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NSM

Dear Margaret

TRANSPORT SELECT COMMITTEE: REPORT ON BUSES WHITE PAPER  
GOVERNMENT RESPONSE

Further to my Secretary of State's letter of 28 May to the Chancellor, I attach for information the final draft of the Government Response.

We have made a number of minor amendments, partly in response to points made by Ministers in answer to my Secretary of State's circulation of the first draft.

Copies of this letter and attachments go to Tim Flesher at No 10, Private Secretaries to other members of E(A), and to Richard Hatfield in Sir Robert Armstrong's office.

Yours sincerely

Henry Derwent

H C S DERWENT  
Private Secretary

## INTRODUCTION

1. The Transport Select Committee's Report on the White Paper "Buses" (Cmd 9300)\* was published in February 1985. The Committee's enquiry reviewed the proposals in the White Paper against the historical background, heard evidence from local authority associations, the trade unions, representatives of the industry, from other interested parties and from Ministers and officials of the Department of Transport. The Committee recognised the problems created by the decline in public transport generally and buses in particular and welcomed some of the likely effects of the Government's proposals, while expressing concern about others. The Committee propose an alternative to the Government's policy of deregulation. The Government is grateful to the Committee for its comprehensive Report.

2. This White Paper sets out the Government's view on the Committee's proposal for an alternative policy and on the major issues discussed in the Committee's Report, and Annex A deals with the many other matters raised by the Committee.

3. A great deal in the report is common ground. The Select Committee and the Government agree on:-

- the need for change to halt the continuing decline in bus services,

- the need for and the possibility of significant improvements in efficiency and productivity and reductions in operating costs and fares;

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\*Financing of Public Transport Services: The Buses White Paper. Second Report from the Transport Committee, House of Commons, Session 1984-85. Report and Minutes of Proceedings (HC-38-I) HMSO 1985.

- the need for competition to bring about those improvements; and
- the need for a transparent subsidy system under which the amount of subsidy for each service is clear.

4. The Government intend to deregulate bus services so that operators compete for the custom of travellers, and on unprofitable services the operators compete for subsidy without protection. The Committee propose a very different form of competition.

#### The Committee's proposal

5. The Committee propose (paragraph 237) a system under which all bus services would be put out to tender by the local authority, so that the successful tenderer would have a guaranteed monopoly for the period of the contract. In this way they envisage that competition for the contract would secure efficiency gains, while profits from letting the contracts on the profitable services could continue to be applied to subsidy to the unprofitable services, and (since the services would necessarily be specified by the local authority, and the fares and fares structure could be so specified) comprehensive timetabling and fare systems would be automatically achieved. The local authority would be required to give proper scope for the development of innovatory services and indeed the Committee regard it as "consistent with the encouragement of new entry on a small scale." (paragraph 235).

6. The system proposed by the Committee has a number of serious disadvantages.

- It would be more restrictive than the system which exists now, since it would eliminate all opportunity for an operator to seek to introduce new competing services during the currency of the contract for the monopoly.

- As the Committee recognise, a major difficulty of their proposal is that it does not retain incentives to operators to innovate. Their solution (that lively and ambitious local authorities might introduce competition between large and small buses for franchises

or even on the road in a duopoly) does not provide a sufficient alternative. It is often outsiders to industries who provide the new thinking for innovation; they are unlikely to see a regime which subordinates their judgement to that of a local authority as one which offers good opportunities for them. Moreover it is exposure to competition that best determines the success or failure of new services.

- A system of exclusive franchises would perpetuate cross subsidy of a non-commercial nature, particularly if the local authority decides to set standard fares at a high level in order to obtain resources for subsidy to less viable routes. This would continue the process of driving away passengers from the busy routes, and accelerate the decline of the industry. As the Government has repeatedly said, this is socially unjust since among the users of the busiest bus routes are likely to be some of the poorer members of the community.

- The Committee's proposal would also put a heavy load on the local authority to specify services and fares, remote from the market test, and the risks of "capture" of the authority by the major operator would remain. The Committee have not been able, in the time available, to consider the practical implications of their proposals. In urban areas, it seems likely that most, if not all, franchises would have to be let simultaneously, because operators in bidding would have to know how much interaction there would be with other services, for example on radial routes, in the town centre or from circular routes, so that they could calculate their franchise bids. It also seems likely that cross boundary services, which frequently serve urban areas, would have to be franchised at the same time. Letting virtually all the contracts at the same time would be a major administrative burden. Moreover, the complexity of marrying together exclusive franchises offered both by Counties and Districts suggests that it would be impossible for Districts to use their powers to support bus operations except through the agency of the County.

7. There is a fundamental difference between those who believe that the interests of the community will best be served by planning the provision of services and the charges to be made for them in conditions

of monopoly, and those who believe that the community will gain most from competition in the market between operators striving to meet the needs of the customer, subject to proper safeguards for safety and to arrangements to meet social needs. The Government's policy is of the latter kind, and the Committee's is of the former.

#### The Committee's Objections to the Government's Proposals

8. The Committee say (paragraph 227) that the Government's proposals are attended by four major difficulties and argue that the efficiency gains will be smaller than the Government predicts. The Government's views on these points are below.

9. The four major difficulties mentioned by the Committee are as follows:-

(1) "They (the Government's proposals) presume, in our view without foundation, that the only benefits of integration or co-ordination which are worth having are those which will emerge quite naturally from the self-interest of competing operators."

10. The Committee argue that there are substantial benefits to be gained from co-ordination and integration, predominantly though not exclusively in larger urban areas. They cite first (paragraph 158) systems of through-ticketing and multi-journey ticketing, such as travelcards. Such schemes can, as the Committee say, increase patronage. But the Government believe that travelcards and other systems of through-ticketing will continue to be very attractive to customers and that will be a strong argument for bus operators to offer them where the market justifies.

11. The second argument the Committee cite (paragraph 159) is that standard fare scales and extensive cross-subsidy are "a legitimate political objective given the fact that it is the democratically elected local political authority which determines the fare structure and could be held accountable for it." It is indeed a cardinal feature of the Committee's proposed scheme that the fare structure could be determined by the local authority.

12. The Government does not however accept that customers' needs for

public transport are best satisfied under a regime in which fare scales are treated primarily as a "legitimate political objective", particularly when that objective is advanced by levying a 'tax' on individuals for no better reason than that they use particular bus services.

13. Indeed, as a general proposition, price controls cannot be seen as being of benefit to the community. The abolition of Resale Price Maintenance has brought significant benefits to the consumer, while the imposition of national price controls to meet temporary economic emergencies has generally distorted and damaged our industries. The Government believes strongly that the bus industry and the bus passenger have much to gain from a system under which fares are set by the market.

14. The Committee also refer to the benefits of co-ordination and intergration in supporting large scale transport investments such as Tyne and Wear Metro. To some extent this has been achieved at the cost of restricting the ability of some travellers to use buses. The Government argues that it is better for travellers to have a free choice from what the market will provide, while accepting that there can be a legitimate case for subsidising efficient rail systems where to do so will gain external benefits within the framework of a competitive bus market.

15. The Committee also refer to the advantage (paragraph 162) of good information services. The present bus industry does not provide actual or potential passengers with sufficient easily understood information about how they can travel from point to point by bus, as a recent report by the National Consumer Council points out. The Government hopes that bus operators collectively, in conjunction with local authorities using the powers proposed in the Transport Bill, will set up a system for the provision of information on travel by bus which will help stimulate bus travel.

16. Finally, on this point, the Committee state that the Secretary of State has implicitly concurred with their view about the importance of coordination, particularly in the conurbations, by excluding London from the deregulation proposals for the time being. They attribute to the Government reasons other than those which Ministers have given for

t policy towards London, and they do not discuss the reasons which the Government has given. The Select Committee are of course free to express their own opinions about the reasons which Ministers give for their policies, but it is at least unusual for them to claim that Ministers are concurring with views from which they have explicitly dissented.

17. The Government remains of the view, which they stated in their White Paper, that while systems of large scale planned public service networks can produce high quality services and connections, the benefits to the passenger will on the whole be better achieved by operators in the market who are alive to the needs of customers and strive to meet them, and by local authorities providing subsidy for any additional services they believe necessary on social grounds.

(2) "They involve the loss of cross-subsidy on a scale which we do not believe it possible to recoup from cost savings even of the order predicted in the White Paper."

18. The Committee discussed extensively (paragraph 96-103) whether preservation of non-commercial cross-subsidy is in principle desirable or not, and appear to accept, in guarded terms, that the higher fares providing the cross-subsidy drive away passengers and thus contribute to the decline in bus patronage; that cross-subsidy may be inefficient; and that it may be unfair.

19. As to the amount of cross-subsidy present in the system, the Committee say (paragraph 95) that it is difficult to come to a precise conclusion. In some rural counties they would expect the benefits of a 30 per cent cost saving to exceed the cost of any lost cross-subsidy, and in others that it would not. They therefore say (paragraph 197) that the magnitude of the services that would be lost through the introduction of competition and the consequent loss of cross-subsidy is difficult to gauge.

20. The Committee believe that it is significant that many of the Shire counties which have submitted evidence have calculated that the alternatives they will face are either service loss or increased direct subsidy. These are certainly matters for concern. It must be pointed out however that measuring cross-subsidy is not straightforward in

price and is dependent on the method of cost and revenue allocation used. Further, these comments assume that no cross-subsidy will exist for purely commercial reasons. They also do not reflect the likely reduction in costs which will follow deregulation. The Government's evidence pointed out that in many rural areas cross-subsidy is less important than direct subsidy from the county or regional council. In these cases the elimination of cross-subsidy will have less impact. In urban areas with high direct subsidy leading to low fares, cross-subsidy is also less important. It seems probable, in the light of the likely variation in the existing level of cross-subsidy, that there will be variations in the extent to which cross-subsidy will be offset by cost reductions. The Government remains of the view, however, that overall the loss of cross-subsidy should be offset by the gains from the more effective use of direct subsidy for which the Transport Bill provides.

21. Just as non-commercial cross-subsidy has accelerated the decline in patronage; correspondingly, with less cross-subsidy this decline will be reduced. The efficiency gained from competition will further reduce fares and attract more custom. But increased patronage is unlikely to be confined only to the better used services; people will once again get into the habit of using buses as their main mode of transport, and a more general increase in patronage can be expected.

22. It is in part because this general increase in patronage may take some time to flow through that the Government is providing for four years an additional, reducing, transitional grant for local services in rural areas. This grant is of course entirely additional to the substantial level of subsidies already provided by local authorities.

23. It is appropriate at this point to consider the Committee's view on cost savings.

24. The Government has estimated that there is scope for improvements in the efficiency of the industry which would overall reduce costs by up to about 30 per cent, and considers that competition is needed to secure these savings. The Committee doubt whether the evidence supports the Government's estimate. But the Committee's consideration of the evidence is partial.



25. They cite (paragraph 49) the statement in evidence by the Association of County Councils that the difference between public and private operator's costs were 10% at the most. They ignore evidence from the Department (HC 38 viii, paragraph 11) that for instance in Nottinghamshire and Derbyshire the costs of the local independents in receipt of revenue support appear to be 30% less than those of public sector operators. They also cite (paragraph 39) the comparison of operator's costs in the Guildford-Cranleigh area, but fail to mention, as the Department's evidence does, the finding that the average difference in unit costs between Independents and the NBC Companies was of the order of 20%; and that the major factor underlying this was the higher number of staff per vehicle, and not earnings, which were comparable.

26. The Committee also dismiss (paragraph 51) the significant improvement in Midland Red (West) productivity on the grounds that it was not the effect of deregulation on the Hereford and Worcester Trial Area where the company operates which led to the improvement, but the fact that it had previously been essentially an urban operating company with working agreements related to the Birmingham labour market and that the process of renegotiating working agreements was already under way. The separation of Midland Red took place in 1973 when its Birmingham operation was purchased by West Midlands PTE. Thus in ten years there was little progress, whereas major changes were introduced relatively shortly after the start of the trial area.

27. The Committee agree that there are cost savings to be achieved by major operators but suspect that overall they are smaller than the White Paper presages. On the basis of the analysis set out in the Government's evidence, and of the fact that all the available evidence on costs points to the feasibility of major cost reductions, the Government adheres to its estimate of the gains which are possible.

(3) "They presume, in our view incorrectly, that a workable basis can be found for separating the unremunerative services from the potentially profitable ones which will produce a stable outcome."

28. The Committee's discussion of the point in Section VII(ii) of the report seems to support the Government's view, since they state "we

believe that it should be possible to implement the tendering system with little danger of any greater instability of service than the secular decline in demand would have caused in any event." (paragraph 259). Work already done by tendering authorities, and by the industry, does seem to suggest that there is a workable basis for identifying the unremunerative services which need to be put out to tender.

(4) "They presume that on the road competition will quickly and relatively without waste converge to give stable services and fares at levels which are in the best interest of the consumer."

29. This argument by the Committee presumes that under present arrangements all resources are used at maximum efficiency and without waste; which the Committee's own inclination for change seems to undermine. The issue to be addressed is whether the resources in the industry will under the Government's proposals provide better and more efficiently managed services. The Government is convinced that this will indeed be the outcome.

30. It is generally recognised that passengers place much importance on stability of service which will therefore be a major objective of any operator. The registration system and contracts for tendered services should assist in ensuring stability.

31. On fares, the Government does indeed believe that competition is likely to give fares at levels which are in the "best interest of the consumer." In very many cases they will be fares below present levels. The Government does not expect and has not said that fares will stabilise very quickly, and does not believe that stability of fares is more important to the traveller than lower fares.

#### CONCLUSION

32. The Government do not understand why, given the evidence which was presented to it, the Select Committee inclined towards the policy of comprehensive competitive franchising which it has proposed. It is a pity that the Committee took no evidence about the effects of such a policy, and failed to seek evidence about it, either from the Industry or from Government witnesses. If they had it would have brought to their attention the major disadvantages associated with comprehensive competitive tendering.

33. The industry has been in chronic decline. The facts given in Cmnd 10 remain as important as they were before the Select Committee reported. Thirty years ago 42% of all journeys were by bus; today the figure is just 8%. During the last ten years there has been a 28% fall in ridership. Yet there is general agreement on both sides of the debate that bus services are vitally important, particularly to old people, and to the less well-off for essential journeys.

34. No Government could allow this decline to continue, and this Government does not believe that comprehensive competitive franchising provides the necessary solution. The Select Committee's proposals would continue to restrict the introduction of new services; they would not maintain pressure on the industry's rising costs; and they would perpetuate the practice of overcharging passengers on the more heavily-used services which has been one of the roots of the industry's decline.

35. We believe that the industry needs to be opened up to proper competition, providing the stimulus for efficiency which other industries regard as normal and the impetus for better service which customers have a right to expect. We are confident that the form of competition proposed in the Transport Bill is the best way of achieving that. It provides the best solution both for the industry and for the customer.

## THE GOVERNMENT'S RESPONSE TO OTHER MATTERS RAISED BY THE COMMITTEE

Recent Trends in Public Transport\*

1. The Committee accept (paragraph 7) that the White Paper correctly points to the decline in public transport and to the rise in car ownership as a major force in personal travel since the 1950's. It goes on to consider the extent to which this decline is due to regulation, or to other factors.

2. While much of the analysis of the decline in bus services is common ground, there are statements which need correction. In paragraph 27 the Report states "whatever has been said in the White Paper it does seem that there are other causes for the decline other than regulation and these encompass:

- increased car ownership;
- lack of investment;
- high fares (as costs are spread over fewer passengers);
- failure to meet market needs - due to regulation".

3. But the White Paper explicitly recognises in paragraph 1.3 that the rise in car ownership in the 1950's has changed patterns of personal travel and has made it more difficult to provide good public transport. The Government does not agree that there has been lack of investment in the bus industry. Over the period 1972 to 1982 £1347m was invested in buses and coaches with the assistance of £465m in grants from the Exchequer. The argument that high fares have also caused decline because costs are spread over fewer passengers ignores the preponderant effect of cross-subsidy, provided under the regulatory system, in raising fares; had cross-subsidy over the years been at commercial levels, there is little doubt that the decline would have been significantly less.

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\*The headings to the sections of this Annex reflect those in the Report of the Select Committee.

4. The Government therefore concludes that it is the twin elements of rising car ownership and regulation which are primarily responsible for the decline in bus services.

5. Paragraphs 24 and 25 report allegations that the main purpose of the Transport Bill is to hit Metropolitan Authorities and curtail their expenditure, and comments that it would seem unduly harsh to destabilise the whole bus industry for the sake of some Metropolitan Authorities.

6. As it has made clear on a number of occasions the Government's determination to reduce the levels of revenue support in metropolitan counties had been announced long before the White Paper was published. The Transport Bill is not about reducing subsidy in the Metropolitan Authorities; it is about improving road passenger transport services.

#### Innovation

7. The Government notes the Committee's view that although the licensing system has formed an impediment to some new initiatives much innovation has already taken place within the present legislation. It is however obvious that the impediment presented by the licensing system is bound to restrict innovation mainly to operators already in possession of particular licenses. It is also noteworthy that Strathclyde's minibus services were only introduced after lengthy battles in the "traffic courts", and that the minibus experiment in Exeter started some 2 years after similar proposals, were put forward for services in London.

8. The Committee accept (paragraph 62) that there is potential for minibuses in areas where demand is sparse; but is concerned that in cities the admitted benefits of higher speed, lower waiting time and lower operating cost per vehicle mile may be outweighed by reductions in conventional bus services and by increased congestion. The Committee concludes (paragraph 126) that "in finding a role for minibuses in urban areas there is a pressing need to take cognizance of adverse spin-off effects". It has to be recognised, however, that minibuses are more manoeuvrable than conventional

buses, and that feature, together with higher acceleration, reduces their congesting effect. Nor is their potential for attracting passengers from cars sufficiently recognised. The proposed powers of the Traffic Commissioner to deal with congestion are discussed in paragraph 21.

### Competitive Practices

9. Paragraph 105 of the report states that "first the White Paper and now the Bill provide no adequate system of monitoring and control". But since the Bill provides, as paragraph 105 recognises, power for the traffic commissioner to take action against operators who adopt unacceptable practices, since the existing legislation and organisation of the Department of Transport provide the means of enforcement, the Government feels that the Committee's observation is incorrect.

10. The Committee also state (paragraph 109) that "the White Paper does not acknowledge as problems matters such as the provision of Sunday services or instability of services, and regrets this omission". The Government has always recognised that since Sunday services are generally unprofitable, it would be up to local authorities to secure their provision by purchasing these services following a tender.

11. As far as instability of services is concerned, the registration system in the Bill would require operators to give prior notice both of introduction and of withdrawal of services. The period of notice, which the Government currently believes should be 42 days, will limit the frequency of any changes. On subsidised services stability will be provided by contract with the operator. In the environment to be established by the Transport Bill some of the features of the Hereford Trial Area will be much inhibited. No operator will have a protected market elsewhere, and all operators will be under the discipline that costs incurred will have to be recovered. It will be in the operators' interests to run services which attract the public and it is the Government's expectation that the major operators, who currently run virtually all stage carriage services in the country, and new entrants will see it as being to their commercial advantage to avoid irrational tactics of the sort described.

12. To the extent that the recommendation is intended to apply to all services, the Government therefore rejects the Committee's recommendation that the matter of timetabling should be one for which the Traffic Commissioner should be specially allowed to determine traffic regulation conditions. This would merely be the reintroduction of regulation. The Government does however accept that specific traffic regulation conditions relating to timing may be needed in some congested areas where the traffic authority has demonstrated that without action of this sort severe congestion would result.

13. The Committee supports (paragraph 118) the Welsh Affairs Committee in urging that the Government should ensure that adequate resources are made available to enforce maintenance standards and road behaviour. The Government agrees that resources must be adequate for the task, and proposes to take on additional manpower where current staff levels are inadequate for the extended enforcement requirement.

#### Taxis

14. It is noted that the Committee approve of the discretion given to local authorities to tailor the pace and extent of the relaxation of quantity control to their local circumstances. But in recommending against the general deregulation of entry to this market (paragraph 137), the Committee has given too much weight to the interests of the suppliers at the expense of the consumers. Moreover, in suggesting that a district council might take into consideration the value of licence plates in determining any move to free entry, the Committee appear to have overlooked the fact that it is in the areas where there is an undersupply of taxis that these plates have attained high values. The licensing system was designed to protect the public, not to protect existing licence holders from competition from others qualified to enter the trade, nor to create a trade in licences. These licences were originally issued at a nominal fee and the Government can see no reason why compensation should be paid for the loss of the holders' expectations. Those who have bought them have enjoyed the higher earnings, the expectation of which gave rise to these values in the first place, and have taken a commercial risk that the local authority might issue more licences at any time, as some districts have done recently.

## Shared Taxis

15. The Government welcomes the support of the Committee for the provisions which will enable shared taxis to be used where adequate conventional public transport services has not been achieved. The Government's proposals will permit such services to develop progressively in accordance with local circumstances, whether in urban or rural areas. The provisions which are now contained in the Transport Bill meet many of the concerns expressed to the Committee. In particular, taxis will only be free to go from bus stop to bus stop if operating a registered local service.

16. On the question of passenger safety, (paragraphs 142 and 143) taxis offering shared services from an authorised place will continue to be subject to regulation as taxis and, until an arrangement to share has been made, will remain compellable, that is to say the first passenger will have the right to make an exclusive hiring. Equally, when booking a shared hire car, a prospective passenger may insist on the provision of an exclusive service.

17. Finally, the Government does not accept that the taxi trade had been given insufficient opportunity to make their views known on these proposals. In addition to issuing the White Paper and a subsequent consultation paper on the taxi and hire car proposals, the Government has met many times with representatives of the taxi trade. Further meetings are planned at which they will have the opportunity of making known their views on the way in which these services should be provided and regulated.

## Congestion

18. The Select Committee recommend (paragraph 153) that if "free entry is proceeded with, some direct powers are given to the local authority to enable them to avoid congestion".

18. In reaching this recommendation, the Committee questioned whether potential sources of congestion had been properly identified, whether the magnitude of likely effects had been properly assessed and whether the provisions for meeting any problems were adequate.



20. Public service vehicles operating in major urban areas at peak times could give rise to additional congestion; but they represent only one class of vehicle which may contribute to congestion, and it is not necessarily right to single them out. Under the Road Service Licensing arrangements, local authorities have been able to represent to the Traffic Commissioners that routes or stopping places should be altered to improve traffic flows and reduce or avoid congestion. But in considering congestion, the traffic authority will need to have regard to the interests of all road users, including passengers on public service vehicles in deciding on the appropriate pattern of traffic management.

21. Following deregulation, local authorities will, under the Road Traffic Regulation Act 1984, have power (except on trunk roads) to determine places where buses may stop, and they will be able under traffic regulation orders under that Act to determine which highways should be prohibited to public service vehicles.

22. Since those powers do not normally allow for speedy action, the Government has, as the Committee recognise, provided powers for the Traffic Commissioner to place a condition on the licences of operators running local services determining their routes and stopping places, including conditions as to timetabling in severely congested areas, where it appears to him necessary to do so to prevent danger to road users or severe traffic congestion. The Government disagrees with the Select Committee's conclusion that the measures contained in the Bill, together with existing powers under the Road Traffic Regulation Act 1984, are inadequate for the purpose. The combination of these powers should be quite adequate for quick and efficient action where circumstances require.

#### Co-ordination with Education Services

23. The report (paragraph 172) states that the White Paper ignores the major issue of school transport and instead pays lip service to the need for better use and co-ordination of community services. In fact, the White Paper (paragraph 3.12) stated that the Government wanted to see the best use being made of transport already provided for special purposes and said that it would consider how to stimulate the better use of services run on behalf of education,

health and social service authorities and others. The provisions of Clause 82 of the Transport Bill, placing a duty on transport and education authorities to co-operate with each other to obtain the best value for money when subsidising transport services is a direct result of the White Paper's proposals. The Government is grateful for the welcome the Select Committee gives to this provision.

24. The report however states there is no means for local authorities to integrate educational services with commercial routes. This is not so. Under the provisions of the Bill holders of school contracts can offer empty seats on those services to the general public on a commercial basis, operators of commercial services can tender for contracts to carry schoolchildren either on the existing routes or by varying the commercial service to meet the education authority's requirement, and operators can provide season tickets for schoolchildren.

25. The Committee may have overlooked the fact that operators will be keen to increase their income, by carrying schoolchildren at local authority expense, where it is in their commercial interest to do so. The recommendation of the Committee that local authorities should have a duty and a power to co-ordinate commercial public services with education services implies that commercial services should be forced to bear costs which properly should fall on the education authority. The Government therefore rejects the recommendation. Local authorities will however have the power under regulations which the Government intends to make when the Bill becomes law to negotiate certain minor changes to services without going out to tender; this could include educational concessions and minor alterations in services in order to serve education premises.

#### Concessionary Fares

26. The Committee believe (paragraph 190) that discretion should be left to the local authority to decide what forms of concessionary device it wishes to use. The Government is in complete agreement and neither the White Paper nor the consultation documents for the Bill have suggested any proposal to the contrary.

32. As discussed earlier in paragraph 22, the Government believes that local authorities will have adequate powers to deal with the possibility of serious danger to the public or severe traffic congestion through their powers under the Road Traffic Regulation Act 1984 and the provisions in the Bill for Traffic Commissioners to impose conditions on operators licences.

33. The Government does not believe that local authorities should themselves determine traffic regulation conditions, since these will affect the commercial operation of services provided by the industry. To place traffic regulation conditions in the hands of the local authorities would enable them to affect the operation of the market for local bus services without necessarily taking into account the commercial interests of bus operators to serve their customers. Equally, the Government, not local authorities, have responsibility for Trunk Roads. The Government therefore believes it is appropriate to have the Traffic Commissioners acting as arbiters in these matters, since this is a role to which they have grown accustomed over many years, and because conditions are to be attached to operator licences, which are under the Commissioners control.

34. The Committee also recommend (paragraph 210) that the grant for innovative services in rural areas should be paid via the county council, on the grounds that they would have responsibility for formulating public transport policies to subsidise non profitable routes and that a confusion of funding bodies and procedures will not aid the development of rural transport.

35. The Department of Transport has for a number of years been encouraging the development of new and unconventional transport schemes in rural areas, often in conjunction with county councils. It was very useful to have available small amounts of money to prime the pump for such schemes; however use of research funds was often not appropriate. The Development Commission has been involved in rural development for 75 years. A clear working relationship with local authorities and other agencies has been developed and this year the Commission's initiation of promoting rural development programmes for each of its priority areas is clear evidence of its ability to improve co-ordination of policy at the local level. The intention of the innovation grant is certainly not to supplant the efforts of local authorities to provide and assist with transport projects serving rural communities, but the Government believes that

the Development Commission's experience will prove invaluable now that it is to have a particular transport role.

### Details of Implementation

36. The Committee have recommended a number of changes to the implementation of the proposals in the Transport Bill, and the Government's view on them is set out below.

### Registration Authority

37. In paragraph 240 the Committee recommend that the appropriate local authority unit be the registration authority. As the consultation document on registration recognised, there are good arguments to justify the appointment either of the Traffic Commissioners or of the relevant local authority as the registration authority. Both bodies will need to have the information contained in the registration in order to carry out their function in relation to policing the system and to procuring subsidised services respectively. The Government decided that on balance it would be more appropriate for the Traffic Commissioner to undertake the role of registration authority for the reason set out in the paper "Changes to the Government's proposals following consultation" issued on 31 January 1985. It is also worth noting in this context that a crucial requirement for registration of the service is the possession by the applicant of a PSV operator's licence. This is a matter which only the Traffic Commissioner has the information to be able to determine.

38. The Government therefore remains of the view that the Traffic Commissioner should be the registration authority, while recognising that the information will need to be provided at much the same time to the relevant local authority.

### Registration Conditions

39. The Committee propose (paragraph 241) that registration should include information about termini, routes, stopping places, timetables of a specific nature and fare levels. With the exception of fare levels, the Government believes that this information may indeed be necessary, and will be consulting on the necessary regulations. It does not believe that fare levels should be a fixed element of the registration. In a competitive market there may be

need for changes and it seems wrong to constrain unduly the ability of operators to react flexibly in the market. Operators will, as now, be required to have fare tables in the vehicle, and local authorities are likely to have access to information about fare levels as part of their role in providing concessionary fare schemes.

40. The Committee's comments on the registration fee (paragraph 242) are related to fees if the registration authority were to be the relevant local authority. The Government sees no reason why the fee should cover the cost of publication of comprehensive timetables by the local authorities; the Government hopes that if they produce them, local authorities will (as for example has happened in Plymouth) be able to benefit from a partnership with commercial advertisers or local newspapers.

41. The Committee also suggest (paragraph 243) that existing operators should register all relevant services rather than acquiring registration by default. The Government agrees, subject only to the exception that services for which a road service licence has been granted under the revised criteria should have an automatic registration.

42. The Committee propose (paragraph 244) that 2 months notice of a new service and 3 months notice of a withdrawal should normally be given unless county councils or metropolitan authorities agree to earlier implementation or withdrawal, and that 21 days notice should be given of variations to a service.

43. The Government's current view is that the period of notice and the period of withdrawal of a service should normally be 42 days, but that the Traffic Commissioner should have discretion to allow earlier implementation or withdrawal in certain specified circumstances. These are matters for regulations, and the Government will be consulting interested bodies in due course.

44. The Committee suggest (paragraph 245) that all local transport services which carry passengers at separate fares should be registered to enable the county council to obtain a full picture of transport provision in its area. The Government agrees that all

local services as defined in the Bill (including those run by taxi operators) must be registered; it does not believe however that it would be helpful to require registration of pre-booked taxi or hire car journeys or of taxis carrying passengers at separate fares from a taxi rank or other appointed place, since by definition these journeys are random and registration would seem to be inappropriate.

45. The Committee recommend (paragraph 247) that county councils and metropolitan authorities should be allowed to negotiate with operators for cost effective improvements in services. This is a matter on which the Government will be consulting before making regulations on tendering provisions, but in principle the Government sees virtue in providing powers for local authorities to negotiate minor variations in commercial services provided that the cost involved is not significant.

46. The Committee propose (paragraph 248) that there should be powers to regulate the spread of bus arrivals to ease congestion and improve the service to the public. As discussed in paragraph 12 above, the Government accepts that timetabling of arrivals and indeed of departures may be necessary in some congested areas, and the Traffic Commissioners will have the powers to apply traffic regulation conditions for this purpose.

47. In paragraph 250 the Committee recommend that traffic management via traffic regulation conditions should remain in the control of the local highway authority; that traffic regulation conditions should be attached to a licence only with the approval of the highway authority; and that the Traffic Commissioners should be obliged to follow the advice of the highway authority with respect to such conditions; and that there would have to be machinery for appeal against unreasonable conditions.

48. The Transport Bill places responsibility for the application of traffic regulation conditions with the Traffic Commissioner, since he will be the body administering operator licensing. The Bill recognises, however the very great interest of the traffic authority and indeed that authority and that authority alone will have the power to request the Traffic Commissioner to determine conditions.

49. The Government recognises that in some circumstances it may be necessary to impose conditions immediately where it seems likely that the service as registered would cause danger to road users or severe traffic congestion. The Bill provides for imposition of conditions without delay and for the traffic commissioner to consider representations from operators at a later date.

50. The Government does not believe that the Traffic Commissioner should be obliged to follow the views of the traffic authority with respect to traffic regulation conditions, though in many cases he may do so. But there will be cases where the traffic authority is unable to satisfy the Commissioner that the criteria for imposition of a traffic regulation condition have been met, and in these cases the Traffic Commissioner would quite properly refuse to impose or impose an amended condition.

#### Observance of Registration

51. The Committee say (paragraph 251) that there should be a sufficient penalty to prevent malpractice and poor provision of services and sufficient flexibility to overlook occasional unexpected occurrences. The Committee while welcoming the introduction of fuel grant reduction as a sanction question whether there is a sufficient control.

52. The Government believes that it will be in the interest of holders of PSV licences who wish to run registered services to behave properly and rationally in managing their services and to run reliable services to ensure that their share of the market is maintained or increased. The sanctions against bad behaviour are, in the Government's view, significant. The loss of fuel duty rebate for running unreliably should be a major incentive to operators to behave well; the additional sanctions on operator licensing, which would allow Traffic Commissioners to refuse operators the right to run a particular or indeed all registered services, and ultimately to take away the operator's licence, are major and enforceable sanctions.

## Tendering

53. The Committee suggest (paragraph 264) that tenders for geographically adjacent services should form part of each tender round and that operators should be permitted to make a single tender to cover several services if they wish; and that joint tenders submitted by two or more operators wishing to take advantage of interworking possibilities should be permissible. The Government accepts that the former proposal will be appropriate; the latter is likely to involve arrangements subject to the Restrictive Trade Practices Act but this is not likely to prohibit them insofar as they do not contain significant restrictions.

54. In general the Government accepts the Committee's conclusion that it is best to leave details of tendering to the local authorities concerned; the Bill does however contain powers to make regulations about tendering should difficulties arise.

55. The Government welcomes the Committee's agreement that the maximum period of tender should be 5 years, and that the Bill's requirement that the grounds for acceptance of particular tenders should be stated is a sensible basis on which to proceed.

56. The Government also accepts the Committee's view that no great dangers exist in allowing county councils on the one hand, and districts on the other to be involved in tendering. The Government believes that authorities will work out between themselves appropriate arrangements.

57. The Committee also argue that local authorities should have a statutory right to information and to carry out surveys on local bus services. In the Government's view the powers of authorities both under the concessionary fare regime and under the tendering proposals should be sufficient for them to acquire the information necessary for their functions without the need for a statutory requirement on all operators to provide sensitive commercially confidential information to the councils.



## Restructuring the bus industry

### National Bus Company

58. The Government is grateful for the Committee's endorsement of the need for NBC to split its operations into accountable units which enable the operator to be more aware of local needs and circumstances.

59. The Committee recommend (paragraph 274) that the Government should give greater priority to the need to encourage fair competition and less to the need to realise the highest possible price in deciding the size of the units in which NBC will be sold.

60. The Bill makes it clear that the prime duty of NBC in making proposals to the Secretary of State for the disposal of the operation of NBC should be to promote sustained fair competition. The Government has already asked NBC to consider how its operations might be reorganised so that they can compete fairly on deregulation. But the structure of disposal of the operating companies, once competing fairly, will be a matter which will depend crucially on the willingness of purchasers to buy one or more of the operating subsidiaries.

61. The Committee suggest (paragraph 275) that successful privatisation is likely to require the writing off or restructuring of NBC debt, thus giving any private version of NBC an advantage over the present one. The Government believes that this interpretation of the provisions of the Bill is incorrect. Any purchaser of a part of the National Bus Company will need to raise the money for that purchase, whether by borrowing or by share issue, and the investment will have to be remunerated in much the same way as NBC remunerates the existing capital debt. Sales of companies can be expected to produce proceeds which can be applied to repay the debt which NBC currently owes to the Government.

## National Express

62. The Government infers from paragraph 276 that the Committee wish NBC to dispose of National Express in its present form, drawing largely on the subsidiary operating companies for its resources, and that it should retain the crucial control of the major terminal facilities. The Government awaits proposals from the National Bus Company for the privatisation of National Express, and will be concerned to ensure that competition with National Express services is not inhibited by the pattern of disposal.

## Municipal Bus Companies

63. The Committee opine (paragraph 281) that the formation of companies will do little to promote fair competition and that the financial separation of undertakings from their councils could be achieved without removing the undertaking from direct local control.

64. As the White Paper made clear, the Government's intention is that all bus operators in the new deregulated market should operate on a comparable basis without the possibility of concealed subsidy from PTEs or local authorities which own bus operations. The Government believes that the Companies Act structure will provide not only a barrier to concealed subsidy but also a better framework within which managers of the existing undertakings can improve efficiency.

65. The Committee also argue (paragraph 280) that the provisions in the Bill restricting the financial freedom of the new municipal companies are a restrictive practice and against fair competition. The Government accepts that the financial and other controls will to some extent restrict the operations of district council and PTE undertakings, but would point out that while they are wholly owned by a local authority the Companies will have the advantage of the implicit guarantee that in the case of insolvency creditors claims will be met by the parent local authority, and of access to finance at the preferential rates charged to local authorities. These advantages seem a reasonable exchange for the controls which will remain.

## Passenger Transport Executives

66. The Committee accept (paragraph 285) that there is a need for the breakdown of the size of some public transport undertakings in the present PTEs, but argue that there is a case for an effective public transport authority or some such co-ordinating body to continue, and that the special circumstances of Tyne and Wear require special treatment.

67. The Government's views on the need for the co-ordination of an integrated network are set out in the main part of this White Paper. The Committee argue however, in Annex B, that there are special benefits deriving from the integrated transport system based on the Metro in Tyne and Wear which will be lost as a consequence of the deregulation of bus services. It is their view that the transport planning authority should continue to be in a position to regulate the provision of bus services so as to ensure that they are fully co-ordinated with the Metro and that this would justify an exemption for Tyne and Wear from the general provisions of the Bill.

68. The Government does not accept that any such exemption is necessary. They believe that passengers in Tyne and Wear should have the same freedom of choice between modes as in other areas. They accept, however, that there is good sense in having fare and ticketing arrangements that make the best possible use of opportunities for travel using both bus and Metro. The best way of achieving this is through agreements freely entered into on a commercial basis between the PTE and bus operators, some of whose services will of course be under contract to the PTE. Ministers have made it clear in evidence to the Committee that they have asked officials to discuss the question of the kind of support that the Metro will need after deregulation, and the nature of the arrangements that could be made with bus operators, with the County Council and the PTE.

69. The Committee have drawn attention to the differences in financing arrangements as between the Metro and BR services supported by the Metropolitan Counties under Section 20 procedures. Expenditure needs arising from these arrangements are assessed in a

separate GRE formula, and my officials will be discussing with the local authority associations in the course of their consultations on next year's RSG settlement whether the GRE formula should be changed. There is no suggestion, however, as the Committee appear to imply, that responsibility for financing the Metro might be taken over by central Government.

### Bus Stations

70. The Committee recommend (paragraph 288) that further attention be given to the mechanisms for ensuring that control over bus terminals is not used as a means of securing unfair advantage in the provision of local bus services.

71. The Government accepts that bus stations may have two separate functions; they may act as interchanges between bus services, or as focal points for passengers providing a single place from which they can start many of their journeys; and they may also have the function of assisting the traffic authority in its management of traffic in towns by removing buses from bus stops on crowded streets.

72. The Government believes that the powers of the Bill to provide traffic regulation conditions may be used by the traffic authority to ensure that buses use the bus station where this is necessary to avoid congestion; it accepts, equally, that it is right that where a bus station is owned or controlled by a dominant operator that operator should not be able to refuse entry to the bus station to competitors.

### Institutional arrangements

73. Commenting on the provisions in the Bill which enable the Railways Board to secure the provision of bus substitution services, the Committee refer (paragraph 293) to the view expressed by the Bus and Coach Council that to make bus substitution services eligible for central Government grant and to safeguard their future by means of a statutory procedure while offering no such safeguards for any other bus services is to apply different standards with no rational foundation. The Committee conclude that there does seem to be a dual standard operating and, by implication, a distortion of resource allocation.

74. This conclusion overlooks the rationale behind the inclusion in the Bill of the provisions relating to bus substitution services. The Government shares the view expressed by the Transport Select Committee in their second report for session 1982-83 that guaranteed and where necessary subsidised replacement bus services may, in some cases, offer passengers a reasonable alternative to existing rail services at less cost. It is important - and entirely reasonable - to distinguish between bus substitution services, intended to be operated as an integral part of British Rail's rail passenger network, following withdrawal of a rail service and after completion of the full closure procedures for the service concerned, and other local bus services provided as part of the bus network.

75. The Committee comment (paragraphs 294 and 295) on the concern that public service vehicles run under permit, rather than under the normal operator licensing provisions, may have an unfair advantage in the new market. The Government does not accept this. Operator licensing is not appropriate for totally non-commercial activities. The voluntary sector plays an invaluable role in supplementing conventional transport especially for disabled people and in deep rural areas. The permit system enables the voluntary sector to play that role; it does not enable them to usurp the place of commercial operators, nor is there any evidence that they wish to do so.

76. The Committee comment (paragraph 296) on the problems of comparability attendant on the development of an extended role for taxis and hire cars within the spectrum of public transport services. Taxis running registered services will be subject to drivers' hours regulations, but fares on registered services will not be subject to control by the taxi licensing authority. Fuel duty rebate will also be available to taxis running registered services, though the taxis will continue to pay VAT. While recognising that the arrangements for buses and taxis are not wholly comparable, the Government does not believe that taxis will have an unfair advantage over other public service vehicles.

## Structural controls

77. The Committee suggest that the structure of the industry after deregulation, even taking account of the proposed break-up and sale of NBC and the changes in the local authority owned sector, can not be relied on as the basis on which fair competition can be assured. The Government however remains of the view, as set out in Chapter 5 of the White Paper, that the bus industry does not show substantial economies of scale; it also seems clear that there are no very significant barriers to entry. Accordingly there are no strong intrinsic reasons in the long term why the industry should tend towards concentration, since small firms will be able to compete effectively with large ones. The Government does recognise, however, that in the transition to deregulation size may offer particular competitive advantages, and has therefore proposed structural changes.

78. In considering whether there will be fair competition it should also be remembered that even the present structure of the bus industry entails more than one sizeable operator (for example a National Bus Company subsidiary and a Passenger Transport Executive or municipal undertaking) in very many urban areas, and these operators therefore represent strong potential competition for each other once regulation is removed. In addition of course there is the potential competition presented by the 5,500 independent operators. Indeed, in a market where there are low barriers to entry, existing operators will need always to take account of potential as well as actual competition. The mere knowledge that the market is contestable will tend to impose competitive pressures on existing operators behaviour.

79. The Committee comment (paragraph 297) on suggestions of predatory behaviour by NBC to fight off competition in Hereford (although there is also mention of lack of firm evidence). However the Government takes the view that it is not reasonable to assume that any behaviour of this kind observed in Hereford would or could be repeated on a wider scale. Deregulation of only a small part of the market means that major operators are able to shift resources (for example vehicles or money) from other parts of their undertaking to counter a limited degree of competition. This would not be possible if actual or potential competition were faced everywhere. This is why the Government has concluded that it is right for deregulation to be comprehensive.

80. The Report nonetheless expresses concern at the possibility of predatory practices, and suggests various possible remedies. One of course is comprehensive competitive tendering, but this White Paper has already indicated the major shortcomings which the Government sees in such a system. The Government has already carefully considered the other protections against predatory behaviour which the Committee suggest, including a requirement that fares should be maintained at any one level for a reasonably lengthy period of time, and the proposal (paragraph 302), that additional powers should be given to the Traffic Commissioner. However the Government has concluded that such measures could be unduly bureaucratic and restrictive, and that any benefits they might bring would be outweighed by the risk of denying bus passengers the advantages of a vigorous and effective competitive market system. Indeed, the Government believes that bus passengers have been without these benefits for too long.

81. Accordingly the Government takes the view that there is not a sufficiently strong case for the bus industry to be placed on a different footing in respect of competition legislation from other industries; in particular the Government concludes that to give the Traffic Commissioners powers in the field of competition would be to place undue responsibilities upon them which they are not well equipped to fulfill. The Bill contains provisions to remove such exemptions from the existing range of competition and monopoly legislation as the bus industry presently enjoys, although the industry is already subject to the legislation on anti-competitive behaviour; indeed only recently an operator of a commuter coach service, with a stage carriage license, ended his practice of offering free travel after a brief preliminary investigation by the Director General of Fair Trading.

82. In paragraph 304 the Report raises the question of the bus stations; this issue is considered elsewhere in this Response. Paragraph 304 also raises the question of agreements between operators, commenting that "the border line between desirable and undesirable restraint of collusion is far from self evident". The Government agrees, but considers that agreements between operators are best dealt with under the existing restrictive trade practices legislation, in the same way as for most other industries.

Accordingly the Bill contains provisions to end the bus industry's present partial exemption from the Restrictive Trade Practices Act 1976; this means that should agreements go before the Restrictive Practices Court, which will only be the case if they contain significant restrictions, it will be open to the parties concerned to seek to satisfy the Court that the agreement is not contrary to the public interest.

83. The Committee quote (paragraph 305) dissatisfaction with the amount of consultation before the publication of the White Paper. In fact when the Secretary of State announced in his speech to the Bus and Coach Council on 15 February 1984 that he had asked the Department to carry out a study of the organisation and regulation of the bus industry, he also invited views from the industry. At a speech to the Association of County Councils on 29 February, the Secretary of State again said he would welcome views. At about the same time the Department wrote in similar terms to the Association of District Councils and the Association of Metropolitan Authorities inviting views. Ministers and officials had a number of meetings with these organisations and others over the following months. A Departmental Working Group was set up with the National Federation of Taxi Associations and Scottish Taxi Federation in June to discuss the feasibility of the proposals for taxi-sharing. These meetings were in addition to correspondence and less formal contacts during that period.

84. In paragraph 306 the Committee quote dissatisfaction with the time allowed for consideration of, and response to, the consultation papers which the Department issued following the publication of the White Paper. The Government deliberately set a demanding timetable for consultation and implementation because of the vital need to minimise the period of uncertainty facing the industry. In the event the timescale proved realistic. The consultation exercise was invaluable in translating the White Paper's proposals into detailed legislative form and the Transport Bill was published in time for 1984/85 session.

85. In paragraph 307, the Committee argue that the Bill is seeking to do too much at once. The Government's view is that deregulation unaccompanied by the other changes would not be enough to promote



fair competition and would not have a significant impact on the level of costs or the standards of services. The continuation of the present organisation of the bus industry, mainly in large undertakings in the public sector and largely owned by subsidising authorities, would allow those operators to use their market dominance to destroy competition which emerged in a deregulated environment. The continuation of block subsidy would not result in the necessary downward pressure on costs, and it would be inconsistent with the introduction of competition; block subsidy relies on the protection of operators on their profitable services so that they can cross-subsidise their unprofitable ones. The Government believes reform must be introduced on all these fronts if the policy is to achieve its objectives. It accepts that major adjustments by the industry and the local authorities will be necessary over a fairly short timescale but it believes the essential changes can be made by the Autumn of 1986.

Privatisation: Econ. Pol.

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