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***promoting quality public transport*……….**

3rd June 2009

Office of Fair Trading's Market Study of Local Bus Services

1. Introduction

1.1 TravelWatch NorthWest (TWNW) is an independent Community Interest Company representing users of all forms of public transport in North West England.

1.2 OFT's decision, on its own initiative", and reported in the transport press in April 2009, to make this study, was unexpected. This is especially so in the light of some of the provisions of the Local Transport Act 2008 which significantly curtail the reach which competition law has had (since the coming into effect of the Transport Act 1985) on the UK bus industry.

1.3 The deadline of 8th May 2009 for comments on the study seems unduly tight given that it is set to run "to the end of 2009". Hopefully it is not too late to suggest the following issues which the study might investigate.

2. Partnership Agreements

2.1 The Local Transport Act 2008 legitimises agreements [1] between operators and with Local Transport Authorities (LTAs) which include requirements as to timings, frequencies and maximum fares, and provides a much relaxed competition test for Voluntary Partnership Agreements between operators, (perhaps brokered by LTAs). These can now also embrace joint ticketing agreements.

3. Quality Contracts (QCs)

3.1 In addition the 2009 Act provides for Quality Contracts which will have the effect of shutting down the deregulated bus market in their areas.

3.2 Whilst re-regulation of the market will not exactly recreate pre 1985 conditions, since services will have to be procured by tender, it should be noted that competition law did not apply to bus services before then and the question should now be asked whether it should continue to apply where a Quality Contract is in place. It is not applicable to the regulated bus markets in London and Northern Ireland.

[1] Statutory Quality Partnerships

4. Passenger Benefits

4.1 In some, mainly freestanding, towns there have been undoubted passenger benefits and growth of patronage on services operated in partnership with the LTA. However these have generally occurred where there is a single dominant operator, and almost always where that operator has been one of the "big five" bus operating companies (BOC) oligopoly. Partnerships are clearly not the universal panacea they are often described as.

5. A contestable market?

5.1 There are several forms of competition within the bus market.

5.2 Operators may compete "on the road" for passengers or they may, as happens now in the case of non commercial services [2] and in London and Northern Ireland and would happen with QCs, compete "off the road" for subsidies awarded by competitive tender.

Competition for Tenders

5.3 A disturbing tendency has been for tender prices to rise faster than inflation [3] so that LTAs have been forced to reduce the numbers they put out to secure unremunerative but socially desirable services to "meet the requirements of their areas" [4]. The average number of bids received for each invitation to tender is also reducing year by year.

Tactical de-registrations

5.4 Even more disturbing is the accelerating rate of service de-registrations by large operators. It is generally perceived that these deRegistrations are "tactical" moves to pressurise LTAs into putting what are often "commercial" services out to tender. The incumbent large operator, in possession of accurate costs and revenue projections, is in a pole position to win the tender and go on to operate their commercial service with LTA subsidy.

Predatory Pricing

5.5 There are a number of ticketing schemes, mainly but not exclusively historic and with most in PTA (now ITA) areas, where operators have agreed to honour daily, weekly, monthly and annual tickets sold by their local association or by the LTA on their behalf. These agreements have arrived at a negotiated price below which the operators have indicated they could not participate commercially. Yet, despite, this, many of the participating large operators where such agreements exist, persist in undercutting the agreed

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[2] approx 20% of the UK bus market
[3] ATCO annual report 2007
[4] LTAs residual function under the Transport Act 1985

area wide price with their own less expensive daily, weekly etc tickets valid only on their services. This has the twin effects of seriously weakening the joint schemes by making them relatively unattractive and of driving out small competitors by charging a fare which is patently below what they have jointly agreed is commercial.

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