performance of the rail industry has led to countries reconsidering how to reorganise the sector so that these objectives can be better aligned.

**2.32** The conflict between economic efficiency and public service obligations has meant that state-ownership remains the norm for rail services in most OECD countries[22]. However, state ownership has not succeeded in keeping costs down and reducing subsidies. There is considerable evidence that state-owned monopolies are subject to the same pitfalls as private monopolies. They tend to produce services at higher cost than necessary (at above competitive rates), and service quality is often inferior. Moreover, government is prone to use its monopolies to address non-transport purposes, such as labour or fiscal policies. This interferes with the monopoly's ability to achieve its stated public purposes. Distancing the rail service from the government is viewed as central to improving performance, as is increasing transparency in evaluating the costs and benefits of public service obligations.

**2.33** In the move towards fostering greater competition in railways, many countries have considered the separation of rail infrastructure from services. If trains and track are separate, then, in principle, potential or actual competition for rail services could develop. However the success of this model depends very much on the characteristics of the country in terms of market size and density. The OECD has noted that vertical separation of rail infrastructure from rail service operation has certain disadvantages which need to be considered, namely loss of economies of scope (this may be particularly relevant in a country as small as Ireland) and reduced ability to price-discriminate. Close cooperation between the operator(s) and the infrastructure monopolist would be needed to ensure the infrastructure was being used efficiently and good investment decisions were being made.

**2.34** In the European Union context, Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways, (partially transposed into Irish law as SI 204 of 1996) introduced limited railway liberalisation by permitting railway undertakings to have access to infrastructure in other Member States for the purposes of international passenger traffic and international combined freight transport (i.e. freight transport involving at least two different modes such as road and rail, or sea and rail). According to the Department of Public Enterprise, no such application to run a service has been received. This may not be surprising given the geographical isolation of the Irish railway network, the small size and geographical dispersion of the market and the different railway gauge in use in Ireland. The only land border is with Northern Ireland, which shares these characteristics.

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[22] "Railways: Structure, Regulation and Competition Policy," DAFFE/CLP(98)1, OECD Competition Policy Roundtables No. 15.

# CHAPTER 3

## SUMMARY OF SUBMISSIONS TO THE AUTHORITY

### I Bus Átha Cliath / Dublin Bus

**3.1** Dublin Bus stated that the company became a separate operating subsidiary of Córas Iompair Éireann in 1986 following the re-organisation of C.I.É. It operated on a commercial and autonomous basis to provide transport services in the Greater Dublin Area. The submission also outlined the historical trends in investment policy in public transport, from the increase in private car ownership, which led to a downgrading of the importance of, and investment in, public transport, to the realisation in the 1990's that an efficient public transport system could alleviate the environmental, social and economic problems involved in moving large numbers of people. Over the past number of years, there had been an increase in the financial resources allocated by government and the E.U. for greater investment in public transport.

**3.2** The submission also gave an outline of the road transport legislation applicable to bus passengers under the Road Transport Act, 1932 and subsequent amendments to it. C.I.É. (since 1950) and later Dublin Bus (from 1986) were exempted from the requirement to hold a licence to carry passengers, which applied to all other operators. The European Communities (Road Passenger Transport) Regulations 1991 to 1995 stated that all road passenger transport operators were required to hold a licence to carry on this activity.

**3.3** The company defined the market place in which it operated as being the Greater Dublin Area, having a population of 1.2 million with a low population density. Population distribution and travel demand patterns were important factors in the provision of bus services. Demand for the company's services was given as 190 million journeys per annum last year. The demand travel patterns varied with daily peak times and also seasonally. The company's network of routes comprised 130 services of various types spread throughout the Greater Dublin Area. Approximately 900 buses operated 32 million miles per annum from six depots. The company listed its competitors as being other modes of transport such as private cars, taxis, DART and suburban rail. There were also a number of competitors within the bus market in certain sectors such as late night services (one other private firm operated here). On one specific route there was a private firm competing directly with Dublin Bus at peak times (Lucan to city centre), and for local link services to Bray DART station. The company had this year (1999) subcontracted specific school runs to private operators. Dublin Bus claimed that it received the least subvention of any public transport company in the industrial world. They provided comparative details for incomes from fares for 14

European cities for the years 1985 and 1993. They also provided similar figures for a number of American cities showing the percentage income from fares and from grants or other sources. They concluded that central or local government in all European countries and the US had policies for the subsidisation of public transport for both economic and social reasons.

**3.4** Dublin Bus also referred to the experience of the deregulated bus market in Britain, outside of the London area, where bus operators competed for the same customers at bus stops on the highway amongst other traffic. They alleged that this practice could be unsafe. They contrasted this with operators in other utilities who could safely and efficiently supply services in a deregulated market without endangering the customer or the environment. The company stated that research on the application of the UK policy over a ten-year period revealed that fares did not reduce as predicted, but increased by 84% following deregulation and competition.[23] Additional capacity was provided in Greater Glasgow and Greater Manchester, but Bus Éireann claimed that the competing bus companies had brought such cities to a standstill and that the `ridership` outside London had fallen by 25%. They also stated that following deregulation there had been an influx of older, second-hand vehicles, which had resulted in a number of operators having their licences endorsed or withdrawn because of safety concerns. They maintained that the deregulated bus market in the UK was now characterised by a small number of large sized operators, where there had previously been more operators. London was exempted from the deregulation of the bus market because the government feared that the capital would be brought to a halt. They maintained that this policy resulted in a financial subsidy being transferred from the maximum benefit of the consumer to the support of a large London transport agency involved with planning, tendering and monitoring the bus network at significant cost. The policy also involved one monopoly operator per route at any one time.

**3.5** The French method was to establish a quality package of public transport with one operator in a given urban area. The authority was responsible for providing the public transport package as part of the transportation plan comprised of dedicated road space in the form of bus corridors, waiting areas with shelter facilities and the provision of real-time, up-to-date information on frequency of services, location of bus and the anticipated arrival time. Bus Átha Cliath maintained that this policy and arrangement minimised the cost of a supervisory agency, unlike London, and the entire available subsidy could be directed to providing maximum customer benefit. The company stated that elements of this policy were being adopted in Dublin and they maintained that it was the symmetry of the entire package that ensured success. With reference to the DTI Strategy Plan for public transport in Dublin, introduced in 1994, the company stated that Dublin Bus was essential to the success of the strategy because it was recognised that the bus was the primary mode which could contribute to easing gridlock and traffic congestion. The plan required the company to increase its

[23] Source: Confederation of Passenger Transport UK 1998.

supply of seats to the customer, and 150 new buses had been introduced by Dublin Bus, in order to achieve this objective. As part of the initiative, a comprehensive review of the network and future travel demands was currently being carried out by C.I.É. and the Dublin Transportation Office, which would identify specific action needed and capital funding requirements for infrastructure and vehicles.

**3.6** Dublin Bus stated that, as a subsidiary company of a semi-state body, its level of subvention and pricing was determined by the government. They claimed that the last general fares increase was in 1991 and that, due to wages and other cost increases, the company had incurred cumulative losses. The company outlined its total revenue for a 12-year period broken down into commercial receipts and State grants. According to figures provided by the company, its total revenue had increased by less than the rate of inflation over the period.

**3.7** Dublin Bus also stated that since 1991, there had been a policy shift in the funding of public transport from Government to the users of the buses. Fares had remained constant in the last eight years despite inflation of 16.6%. They maintained that if the 1987 level of state grants had been continued, the current grant would be double the actual figure received. Public Service Contracts were being negotiated with the Department of Public Enterprise for the operation of the bus fleet in order to bring transparency to socially necessary but uneconomic services provided by the company. In the past eight years the number of passengers had increased by an average of 1.7% per annum.

**3.8** The company also gave an analysis of the breakdown of costs for the years 1987 and 1998 under the headings of staff costs, depreciation, claims provisions, materials and fuels and other. A major area of costs for the company concerned claims arising from vehicle, passenger and employee accidents, reflecting an increasingly litigious society, according to Dublin Bus. Staff costs were the biggest expense and a detailed breakdown of staff numbers into drivers and others was provided by the company showing an increase in the number of drivers as a percentage of the total. Dublin Bus stated that in the 1980's there were insufficient funds available to reinvest in the fleet and this had resulted in a deteriorating fleet with an average age of over 10 years. By 1990, 50% of the fleet was over 12 years old. In 1998, 39% of the fleet was less than five years old. An investment review was completed in 1998 setting out investment needs to 2006, and new vehicles were due to be purchased in the following two years.

**3.9** The company set out the requirements for making an application for a passenger licence to the Department of Public Enterprise. They also set out the barriers to entry to the market, which were largely legislative in nature.

## II Bus Éireann

**3.10** Bus Éireann submitted that there was already extensive competition in the bus passenger travel market, to the extent that it was effectively a deregulated "free for all" with minimal barriers to entry. Bus Éireann's core business was divided into six sectors as follows: Expressway; Eurolines; City; Stage Carriage – Commuter; Stage Carriage – Rural; and School Transport. Along with these main areas, the company undertook a number of ancillary business activities including Day Sightseeing Tours; Private Hire; Special Event Services and Vehicle Testing.

***(a) Services Provided***

**3.11** The company's Expressway sector comprised a core network of almost 50 long-distance inter-urban routes linking cities and towns throughout the country. The number of passengers carried on Expressway services had increased from 2.040 million in 1987 to 5.428 million in 1997, an increase of 166%. Profits and revenue had more than trebled. Expressway services were profitable, and profits were utilised to reduce State support for uneconomic elements of services in other sectors such as city, commuter and rural services. Bus Éireann stated that Expressway was a highly competitive market and was becoming more competitive. They maintained that it was the sector most subject to significant competition from other bus operators through the operation of unlicensed services.

**3.12** The Eurolines services sector encompassed a network of routes linking a number of locations in Ireland with 1500 destinations in Britain and 280 destinations in Europe, through the Eurolines organisation of international coach service operators. The Eurolines service was linked to the Expressway service whereby passengers could link up with the Eurolines service from any part of the Expressway network. The City Services involved local bus networks in Cork, Limerick and Waterford. This sector was loss making. There were also local town services in Dundalk, Athlone and Sligo. Bus Éireann stated that the market was distorted, as statutory controls on fares made it impossible to recover most increases in line with inflation.

**3.13** The Commuter Stage Carriage services sector comprised radial routes within 50km of the five main cities – Cork, Dublin, Galway, Limerick and Waterford.[24] There was some degree of overlap between the commuter and rural services in the hinterland of the cities. The number of passengers carried on Commuter and Rural services combined increased from 12.345m. in 1987 to 12.553m. in 1997, with a peak of 13.156m. achieved in 1994. Bus Éireann attributed the increase to commuter routes rather than rural routes, due to increased demand for travel by workers and third-level students.

[24] For accounting and statistical purposes they are combined with Rural services throughout the rest of the country.

**3.14** The Rural Stage Carriage services sector comprised local routes, generally less than 50kms in length, linking country towns with their rural hinterland or linking a number of these towns and surrounding areas. The underlying trend in usage of these services was one of continuing decline, resulting from increased private car ownership in rural areas or a decline in population. A number of rural routes were introduced in the 1960's to replace branch railway lines, which were closed on economic grounds. Development of further rural services had concentrated on working with local community development organisations to identify opportunities for new services where no comparable bus service existed. This involved matching up local needs and demands with any available spare capacity in the existing rural bus network or locally based school bus fleets. Trial services were introduced on a "one day per week" basis at first. There were now 18 of these experimental routes in operation throughout the country and a few other were planned. Bus Éireann maintained that these services were uneconomic to operate and were justified on a social basis only. The School Bus Transport Scheme, operated and administered on behalf of the Department of Education, was a national transport scheme for primary and post-primary schools under eligibility conditions set by the Department. Over 160,000 children were transported on a daily basis on a network of 5,500 routes to 2,750 schools. The school transport fleet comprised 2,300, of which 700 large buses were owned by Bus Éireann and the remaining 1,600 (mainly minibuses) were contracted by the company from private operators.

***(b) The Market***

**3.15** Bus Éireann stated that the bus passenger travel market comprised a number of operators as follows:

- Bus Éireann
- Operators holding licences for routes who observed the terms of their licences
- Operators holding licences for routes who did not observe the terms of their licences
- Operators who did not hold licences for the routes they were operating
- Operators falling within more than one of the last three categories.

Within the licensed situation, routes were operated by Bus Éireann, by private operators or by both in competition. In the latter case, Bus Éireann could not alter or develop its services without the consent of the Minister for Public Enterprise and the private operators could not do so without a licence amendment. Operators who did not hold route licences could engage in such practices as changing their timetable to run just ahead of another licensed operator so as to capitalise on the business developed by that other operator, or extending a route beyond the licensed route while a competing licensed operator could not respond without infringing the terms of their own licence.

**3.16** An operator who held a Road Passenger Operator's Licence, but did not hold a Route Licence could compete none the less (using either leased or owned vehicles) with licensed operators, subject only to driver and vehicle licensing requirements under general road traffic legislation. Such operators had no formal commitment to the market and could "cherry-pick" the most lucrative sectors of routes without accountability. There were no effective controls over pick-up and set-down points, passenger safety standards, parking and traffic management compliance.

**3.17** Bus Éireann stated that it was operating in a free market providing a comprehensive range of services and was subject to both regulated and unregulated competition from a large number of other operators. The trend in Britain following de-regulation and privatisation had been towards the emergence of a small number of large corporate groups which did not compete directly with one another within the confines of their clearly recognisable de facto operating areas. The British industry experience had demonstrated that economies of scale played a major role in the re-structuring of the industry as it evolved from the 1980's onwards. The trend in recent years in Britain had been for fares to increase above the level of inflation, while passenger numbers continued to decline. The major British bus company groups had now almost reached the limit of their expansion within the confines of the local market there. Further expansion was occurring through acquisition of transport companies in Europe, Australia and the US, thus transforming them into multinational transport conglomerates operating in a global market.

*(c)* ***Vehicles***

**3.18** In 1996 there were 5,535 vehicles licensed as Large Public Service Vehicles, which were defined as passenger carrying vehicles with eight or more seats. Of this total, 721 were owned by Bus Éireann and 902 were owned by Bus Átha Cliath (Dublin Bus), leaving a balance of 3,912 owned by private sector operators. According to Bus Éireann, in terms of relative fleet size, the private sector fleet was 5.4 times the size of the Bus Éireann fleet or 2.4 times the combined fleets of Bus Éireann and Bus Átha Cliath.

*(d)* ***Fares***

**3.19** The fares charged by Bus Éireann were controlled by the Minister for Public Enterprise in terms of the maximum fares that could be charged. Fare control applied to adult single journey fares on all categories of service and also to school child fares on city services. The company maintained that this constraint on its commercial freedom distorted the market for passenger travel in urban areas. It stated that the fares for school children, fixed at an artificially low level by the government, inflated the demand for peak period travel on Bus Éireann scheduled services. These low fares also encouraged travel by children to schools outside their designated school catchment area. As all school travel occurred at peak period times, additional resources had to be deployed to cater for this extra demand. The high cost of such peak deployment set against the low level of revenues meant that the company had no prospect of earning a realistic rate of return on investment in these additional resources. Another example of market distortion occurred when government approval was withheld for fare increases for reasons of political expediency. The company claimed that it had had no general fares increase since 1991. Maximum adult fares were increased in 1994. When fare increases were eventually sanctioned, the higher level of increase required to restore financial balance resulted in customer resistance and loss of business to competing transport modes, principally the private car. It was not Bus Éireann's policy to initiate "price wars" on routes subject to competition. Competitors' invariably "cherry-picked" routes with high demand and attracted business by undercutting Bus Éireann. Price was only one factor in passenger demand: quality, convenience, value for money and journey time were also important.

*(e)* ***Schemes***

**3.20** In order to encourage long-distance travel and to maximise the benefits to customers, "through fares" and tickets were offered between all locations on the inter-urban coach services, and also between that network and principal local routes. As a result, passengers making longer journeys benefited from the convenience of a single transaction at the start of the journey. Holders of Free Travel Permits issued by the Department of Social, Community and Family Affairs travelled free of charge on all scheduled services on the Bus Éireann network, subject to some local restrictions during peak periods on city and suburban services. Bus Éireann received a bulk payment for this facility, based on the results of periodic travel surveys and a substantial discount on normal fares. The company stated that it incurred substantial overhead costs in providing service information for customers both at local and national level. Most requirements for information were of a local nature and were route-specific, and so were best serviced at local depots and offices.

*(f)* ***The Future***

**3.21** Bus Éireann stated that, in line with the growth in the bus travel market since the company was established in 1987, it had provided facilities for passengers at major terminal locations on the network. At all main locations, demand outstripped capacity because of the increased number of people travelling. The company maintained that a higher level of investment in this area was required to provide sufficient capacity and maintain standards. Other operators had greater flexibility and incurred lower costs. Bus Éireann stated that the bus travel market was highly competitive and would become even more competitive in the future.

Any change in the legislative régime governing the industry should seek to impose on all operators the same standards and enforcement measures.

## III Iarnród Éireann

**3.22** Iarnród Éireann in its submission described the history of rail transportation in Ireland. In 1924 the Railways Act was passed, establishing the Great Southern Railway Company (GSR), which was an amalgamation of 26 railway companies in the State. Pressure was put on the government, by the company, to protect the railway from continuing competition from bus and truck operators, and this resulted in the passing of the Road Transport Acts which prohibited scheduled passenger services except under licence from the government. In 1944, the GSR was merged with the Dublin United Transport Company to form C.I.É. with control over rail, bus and road freight within the State. C.I.É. had an obligation to break even commercially while having to provide uneconomic public services. This had resulted in the closure of many branch lines and minimal investment in infrastructure and rolling stock. Iarnród Éireann submitted, therefore, that the railway network had suffered because of the lack of investment. Furthermore the Green Paper of 1985 had stated that there was to be no new investment in rolling stock.

**3.23** Iarnród Éireann stated that significant investment was now required in the company. Steps were now being taken with the assistance of EU funding and the recently approved Railway Safety Investment Programme. Furthermore, at European level, concern about the declining market share of railways had led to the introduction of measures to make railways more commercial. The main focus was to improve the financial situation of the railways, to institute formal contracts for services operated and to introduce competitive tendering. A number of EU Directives had been transposed into Irish Law and the company was currently negotiating public service contracts for the services it provided. A Customer Charter was also being introduced.

### *(a)* ***The Company***

**3.24** Iarnród Éireann is a subsidiary of C.I.É., but operates separately from the rest of the Group, except for capital borrowings and competition issues, both of which are handled by C.I.É. itself. The Chairman and Directors of Iarnród Éireann are appointed by the Chairman of C.I.É. with the consent of the Minister for Public Enterprise. The number of directors, including the Chairman, is limited to six. A majority of the directors of Iarnród Éireann and Bus Éireann must be common to both companies and two of the directors must be members of the board of C.I.É. appointed under the Worker Participation (State Enterprises) Act 1977.

*(b)* ***Activities***

**3.25** Iarnród Éireann is the sole railway operator in the Republic of Ireland. It jointly operates the cross-border Enterprise passenger service together with Northern Ireland Railways. The company also operates all rail freight services, both in the Republic and to Belfast. Iarnród Éireann's network covers 1,900 route kilometres and 2,800 track kilometres. The company employs almost 5,000 people and in 1998 carried 32.15 million passengers, of which 9.83 million were on mainline services and 22.32 million were on DART and outer suburban services. With regard to its performance over the ten- year period from 1988 to 1998, there had been an increase in the number of passengers using its services. Between 1988 and 1998, passenger journeys on mainline and other services had increased from 7.34m. to 9.83m. - an increase of almost 34%. The Bray/ Howth suburban services (DART) had increased from 16.06m. in 1988 to 19.76m. in 1998, an increase of 23%. There had been an increase also in other Dublin Suburban Services from 2.08m. in 1988 to 2.56m. in 1998, an increase of 23%. In contrast, the rail freight services had decreased from 3.01 in 1988 to 2.8 in 1998, a decrease of about 7%.

*(c)* ***Performance***

**3.26** Iarnród Éireann stated that its performance compared favourably with most European railways. Passenger traffic here was growing at a much faster rate than on other railways. The percentage of its costs recovered through revenues was high by European standards and the per capita support from the State was low compared to the others. The submission referred to a survey of railway productivity and efficiency carried out by the Journal of Transport Economics and Policy in January 1999, which found that productivity growth for Irish railways was far in excess of that for other systems. Iarnród Éireann's productivity had increased by 7.9% per annum between 1973 and 1983 while Belgian Railways' increased by 1%, Canadian Railways' by 3.1% and U.S. Railways' by 2.11% per annum. During the same period, OECD railways as a whole had shown productivity growth of 1.03% per annum. In a comparison of 13 European countries showing the percentage of cost recovered through revenues, Ireland was ranked as second highest with 74%, behind Finland with just over 80%. The other 11 countries ranged from Sweden with 50% recovered down to Luxembourg with 27%. [No data was included for Britain on the chart.] Another similar comparison was given for the same countries for `Support per Capita` for 1997. Ireland was ranked 9th out of 14 countries. Three countries received very high support (Switzerland, Austria and Luxembourg); excluding these three, Ireland was placed at roughly the mid point of the remaining 11 countries. The State grants, payable to the company through C.I.É., were in accordance with the relevant EU regulations governing State aid to transport undertakings.

*(d)* ***Public Service Obligations***

**3.27** The concept of public service obligations was being withdrawn under current EU directives, to be replaced by Public Service Contracts. The Public Service Contracts would be linked to specific service levels and specified performance standards. Penalties would be applied if the specified performance standards were not achieved. Three separate contracts were envisioned for (a) InterCity services, (b) suburban services and (c) railway infrastructure.

*(e)* ***Capital Investment***

**3.28** The company stated that, following decades of under-investment, the railway network in Ireland was in a very poor state at the beginning of the 1990's. The average age of the locomotive fleet was 30 years and the bulk of the track-work was old jointed track. The position was now changing, due to a change in government policy and with the assistance of EU grant aid. Some tracks had already been upgraded and the remainder of the InterCity routes were either in the process of being up-graded or would be in the near future. Computerised CTC signalling was currently being extended to most radial routes in the country, replacing the old mechanical signalling which was costly to maintain.

*(f)* ***Competition and Regulation***

**3.29** The company stated that, while it was the sole operator of rail services in the country, it faced intense competition in all its markets from private cars, private trucks and buses. In the road freight market, a substantial proportion of tonnes was carried within specified regions and could be classed as urban haulage. The railway market was predominantly in the 150+ km length of haul, and in this market the rail share was 25% of tonne km carried and 49% of tonnes carried. In the passenger market the overall share for railway was 22%, based on MRBI research on the total travel market on the main inter-urban corridors.

**3.30** The European Commission proposed a directive in 1991 with the aim of developing the railways. The directive (Council Directive 91/440), which came into effect in 1993, specified that all rail transport services must be managed independently from the State under commercial principles and furthermore, with accounts related to infrastructure management and transport operations kept separately. It also specified that international railway groupings must be granted access to rail infrastructure in their states of origin as well as transit rights to other member state railways. The directive was transposed into Irish law by way of Statutory Instrument (No. 204 of 1996). One element of this directive, relating to the separation of accounting for infrastructure from operations, had been implemented by Iarnród Éireann and since 1995, the annual accounts had identified the cost of maintaining its infrastructure separately.

**3.31** Two further directives were introduced in 1995 establishing provisions for the licensing of railway undertakings (Directive 95/18) and the allocation of infrastructure capacity and charging of fees (Directive 95/19). The first directive (95/18) required each country to set up an agency independent of the national railway company to provide operating licences on a non-discriminatory basis to eligible operators.[25] The second directive (95/19) also required the establishment of an agency responsible for the allocation of capacity based on market principles and according priority to public transport and services for which infrastructure is constructed or upgraded. The infrastructure manager would also be responsible for setting access charges covering costs and a reasonable return on capital, and the allocating body must be notified of the rates. Directive 95/18 had been transposed into Irish law under S.I. no. 238 of 1999. Directive 95/19 was due to be transposed into law by means of an S.I. shortly. To date no application to run services in accordance with the directives had been received. Iarnród Éireann stated that the factors contributing to this included Ireland's geographic isolation, the limited cross border opportunities, the different gauge and the relatively small market in Ireland.

**3.32** Iarnród Éireann cited a recent study undertaken for the European Commission (Prognos, 1998). The consultants had examined the implementation and impact of Directive 91/440 on the Community's railways. Some of the main findings of the study were as follows:

(a) *Separation of infrastructure from operations*
In most cases, infrastructure had so far simply been placed in a separate division of the national rail company; only in Sweden and Britain was it vested with a totally separate organisation.

(b) *Franchising out some or all passenger operations*
Franchising had been adopted for some local and regional services in Sweden and Germany, but only Britain had so far adopted this for all passenger services, including main lines.

(c) *Degree of open access for other operators to provide competing services over the same infrastructure.*

**3.33** There was open access for freight in a number of countries, including Britain, Germany and the Netherlands, and for certain international operations, which were required by the EU, but entry so far had been very limited. In Britain, as in most countries, open access for passenger services was currently not permitted. However, it might be introduced in 2002.

**3.34** Britain offered a number of unique features, including privatisation of the infrastructure, extensive subcontracting and an independent rail regulator. Most

[25] Eligibility was based on the ability to meet actual and financial obligations for one year, provide adequate staffing and rolling stock (including traction and maintenance) and have appropriate insurance.

other European countries had retained ownership of the infrastructure in public hands. The control of the infrastructure in Britain by a private company might bring private sector disciplines and innovation to the sector as well as opening up access to the capital markets. As infrastructure was now a private sector monopoly, prices and investment needed tight regulation. There was some contracting out of services in most countries, such as maintenance of rolling stock and infrastructure and leasing, but in Britain there was a comprehensive policy of subcontracting the supply, maintenance and renewal of rolling stock and infrastructure to the private sector.

**3.35** Britain was the only country with an independent rail regulator. For instance, in Germany the national rail company set the charges for its competitors to use its infrastructure with no control other than the political process. In Britain, the rail system had been split into over 100 firms and organisations, most of which were in the private sector. 25 train operating companies had entered the market replacing British Rail. Prior to the privatisation, the level of subsidy paid to British Rail in 1993/4 had been £1.1bn. Following privatisation and the new methods for charging for the use of infrastructure and rolling stock, the subsidy had increased to £2bn. in 1994/5 with most of this being paid to train operating companies under the franchise agreements. The level of subsidy was targeted to decline to 0 .926m. in 2002/3.

**3.36** Iarnród Éireann stated that, in the UK post-privatisation, train operating companies had been criticised for failing to deliver the promised service standards. Punctuality had fallen on 45 of the 77 routes and improved on 29 routes, but these figures would have been worse if the companies had not availed of the right to exclude days where performance was exceptionally bad, totalling 390 void days in 1998 by the companies. A report by the Central Users' Consultative Committee stated that the number of serious delays had increased by 22% between March 1998 and March 1999 and the number of complaints concerning reliability, punctuality and overcrowding, to the various committees had increased by 29%. The report blamed both the train operating companies and Railtrack for the delays. Following numerous complaints from rail users, the government introduced tougher performance standards and warned that franchises would be taken away if standards did not improve.

**3.37** Out of the total number of privatised franchises allocated, three quarters had gone to bus companies. Both passenger and freight sectors had seen considerable consolidation. In 1994, the Rail Regulator, with guidance from the Secretary of State, had decided that on-rail competition between passenger operators should be moderated for the period of the initial franchises. There was also concern that the new entrants would target the most profitable flows, and that the cross-subsidies inherent in the packaging of services into franchises would be unwound, increasing the subsidy payments required to maintain the remaining loss-making services.

**3.38** Franchisees had almost exclusive rights to run trains in their franchise area. When new entrants wanted to operate competing services, the incumbent had first call on available track access slots. The network was capacity limited and the most profitable parts were mainly operating at full capacity. It was submitted that if franchises were re-let, the process would differ because the main potential bidders would probably be the existing franchise holders. Furthermore, it might not be in the franchisee's interest to bid for a rival company's franchise as this could lead to a counter bid when its own franchise came up. Iarnród Éireann maintained that it might not be in the regulator's interest for an existing franchise owner to win any more franchises.

**3.39** Iarnród Éireann stated that the European Commission was considering further directives to complement the existing ones and a number of amendments were being considered. The first concerned the allocation of capacity and the possibility of having a completely independent authority in this role. Amendments were also being proposed to the charging mechanisms. The second concerned the separation of accounts, and proposed that the degrees of separation should be even stronger and should extend to balance sheets. The third amendment related to extending the rights of access beyond international services to national services. Iarnród Éireann stated that many countries were opposed to their adoption. In the Irish context the main concerns were that the changes should not impose excessive or unnecessary administrative burdens.

## IV Last Passive Limited, t/a Aircoach

**3.40** Last Passive Ltd, which operates an independent coach service called "Aircoach", stated that they had been trying to enter the road passenger transport business as a new entrant in 1999. They had identified a niche market, namely the provision of a high quality coach service with Dublin Airport as its hub, and they planned to provide an integrated network of services, initially in the Dublin area and, subsequently, expanding outside Dublin. They outlined the steps required for a new entrant to gain entry to the market and their own experiences of this system. Firstly, two licences were required to operate a road passenger transport business, namely (i) a Community licence (formerly a Road Transport Operator's licence), which authorised the licence holder to run a road passenger transport business, and (ii) a Route licence, which permitted the licensee to operate on specified routes. They stated that they had encountered various restrictions and delays in their attempts to obtain the necessary licences from the Department of Public Enterprise to establish a bus service not previously provided by Bus Átha Cliath or any other operator. When they initially contacted the Department, they were not informed that there was a blanket ban on granting licences for new routes in Dublin. The company felt that it could comply with the requirements outlined in the application forms and that its business plan would succeed, and therefore had committed itself to an investment of £600,000 for the first three coaches. They did eventually obtain this licence from the Department.

**3.41** The company had then submitted new applications for routes outside of Dublin, totalling 23 in all, but again were informed that they would not be allowed to set down or pick up passengers in Dublin. They had received one licence for the Mullingar to Dublin Airport route via the M50, but this did not allow them any stops in the Dublin area. The company maintained that this affected their potential commercial viability.

## V The Director of Traffic, Dublin Corporation

**3.42** The Director of Traffic, on behalf of Dublin Corporation, stated that the major transportation challenge facing the Dublin region was to achieve significant modal change by providing attractive alternatives to private car commuting. In the short to medium term, the bus service was seen as offering the best prospect of progress in this area. The Director maintained that, to ensure that the bus service was in a position to meet the challenge and to cater adequately for prospective passenger demand, a series of issues needed to be addressed. In particular, the on-street priority measures currently being implemented as part of the QBC network had to be complemented by a range of bus service enhancements. These included a major expansion in bus capacity to meet the expected growth in peak time passenger demand, to improve service frequencies and to reduce average waiting times. In addition, there was a need for a general up-grading of the bus fleet, an improvement in early morning and late night services, improvements in ticketing arrangements, the provision of real time passenger information at bus stops, a radical overhaul of the bus route network with more emphasis on cross city services, and better interchange arrangements.

### *(a)* ***Subvention***

**3.43** The Director also stated that the level of public finance subvention must be adequate to ensure that individual services and service levels which were not commercial, but which yielded significant social benefits or which were important from a wider transport policy perspective, would be provided. The issue of the optimal market structure to deliver the required improvements in bus services in the Dublin area needed to be considered.

**3.44** Dublin Corporation was primarily interested in the issue of entry barriers that impacted on scheduled public bus services currently provided in the Greater Dublin Area by Bus Átha Cliath and to a lesser extent, the scheduled services from the outer Dublin area provided by Bus Éireann. Entry barriers to the rail market were not of direct concern to them. However, the submission pointed out that the significant entry gains, which would result from allowing private operators to run rail services, could reduce the need for rail subsidy and facilitate a re-allocation of the current public transport subsidy in favour of Bus Átha Cliath.

***(b) Regulation for Consumers, not Providers***

**3.45** The Director stated that the granting of or refusal to grant `passenger service licences` by the Minister for Public Enterprise had, in practice, operated to ensure that Bus Átha Cliath and Bus Éireann had a near monopoly on scheduled bus service provision in the Greater Dublin Area. He argued that, in the exercise of its regulatory powers, the Department had exhibited symptoms of `regulatory capture', as it often seemed that its primary concern was protecting Bus Átha Cliath/Bus Éireann and their employees rather than advancing the interests of consumers (i.e. current and prospective bus passengers).

*(c)* ***Benefits of Competition***

**3.46** The Director of Traffic maintained that there were no strong economic arguments for preserving the effective monopoly that Bus Átha Cliath /Bus Éireann enjoyed in providing scheduled suburban bus services. The provision of suburban bus services did not constitute a natural monopoly where significant economies of scale existed that needed to be exploited. The benefits of service integration and co-ordination associated with a monopoly could be maintained with multiple service providers. He maintained that, on the contrary, it seemed clear that in the absence of the current route licensing restrictions, the suburban bus market would be highly contestable, i.e. the sunk and fixed costs of market entry were relatively low and there would be significant interest by private firms in entering the market.

**3.47** The Director of Traffic stated that the introduction of competition could be expected to generate benefits to consumers as the gains resulting from increased efficiency were passed on in the form of lower fares and/or improved services. In addition, the involvement of private firms and a more competitive market would stimulate innovation in the provision and development of bus services and provide an additional source of external capital funding. He did acknowledge that Bus Átha Cliath had made progress in improving the bus service in recent years, but believed that the involvement of private operators as a consequence of the liberalisation of the current entry restrictions would accelerate the pace of progress.

*(d)* ***Public Subsidy***

**3.48** The Director of Traffic maintained that there was a very strong case for public subsidy for the suburban bus service. The transport sector was recognised as an imperfect market because road based private and goods vehicles did not pay the full price of the social costs they inflicted in urban areas, such as congestion, accidents and adverse environmental impacts. Support to public transport was seen as one way of balancing the equation. However, he considered that it was difficult to secure this support if there was a perception that public transport subsidy was dissipated by inefficiency and low productivity and captured by the employees of the bus operator rather than customers. It might be easier to secure the necessary level of public transport subsidy in a competitive market when operators had to compete for the available subsidy. He stated that a significant degree of public regulatory intervention would continue to be required in the suburban bus market in areas such as safety, network and service planning, the provision of service information and the subsidisation of unprofitable services. Safeguards would have to be built in to reduce instability associated with the new market arrangements and to ensure that investment levels were not reduced.

**3.49** The Director of Traffic considered that it would be essential in any move towards market liberalisation that the current level of integration and co-ordination in the provision of scheduled bus services across the network should be retained or even improved and that services which were non commercial, but which were desirable for social or other reasons, continue to be provided. The latter could be achieved by making the public subvention available for all operators. In any market liberalisation, provision would have to be made for the operation of integrated ticketing across all operators and the publication of common timetables, etc. It would also be necessary to ensure that some level of network/service planning was done centrally. He maintained that work needed to be done on determining the optimal market structure to replace the current system. At this stage, Dublin Corporation favoured a move towards a competitive tendering system on a corridor-by-corridor basis with the emphasis on service enhancement and maintaining the benefits of service integration/co-ordination. There would be significant costs associated with changing the current market arrangements and operating/regulating a market with a number of operators, but the benefits for consumers would greatly exceed the costs.

**3.50** The Director of Traffic also submitted a report dated 11 May 1999 entitled “Urban Bus Deregulation: A Review of the UK Experience” by Ms. Anne Nolan of Department of Economics, T.C.D.

## VI Mr. Bernard Allan

**3.51** Mr. Bernard Allan is Assistant Honorary Secretary of the Eastern Section, Chartered Institute of Transport in Ireland. He is a member of the Irish Railway Record Society and of the National Federation of Bus Users (U.K.). He made his submission in an individual capacity.

**3.52** Mr. Allan submitted that bus and rail services in Ireland were not realising their full potential. He felt that legislative change was required urgently. This legislative change had to foster co-operation between all parties, to ensure that competition was fair to all and to ensure that a first class bus and rail network which would be a source of considerable civic pride was available throughout the country.

**3.53** He felt that Irish Rail should remain the sole operator of rail services on the national rail network, as fragmentation of it might not hold significant advantages for passengers. However, he favoured the establishment of partnerships between Irish Rail and local concerns, to increase the level of service.

**3.54** He was in favour of the establishment of a National Transport Authority which, while independent, should report periodically to the Department of Public Enterprise. This Authority's remit would include bus and rail services and ferry services to offshore islands as appropriate. Functions of the Authority could include: -

- licensing of operators
- encouraging co-operation between operators (e.g. inter-availability of tickets between operators, integration of services etc.)
- complaints/appeals from members of the public; schemes/incentives to develop rural bus services
- an ongoing strategy for actively promoting bus and rail services
- schemes to significantly improve the quality and level of customer information available
- schemes to facilitate mobility-impaired bus and rail users
- the provision of public transport guides on a county-by-county basis (including bus, train and ferry timetables and a map showing routes served).

**3.55** Mr. Allan believed that, in order to encourage more people to use public transport, clear information needed to be available from a wide number of outlets. He suggested that one way of doing this would be for a section of the Transport Authority to provide a nationwide, impartial information service for all bus, rail and ferry services via the internet, teletext, a telephone enquiry bureau and a nationwide timetable.

In conclusion he felt that any legislative changes should consider: -

- the good passenger-staff relations that existed on many routes;
- monetary assistance to private operators to run rural services in their areas;
- allowing private bus operators use bus stations and bus lanes and making sure that bus stops displayed timetable information relating to all operators.

## VII Mr. Patrick Burke (of Burke's Coaches)

**3.56** Mr. Burke described Burke's Coaches as a family business founded in 1967. It was originally set up to cater for the large number of students travelling to school when free primary and secondary education were introduced in Ireland. He stated that the business had diversified and expanded over the years to meet the changing needs of the community.

**3.57** Mr. Burke submitted that it was necessary to update the licensing legislation in relation to transport. He suggested that there were two possible choices for consideration when updating the legislation:

- complete liberalisation, which, he felt, might not be ideal; and
- an independent licensing system which, if operated by an impartial body, would provide for more competition in the market on a fair and equal basis.

**3.58** Mr. Burke pointed out that, under the 1932 Road Transport Act, the Department of Public Enterprise in considering an application for a passenger licence was obliged to take account of the level of service available to the public on or near the route in question. Mr. Burke submitted that the private sector could meet many of the transport needs of the public and that an element of competition must be introduced to provide the Irish people with an efficient, flexible and economical transport service.

**3.59** In conclusion Mr. Burke felt that competition would only provide a transport service for all the people of Ireland if C.I.É. was not subsidised as it was at present. His company had had success on a minor route in Galway on which C.I.É. would not operate and he believed that this success could be repeated right around the country if the opportunity were available.

## VIII City Link

**3.60** City Link is a private coach company based in Galway. It has one route operator's licence for a particular route but had been trying without success to acquire licences to operate Bus Services on all long distance routes for some time. It operated on a Club Membership basis.

**3.61** As City Link was not licensed it was unable to claim a 'Fuel Duty Rebate' on the fuel used and could not participate in the 'Free Travel Pass' scheme. City Link felt this was very unfair as they were trying to compete with C.I.É. who, they considered, got large state funding every year.

**3.62** They also alleged that Bus Éireann only provided a quality service when they had strong competition and were intent on putting the private operators out of business irrespective of cost.

## IX The Consumers' Association of Ireland (CAI)

**3.63** The CAI submitted that, as a result of population increase in major Irish cities and a successful tourism industry, heavy demands had been placed on public transport, which had not been resolved. The cost of housing in Dublin was sending more people into lower-cost neighbouring counties. Without an efficient, convenient and consumer-friendly transport system, this would put even more pressure on the roads.

**3.64** The CAI felt that the Irish rail system needed to be modernised and developed. Passenger safety had to be a priority. Tracks, bridges and the signalling systems needed to be inspected and updated regularly. The Dart was a quick form of transport but it had some drawbacks. Longer trains were required on busy periods, and the problem of crime needed to be tackled. The lack of a public address system to inform passengers of the arrival of trains should be addressed.

**3.65** An assessment and analysis of consumer needs for buses was required region by region. There should be open competition for buses, private bus operators should be subsidised to operate special school buses and also "limited direction" IMP buses to, for example, shopping centres, which would take the pressure off the regular buses for people going to work

**3.66** The quality bus lanes were a good idea which, given time, should reduce the number of car users on the road. The implementation of 'Park and Ride' should pedestrianise the city centre except for single deck buses, the C.I.É. IMP buses, taxis and hackneys.

**3.67** There was need for an increase in the number of "wheelchair-friendly" buses and care needed to be given to the location of bicycle lanes as some took space from the footpath.

**3.68** The introduction of highway police and cameras to patrol major highways was a necessity, as was the need to restrict the movement of heavy traffic through residential areas during peak hours.

**3.69** In conclusion, the organisation felt that it would be important for employees of bus companies and the railroad to attend regular courses on Safety and Risk Management which could be updated to fit new situations.

## X Drumcondra 2005

**3.70** Drumcondra 2005 is a ten-year project to help shape the future of Drumcondra and its associated districts. The organisers include a number of residents' associations from the area.

**3.71** In their submission dated 26 August 1999, Drumcondra 2005 stated that the bus and rail transport services within the Dublin area needed to be more effective and efficient. They suggested three measures, which they regarded as essential for improving the transportation of passengers in the city:-

*Integrated ticketing* – This is a system whereby one single ticket must be usable throughout a single journey regardless of how many different methods of transport are used or who operates each service. Ideally, one ticket should cover the entire journey, regardless of how many changes one made during the journey.

*Real-time Stop-Based Information* – All operators of public transport services must provide timely information at each stop on the estimated time of arrival of the next service, and how much room there is on each vehicle for picking up passengers.

*Twenty-four hour Operations* – Existing operators and new entrants should run services on a 24-hour basis

**3.72** In conclusion they stated that they were working to enhance their district. They saw traffic as the major environmental nuisance in the city and supported any measures which reduced this problem. They stated that, in 1996, a government-funded, EU-prompted study had found that a City Centre-Drumcondra-Ballymun LRT line had more trip attractors/generators per route kilometre than lines to Tallaght and Dundrum. In subsequent correspondence, Drumcondra 2005 indicated that if submissions were invited now, they would be in a position to make an even stronger, better-researched case to support their views.

## XI Dublin Transportation Office

**3.73** The role of the DTO is to co-ordinate and monitor the implementation of the DTI transportation strategy, which was adopted by Government in 1995 as the transportation policy for the Greater Dublin Area. It is also required to update the strategy at regular intervals and to provide advice to Government on transportation and related issues from time to time.

**3.74** The DTO submitted that, in the present economic climate with a large increase in cars on our roads, it was necessary to provide a comprehensive integrated public transport system as a viable and attractive alternative. This network of services should be planned, operated and marketed as a single entity.

**3.75** In relation to bus services they suggested that the key features of this network should include: -

- Networks, both local and longer distance, of services, which interchange with other modes of transport so as to provide a diverse pattern of movement.
- Direct high frequency bus services along Quality Bus Corridors
- Adequate room to cater for expansion
- Matched frequencies on strategic links in the network
- Feeder services to both rail and LRT services
- Stylish, comfortable, environmentally friendly buses
- High standards of customer service training provided to staff
- High quality shelters at key stops with lighting, seating, up to date information and telephones

**3.76** They also submitted that improvements were required to the rail /LRT system including:

- Extension of DART and expansion of the system capacity (increased fleet, longer platforms at stations allowing the operation of longer trains, improved signalling systems etc.)
- Expansion and development of the suburban rail network
- Development of a light rail network
- Upgrading of existing stations, development of interchange facilities, particularly on-street between LRT and bus, and rail-based Park and Ride
- Rail / LRT link to the Airport
- City centre penetration and distribution by rail / LRT / metro

**3.77** DTO submitted that the levels of capital investment and start-up costs, together with current legislation, inhibited significant private sector involvement in the bus transport sector. They felt that the full de-regulation of public transport would not provide the type and quality of public transport required for the Dublin area. They did not favour competition on individual routes, as this would lead to cherry-picking, make integration more difficult, and cost the State more in revenue support for non-commercial routes. They suggested that franchising might be more appropriate, and that this could be done by the establishment of an independent regulatory authority. This regulatory mechanism would ensure that a fair and equal, properly-integrated, sustainable transport service, which focused on the needs of the customer, was available to all.

## XII Eirebus

**3.78** Eirebus is a private coach operator established in 1971. Eirebus stated that they had been refused licences for passenger road services, on routes where a clear need for such services had been independently established (e.g. by DTO and Docklands Reports).

**3.79** They submitted that the 1932 Road Passengers Act was anti-competitive and unfair. According to this legislation, a passenger licence was required to carry on a passenger road service. Bus Éireann and Dublin Bus were exempted. The Department of Public Enterprise, when looking at new applications, must have regard to the level of existing services on or in the neighbourhood of the routes in question. The Department had issued guidelines which stated that its policy was to refuse an application where the route sought was similar to an existing C.I.É. bus or rail service unless it could be shown that the proposed service met a demand not already satisfied by existing services. It appeared to be Department policy to refuse all applications in the Dublin area on the grounds that Dublin Bus was providing an adequate existing service. This resulted in Dublin Bus being free to open new routes as they wished, but private operators were not allowed access to existing routes or to new routes within the Dublin area.

**3.80** Structural Fund Grants were allocated for purchase of buses for use on QBC Routes. Eirebus were told that they could not apply for Structural Fund grants as they did not have passenger licence for particular routes - but their licence applications had all been refused.

**3.81** Eirebus suggested that Road Passenger Transport Regulation could be improved by:

- (i) Making Bus Éireann and Dublin Bus apply for licences for new routes on the same basis as everyone else.
- (ii) Giving Dublin Bus licences for routes operated by them before a certain date.
- (iii) Reviewing all new routes commenced by Dublin Bus or Bus Éireann since this date.
- (iv) Permitting competition on main interurban routes and on certain urban routes by allowing second operators
- (v) Providing private operators with the same access as state companies to grants and state aids.
- (vi) Opening bus stations to private operators. Bus Aras and other Bus stations should be put into ownership of a new company and all operators would book their times of usage and pay an appropriate fee.
- (vii) Facilitating inter- ticketing arrangements
- (viii) Providing access to traffic management systems such as real time displays to all operators

(ix) Not giving preferential treatment in licence applications to existing illegal operators
(x) Establishing an independent licensing authority which would deal with licensing applications
(xi) Allowing private operators to apply for licences on QBC routes where an increase in passenger demand was expected

## XIII European Transport & Telematics Systems Ltd

**3.82** ETTS is a small transport consultancy company operating in Ireland. In its submission dated 30 August, 1999 it stated that a review of restrictions and barriers alone was insufficient, as it failed to understand either the interests of the stakeholders, or the fundamental reasons for the framework that existed.

### *(a) Stakeholders and their interests*

**3.83** Any framework represented a balance of the interests of a range of stakeholders. Whether the framework worked fairly and effectively depended on whether the interests of all of the stakeholders were reasonably represented, and whether there were reviews and mechanisms for redress.

### *(b) Reasons for Regulation*

**3.84** ETTS submitted that there were many competing, and occasionally conflicting, interests within the passenger transport sector. However, it was the function of the policy-makers to resolve these potential conflicts and to provide the framework within which the regulators could provide a coherent transportation service to the public. Regulation existed to ensure that policy items such as safety, competence, stability, protection, financing, market development and partnering were adhered to.

### *(c) Forms of Regulation*

**3.85** ETTS identified a large number of different models of regulation in operation in various parts of Europe: monopoly, strict regulation (open), strict regulation (protective), liberalisation, route franchising, area franchising, deregulation, and "respectful competition". It cited the results of the EU research project ISOTOPE[26] which studied the regulatory frameworks for urban passenger transport within Europe and identified whether there was a 'best' model. ISOTOPE concluded that the most appropriate model for European cities was one with the following characteristics:

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[26] ISOTOPE report: Improved Structure and Organisation for Transport Operations in Europe: Research and Technological Development Programme of the European Community. Available on http://www.tis.proj/isotope.html. For a summary of results, see http://www. Europa.eu.int/comm/transport/extra/res-isotope.html/

- Separation of the planning and operating functions
- Integrated planning of the passenger transport services
- Procurement of services through competitive tendering
- Award of routes on a medium-term franchise basis with subsequent re-tendering
- Franchises based on service quality, with penalty/bonus elements, and termination options
- Subsidy to be channelled through the service contracts, not on a global basis

***(d) Situation and experience in Ireland***

**3.86** ETTS felt that the Irish situation was unique because of the multiple rôles of the Department of Public Enterprise as policy maker, licensing authority, manager of subsidy, owner of the dominant operator, and arbiter of capital grants. This situation was conducive to protectionism and anti-competitive practices.

**3.87** ETTS outlined the main significant characteristics from the regulatory and licensing viewpoint of bus services in Dublin, of inter-city and regional bus services, and of local and rural bus services. It stated that the lack of competition in the provision of these services was seen as a serious barrier both to efficiency and to motivation, which in turn minimised the benefit to the customer.

**3.88** In addition to the transportation impacts, lack of competition represented a systematic exclusion of competent operators from participating in the market and this was contrary to the principles of the EU.

***(e) Suggested form of Regulation for Ireland***

**3.89** ETTS contended that there were three distinct market segments for bus passenger transport in Ireland, and that each needed its own approach to regulation. They suggested that in relation to bus services in Dublin and Cork: -

- Local government would become the Transportation Authority for its area, taking over responsibility for passenger transport service
- Local government would be the Licensing Authority for all urban transport services operating within their area
- Financial support for passenger service would be channelled through the Transportation Authority which would determine an overall transportation budget for its area
- The Transportation Authority would plan an integrated passenger transport network and support services
- Planned services would be offered on the basis of medium-term franchises, based on service quality contracts, and with motivations for the operator to maximise customer value

- All subsidy would be serviced through the service contracts, with no block subsidy to individual operators
- Depending on the market viability of the route, bidders would either seek a subsidy amount, or offer a royalty amount for the route franchise
- Service quality would be monitored by the Transport Authority, with an increasing scale of corrective requirements and penalties, which would ultimately lead to franchise termination
- Operators could propose to the Transportation Authority the provision of innovative services

**3.90** In relation to Inter-City and Regional bus services ETTS proposed two possible scenarios for service provision: market-led and integrated. The market-led scenario assumed that the market would provide the needed services and that there was no need for heavy-handed regulatory control.

- The Department of Public Enterprise would continue to be the licensing authority.
- As in any other industry sector, the Competition Authority would monitor anti-competitive practices.
- There would be free entry to the market, with registration of routes.
- Operators could combine their services to offer an improved service to the customer
- There would be no need for subsidisation because the sector was profitable
- Free travel scheme, if continued, would be equally accessible to all operators
- The Department of Public Enterprise could choose to facilitate higher order services such as traveller information

**3.91** The integrated service provision scenario assumed regulation to maximise integration and network effects across the national transport fleet, regardless of ownership:

- The Department of Public Enterprise would continue to be the licensing authority, would plan the service and would establish a specific agency with responsibility to operate bus terminals, integrated ticketing and booking, traveller information and passenger and operator support services.
- The Department of Public Enterprise would use a tendering process to establish the service.
- Routes with high potential interest to operators could be offered as more than one lot, so that more than one operator could provide service on the route, according to a percentage of service supply, or specific departures
- The agency, on behalf of the licensing authority, would monitor predatory behaviour, with penalties for offenders.
- Franchises would be operated on the basis of service quality contracts.

- The franchised services would represent the core network
- Operators would still have the freedom to apply for licences for other routes that were not covered by, or extractive from, the core network
- All franchises and licences would be of fixed duration, preferably on a rolling cycle
- All activities, including those of the licensing authority and the services agency, could be examined by the Competition Authority

**3.92** The suggested form of regulation of local and rural bus services involved the following:

- Local government would become the Transportation Authority for its area
- It would be the licensing authority for all local passenger transport services operating entirely within their area and it would determine an overall transportation budget for its area
- Transport services would be planned by the Transportation Authority, or alternatively by an active and responsible community group. Where possible, operators would be motivated to initiate services, and these might be supported and/or promoted by the Authority and the community.
- The Transport Authority would provide higher-order services support including publicity and passenger information
- Services planned by the Authority or the community would be offered on the basis of short or medium-term franchises, based on service quality contracts, and with incentives for the operator to maximise customer value
- All subsidy would be channelled through the service contracts, with no block subsidy to individual operators
- The Transport Authority would monitor service quality, with an escalating scale of corrective requirements and penalties, ultimately leading to franchise termination
- Operators could propose to the Transportation Authority to provide innovative services. Where these are clearly non-extractive from the planned services, the Transportation Authority could issue licences, and ultimately incorporate the services within the network.
- The Transport Authority would examine the viability of establishing a Travel Dispatch Centre to co-ordinate and support demand-responsive passenger transport services.

***(f) Conclusion***

**3.93** In conclusion, the suggested regulatory and supporting institutional changes would be expected to have three main effects: -

a) Improvement of supply, quality, efficiency and innovation in the passenger transport services offered to the end-user
b) Improvement in value-for-money to the funding agencies

c) Opening of the transport market to all competent entities through the creation of a “level playing field”

## XIV Nestor Bus

**3.94** Nestor Bus Limited is a company which was incorporated in 1985 for the principal purpose of carrying passengers by bus. It has provided bus services for passengers who are willing to become members of a club and who pay per journey.

**3.95** The company stated that it had applied to the Minister for Public Enterprise for passenger licences under the Road Transport Act, 1932 in respect of bus routes between Galway and Dublin and Dublin Airport. The general policy had been to refuse an application for a licence where there was an existing C.I.É. service or a service by a licensed operator, unless it could be shown that the proposed service would meet a need not being met by the existing service. Nestor Bus had been licensed on rare occasions for certain limited routes which were not operated by Bus Éireann, and for one or two days at Christmas time.

**3.96** The advantages of a licence were diesel rebates, access to bus stops and bus lanes, payments for providing free travel to those entitled to it, and enhanced ability to promote and market their services. Nestor submitted that C.I.É. was in a dominant position in the provision of transport services for passengers, and that it did not provide access to essential centres. (e.g. accommodation for buses of competitors to Bus Éireann at train stations) or information about competitors' services. Competitors could not gain access to the market information available to Bus Éireann and Iarnród Éireann.

**3.97** In conclusion Nestor Bus felt that, if it were given the advantages outlined above, it was quite confident that fares would be further reduced and it would be in a better position to provide the facilities which were required in order to provide dynamic competition.

## XV Mr. Joseph Walker

**3.98** Mr. Walker, writing in an individual capacity, submitted that if public transport, whether nationalised or otherwise, were to fulfil its proper function in the community, it must be run with the convenience of the passenger as its first priority.

**3.99** He suggested that there were some regulations, which must be accepted before a licence could be granted to any operator, and these regulations must apply equally to all. He felt that all existing bus services in the city should be put out to tender and all applicants could apply for their operation equally.

In Dublin city and other major urban areas he advocated: -

(1) The setting up of a statutory controlling authority, which would publish a comprehensive timetable of all the services being provided by all the operators. This would include departure and arrival times of their company's services, a map of their routes, and also a fare schedule. Any changes in timetable would be published in the National newspapers.
(2) Heavy financial penalties be imposed when advertised services were not provided.
(3) Penalties be imposed when buses leave their termini before departure times
(4) Provision of clearly designated bus stops with time schedules of each route serving that stop. These times must indicate the expected time of arrival at each relevant stop.
(5) In the event of a scheduled bus not running, or running late, operators must provide some form of real-time information at each stop
(6) All bus routes be given a route number. The route number and destination must be clearly displayed both front and rear
(7) All operators must agree to through ticketing and complete interchangeability for all routes.

**3.100** In relation to other provincial areas Mr. Walker felt that broadly the same regulations should apply here as in the urban areas. The timetables should be simple and easily understood as obtaining information was currently very difficult. Bus Éireann timetables were confusing and other operators were not permitted to advertise their services.

**3.101** As regards rail transport Mr. Walker felt it was unclear what was the best way to improve this service. However, he did feel that we should learn a lesson from the changes which were made to the transport system in Britain during the 1980's.

**3.102** In conclusion Mr. Walker said that if people were to use public transport, the barriers and restrictions faced by potential passengers must be removed, so that a strictly controlled, frequent, reliable and fully integrated, interconnecting service was provided which passengers would be happy to use.

## XVI The Department of Public Enterprise

**3.103** The Department of Public Enterprise submitted that Córas Iompair Éireann and its subsidiaries were regulated in accordance with the Transport Acts. All private sector bus operators and the C.I.É. companies had to have a Road Passenger Transport Operator's Licence. Provided all the criteria were met there were no quantitative restrictions on the number of operator licences which could be issued.

They provided a summary of the provisions of national and EU transport legislation

**3.104** Licence applications were examined by this Department using the following guidelines:-

- Under the 1932 Road Transport Act the Department had to have regard for the existing passenger transport available to the public on or in the neighbourhood of the route in question. The Department's policy, therefore, was to refuse an application for a licence where the route sought was similar to an existing C.I.É. bus or rail service or to an existing licensed service provided by another operator unless it could be shown that the proposed service met a demand not already satisfied by existing services.
- A 'one operator per route' policy was applied unless there was evidence that the original licensed operator did not have the vehicle capacity to meet current passenger demand
- Applications were considered on a first-come-first served basis
- The Department was always open to applications for routes, which were not directly served by the C.I.É. companies or private operators. These routes could include 'feeder service', 'orbital services' and radial services, with certain limitations.

***(a) Exchequer funding for Public Transport***

**3.105** The Department provided an annual subvention to C.I.É. to support the provision of non-commercial, socially necessary public transport services. It did not provide financial support for any of the private operators.

**3.106** C.I.É. (through Bus Éireann) operated the school transport service on a contractual basis on behalf of the Dept. of Education and Science. A large number of private bus operators were sub-contracted to Bus Éireann to provide certain school transport services. These services did not require licences.

**3.107** The Department of Social, Community and Family Affairs operated free travel schemes for various segments of the population by contractual arrangement with C.I.É..

**3.108** Bus Éireann subcontracted private operators to provide certain of its scheduled services. Bus Átha Cliath had recently begun sub-contracting school bus services to private operators. These services did not require licences since they were provided on behalf of C.I.É. companies.

**3.109** C.I.É. and the holders of licences under the 1932 Act were entitled to a rebate on the amount of excise duty charged on diesel fuel used in their services. This rebate was also available to private bus operators who worked under contract to C.I.É..

***(b) Review of Bus Licensing Legislation and issues for consideration***

**3.110** The Department of Public Enterprise stated that there was a broad consensus that the Act needed to be replaced by modern legislation. The Department had commenced preliminary work on a review of the 1932 Act, which was to focus on improving customer service, effective enforcement, fair competition and appropriate integration of services. They recommended that the Competition Authority consider the following issues in its study:

- the ongoing requirement for substantial State financial support for rail services;
- the existence (and benefits to consumers) of substantial de-facto competition on inter-city bus routes, generally from private operators which had not sought or received licences under the 1932 Act and many of which claimed to be operating “travel clubs”;
- the existence of a range of policy options, including complete deregulation and various forms of regulated competition such as franchising;
- the existence of different markets for bus services which might require different regulatory solutions;
- how State funding should be determined and how it should be allocated;
- whether certain services, such as the provision of transport in connection with local, social, and recreational events, needed to be regulated at all (at least as regards route licensing);
- how regulation should be funded;
- whether it was desirable and feasible through the regulatory system to create a level playing field for all operators;
- whether independent regulation would be appropriate in the public transport area.

***( c) Investment in Public Transport***

**3.111** A very substantial public transport investment programme was planned under the National Development Plan 2000 – 2006 which would focus on three main areas:

- a significant mainline rail investment programme covering safety and renewal;
- a major investment in public transport in the Greater Dublin Area, covering the introduction of light rail, very substantial development of both the bus and suburban rail networks, and the implementation of a range of integration measures (integrated ticketing, park and ride, etc.);
- a regional public transport investment programme, especially in the cities and larger urban areas and with a special focus on the bus network.

The main objectives of the programme would be:

- to remedy the effects of past under-investment through the renewal of infrastructure and facilities;
- to provide for a major improvement in public transport in large urban areas so as to make it an attractive alternative to private car commuting and thereby help effectively tackle congestion;
- to improve the quantity and quality of the public transport product.

**3.112** A public private partnership (PPP) approach to the provision of certain appropriate public transport infrastructure and services was planned. The Dublin light rail system had been identified by the Government as a pilot PPP project. The Minister for Public Enterprise had published a consultancy study, which proposed a PPP involvement in both the construction and operation of LUAS. Interested parties were being consulted and proposals were to be brought to Government. The role of PPP in the suburban rail development programme was also to be considered.

### XVII Coach Tourism Council

**3.113** The Coach Tourism Council (CTC) represents the private coach operators based within the Republic of Ireland. The CTC stated that its members managed small, medium and large concerns and invested their own resources and expertise in the development of those concerns. They competed with each other and with the state carrier in the market place. They had a common desire to see stability within the market and the development of that market place in a modern and ordered manner. They supported the need for an integrated public transport infrastructure in the state and felt that the existing transport services required de-regulation and liberalisation

**3.114** The submission described the evolution of the road passenger transport market. It examined in more detail the structure of the Irish bus market. Since the foundation of the State successive Irish Governments had supported the role of public transport through the state-owned transport companies. The CIÉ group had largely provided the public transport services in this country. In 1998, four hundred and three annual scheduled route licences had been allocated within the country to private operators under the terms of the legislation. The bulk of these licences entailed the provision of local rural services whose average length was approximately thirty miles.

**3.115** CTC felt that these licences were not as generous as they appeared, as they were in most cases severely restricted in their conditions of operation. They also felt that the issuance of these licences could not be interpreted as providing an alternative to the state carrier, but rather as a deliberate means of interpreting the terms of the legislation so as to facilitate the state carrier. In many instances, the conditions attached to the licences issued to private sector on an inter-town/city basis made the provision of the service uneconomic and illogical.

**3.116** Due to the dispersed nature of the population along some routes, the operator was entitled to a fuel rebate, which was a contribution by the State to the operator for the provision of the service. The estimated costs of the fuel rebate to the state was £750,000 - £900,000 per annum whilst the estimated cost of 'Free Travel' recovered by the private sector bus operators from the Department of Social Welfare was estimated at £750,000 - £1million per annum. This was the sole means of direct state funding to private bus operators.

**3.117** According to CTC, in 1998/99 the Department of Social Welfare allocated £32.63 million to provide the 'free travel' service and in 1999/2000 it allocated £34.5 million. CTC felt that the 'free travel' service constituted a further form of subsidy to the national carrier to the detriment of the private operator (approx £33.4 million in 1999/2000).

**3.118** The submission examined two sectors of the Irish road passenger market: - rural services and Dublin City services. In relation to rural services, CTC stated that bus passengers consisted mainly of younger travellers and older passengers who were in receipt of 'Free Travel'. The balance of passenger numbers was made up of casual travellers who used the bus for a variety of domestic and social reasons. The growth of third-level education had led to a large increase in private-sector student travel. By contrast, CTC submitted, in the state sector, in spite of substantial investment by Bus Éireann and a State subsidy of almost £1 billion, the numbers of Inter City/town passengers remained relatively constant. In 1981 44 million passenger journeys were taken and by 1993 this had increased to 45 million passenger journeys. It was estimated that 15% of the total passenger traffic on inter-city and rural services was provided by private sector coach operators. Increased community distances, especially around Dublin had also resulted in an increased demand for public transport.

**3.119** CTC stated that Bus Éireann did not provide a sufficiently frequent service to rural areas not served by a large town or centre of population and that this was having a detrimental effect on the quality of life within the rural areas of the West, North-West, South-West and Midlands in particular.

**3.120** The 'Club Travel' service was set up to enable the private sector to meet a service need that was created by the student market in rural Ireland. These week-end services during the 1970s and 1980s were such a success that the service was in many cases extended to operating on a daily basis. The lack of access to route licences posed a difficulty for the private sector in continuing to develop this area of the market. The scope of operation for private sector travel clubs was also limited because they were not allowed to avail of either the fuel rebate scheme and or the 'free travel' to social welfare recipients.

**3.121** The expansion of rural towns, particularly in the eastern area of the country, had led to the demand for the provision of in-town local services. Eleven in-town route licences had been issued to private sector carriers and they were operating successfully. These services were provided at no cost to the taxpayer and improved the social infrastructure and environment of the towns in which they were located. However, the terms of the licences issued were restrictive and did not allow the operators to expand these services quickly in response to the changing needs within those towns and their immediate hinterlands. The CTC felt it was essential that the provision of licensed transport services be incorporated into the projected development of urban centres in rural Ireland.

***(a) Inter-City Public Transport***

**3.122** The private sector had concentrated on providing inter-city and inter-urban services using the "club travel" hire and reward clause of the 1932 Act as a result of the inability to secure scheduled route licenses. This created an alternative national transport service, with Dublin and the other major cities as centres within the private sector network. This network depended on an informal network of shops, agents and direct selling to customers in order to obtain information relating to timetables, pick-up and set-down points along the route. Publishing a national timetable, using any recognised Bus Éireann bus stop which added to traffic build-up (particularly in Dublin), and accessing any central bus station within the Dublin city or any other central depot in urban Ireland were prohibited. Until 1998 only Bus Éireann and Bus Átha Cliath were allowed to use the bus lanes in Dublin. CTC stated that as 4,000 – 9,000 passengers were travelling into Dublin on private travel per day the legislation was being circumvented but, as the needs of the travelling public were not being serviced properly, a blind eye was being cast by the Department of Public Enterprise on the situation.

*(b) Greater Dublin and Dublin City Services*

**3.123** CTC felt that Bus Átha Cliath were not providing an efficient, value-for-money service. Their services were not catering for the changing demographic trends and the huge industrial development which had taken place in some parts of the city. Bus routes remained based on a "club" system with few orbital routes.

**3.124** They believed that a more cost-effective approach to the provision of city services could lead to a substantial reduction of state subvention in the long term for the delivery of a public passenger service within the larger population centres. They suggested the development of a Partnership with the State, which would provide a public transport service within the Dublin area. The development of new routes and the enhancement of existing routes could be provided by the private sector without the need for state investment in the capital cost of bus passenger equipment, though investment in the rail and LRT network would be still required.

***(c) Competition in the Irish Road Passenger Market***

**3.125** Without the extension of scheduled route licences to the private sector operator, CTC believed that it would not be possible for the private sector to provide a sustainable and credible alternative national or regional integrated network of public transport to Bus Éireann Where such competition existed, passenger costs were reduced, e.g. Tralee-Dublin = £19.50 (sole provider, Bus Éireann) whilst on the Dublin-Galway route (private sector plus Bus Éireann) a weekend return ticket cost £10. Similar patterns of fare differences could be found on other routes where competition between public and private operators existed, but not where the national carrier was the sole provider of service. It was evident that, where competition existed, passenger cost declined and the frequency of service improved.

**3.126** CTC suggested that the State carrier could not provide the existing services at the reduced cost along routes where it must compete without either the provision of the annual state subsidy or cross-subsidisation from other routes. However, the private operator who provided services without the benefit of a route licence and did not receive any form of State subsidy had to compete and carry all costs as well as making a return on the investment made in vehicles, and capital employed. The private operator who operated on a ‘hire and reward’ or club travels basis could not avail of the ‘free travel’ scheme for pensioners. CTC felt that this promoted the position of the State carrier as the principal provider of social passenger services within the country.

**3.127** CTC stated that the school bus transport service had been managed and directed by Bus Éireann. As Bus Éireann had not been able to provide the complete service itself, it had contracted out the bulk of the service to private operators. However, the contract fees paid to the private operators had only increased by 3% since 1985 which resulted in the deterioration in the level of service. These fees were in marked contrast to those paid to CIÉ by the Department of Education for the provision of this service. CTC believed that the provision (including the management) of the School Bus Transport Service should be opened to public tender on a regional basis. Tenders would be awarded by the Department of Education by using such criteria as price, reliability, capability of delivery, quality of vehicles etc. This would provide a better quality, more cost effective service

**3.128** In conclusion CTC felt that the private sector was very committed to the development of the public passenger market in Ireland in spite of the restrictive conditions under which they operated. In the period 1994-1998 Bus Éireann invested £24 million in the purchase of new vehicles, while the private sector invested £18 million. This represented an average investment per licensed operator of nearly five times that of the state sector.

**3.129** CTC stated that Government policy supported the provision of bus transport services by the state sector. There appeared to be no transparent system for the evaluation of route licence applications. Whilst an appeal could be made to the District Court for a review of the decision to refuse a license application, this had not been done for fear of victimisation on future applications. CTC suggested that an independent appeals process be established as they felt that the absence of a transparent appeal process breached the rules of natural justice.

CTC made the following recommendations for the development of bus passenger services:

(i) The updating of the legislation
(ii) The establishment of an Independent Licensing Authority
(iii) That licenses be issued to private operators operating scheduled services under the club travel provisions of the 1932 Act consistently for the past five years who have applied for scheduled route licenses during that period
(iv) Those route licences should have a life of five years instead of one year and there should be a facility to evaluate operator performance.
(v) A greater number of scheduled route licences be issued for in-town and inter-urban services.
(vi) A greater number of staged route licences be issued in the Greater Dublin Region.
(vii) The introduction of a transparent Appeals process.
(viii) Removal of licence where operator failed to comply with the terms of the license
(ix) Threat to Irish operators from non Irish passenger operators posed by recent changes in EU legislation be examined in the context of restrictive nature of existing Irish legislation.

**3.130** A letter in support of the CTC's submission was received from Mr. Paddy Kavanagh of Bernard Kavanagh & Sons Ltd., an approved coach tour operator and member of the CTC.

## XVIII Irish Business and Employers' Confederation (IBEC)

**3.131** The Competition Council of IBEC believed that the study should take account of a number of issues including the current infrastructural deficit and the huge pressure on the existing transport system to cope with increasing demand. Facts to be considered should include quality, safety, service levels, capacity, frequency, public service, integration of transport modes, access and competition.

# CHAPTER 4

## QUESTIONNAIRE RESULTS

**4.1** As part of its research, the Competition Authority sent questionnaires to a number of private-sector bus operating companies about their experiences in the market, on the understanding that details of information supplied would not be disclosed to third parties, although an aggregate of the information might be used. The questionnaire covered details of route service licences, travel club operations and other services. A copy of the questionnaire is given in Annex II. The Authority would like to thank all those who returned completed questionnaires.

### I Route Service Licences

**4.2** The total number of questionnaires completed was 29. Three of these were not taken account of in compiling statistics drawn from the questionnaires, because of internal inconsistencies in the responses. Of the remaining 26, nine companies indicated that they had made a total of 61 applications for a Route Service Licence between them. The remaining 17 had not applied for route service licences, in one case indicating that this was because the respondent knew he would not get one.

**4.3** Of the 61 applications made for route service licences, 27 had been refused, 31 granted and 3 were still awaiting a decision. The average time delay in respect of applications pending a decision varied widely, from 14 days up to 2 years. The 9 companies claimed to hold a total of 28[27] licences between them. Of these 28, three-quarters (21 licences) were for rural services, six were for urban services and one was for inter-city. Where reasons for the refusal of a licence were given, they all related to the adequacy of services already on the route (e.g. “No need for extra services”, “Other bus operator operating services on the route”, “Service good enough”, “Overlap with existing ‘adequate’ service”, “Service already in existence”, “Other operator” and “Other buses on route”).

**4.4** Respondents were asked whether, when they had been granted a licence, a State-owned company had then entered the market for that particular route. Three respondents answered “yes” to this question. They were also asked whether, when they had been refused a licence, a State-owned company had then entered the market for that particular route. Two respondents indicated that it had. A third

[27] It is assumed that the discrepancy between this figure and the 31 licences granted is accounted for by the fact that some licences may have lapsed.

replied that the incumbent had increased the number of services when the respondent made the licence application, and subsequently curtailed them.

## II Travel Club Services

**4.5** The questionnaire also asked companies how many services they operated by way of “travel club” arrangements. Only two respondents indicated that they provided such services. This reticence may have been occasioned by doubts as to the legal status of such services. The two companies which did respond positively indicated that they provided a total of four such services, all rural.

## III Other Services

**4.6** Companies were asked about the other types of services they provided. These included school services, private hire, health services, industrial/work transport and airport shuttle services. Companies indicated that demand for private hire services arose from tourism, sporting events, entertainment (e.g. Bingo), religious events and educational trips.

**4.7** School services were regarded as an important element of being able to provide rural services. One respondent pointed out that they allowed for most of the vehicle/organisational capital charge, they allowed for expansion into/co-ordination with scheduled services for a future deregulated environment and they represented one of the few areas of freedom to operate today. Another, commenting on the provision of private services to city schools from rural areas, stated that without these services there would be no way for some children to get to school without parents having to give up work or get a second car. A third pointed out that the provision of a door-to-door service was very important to parents’ peace of mind.

**4.8** Other respondents variously expressed the views that school transport provision did not get any recognition by comparison to all others working in the education system, and that it was important that smaller operators could do smaller runs to smaller schools. Two respondents held the view that the rates of pay for school bus services needed to be increased, in order to pay for a higher standard of bus. One felt that school bus services were only viable if paid for by government, as otherwise people objected to the cost.

**4.9** A repeated concern voiced by a number of respondents concerned the Department of Education’s contracting out to Bus Éireann of a *de facto* regulatory function in the school bus service. The main focus of dissatisfaction was the fact that the entire service was contracted by the Department of Education to Bus Éireann and sub-contracted (to some degree) to private operators. This dual regulatory and commercial function which Bus Éireann was said to enjoy was criticized as giving rise to a conflict of interest which resulted in a restriction of competitors' access to the market.

**4.10** Examples were given of how Bus Éireann had allegedly used this combination of activities to restrict the supply of services. One respondent described the administration and tendering of school transport services as "diabolical. To our cost we have found that competing against the establishment means we have not been offered any school work." Another respondent claimed that "… as we operate a service to [ ] Bus Éireann will not give us any contracts. We have applied on 4 occasions." A third submitted that "In the operation of rural bus services it is very difficult to operate profitably without revenue from school transport. I would suggest that a review of this scheme take place, because at the moment school transport services is a 'closed shop'."

**4.11** Two operators objected to Bus Éireann's apparent veto on private bus drivers over 65 years old. One of the two pointed out that the State would licence drivers above that age, and the private bus company's own insurance company would insure them. The other stated that he did not understand what Bus Éireann's problem was, as it was his insurance at stake, not theirs. Another operator accused Bus Éireann of reserving the best roads for their own buses on school routes, and allocating only the worst roads to the private sector.

**4.12** Statistically, eleven out of the twenty-nine respondents provided private services to schools. The estimated number of children carried per operator varied between 200 and 9, with an average of 64. The total number of children carried was 704. Four of the twenty-nine carried people to health services weekly. The estimated number carried varied from 90 to 19, with an average of 51 and a total of 204. Eight companies carried an estimated total of 3,664 workers weekly, and average of 458. The highest number of workers carried in a week was 2,000 and the lowest was 2. Four operators carried free travel pass holders weekly. The total estimated number carried was 1,050. The number carried per operator varied from 800 to 50. The average was 262.5. The following table sums up the firms' estimated figures for these services on a weekly basis:

| Service | No. firms replying "Y" | Estimated total no. carried | Highest number carried | Lowest number carried | Average number carried |
|---|---|---|---|---|---|
| **School (private)** | 11 | 704 | 200 | 9 | 64 |
| **Health services** | 4 | 204 | 90 | 19 | 51 |
| **Workers** | 8 | 3,664 | 2,000 | 2 | 458 |
| **Free travel** | 4 | 1,050 | 262.5 | 800 | 50 |

**4.13** Respondents estimated the total number of passengers they carried per annum at 1,419,800 (based on responses from 15 companies). This represents an average of 94,653 per bus operator. The highest estimated number carried per annum was 650,000 and the lowest was 6,000. Twenty-six respondents provided information about the approximate number of bus miles they operated per annum. The total was 3,553,000, an average of 136,600 bus miles. The highest response was one million bus miles and the lowest was one thousand. Respondents were also asked the approximate cost per bus mile for their company. Twenty-one companies provided estimates, ranging from £1.50 to 20p. As the costs were clearly dependent on the type of buses used, there is no point in providing an average figure.

**4.14** The questionnaire asked bus companies to estimate (where relevant) the cost to their business, regardless of the type of service they provided, of not qualifying for the fuel rebate. Fourteen companies replied. Their estimates of the cost ranged from £100 to £90,000. The total estimated cost was £402,200 and the average was £28,728. One company added that they were glad of the support [from the fuel rebate] as it made the difference between break-even and profits.

## IV Other comments

**4.15** One operator criticised the cabotage rules in operation, which prevented him from picking up or setting down passengers in Northern Ireland while passing through on regular services.

**4.16** Another (a company engaged 90% in school work sub-contracted to Bus Éireann and 10% in private hire) claimed that there were too many buses in his area. In thirty years in the business he had never known prices so cheap, while the cost of buses and other operating expenses had soared. He claimed that there were too many “cowboys” in the bus business. His private hire work had gone from being very busy to being very quiet.

**4.17** An operator running a scheduled service accused Bus Éireann of “unfair competition” in varying their prices depending on whether the private operator ran before or after them on the route. They claimed that, if the private operator ran before Bus Éireann, then Bus Éireann charged full price, but that if the situation were reversed, Bus Éireann only charged half price.

**4.18** One operator proposed that all routes should be open to private competition and that school services should be run by the Department of Education, rather than by Bus Éireann as at present.

**4.19** Another operator stated that there should be grants for new buses, zero VAT for bus operators, more money for rural transport, money for operators who set up new services, grants for drivers to be trained and more flexibility in the industry for bus and coach operators. Another stated that Bus Éireann should not be subsidised to the extent that they are. A third proposed that there should be a retirement scheme for bus operators, like the farmers, and that they should be able to sell their plates, like taxi drivers. A fourth claimed that people did not want to pay for transport; they could get lifts, etc., as many people had cars nowadays.

# CHAPTER 5

## REGULATORY MODELS IN THE PUBLIC TRANSPORT SECTOR[28]

### I Introduction

**5.1** The traditional solution by governments to problems inherent in the public transport sector was to create a state-owned monopoly provider of the services. However dissatisfaction with such solutions has now led to attempts to increase private sector participation in a bid to improve the efficiency of the public transport sector. Governments worldwide are now turning to service delivery mechanisms that improve public performance through the introduction of competition, albeit at various levels. One approach to increasing private participation is through a franchising system. In other cases, countries have opted for full deregulation of certain public transport markets. This chapter seeks to explore some of the merits and drawbacks of the different regulatory models in the public transport sector.

### II Regulation

**5.2** Regulatory intervention is often justified by a situation in which the market, left to its own devices, would not yield the desirable social outcome. Regulation may include control of monopoly power, but also address environmental, safety, public health and other concerns.

**5.3** Governments have historically regulated public utilities extensively. The rationale for government intervention was often to correct for market failures[29] (see paragraph 5.11, below). In Ireland the government's response to the natural monopoly aspect of public utilities was often to extend the monopoly into the upstream and downstream markets, thereby establishing vertically integrated monopoly public utility operators. Public ownership was justified on the grounds that it enabled the government to pursue the objective of welfare maximisation and gave government the ability to control prices. This pattern was common in many European countries. In contrast, in the United States, private ownership of such industries was the norm. Regulatory controls were used to deal with the potential for abuse of market power, due to the natural monopoly elements of the industries.

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[28] Main sources: OECD Conference on Competition and Regulation in Network Infrastructure Industries, OECD/GD(96);
Franchise Auctions in Network Infrastructure Industries, OECD/DAFFE/CLP (95);
Railways: Structure, Regulation and Competition Policy , OECD/DAFFE/CLP (98)

[29] Examples of market failures include market power, information asymmetries or externalities

**5.4** Natural monopolies exist in markets where a single provider can supply the whole market at a lower cost than two or more providers. This situation is typical for economic activities that entail large investment and high fixed costs but decreasing costs of producing an additional unit of services to match an increase of demand. Natural monopolies tend to exhibit large up-front fixed investment requirements which make it difficult for a new company, lacking comparable economies of scale, to enter the market and undercut the incumbent. In natural monopolies, regulation focuses primarily on the production of the socially desirable level of services at economic prices, in particular by limiting the opportunities for the public service provider to collect monopoly rents. Where the sector as a whole is monopolistic, price control is often the key instrument. Where one or more segments of the sector are monopolistic and the rest competitive, special attention may need to be given to overseeing access by competitors to the monopolistic segments.

**5.5** Despite their negative economic effects, statutory monopolies and other regulatory barriers have sometimes been maintained in the absence of natural monopoly conditions. One of the reasons cited for retaining state monopolies is that they may be used to foster certain policy objectives, such as ensuring the provision of services in certain regions or to certain categories of consumers at a low price or even below cost. Examples of services for which the price may not cover costs include discounted transport for certain categories of travellers (e.g. school children, senior citizens), as well as other services for low-income or rural users. A monopolistic service provider, it is argued, is able to finance the provision of such services through internal cross-subsidies from other profitable services provided in other regions or to other categories of consumers.

**5.6** Arguments of this type have been advanced in favour of restricting competition in the Irish transport sector. It has been frequently argued that, without restrictions on competition, new entrants would engage in cream-skimming and leave the loss-making uneconomic routes. However, such evidence as is available would indicate the opposite is true in Ireland. Existing licensed private bus operators, which are mainly small, operate largely on remote rural routes in which CIÉ has chosen not to operate. This indicates that private operators are willing and able to operate, presumably at a profit, routes which have been rejected by the dominant operator, rather than the other way around. In addition, the experience of a number of countries has shown that cross-subsidies may be costly and poorly targeted; furthermore, they are usually not transparent and bypass the normal budget allocation mechanisms, allowing the funding of expenditures that may otherwise not pass public scrutiny. The trend is towards direct, transparent subsidies in exchange for a specified level of service, rather than hidden cross-subsidies.

**5.7** Regulation may create distortions which may be larger than the market failures it was supposed to address. The Irish transport sector has been fraught with instances of regulatory interventions that were not always in the public interest.

In many areas regulation was designed to favour particular activities (e.g. railways over road). In others it was designed to foster and protect state owned monopolies or particular interest groups. In some cases the state used such industries to reduce unemployment, thereby creating overstaffing in the sector.

**5.8** Public utilities have now undergone considerable regulatory reform in many jurisdictions. Reform has typically been in the form of increased competition through more liberal entry. In some cases new technologies have made the old regulatory regime untenable. Rapid technological progress has challenged the economic fundamentals of many former natural monopolies. The paradigm for utility regulation has changed dramatically. Where once regulated or state owned monopolies dominated because of the view that most utilities were natural monopolies, there is now a growing consensus that competition can perform a broader and more effective role.

**5.9** Changes have been driven at EU level, requiring member states to "ring-fence" certain core natural-monopolistic activities, while opening up all other services to competition. In the transport sector, increasingly, a distinction is made between transport infrastructure and transport services. The former may often have natural monopoly characteristics, whereas services are generally competitive.

**5.10** The shift toward greater private participation and competition has been accompanied and strengthened by a shift to less intrusive regulation of public service providers (whether State owned or private entities). Realizing that short-term political pressures often led to regulatory interventions that were not always in the public interest, many Governments have limited their level of discretion and have opted for autonomous and independent regulatory mechanisms less exposed to political pressures.

## III Franchising Models

**5.11** The introduction of the full rigours of competition in markets can sometimes lead to problems in the presence of market power, externalities or information problems. Market power exists where one firm is effectively able to ignore the actions of its competitors and influence market prices by varying its output. Externalities occur when the production of a good or the delivery of a service has a result which does not affect the producer itself, but does have a positive or negative effect on others. A positive externality is a result which benefits society, but in such a way that the producer cannot fully profit from the gains made. A negative externality is a result which costs the producer nothing, but is costly to society in general. Information problems arise where one party has information that another has not, and this asymmetry results in a level of trade which is sub-optimal.

**5.12** In these circumstances there may be an argument for franchising, rather than simple liberalisation of entry. An example of this in the transport sector might be where competition in bus services would lead to needless pollution and congestion and a lack of service integration. Another example is in railways where complete liberalisation of the operation of services might lead to scheduling problems or inefficiency in the duplication of rolling stock.

**5.13** The idea of the exclusive franchise is quite common in the transport industry. It involves asking firms to bid for an exclusive right to supply, and then accepting either the lowest price (in the case of a subsidy requirement), or, in the case of profit-making routes, the highest payment to the regulator, and holding the supplier to that price. Franchising, as the term is understood in the transport industry, is an arrangement whereby firms tender for the right to undertake certain activities under conditions of limited competition. While the aim of commercial franchising is normally the maximisation of profit, governmental franchising is typically distinguished by a different "public" purpose. The aim of the franchisor will often not be to maximise profits but to benefit consumers or the public, for example by franchising a firm to provide an efficiently produced and competitively priced public utility service. Franchising in transport may also be a means of introducing the discipline of competition without losing the potential benefits of network integration.

**5.14** Franchising can push a market towards being perfectly contestable. [30] A new entrant does not face the usual risks associated with entering a market with a dominant incumbent. By winning the franchise competition, the new entrant can take on that part of the market immediately rather than trying to battle for market share with an incumbent. In addition there is no scope for predatory retaliation by the incumbent. The efficiency advantages of franchising should also help in moderating the behaviour of an incumbent.

## III (a) Service Specification Levels

**5.15** For a franchise scheme to work well, it is important that the franchise contract be specified simply and completely. If the franchisor fails to specify the subject matter of the bid with precision, then uncertainties will result, the costs of bidding will increase, and applicants will be discouraged.

**5.16** In the transport sector, service level specifications might include frequency and capacity, service availability, stations served, and journey time. Some complications may be anticipated, in sectors where specifications must provide for high levels of co-ordination between different participants in providing the service. It is also important for service specification not to be over prescriptive as this may discourage innovation after the award of the franchise.

**5.17** Where service specification involves the making of judgements by the franchisor, the advantages of franchising may be called into question. A supposed strength of

[30] Contestability theory asserts that the threat of entry from potential competitors is sufficient to constrain market power.

franchising lies in its ability to enable private sector providers to be the judges of consumer and market preferences. Insofar as service specification involves the making of judgements by franchise authorities, and insofar as the franchise authority selects the best menu of services for the consumer, this advantage of franchising diminishes and franchising approximates to a system of regulation.

## III (b) Types of Franchising

### *(i) Horizontal versus Vertical Franchises*

**5.18** Franchises may be used to divide industries vertically so that separate operations are made of infrastructure, services, operation etc. (e.g. separating track and train operations). Franchises might also be used for horizontal separation, with each franchise serving a particular area.

### *(ii) Operating Franchises*

**5.19** In this type of franchise the franchisor (e.g. government-appointed body, local authority etc.) is responsible for investment and maintenance of the infrastructure, while the franchisee bears the operating cost risk and some of the revenue risk. Operating contracts can provide an adequate franchising solution when it is more appropriate for the franchisor to carry the associated investment risk, or when the economies associated with the infrastructure diverge from those associated with its operation. This is frequently the case with utility networks, where the natural monopoly component is the infrastructure (and possibly also its operation) while down stream operations (providing services) involve fewer scale economies.

### *(iii) Investment Franchises*

**5.20** In this type of franchise, the franchisee assumes some or all of the responsibility for the investment and maintenance of the infrastructure, as well as the operating cost risk and the revenue risk. Investment franchises exacerbate the consequences of demand side risk on the franchisee because debt repayments are independent of revenue. However, they also lessen the “free-riding” incentives that tend to exist with operating contracts. This is because the investment franchise assigns a higher level of "ownership" of the facilities to the operator. Putting aside for the moment asset valuation problems which arise at the end of a contract period, investment and maintenance expenditure should be more efficient in investment than in operating franchises, since both the *decision* to invest and the *incentive* to invest reside with the same party.

**5.21** Problems arise, however, because in many cases "ownership" of the facilities only lasts as long as the franchise contract, with ownership reverting to the franchisor at the end of that period. As the end of the contract period approaches, the franchisee's incentive to invest declines. Investment in infrastructure is therefore likely to be cyclical, rising during the early years of a franchise, and declining as the contract period comes closer to its end.

***(iv) Gross Cost versus Net Cost franchising***

**5.22** Franchise contracts may be either gross cost or net cost contracts. Under gross cost contracts, operators take no revenue risk but receive (or pay) a fixed income from (or to) the relevant authority. Under this arrangement, all fare revenues are transferred to the franchisor. Under net cost contracts, the operators take both the revenue and cost risk.

**5.23** With gross cost schemes the operator has an incentive to reduce operating costs, since by doing so his profits would be increased, but has no incentive to provide a service which attracts more passengers. The operator has no incentive to collect all fares or to pass all fare revenue onto the authority. Therefore it is important to have an effective monitoring régime in place to eliminate the potential for this type of behaviour.

**5.24** Under a net cost franchising system, operators are given an incentive to operate a high quality service at low cost, thereby increasing fare revenues. This incentive should reduce the need for extensive monitoring on the part of the authority. However, where franchisees bear revenue risks, and revenue has to be divided between different operators, technical difficulties may arise. In many transport systems an impediment to franchising is the lack of an efficient mechanism for recording passenger journeys and allocating journeys within an integrated ticketing system. This created some problems in London as the contracting structure was changed from gross to net cost and is one reason for the move to system-wide smart card ticketing.

**5.25** The provision of subsidies for particular groups (e.g., children, students, or the disabled) can be also be difficult under a net cost system, since, depending on the structure of the subsidy program, operators may have little incentive to carry passengers paying lower fares. Ensuring that the operators do carry passengers who receive subsidy, and that passengers are correctly counted, increases the cost of monitoring net cost contracts. Furthermore, disputes over payment of the subsidies to operators can arise.

**5.26** Since the net cost contract allows operators to increase revenues by operating a service which attracts new customers, it might be expected that the potential number of bidders for such a contract would be high. However, experience has shown that operators who are unfamiliar with a particular market prefer (at least initially) gross cost contracts. White and Tough[31] have demonstrated that gross cost contracts produce more competition than net cost contracts. Net cost contracts are less favoured by small operators, who do not have the ability to

[31] White and Tough, Alternative Tendering Systems and Deregulation in Britain, Journal of Transport Economics and Policy, September 1995.

diversify risk across operations and have fewer operations over which to spread the cost of information gathering and bidding. One approach might be to begin with gross cost contracts and move toward net cost franchises as the uncertainties associated with a newly franchised market are dispelled.

***(v) Progressive versus big bang franchising***

**5.27** Industries can be moved from public to private sector on an incremental basis where a percentage of the system could be franchised each year, or the whole sector might be put out to tender at the one time. Experience in other countries, suggests that where possible, the incremental approach is better. Letting franchise contracts out gradually can greatly reduce bidder uncertainty, increasing the number of bidders and reducing the potential for the 'winner's curse' (see below).

**5.28** Despite these advantages, gradual franchising might not be the best approach where there are significant complementarities and/or economies of scale/scope between franchised operations. In order to capture these interdependencies, it might be more advantageous that franchises are allocated simultaneously.

## III (c) Some Difficulties with the Franchise Model

***(i) Number of Competitors and Collusion***

**5.29** One possibility under the franchise model is that there will be uncompetitive bidding where there are insufficient bidders to make the bidding market competitive. For franchising to work in a market, the activity in the market in question must be such that it can be undertaken *ex ante* by a number of potential franchisees. The more competition there is in the bidding process, the greater the expected efficiency of the winning firm. The greater the level of uncertainty of among potential bidders, the fewer bidders there will be. With only a few competitors, the potential for collusion among bidders, whereby would-be operators agree to allocate the market amongst themselves, is intensified.

***(ii) Franchise Length, Incumbent Asymmetries and the Winner's Curse***

**5.30** The degree to which a franchising scheme acts as a control on an incumbent's behaviour depends on the length of a franchising term. Once a franchisee has been chosen and the franchise contract concluded, the competitive process is finished until either the contract is terminated or it reaches its end. Short term franchising may overcome this problem, as the idea that a franchise competition is never far away may act as a constraint on the incumbent's behaviour, inducing high quality performance from incumbent franchisees. On the other hand, a short franchise period may act as a disincentive to investment.

**5.31** Nevertheless, at the end of the contract period, the incumbent franchisees may have advantages over other bidders for a new franchise, arising from their superior knowledge. As a result, competitors to the incumbent suffer from an acute form of *winner's curse,* whereby the highest bidder might mistakenly over-value the franchise. Alternatively, in attempting to avoid the "winner's curse" phenomenon, new bidders might bid very cautiously, thereby distorting competition in favour of the incumbent. For a franchise scheme to work well, it is important that there is effective competition for the franchise, not only when it is auctioned for the first time, but on each occasion that it comes up for renewal.

**5.32** A key task of the franchisor is to reduce the level of uncertainty amongst potential bidders. The lack of transparency in identifying the loss/profit making routes in Dublin is likely to create difficulties for potential operators in placing bids. If the regulator holds information about the true value of what is being auctioned, then it will be in its interest to provide it to the bidders. The seller can reduce anxieties among bidders by publicising any information available about the franchise to potential bidders.

**5.33** An incremental approach, involving letting out franchise contracts for parts of the system gradually over a period of time, can greatly reduce bidder uncertainty. Once operations begin, uncertainty declines. An operator starts to get a better understanding of cost and demand conditions. As information about earlier franchises becomes available, bidders for subsequent franchises will suffer less uncertainty. The incremental approach creates a cycle whereby franchise contracts are continually offered on a frequent basis so, if bidders do not succeed in their first attempts, the opportunity to bid again is imminent.

***(iii) Enforcement***

**5.34** In Britain there have been some problems with franchise winners not supplying the service quality which they had contracted to do. Holding franchisees to their promises is essential if franchise allocations are to be perceived as fair and if the virtues of competing for the market are to be reaped.

## III (d) UK Experience with Franchising

**5.35** The bus market in the UK was fully deregulated in the 1980s, with the exception of London, where a franchising model was introduced. The franchising model is generally considered to have had greater success than outright deregulation in metropolitan areas in the UK:

-A 30 per cent reduction in operating costs was observed over the last decade

-Fares have not increased (in real terms)

-Service levels have improved

-Increase in patronage

-Decrease in subsidy levels

In the UK, service levels were superior under the franchising model than under the model of full deregulation. This is because the franchising model maintains and strengthens the degree of co-ordination and integration between competing operators' services since acceptance of a tender can be made conditional on meeting certain specifications for service integration. In London, because of the nature of the tendering system, the operators had to maintain the overall ticketing system, which allowed travel between different operators and also between different modes of transport.

## IV Liberalisation

**5.36** Liberalisation of an industry is often undertaken where competition is thought to be feasible. In the past the government's approach to a sector that had a natural monopoly component was to extend that monopoly into upstream and downstream markets. For example, in the case of gas and electricity, production and supply are potentially competitive while the transmission and distribution networks both constitute natural monopolies. In some cases the introduction of competition into a sector has been enabled in by technological developments (e.g. telecommunications). In transport, liberalisation may be more suitable for service provision rather than for building the necessary infrastructure.

**5.37** There has been an increasing trend over the past couple of decades towards a market-oriented approach to the public transport system. The UK has led the field in this regard with the introduction of full-scale competition in rural, urban and long distance bus services (with the exception of London) throughout the country. The UK Transport Act 1985 allowed free entry of operators into the industry. Any operator who wished to run a service simply had to register their intention to do so with the relevant authority and, once certain safety criteria were met, they were granted permission to operate on the route.

## IV (a) Impact of liberalisation in UK

### *(i) Metropolitan Services*

**5.38** A study[32] which looked at the impacts of liberalisation in the metropolitan areas in the UK showed that in the aftermath of liberalisation:

-Operating costs fell substantially, especially labour costs

-Fares increased

[32] Report to the Transportation and Traffic Strategic Policy Committee, Urban Bus Deregulation, A Review of the UK Experience, Director of Traffic, May 1999.

-Subvention levels decreased

-Service levels in terms of vehicle miles increased but integration of services decreased

-Patronage levels decreased.

Perhaps the most negative outcome of liberalisation was a decrease in patronage, which to some extent is attributed to a loss in integration and co-ordination, since competing operators are reluctant to enter into agreements with competitors. However, it appears that this problem could be overcome by giving the regulator responsibility for co-ordination, including network planning and the provision of passenger information, and the resources to carry out the job. This is now being achieved through the establishment of 'Quality Partnerships' in the UK, the co-operation between local authorities and bus operators on issues such as integration of services and has led to a considerable improvement in bus services. It is possible that the management of the transition to a deregulated market is what failed in the UK and not deregulation itself. No firm inferences can be drawn. The MMC have stated [33]

*'Overall the picture regarding the impact of deregulation is a mixed one. It is difficult to draw any firm conclusions because of the difficulty in assessing what would have happened if the industry had not been deregulated, and of separating out the impact of the reduction in subsidy which accompanied deregulation.'*

See also Paragraphs 6.37 to 6.40 for a comparison of the key effects of competition for the route (in London) with competition on the route (in metropolitan areas outside London).

***(ii) Intercity Services***

**5.39** The UK experience of deregulation is difficult to disentangle since the authorities deregulated the intercity bus industry and local transit at the same time and also introduced a major bus privatisation initiative. While the effects of the deregulation of bus services in metropolitan areas have been well documented, the impact of deregulation on intercity transport in the UK does not seem to have been isolated for examination. Therefore we cannot draw the same conclusions for this market.

[33] The Supply of Bus Services in the north-east of England, MMC 1995.

# CHAPTER 6

## COMMENTS ON "A NEW INSTITUTIONAL AND REGULATORY FRAMEWORK FOR PUBLIC TRANSPORT", DEPARTMENT OF PUBLIC ENTERPRISE, AUGUST 2000.

### I Introduction

**6.1** This document was published by the Department of Public Enterprise in August 2000. It sets out a proposed framework for institutional and regulatory reform of public transport. It brings together the conclusions of two papers presented to the Cabinet Committee on Infrastructural Development and Public Private Partnerships by the Minister for Public Enterprise earlier in 2000 – one on institutional reform, and the other on regulation of the bus market in the Greater Dublin area. The document recognises that further work is required to complete this framework, particularly on the institutional arrangements for transport in the Greater Dublin area and on the regulation of the bus market outside Dublin. It states that this further work will be undertaken over the coming months, and that policy on rural public transport will also be developed with the assistance of the Public Transport Partnership Forum, based on experience with pilot projects.

**6.2** The Department states that the purpose of the paper is twofold: it provides a basis for consultation with interested parties, particularly the social partners through the Public Transport Partnership Forum, and it also provides a policy framework to guide the work of the Department in preparing the necessary legislative and other measures to give effect to the proposed reforms.

**6.3** The publication of this paper is very welcome. The institutional and regulatory framework for transport in Ireland has not kept up with changes in the marketplace or with new developments internationally. As was outlined in Chapter 2, regulatory measures imposed explicitly in order to protect the rail network against competition from road transport have had a negative effect on both modes. This has been reflected in the quality, availability and cost to the exchequer of public transport. The Department is clearly prepared to radically revise the structure and operation of the market – a highly welcome development.

## II Summary of Proposals

### II (a) Rôle of the State

**6.4** The Department proposes to define the rôle of the State in the delivery of the overall objectives of public transport policy. Effectively, this involves the separation of operations and regulation. The paper states that, while the State has a responsibility to ensure that the defined standard of public transport provision is procured effectively, direct involvement in service provision through State-owned companies is not required. Instead, it is proposed that the public transport market will be opened up to private participation. The State's rôle will be to define standards of service and to put in place the necessary legislative, regulatory and institutional measures to procure the provision of that standard of service. To date, CIÉ has defined the appropriate standard of public transport provision, in the light of the resources (including state subvention) available to it. It is now proposed that standards will be defined initially through the Minister for Public Enterprise, starting with the Greater Dublin Area. The standards definition will take into account the ability of the Exchequer to provide financial support for uneconomic services. State support is to be provided on a contractual basis, such contracts to be as far as possible awarded by tender.

### II (b) New Institutional Arrangements

**6.5** The Department proposes to establish Bus Átha Cliath and Bus Éireann as separate independent companies and to remove the existing geographical restrictions on their operations, allowing both to compete with each other and with other licensed or franchised operators. At least one, probably Bus Átha Cliath, will be positioned for privatisation. Iarnród Éireann will be separated into two independent companies – one responsible for the railway infrastructure and the other responsible for the operation of railway services. The railway infrastructure company will remain in State ownership. Consideration will be given to privatising the operations company, or alternatively to franchising the operation of some or all railway services. Consideration may also be given in the longer term to franchising the maintenance of the railway infrastructure. Public-private partnerships (PPPs) will be used to procure the design, construction, maintenance and operation of major new public transport initiatives, including the Dublin light rail network and any new suburban rail lines. The procurement of PPP projects will be established as a separate function.

**6.6** An independent public transport regulatory function will be established which will:

- regulate the bus market, through franchising and licensing;

- negotiate public service contracts and award public transport franchises, including the allocation of State financial support for non-commercial services;

- implement other market regulation arising from public-private partnerships and EU legislation.

The precise form of the regulatory body or bodies is to be decided after reviews of the institutional arrangements for transport in the Greater Dublin Area (including public transport, roads, traffic and possibly land use) and of bus market regulation outside Dublin. A consultation paper has been issued on institutional arrangements for transport in the Greater Dublin Area[34]. It proposes that a strategic body will have responsibility for strategic land use planning, strategic transport planning, regulation of the public transport market and allocation of State finance (other than for national roads). The consultation paper recognises that the assignment of detailed regulatory functions might be seen as detracting from the strategic focus of the proposed body. However, it states that there is merit in having one agency responsible for deciding strategy and arranging service delivery. This arrangement also avoids having to create a separate regulatory body for public transport and removes the potential for institutional tension between the strategic and regulatory bodies. It is proposed that the regulation of public transport should be a quasi-autonomous function within the body, possibly assigned to one member of the executive board.

It is also proposed that an independent railway safety authority be established.

**6.7** The document considers various implementation issues, including financial implications for the Exchequer, industrial relations, staffing, the possibility of employee shareholdings in the restructured companies, and financial restructuring. It is envisaged that a Bill dealing with the legislative requirements for light rail and metro, including the establishment of a PPP function, will be introduced by early 2001; that legislation to establish the CIÉ subsidiaries as independent companies will be enacted by late 2002; and that legislation to establish a new regulatory framework for railway safety will be published by late 2002.

### III (c) Regulation of the Bus Market in the Greater Dublin Area

**6.8** According to the proposals, in the future, bus services will be one element of an integrated transportation strategy and of an integrated network of public transport services, designed to provide for planned intra-modal (bus to bus) and inter-modal (bus to rail) interchange. There will be a range of services for the metropolitan area and the hinterland. An integrated ticketing system, and other appropriate integration measures (e.g. interchange facilities, integrated timetabling, real-time

[34] "New Institutional Arrangements for Land Use and Transport in the Greater Dublin Area", Department of Public Enterprise, March 2001 (available at http://www.irlgov.ie/tec/transport)

passenger information, etc.) are planned. Complementary traffic management measures will include improved on-street priority via Quality Bus Corridors, bus lanes and other measures. Bus services will be provided to high standards, particularly in relation to quality and accessibility of buses; frequency of service; standard of customer service; and the provision of appropriate interchange, shelter and passenger facilities.

**6.9** The regulatory framework proposed is the franchising model, whereby the State will define the service and invite tenders for its provision. The winning tenderers will have exclusive rights to operate services on particular routes or in defined areas for a specific period (say 5 years). The winning tenderer will either pay to operate the services exclusively, or receive a subvention. The amount of the payment or subvention will be determined by the tendering process and will have regard to whether the routes tendered for are profitable or not. The Government will define policy for the sector, set overall targets and set the overall budget for Exchequer support for the sector

**6.10** An independent regulatory function will be established to regulate the bus market in the Greater Dublin area, with the objectives of ensuring the provision of a defined level and quality of service; ensuring integration of the public transport network; increasing passenger journeys and facilitating improved modal split; maintaining expenditure within the limits set and obtaining best value-for-money for any subvention provided; ensuring a level playing field for all operators and maintaining contestability and competitiveness in the marketplace. Specific tasks for the independent regulatory function will include network design, tender management, quality assurance, establishing an integrated fare structure, and managing the integrated ticketing system. The regulatory body will share responsibility with bus operators for marketing their services. It will also ensure equal access to State-owned facilities (e.g. transport interchanges, bus depots, park-and-ride sites, bus roadside infrastructure etc.), ensure a level playing field between operators and promote competitiveness, enforce minimum quality standards on school buses and monitor bus passenger numbers.

**6.11** The document states that the bus market in the Greater Dublin Area is not a homogeneous one:

> "While it is clear that the franchising model is the optimal regulatory solution to manage the development of the core urban bus network, other regulatory approaches may be more appropriate when considering the bus market, say, in smaller towns on the periphery or key radial commuter routes from the hinterland into the city centre. The independent regulatory function will have appropriate flexibility to develop alternative regulatory approaches for these very different markets."

**6.12** The document proposes a three-phase transitional period to a fully franchised bus market. In the first (immediate) phase, Bus Éireann will increase the amount it subcontracts to private operators, and some short-term licences will be granted to private operators in the Greater Dublin Area, under the existing rules (i.e. only if the route is not being serviced by Bus Átha Cliath). In the short term (within 12 months) legislation will be enacted to establish a transitional bus regulatory body for the Greater Dublin Area. This body will:

- prepare for the phased implementation of a fully franchised bus market;
- take over the Minister's licensing functions under the 1932 Act;
- organise franchise competitions for private operators for routes not existing in Bus Átha Cliath's or Bus Éireann's network;
- allocate subsidy through public service contracts with Bus Átha Cliath and Bus Éireann or limited franchise competitions;
- monitor and enforce the contracts, franchises and licences;
- investigate and take enforcement action in respect of any abuse of a dominant position in the bus market in the Greater Dublin Area.

**6.13** It is proposed that the legislation will also amend the 1932 Act:

- to give the transportation regulatory body power to refuse licence applications in certain defined circumstances, including where the route applied for is not consistent with the overall transportation strategy;
- to specify that the transitional regulatory body may terminate a licence in certain defined circumstances, including where it wishes to introduce a franchising scheme in respect of particular routes or a geographical area or where the existing licensee is not providing an adequate service;
- to attach conditions to licences, including matters such as participation in an integrated ticketing scheme or sharing of bus infrastructure.

**6.14** In the medium term it is proposed to enact further legislation by late 2002 which will:

- provide the statutory basis for a fully franchised bus market in the Greater Dublin Area;
- establish Bus Átha Cliath and Bus Éireann as independent companies without geographical restrictions on their operations;
- provide for the transfer of Bus Átha Cliath to private ownership.

It is envisaged that the regulatory body will begin franchising the core network in late 2003/early 2004. It is anticipated that around 25% will be franchised in each succeeding year, probably leading to franchising of the entire network by 2006/7.

## III Rôle of the State – Competition Perspective

**6.15** The proposal to separate the regulatory and operational functions in public transport is a welcome one. Within the EU, such a separation has formed the basis for the reform of various economic sectors, notably telecommunications and electricity. Without it, it is virtually impossible to create a "level playing field" between public and private (or privatised) companies, and to reap the benefits of private-sector participation. The Competition Authority also welcomes the opportunity for the private sector to participate in the public transport market. Such participation, if based on competition principles, has the potential to lower costs, improve services and increase innovation. However, while the process is obviously still at an early stage, a more explicit definition of the rôle foreseen for the market, as well as the State, would facilitate the development of the appropriate institutional and regulatory framework.

**6.16** It is proposed that State involvement in defining public sector standards will be through the Department of Public Enterprise. While this is virtually inevitable as a starting point, given the centralised nature of the current regulatory system, it is not clear that such a centralised system is either inevitable or desirable in the long run. While the Authority has not carried out a full market analysis, we can say for the sake of argument that there are three possible markets: transport in major urban areas, inter-city (long-distance) services, and local and regional services. As is discussed later in this paper, it is not clear that regulation is at all necessary or desirable for long-distance services (apart, of course, from qualitative regulation to ensure safety standards, qualifications of drivers, etc.). Apart from that, the principles of subsidiarity and proportionality suggest that regulation should be as "local" as possible, perhaps subject to some overall central guidelines or standard-setting. These principles are in fact reflected in the Department's consultation document, "New Institutional Arrangements for Land Use and Transport in the Greater Dublin Area", which proposes that a strategic land use and transportation body be established for Dublin, Kildare, Meath and Wicklow.

The ISOTOPE project report[35] concluded that "[a]s a matter of principle, local authorities should be in the first line of responsibility for this sector." It points out that, in the majority of countries, this is what happens in relatively small towns with public transport. As the size of the conurbation grows, and as other communities beyond the administrative borders of the central city become involved, the report suggests that it may be easier to create a new entity with the specific rôle of representation of the authorities of the various local communities involved. This is very much what is suggested for the greater Dublin area.

**6.17** Under this system, local authorities or groups of local authorities would become the Transportation Authorities for their area. They would be responsible for licensing all local passenger transport services operating entirely within their own area, and for co-operating with adjacent local authorities where services crossed local authority boundaries. Transportation Authorities would determine an overall

[35] ISOTOPE report: Improved Structure and Organisation for Transport Operations in Europe: Research and Technological Development Programme of the European Community. Available on http://www.tis.proj/isotope.html. For a summary of results, see http://europa.eu.int/comm/transport/extra/res-isotope.html.

transportation budget for their area, would allocate subsidies (where applicable) on the basis of fair and transparent procedures and would provide planning, publicity and passenger information. This is in accordance with the principle of subsidiarity, whereby decisions are taken as close as possible to those most directly concerned. Such decisions are likely to be based on better local information than those taken at a more central level.

## IV New Institutional Arrangements – Competition Perspective

### IV (a) General

**6.18** The pro-competitive tenor of the proposals in general is welcome. However, in order to ensure a competitive market, even more fundamental steps should be considered. The steps required to foster competition in a network infrastructure industry clearly depend on the starting point. Some tasks are best performed by government at the outset (rather than, for instance, by competition authorities or sector-specific regulators as competition in the sector develops). The OECD[36] has identified these tasks as:

- removing legal barriers to entry;
- assuring new entrants that the incumbent will operate as a commercial entity, and in particular will not benefit from having its deficits automatically and continually underwritten by the government;
- abolishing any favoured access the incumbent may enjoy to government controlled or owned scarce inputs, and ensuring that such resources will eventually be allocated to the producers who can make most efficient use of them;
- making any vertical and horizontal splits deemed advisable to help deal with situations where the incumbent owns "essential facilities" which new entrants require to compete but cannot economically duplicate;
- dealing with stranded costs and abandoning or re-structuring universal service obligations so that incumbents do not lose business to less efficient new entrants; and
- taking measures to offset artificial incumbent advantages.

### IV (b) Bus operations

**6.19** The proposals to establish Bus Átha Cliath and Bus Éireann as separate independent companies, to remove the existing geographical restrictions on their operations, and to sell off at least one, probably Bus Átha Cliath, are a step in the right direction. However, they may not go far enough. The selling off of at least one of the bus companies is a necessary corollary of the removal of geographic restrictions on their operations, since if both remained in common ownership it is

[36] "Relationship between Regulators and Competition Authorities", DAFFE/CLP (99)8, Competition Roundtables No. 22, available at http://www.oecd.org/daf/clp/Roundtables/relat00.htm

unlikely that they would compete effectively with each other. However, given the earlier proposals on redefining the rôle of the State in transport from service provision towards service specification, the rationale for retaining State ownership of one of the companies is not clear. If the aim is simply to raise funds for the Exchequer, then it would be logical to sell off both companies. The long-distance bus market appears to be the one which could most easily and quickly make the transition to competition. This market is essentially contestable, since there are low sunk costs and no barriers to entry (other than regulatory ones). Jakee and Allen[37] have shown that public interest theory fails to explain the restrictive regulation of the Irish (long-distance) bus industry:

> "Consumers were not agitating either for subsidization, or against the so-called abuses of road operators. The Transport Tribunal stated that the public, even in the early stages of road passenger traffic, indeed often favoured the buses over rail services (1939:59). The assertion that asymmetric information, externalities and destructive competition require state intervention, and in particular entry restrictions for all of the surface mass transportation sectors, is untenable. Furthermore, it is misleading to treat road services and rail services as a single industry. Furthermore, if we consider … that the beneficiaries of regulation were individuals throughout the entire railroad establishment, from shareholders to employees, and that the losers were consumers and especially private operators, the public interest rationale becomes yet more suspect."

**6.20** Jakee and Allen have clearly shown that there was no market failure in the inter-city bus industry. They point out that, while concerns about safety issues, such as the standard of the vehicle, competence of the driver, insurance and adherence to traffic regulations can justify third-party intervention (i.e. legal prohibitions backed up by stiff penalties), they do not constitute an economic rationale for restrictions based on quantity. In the UK, the 1980 Transport Act lifted the requirement for road service licences on long distances (greater than 30 km).

**6.21** Some State subsidies are provided to Bus Éireann to support the provision of non-commercial, socially desirable public transport services, but these subsidies could equally be made available to private companies, where justified. The reasons for maintaining State ownership in this sector of the market are simply not made clear, and it may provide a negative signal to possible market entrants (see second task, above) if they feel they are required to compete with an entity with access to bottomless pockets. These concerns might be addressed to some degree, however, by a requirement for transparent accounting.

**6.22** Another area where more radical proposals might be entertained is that of vertical and horizontal separation. Bus Éireann is involved in long-distance services; local

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[37] Jakee, Keith and Allen, Leonie, "Destructive Competition or Competition Destroyed? Regulatory Theory and the History of Irish Road Transport Legislation", European Journal of Law and Economics, 5.13-50 (1997)

services in rural areas; city bus services in Cork, Galway, Limerick and Waterford; coach services to Britain; a nationwide parcels delivery service by bus; and ancillary businesses such as vehicle testing and contract maintenance. If competition is to be introduced on some but not all of these services, or even if competition is to be introduced by different methods and at different rates for different services, there may be a case for separating Bus Éireann into different businesses, along appropriate lines. This would help avoid cross-subsidisation from profitable businesses to less profitable ones and the consequent risk of failing to attract efficient firms into the market. In any case, the rationale for having city services and long-distance services, in particular, in the same company is unclear, as due to the varying fleet requirements there are unlikely to be economies of scope between the two. Separation of Bus Éireann into city, long-distance and local services might therefore be considered, as might the question of legislating for equal access by competing operators to facilities such as city-centre stations, passenger interchange facilities, parking areas in railway stations, bus roadside infrastructures, park-and-ride sites, etc.[38]

**6.23** The OECD also draws attention to the need for governments to take measures to offset artificial incumbent advantages. In this context, Bus Éireann's operation of the school bus service on behalf of the Department of Education is a matter which should be reviewed. A large number of private bus operators are sub-contracted to Bus Éireann to provide these services. The terms on which the contract was awarded to Bus Éireann, and its duration, are not generally made public. However, in order to foster competition, the Department of Education should be encouraged to split up the contract on a regional basis, increase transparency in the award procedure, and review it frequently, rather than awarding a single, nationwide contract which will automatically favour the incumbent operator. If such an arrangement is impractical, because of the workload it would impose on the Department, then it could consider letting separate tenders for the management and the operation of the system, with a requirement for clear, transparent and non-discriminatory procedures for sub-contracting.

## IV (c) Railways

**6.24** State ownership remains the norm for rail services in most OECD countries[39] and poor financial performance is common, blamed by most countries on soft budget constraints and the conflict between economic efficiency and public service

[38] Ensuring equal access by all operators to such facilities is listed later in the document as one of the functions of the independent regulatory body for the greater Dublin area. The Competition Authority has not expressed any view as to whether or not these are "essential facilities" in the sense in which the term is used in competition law. Rather, what is proposed here is that the third bullet point in the OECD's list of tasks to be performed by government at the outset of deregulation ("Abolishing any favoured access the incumbent may enjoy to government-controlled or -owned scarce inputs, and ensuring that such resources will eventually be allocated to the producers who can make most efficient use of them") should be considered in the context of such facilities.

[39] "Railways: Structure, Regulation and Competition Policy", DAFFE/CLP(98)1, OECD Competition Policy Roundtables No. 15. See also Chapter 2.

obligations. The OECD found that distancing the rail service from government was viewed as central to improving performance, as was increasing transparency in evaluating the costs and benefits of public service obligations. The OECD recommends that regulation in railways be fairly light, as it faces significant competition from other forms of transportation and should be let compete with these on its own merits although, where there are no charges for road use, cars and buses may have an advantage in open competition.

**6.25** If inter-modal competition is not enough, on-track competition may need to be introduced. If this is done, regulation will be needed to ensure access to the rail infrastructure for all competitors. Vertical separation of rail infrastructure from rail service operation has certain disadvantages which need to be considered, notably loss of economies of scope (this may be particularly relevant in a country as small as Ireland where it may not be economically viable to have more than one service provider). Close co-operation between the two would be needed to ensure that the infrastructure was being used efficiently and good investment decisions made. The OECD working paper on this topic concluded that vertically separating rail transport was not clearly justified by the current balance of advantages versus disadvantages. Realistically, the usefulness of vertical separation depends on whether effective competition is likely to develop in rail operations. If the result of vertical separation is simply to create two monopolies, one on top of the other, the result for consumers will be worse than if there were a single monopoly responsible for both infrastructure and operations. However, it appears that there already is some private sector interest in providing services, and even in investing in restoring infrastructure.

**6.26** According to the OECD, vertical separation to date has not been particularly successful in any of the countries where it has been tried. Franchising arrangements have had marginally better performances but require more regulation than separating the company and letting firms compete on-track. In this context it might be useful to consider a transitional arrangement such as the one used in South Africa, where a pilot concessioning project was run on about 10% of the network before the transition to full concessioning of the entire commuter rail system[40].

## IV (d) Regulatory function

**6.27** Since the shape of the independent public transport regulatory function has yet to be determined, the Authority's comments are of necessity general. Firstly, the question of whether there should be a single public transport regulator is moot. As outlined above, the usual European model is for local authorities to take on the rôle of transportation authorities for local transport. It is not at all clear that any form of economic regulation is needed for the long-distance bus market. As is

[40] See South African Department of Transport, "Towards an Integrated Public Transport System", available at http://www.transport.gov.za/publications/strategy/towards.html

outlined in Chapter 2, from a historical perspective, the reason why bus regulation was introduced was to protect the railways from competition, and there has proved to be no public interest justification for its existence.

**6.28** There appears to be no good reason for restrictions on licensing of long-distance bus services – anyone who applies for a licence should get it provided they meet objective quality standards. The market should operate on the basis of free entry. Since the sector is inherently profitable, the question of subsidy does not arise and the ability of customers to switch from one service to another on the basis of price, quality and service can only have positive effects. Hence there is no necessity to consider the effect on incumbents, i.e. those already operating on the route, and therefore no real rôle for an *economic* regulator. The issue of access to State-owned facilities such as passenger interchange facilities could be dealt with by means of primary legislation and access to competition law remedies only.

There may possibly be a central rôle to be performed in relation to higher-order services such as traveller information. It could be made a condition of the bus operator's licence that it provide clear and timely information on its routes and schedules, with a minimum notice period for changing the schedule. The cost of this service could be funded by a small levy on operators. This existence of clear and timely information would also facilitate integration with local services, e.g. "feeder" services.

**6.29** At present, private sector operators which are not licensed may not participate in the free travel scheme of the Department of Social, Family and Community Affairs. Under the new dispensation, the free travel scheme should be implemented by a means which is equally accessible to all operators.

**6.30** As mentioned previously, the Authority considers that responsibility for regulation of local and rural traffic is best dealt with at local or regional level, as appropriate.

## V Regulation of the Bus Market in the Greater Dublin Area – Competition Perspective

### V (a) Tasks of the Independent Regulatory Authority

**6.31** Bus services in major urban areas such as Dublin demonstrate strong network effects. It is important to have a high level of integration and co-ordination in the provision of scheduled bus services across the network. There are also recognised economic benefits in providing services which are not commercial, but which are desirable for social or other reasons, not least the fact that road-based private vehicles do not pay the full social cost of travel, including congestion, accidents and pollution. This argument is also used to keep general prices of public transport low, through subsidies, in many cases where the general level of revenue and motorization would certainly lead to the conclusion that a "social fare" would be needed for only a small part of the population.[41]

**6.32** In a major urban network, there are positive externalities from co-ordinated scheduling, network planning, integrated ticketing and the publication of common timetables etc. It appears, therefore, that these would be appropriate tasks for the regulatory authority. There are also strong synergies with what ISOTOPE describes as "the whole urban mobility system, not just the public transport system." For this reason it may be useful to include responsibility for traffic management, including bus routes, Quality Bus Corridors, park-and-ride and parking generally, in the same organisation which is responsible for urban public transport, as is proposed in the "New Institutional Arrangements for Land Use and Transport in the Greater Dublin Area" consultation document. The necessity for integration with traffic management in general, including issues such as Quality Bus Corridors, was also raised in the submission of the Office of the Director of Traffic, Dublin Corporation.

**6.33** As outlined in Chapter 2, while the Authority has taken no view on whether bus stations or central passenger interchange facilities pass the 'essential facilities' test, there may be circumstances where developing alternative facilities might impose costs on society in terms of pollution and traffic congestion. Consideration might be given to mandating shared access to such facilities or to setting them up as a separate business.

**6.34** It is proposed that the regulator will have responsibility for designing an integrated bus network to respond to Dublin's current and projected public transport needs, which will be part of a wider integrated public transport network, as defined by the overall transportation strategy recommended by the Dublin Transportation Office. Where it is feasible, market-led service provision, as opposed to regulation-led service provision, has advantages in terms of allowing operators the freedom and flexibility to tailor their services to meet customer needs. However, this may not be suitable where network effects are strong and where services are to be provided which may not be economically viable, in order to meet social or other policy aims. Given that an integrated network planning system is needed, the following points may be important:

(i) At present it is likely that much of the expertise available in the country in this discipline resides with Bus Éireann and Bus Átha Cliath. While it may be convenient to transfer this function in its entirety to the new regulatory authority, this raises the possibility that the network design chosen will consciously or unconsciously favour the incumbent. It may be necessary to source the expertise required other than from the incumbent, on a contract basis, until the function can be built up in-house.

[41] ISOTOPE report – see footnote 32

(ii) In order to preserve some of the benefits of market-led service provision, it would be desirable to allow operators to provide innovative services. The regulatory body could consider such applications from operators, and licence them if they did not impact negatively on the overall network plan. In this context, the proposal to give the regulatory body the power to refuse licence applications where the route applied for is not consistent with the overall transportation plan will require careful drafting. On the one hand, the regulatory régime should aim to provide certainty for franchisees that passenger numbers will not be drastically affected by the licensing of new routes after the franchise has been awarded (for example, by requiring entrants to pay for the diverted traffic). On the other, the provision of new and innovative services which may attract additional passengers onto the bus network should be encouraged.

**6.35** One of the tasks which is listed for the independent regulatory function is "to ensure a level playing field between all bus operators in the market". The purport of this is unclear, and competition authorities tend to be wary of such generalisations, since our experience is that one person's level playing field is another's sloping pitch. For instance, the Department of Public Enterprise mentioned in its submission that, during its own consultations, some parties had argued that this "level playing field" should extend to wages, conditions of employment, compliance with taxation and social legislation and related matters. However, the same national legislation applies to all companies in relation to these issues and there are existing systems and bodies in place to enforce them (the Revenue Commissioners, the Labour Court, the Employment Equality Agency etc.). It is difficult to see what rôle a sector-specific regulator could play in enforcing any of these laws. Perhaps this responsibility could be clarified further. Similarly, the regulatory body is to have the task of promoting competitiveness in the bus market, but it is not clear what the market is to be competitive *with*. If competitiveness with other bus operators is in question, surely the best tool to promote it is competition.

## V (b) Proposed Regulatory Framework – the franchising model

**6.36** The proposed franchising model may be described as a "limited competition" model. The conclusions of the ISOTOPE project's economic research were that fully liberalised markets (i.e. where there is competition on the route) had theoretical and empirical advantages in terms of efficiency of production. Regulated markets had theoretical and empirical advantages in terms of efficiency in consumption. Limited competition might have the advantages of both. The Authority would not, however, wish to see the possibility of liberalisation dismissed completely. Although ISOTOPE suggests that liberalisation raises problems of integration, instability of supply and greater inequity in the levels of service, Jakee and Allen[42] suggest that much of the "evidence" of this in the UK bus market is anecdotal:

[42] See footnote 34

> "But the substantiation of numerous claims of ill-conduct, such as hazardous driving, is practically non-existent even by contemporary economists."

**6.37** Nolan[43] found differences between the effects of full liberalisation, which occurred in metropolitan areas outside London[44], and competitive tendering, which occurred in London. In the metropolitan areas, operating costs fell sharply, by about 30%. It is estimated that approximately 19% of this was due to productivity or efficiency improvements alone. Fares increased initially, but since then have generally tended to establish parity with inflation. Nolan points out that attributing fare increases to deregulation alone is difficult given the fact that subsidies decreased at the same time. In the first eighteen months of deregulation there was a 13% increase in vehicle mileage, though the distributional impact of the change may have been very uneven. Some aspects of service, such as ticketing arrangements, frequency and reliability on non-peak hour services declined in quality in most areas.

**6.38** In the metropolitan areas outside London, other aspects of service such as punctuality, cleanliness of vehicles, friendliness of staff, safety of vehicles, choice of destinations and frequencies on some of the peak hour services have in general not declined since deregulation. In fact, in the cases where minibuses were introduced, service improved. Interestingly, Nolan found that, in the majority of cases, competition on the commercial network occurred through route and service patterns, rather than fares and ticketing. This was particularly evident in the introduction of minibuses and supported the point that, while the elasticity of transport demand with respect to price changes is low, the elasticity of demand with respect to service enhancements is positive and significant. Direct subsidy levels declined after the introduction of competition, while compensation in respect of concessionary fares rose (in other words, the subsidies were better targeted at those who were actually in need of them, instead of being spread over bus users as a whole). Perhaps the most negative outcome of deregulation was a decline in the number of passengers carried, which to some extent is attributed to a loss in integration and co-ordination, since competing operators are reluctant to enter into agreements with competitors. However, it appears that this problem could be overcome by giving the regulator responsibility for co-ordination, including network planning and the provision of passenger information, and the

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[43] Office of the Director of Traffic, Dublin Corporation: Report to the Transportation and Traffic Strategic Policy Committee; "Urban Bus Deregulation – A Review of the UK Experience", Presentation by Ms Anne Nolan, Department of Economics, Trinity College, Dublin.

[44] In the UK outside of London (including the seven Metropolitan areas) more than 75% of the total amount of bus services are provided on a commercial basis and the remainder are run on a tendered basis, i.e. the local transport authority (the PTEs in the Metropolitan areas) specifies the service, price and safety criteria that are to be satisfied and the contract is awarded to the operator who offers the best combination at an acceptable price.

resources to carry out the job. Overall, the results of deregulation in the UK were patchy and varied from one region to another.

**6.39** London, on the other hand, was subject to competitive tendering – competition *for* the market, not *on* the market. When this was introduced, costs fell, though not by as much as in other metropolitan areas. As in the Metropolitan areas of the UK, there was little change in fares, apart from increases in line with inflation. In any case, as the method of competitive tendering means that fares are decided on before the services are provided, fares cannot be used as a competitive weapon under this arrangement.

**6.40** Again, service levels in terms of vehicle kilometres increased in London, more so than in other areas. Standards in London are considered high. The tendering system in itself maintains and even strengthens the degree of integration and co-ordination between competing operators' services, because these requirements can be specified in the tender documents. However, innovations on the part of individual operators which were a feature of the changes in the Metropolitan areas (e.g. the introduction of minibuses) have not been apparent in London, in part due to the protection offered by the tendering régime and also due to the type of contract under which the service is run. Demand in London has risen and continues to rise.

**6.41** The foregoing analysis shows that the choice between deregulation and limited competition is not a simple one – that one is not all bad, and the other not all good. In this context, the Department appropriately recognises that the market is not necessarily a homogeneous one, and that other regulatory approaches may be more appropriate when considering the bus market, say, in smaller towns on the periphery or key radial commuter routes from the hinterland into the city centre. It is appropriate that the independent regulatory function will have the powers to develop alternative regulatory approaches for these very different markets.

### V (c) The Franchising Method and the Public Service Obligation

**6.42** The Department proposes that the amount of payment or subvention for each route or geographical area "will be determined by the tendering process and will have regard to whether the routes tendered for are profitable or not." This is an appropriate method of operating the tendering model, since it ensures that the financial risks are borne by the operator. Hence the operator has incentives to maximise passengers carried and revenue. Obviously, the actual tender process will be the subject of very detailed consideration in the future. At this stage, it is appropriate simply to raise a number of points which may be of importance when the detailed process is being determined:

**(i) Profitability of routes.**

**6.43** Many routes may be “unprofitable” at present because they are inefficiently operated. This is not to say that they are inherently unprofitable and deserving of a subvention. In the long run, the market should be able to establish, on the basis of the tendering process, what is and is not profitable. However, in the first round of tenders the bidders themselves may not have good information on which to base their tenders. For this reason, all available information from Dublin Bus’s passenger transport database should be made available in advance to bidders. The phased basis of the proposed changes should allow modifications and improvements to be made to the database over time. If the number of tenders is low for any reason, such as the duration of the contract being insufficient to allow for asset depreciation, it may not be possible to use the tenders received as a proxy for deciding whether or not the route is profitable. The tender design should be such as to maximise the number of bids received. In this respect a two-stage process, initially asking operators to propose routes to be served and only moving to price proposals in a second stage, might be appropriate.

**(ii) Possibility of collusion and/or signalling**.

**6.44** The actual design of the tender is vitally important. There may well be incentives for bidders to collude, in terms of agreeing the price, carving up the market amongst themselves, spurious bidding etc. The Authority has produced a Guidance Note on “Detection and Prevention of Collusive Tendering in Public Service Contracts” which may give some pointers. It may be appropriate for the tender documents to contain a condition allowing the regulatory body to disbar companies from tendering if they are found to be in collusion with others. It may also be appropriate to reserve the right for the regulatory body to abandon a tender process and start all over again, if it forms the opinion, on reasonable grounds, that collusion has occurred. On the other hand, the procedures for qualification of candidates should not be so rigorous as to exclude new entrants, including start-up firms and firms which may have been unable to establish a previous track record due to the difficulties in obtaining licences.

**(iii) Sub-contractors**.

**6.45** Existing relations between the incumbent operator and its sub-contractors must be taken into account when trying to encourage the maximum possible number of tenderers. Many bus operators operate school bus services on a sub-contractor basis for Bus Éireann. It is also proposed, as part of the immediate transitional phase, that Bus Átha Cliath should increase the amount it subcontracts to private operators. Effectively, these operators are dependent on the incumbent for some or all of their business. They may be reluctant to jeopardise this business by aggressively competing with either Bus Átha Cliath or Bus Éireann. As was outlined above, it may be appropriate to split up the contract on a regional basis, and review it frequently, rather than awarding a single, nationwide contract which will automatically favour the incumbent operator. Where operators sub-contract to Bus Átha Cliath in the transitional phase, the duration of these contracts should not be such as to deter them from competing for franchises as they become available. Again, the design of the tender should be such as to minimise the possibility of collusion.

**(iv) Public service obligations**.

**6.46** Based on experience in other industries, the Authority would advise rigorous evaluation of any claims about the social cost of providing individual services or groups of services. To our knowledge, the cost of providing social or uneconomic services has never been analysed in detail on a route-by-route basis. It is often difficult to determine whether a social obligation imposed on an incumbent is truly non-commercial. For instance, in the postal sector, the Swedish authorities took the view that the provision of a ubiquitous service was a competitive advantage for the incumbent operator, rather than a burden[45]. There are also interesting parallels with the telecommunications sector, where European law provides that regulators may apply a universal service obligation (USO) to an operator – usually the incumbent. The USO obliges the operator to meet all reasonable requests for access to the fixed network, and to provide directory inquiry and payphone services. The EC directives also provide that a fund can be established (paid for by all operators in the market) to reimburse the operator with the USO, if there is a net cost of providing the service. However, it transpires that there may well be a net *benefit* to operators in providing a universal service. For instance, in 1997 the UK telecommunications watchdog, Oftel, examined the costing and funding of universal service, to see whether being a universal service provider placed an unfair burden on the USP's[46]. The European directives give detailed guidance for calculating the costs and benefits of a universal service obligation. Oftel concluded that there was in fact a net benefit[47] to British Telecommunications as a result of its universal service obligations, and that the question of funding did not, therefore, arise. This position was based on an estimate of the costs incurred and benefits gained by BT as a result of its Universal Service Obligation. In 1999 Oftel re-calculated the costs and benefits, and concluded that the obligation was not an unfair burden. The Authority is not arguing that urban public transport is not a social need, or that subsidy is not required. However, it considers that any claims for a subsidy on an individual route or area should be very carefully analysed, and that the burden of proof should be on the claimant rather than the regulatory authority.

[45] "Promoting Competition in the Postal Sector". OECD Policy Brief, February 2001.

[46] See "Review of universal telecommunications services: a consultative document issued by the Director General of Telecommunications, September 2000", Oftel.

[47] The four benefits identified were:

- Lifecycle: by serving customers when they are uneconomic, BT has a better chance of retaining them when they become economic;
- Ubiquity: customers moving between areas know of BT as a supplier, but they may not be aware of BT's competitors;
- Brand image: enhancement of BT's image by serving non-economic customers, areas and payphones; and
- Payphones: BT's payphones provide an advertising opportunity for BT, and uneconomic payphones may become economic over time, so that a commercial operator would choose to retain some uneconomic payphones.

**6.47** It is frequently argued that, without restrictions on competition, new entrants would engage in "cream-skimming" and leave the loss-making uneconomic routes. Such claims are not borne out by the evidence. Existing licensed bus operators, which are mainly small, operate largely on remote rural route in which CIÉ has chosen not to operate. This is a sector which might conventionally be expected to be loss-making. Admittedly, bus operators in general cannot get a licence for any other form of service. Nevertheless the fact remains that commercial operators have been willing to enter this market implying that subsidies are not always necessary.[48]

### V (d) Proposal to give the transitional bus regulatory body for the Greater Dublin area the function of investigating and taking enforcement action in respect of any abuse of dominant position in the bus market in the Greater Dublin Area.

**6.48** This proposal seems to be based on a misinterpretation of the recommendations contained in the Department of Public Enterprise's document, "Governance and Accountability in the Regulatory Process[49]." At present, the Competition Authority has sole power to enforce the Competition Acts in all sectors of the economy, including those where sector-specific regulators exist. In Chapter 5 of Governance and Accountability, "Effective Management of Overlapping Jurisdictional Issues", states:

> "It is important that there be clarity as to the respective rôles of the Competition Authority and the sectoral regulators and the relationship between them. Certain issues concerning this relationship are being addressed by the Competition and Mergers Review Group which is due to report to the Tánaiste and Minister for Enterprise, Trade & Employment shortly. The Tánaiste has also indicated her intention to establish a Group to consider broader issues concerning the operation of competition in regulated sectors.
>
> ***"Item 5 (a): The Minister is of the view that, as a general principle, competition rules should apply throughout the public enterprise sectors, although issues such as public service/social requirements need to be taken into account. Recognising the overlap between the sectoral regulators and the Competition Authority, the Minister is keen to ensure that the overlap is managed in an efficient and effective manner. The Minister recognises the importance of the work initiated by the Tánaiste and will engage in further consultation with the Tánaiste when the***

[48] See Massey, P, and O'Hare, P, Competition Law and Competition Law in Ireland, Oak Tree Press, Dublin , 1996. See also questionnaire results in Chapter 4.
[49] "Governance and Accountability in the Regulatory Process: Policy Proposals, March 2000", Department of Public Enterprise. Available at http://www.irlgov.ie/tec/publications

***reports become available from the Competition and Mergers Review Group and the proposed Group to examine the operation of competition in regulated sectors. In the meantime, the Minister would encourage the closest co-operation between the sectoral regulators and the Competition Authority.”***

**6.49** The possibility of sector-specific regulators being given powers to enforce the Competition Acts was considered, and rejected, by the Competition and Mergers Review Group in its final report. In Recommendation 15, the Review Group recommended:

> “(a) that the Competition Acts should continue to apply to undertakings operating in an industry which is regulated by a sector-specific regulator in the same way as they apply to all undertakings;
>
> (b) that the Competition Authority should retain exclusive jurisdiction, with the courts, to administer the Competition Acts in all sectors of the economy.”

**6.50** The Review Group also recommended (Recommendation 15(C)) that the risk of conflict and inconsistent actions and decisions being taken by the Competition Authority, on the one hand, and the sectoral regulators, on the other, be addressed by enacting legislation to allow each body *(inter alia)* to exercise discretion to defer to the other agency’s consideration of a matter coming within both of their jurisdictions; to exchange confidential information; and to consult with each other about any action which might reasonably be regarded as involving action which the other agency might also be entitled to take. These recommendations are faithfully reflected in footnote 6 on page 18 of the current document. They have also recently been included in the Department of Public Enterprise’s Outline Legislative Proposals in relation to the Regulation of the Communications Sector (head 39). Since the Authority has previously published its views on why the enforcement of the Competition Acts should be a unitary responsibility and not spread among a number of different regulatory bodies[50], it is not proposed to re-present them here. Suffice it to say that, while we agree with the proposals for interaction expressed in footnote 6, we disagree with the proposal to give the bus regulatory authority the power to enforce the Competition Acts, for the reasons given in previous documents on this subject.

**6.51** If the intention is simply to give the regulator general powers to take *ex ante* action to promote competition in the market, then this might be dealt with by expressly including such a power in the legislation. In this respect Head 28 of the “Outline Legislative Proposals in relation to the Regulation of the Communications Sector” might be a useful model.

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[50] Response of the Competition Authority to Invitation to Comment on Governance and Accountability Arrangements in the Regulatory Process. Available on http://www.irlgov.ie/compauth/response.htm.

# CHAPTER 7

## SUMMARY OF CONCLUSIONS AND RECOMMENDATI ONS

**7.1** The development of the market for road and rail passenger transport in the State has been inhibited by regulatory practices which have resulted in little or no competition on the relevant markets. These practices, many of which were explicitly intended to restrict road transport in order to protect the railways, have proven to benefit neither mode. Moreover, in many cases these practices have operated against the public interest. Competition has been limited and, in some cases, impossible. While the absence of competition has had a negative effect, conversely, the possible benefits of monopoly (in terms, for instance, of service integration) have not been realised.

**7.2** The Department of Public Enterprise's proposals for the re-structuring and re-regulation of the rail and bus passenger transport market in the State are therefore welcome. These proposals are both timely and constructive. In particular, the opportunity for the private sector to participate in the public transport system is particularly welcome.

**7.3** Regulation should be minimal, proportionate, linked to clearly defined objectives and located as close as possible to the market regulated. The regulatory function should also be separate from the operation of services. While detailed proposals have only been set out in relation to the Greater Dublin area, a revised regulatory approach to the market outside Dublin is also proposed for the future. It is not clear that any form of restrictions on the licensing of bus operators, other than those required to ensure the safety of passengers, is required in the long-distance market.

**7.4** If state ownership and/or control of companies operating in the transport market is to be continued, the rationale for such ownership should be clearly set out.

**7.5** Consideration should be given to the horizontal separation of Bus Éireann – for instance, into urban, long-distance and rural services – to avoid the risk or perception of cross-subsidisation. This would also improve cost accounting.

**7.6** The organisation of the school bus service should be re-evaluated with a view to promoting competition, perhaps on a regional basis.

**7.7** Vertical separation of the railways (i.e. separate organisations for infrastructure and operations) should only be considered if there is a clear possibility of competition developing in the operations sector. In order to test this out, a transitional phase involving pilot projects might be appropriate.

**7.8** The franchising model seems appropriate for the bulk of services in the Greater Dublin area. However, other models may be appropriate, for instance, for the outer suburban or commuter-type routes, and it is appropriate that the independent regulatory function should have the flexibility to develop alternative regulatory approaches for different markets, provided that this is carried out in a transparent and non-discriminatory manner.

**7.9** The tendering process for franchises needs to be carefully designed in order to maximise the amount of information available to bidders and minimise the possibility of collusion. Passenger transport information must be made available to all bidders in good time. In this respect, the Competition Authority would be very willing to provide any assistance or input which might be useful from a competition perspective, in drawing up the terms of the tendering process.

**7.10** Claims for subsidies should be rigorously evaluated, since experience in other industries has shown that not all such claims are justified. The introduction of competition should help identify which routes or services are genuinely loss-making and which are viewed by operators as potentially profitable.

# ANNEX I

## HISTORICAL DEVELOPMENT OF PUBLIC TRANSPORT IN IRELAND[51]

**1** Between the dawn of the railway age in Ireland, in 1834, and 1925, when most railways in the new Irish Free State were amalgamated into the Great Southern Railways, about 3,000 miles of railway were constructed by various private companies. In 1924 the Irish government introduced a Railway Bill that provided for the merging, initially, of the Great Southern and Western Railways, the Midland Great Western Railway and the Dublin South Eastern Railway into a new Great Southern Railways (GSR). The GSR would then absorb the 22 other railway companies in the State. The GSR was formed on 1 January 1925.

**2** In 1926 the Irish Omnibus Company (IOC) was incorporated with the objective of developing bus services in the Dublin area. The following year, the Railways (Road Motor Services) Act was passed which empowered the railways to operate buses. Following this, the GSR and the IOC reached an agreement under which the IOC took over the GSR's road licences. The IOC began to operate throughout the Irish Free State and, where possible, either bought out the competition or ran it out of business. It also took over the GSR's char-à-banc and coach services, which had been inherited from some of the GSR's constituent companies. In 1929 the GSR took a controlling interest in the IOC.

**3** In 1932 the government introduced a Road Transport Act that required all scheduled passenger services to be operated under licences issued by the State. Timetables and charges would also have to be published. Independent operators could continue in business, provided that they met the requirements of the Act. The following year, a further Road Transport Act was passed which restricted the operation of road freight for reward, other than in small areas adjoining the major towns and cities, to persons providing such services prior to the passage of the legislation. The Act also gave the railways the power to compulsorily purchase their passenger and freight road competitors. This legislation was intended deliberately to create a monopoly in each area, under the assumption that one efficient transport provider would then emerge. It was also intended to prevent the under-utilisation of the railways, which the government regarded as an important national asset. As a result of these Acts, four operators – the GSR, the Great Northern Railway, the Londonderry and Lough Swilly Railway and the Dublin United Tramway Company – ended up controlling most of the bus services within

[51] Main sources: Massey, P. and O'Hare, P. (1996): "Competition Law and Policy in Ireland", Dublin: Oak Tree Press.
Collins, M. (2000): "Rail versus Road in Ireland 1900-2000", Newtownards: ColourBooks.
Administration Yearbook & Diary 2000, Institute of Public Administration, Dublin 1999.

the Irish Free State. By 1938 the railway companies had eliminated 1,098 independent bus services, 60% of these being achieved by compulsory acquisition (Barrett, 1982[52]). Similarly, the number of independent road hauliers was reduced from 1,356 in 1933 to 886 by 1938 (Meenan, 1970: 161[53]).

**4** In 1934 the GSR absorbed the IOC, which was then wound up. Its assets became the Omnibus Department of the GSR. During the 1930's, the GSR also began to close railway lines. However, losses continued to mount during the 1930's and 1940's, despite the closure of more branch lines and the reduction of services on others. Under the 1944 Transport Act, the GSR was wound up and a new company – Córas Iompair Éireann (CIÉ) established on 1 January 1945. CIÉ was a company formed from a merger of the GSR and the DUTC. The chairman was appointed by the State and six directors by the common stockholders.

**State-owned transport companies**

**5** Under the Transport (Reorganisation of Córas Iompair Éireann) Act, 1986, the board of CIÉ was required to restructure the organisation into a holding company and three major operating companies. The board of CIÉ consists of a chairman and seven members (non-executive), appointed by the Minister for Public Enterprise, and four worker directors elected by the employees. The number of full-time employees in 1998 was 10,708. Exchequer participation is by way of non-repayable State grants for public service organisations, which are paid in accordance with the relevant EU regulations governing state aid to a transport undertaking. The government requires the board to adhere strictly to the statutory duty imposed on it by Section 3 of the Transport Act (No. 2) Act, 1974, i.e. to conduct the undertaking so that, after taking into account payments made to the Board by the Minister, its operating expenditure, including all charges properly chargeable to revenue, shall not be greater, taking one year with another, than the revenue of the board.

**6** The three CIÉ operating companies are:

*Iarnród Éireann*
Iarnród Éireann provides road and rail freight transport within the State, and operates catering services. It also operates Rosslare Europort. Mainline rail passenger services operate between Dublin and major cities and towns. The company operates the DART (Dublin Area Rapid Transit) electrified suburban rail system, and also provides diesel-based suburban rail services in the Dublin area. Iarnród Éireann jointly operates the new Dublin-Belfast Enterprise service with Northern Ireland Railways, as part of the European High-Speed Rail Network. Iarnród Éireann's revenues in 1998 totalled IR£136.6m; total expenditure was IR£197.1m; state subvention amounted to IR£92.5m; surplus for the year was IR£4.4m.

[52] Barrett, S. (1982): "Transport Policy in Ireland", Dublin, Irish Management Institute.
[53] Meenan, J. (1970): *The Irish Economy since 1922*, Liverpool: Liverpool University Press.

*Bus Éireann*
Bus Éireann operates a wide range of bus and coach services throughout the country. These include: Expressway coach services linking major cities and towns; local bus services in rural areas; city bus services in Cork, Galway, Limerick and Waterford; Eurolines coach services to Britain, with connections at London to all parts of Europe; a nationwide parcels delivery service by bus; ancillary businesses such as vehicle testing and contract maintenance. Bus Éireann is also responsible for the operation and administration of the national school transport scheme on behalf of the Department of Education and Science.

*Bus Átha Cliath – Dublin Bus*
The principal objective of Dublin Bus is to provide a passenger service by road for the city and county of Dublin. Dublin Bus provides an extensive network of bus routes.

# ANNEX II

## QUESTIONNAIRE

On the 25 June 1999, the Competition Authority invoked its powers under Section 11 of the Competition Act, 1991, as amended by the Competition (Amendment) Act, 1996, to undertake, on its own initiative, a detailed study of the rail and bus passenger transport sector. The study is intended to analyse the structural barriers affecting the rail and bus passenger transport market. The terms of reference for the study has been advertised in the National press.

The Authority invites you to complete the following questionnaire. **In accordance with paragraph 9(1) of the Schedule to the Competition Act 1991, details of information supplied on foot of this questionnaire <u>will not be disclosed to third parties.</u> However, an aggregation of the information may be used in the Authority's proposed study.**

**Name of Company/Operator:**

Q1. How many times has your company applied to the Minister for a **Route Service Licence** in the period 1980 to 1999? __________________

Q2. Please give the number of applications that were:

Refused __________________
Granted a licence __________________
Await a decision __________________

Q3. Where a licence application has been refused, what reasons, if any, were given?

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Q4. Please indicate the <u>average</u> time delay in respect of any application(s) pending a decision.

___days ___months ____years

Q5. Where you have identified 'gaps' in the market and have been **granted** a Route Service Licence to operate the route, has Bus Éireann subsequently entered the route or partly entered the route? Please specify.

____________________________________________________________________
____________________________________________________________________

______________________________________________________________

Q6. Where you have identified ‘gaps’ in the market and have been **refused** a route service licence to operate the route, has Bus Éireann subsequently entered the route? Please specify.

______________________________________________________________

______________________________________________________________

______________________________________________________________

**LICENSED ROUTES:**

Q7. How many **Route Service Licences** does your company hold at present? __________

Q8. Please indicate the number of your Route Service Licences that pertain to:

Urban services ___________
Rural services ___________
Inter-city services ___________

Q9. In respect of your licensed services, please complete the following table by giving details of each route operated:

| | Journey Origin-Destination | Round trip in miles | Type of Service operated (daily/weekend) | No. of services per day | Return Fare Adult | Name/return fare of competitor if any |
|---|---|---|---|---|---|---|
| 1 | | | | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |

**TRAVEL CLUB:**

Q10. How many services does your company operate by way of “travel club” arrangements?

____services

Q11. Please indicate the number of your "club" services that are:

Urban services (within a city or town) ______
Rural services (country services or to/from a town) ___
Inter-city services ____

Q12. In respect of your 'club' services, please complete the following table by giving details of each route operated:

| | Journey Origin-Destination | Round trip in miles | Type of Service operated (daily/weekend) | No. of services per day | Return Fare Adult | Name/return fare of competitor, if any |
|---|---|---|---|---|---|---|
| 1 | | | | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |

Q13. Have you developed any services where Bus Éireann has exited a particular route? If so, please give the details and number(s) of services which you have developed.

______________________________________________________________________
______________________________________________________________________
______________________________________________________________________
__________

**OTHER SERVICES**:

Q14. What percentage, if any, of your operations relate to the following type of services?

School services _______%
Private Hire _______%
Health Services _______%
Industrial/work transport _______%

Q15. Would you regard school services as an important element of being able to provide Rural services? Please comment.

______________________________________________________________________

______________________________________________________________________

Q16. Do you provide private services to schools?

________yes/no

Q17. How many children do you provide with private school services?

________children

Q18. Give an approximate percentage breakdown of your private hire business:

| | |
|---|---|
| Tourism | _____% |
| Sporting events/matches | _____% |
| Entertainment (dances, weddings etc.) | ____% |
| Religious events | _____% |
| Educational (school trips) | _____% |
| General | _____% |

Q19. How many people would you carry to health services weekly? _____persons

Q20. How many workers would you carry weekly? _____workers

Q21 How many free travel pass holders, if any, would you carry weekly?

_____pass holders

Q22. How many passengers in total do you carry per annum? _____passengers

Q23. How many bus miles approximately does your company operate per annum?

_____bus miles

Q24. What is the approximate cost per bus mile for your Company? £______

Q25. Give an estimate of the cost to your business, regardless of the type of service you provide, of not qualifying for the fuel rebate £_____

Q26. Any other comments?

**Thank you for your co-operation in the completion of this questionnaire.**

**Please return your completed questionnaire to:**

**The Competition Authority Secretary,**
**Parnell House,**
**14 Parnell Square**
**Dublin 1**

**Tel.: 01 804 5414**
**Fax.: 01 804 5401**