

28th October 2008

**LOCAL TRANSPORT BILL: RESPONSE TO DfT's PROPOSALS FOR
SECONDARY LEGISLATION AND GUIDANCE ON BUS PARTNERSHIPS**

1. Background

TravelWatch NorthWest (TWNW) when responding in September 2007 to the White Paper ("Putting Passengers First") which preceded the Local Transport Bill had the following to say.

3.2 Voluntary Quality Partnerships (QPs) - *TWNW supports a new public interest test replacing the current OFT "block exemption" and allowing Local Transport Authorities (LTAs) to be involved in determining timetables and fares.*

3.3 Statutory Quality Partnerships (SQPs). - *as above. However, as already argued, TWNW sees no reason for competition law to apply where there are statutory provisions. It did not apply before deregulation. The present rules are so complex that only one QP has so far been determined (in South Yorkshire).*

2. General Overview

2.1 The draft guidance on partnerships talks of helping LTAs improve the quality of registered local services in their areas. However, although they need not actually be so, bus partnerships have so far been defined by reference to routes (or corridors) rather than areas. There appears to TWNW to be a danger that LTAs may come to see the creation of adjoining Statutory Quality Partnerships as a cheap alternative ("QC-lite") to area wide Quality Contracts (QCs).

2.2 TWNW accepts that impressive gains in patronage, reliability and service quality have already been made by existing bus partnership mechanisms, but suggests that these have mainly been in free-standing urban areas where competition has been much less than it is in most conurbations. It could be helpful if statements in the guidance point to situations where QCs might produce a better outcome. These could perhaps include in some conurbations where there are PTEs, in any newly created Integrated Transport Authorities¹ areas and in some rural areas.

¹ As provided for in Part 5 of the Local Transport Bill

2.3 Press claims ² that the amended Bill's Quality Partnership Schemes specifically endorse the Association of Transport Co-ordinating Officers' (ATCO) suggestion that Local Transport Authorities could establish Tendered Network Zones are difficult to comprehend within this consultation exercise. Either they should be refuted or the enabling mechanisms should be fully explained in the Guidance notes.

3. Answers to specific questions in the consultation

3.1 Questions 1 and 2. [VPAs]

3.1.1 TWNW believes that extending the easements in competition law beyond **Voluntary Partnership Agreements** negotiated between Bus Operators and Local Transport Authorities ³ to cover "qualifying" (if so certified by the Local Transport Authority) agreements between Bus Operators should encourage more agreements to be negotiated.

3.1.2 TWNW knows of no statutory ticketing schemes ⁴ made by Local Transport Authorities and so considers that the guidance suggesting such schemes might be (subject to Competition law ⁵) promulgated via Voluntary Partnership Agreements can only be helpful when such partnerships are negotiated.

3.2 Questions 3 & 4. [QPSs]

3.2.1 TWNW is pleased to see that **Quality Partnership Schemes** made by Local Transport Authorities will now, like Voluntary Partnership Agreements, be able, for the first time, to include frequencies, timetables and maximum fares. It is hoped that these provisions will also encourage the making of more schemes, especially as these, unlike Voluntary Partnership Agreements, are enforceable.

3.2.2 The provisos that schemes should have a statutory basis and that there should, as a prerequisite, be no **admissible objections from relevant operators** together with the oversight of schemes by a right of **appeal** to the Traffic Commissioners should be sufficient to obviate the need for any application to them of competition law.

3.2.3 TWNW supports the suggested creation of Quality Partnership Management Boards and would further suggest that bus user representatives such as the TravelWatch network and BUUK should be invited to join these.

² Local Transport Today No 500 280808

³ Transport Act 2000 Part 1 "block exemption" in Sched 10 as amended by Schedule 2 of the Bill relates to the exercise of their functions by LTAs

⁴ Transport Act 2000 ss 135-138

⁵ Transport Act 2000 Part 1 "block exemption" in Sched 10 as amended by Schedule 2 of the Bill relates to the exercise of their functions by LAs

3.3 Questions 5 to 7 [Miscellaneous provisions]

3.3.1 TOWNW notes that the **draft regulations** take account of the following and are content with the working provisos, including time limits, which they make:-

- Schemes involving more than one operator or Local Transport Authority
- Definitions of admissible objections and relevant operators
- Rights of appeal to the Traffic Commissioners
- Making, varying, cancelling schemes.
- Length and statutory reviews of schemes
- Conditions attaching to schemes
- Criteria for triggering reviews of schemes.
- Penalties for non compliance to be (as now) the same as for non compliance with local bus service registrations.

3.4 Questions 8 & 9, [Registration restrictions]

3.4.1 TOWNW considers that the provisions in the draft regulations allowing (but not mandating) Local Transport Authorities to impose restrictions preventing Traffic Commissioners from registering, varying or cancelling **any registered local service** which could be detrimental to a statutory Quality Partnership Scheme strike the right balance between the interest of the makers of a scheme and of the relevant operators.

3.5 Questions 10 & 11.[Further comments]

3.5.1 TOWNW has no additional comments which it wishes to make other than the peripheral reservations expressed in “General Overview” above. However we would value the opportunity of commenting in a similar way on any draft regulations applicable to Quality Contracts, which we consider to be a separate and very different issue to bus partnerships.

3.5.2 TOWNW is also happy to expand either verbally or in writing on any aspects of this response,

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