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Buses

The *Transport Act 1985* radically changed the bus industry by privatising the companies and deregulating services outside London. This paper describes some of the effects of that legislation and discusses the government's plans for the industry as set out in the white paper, *A new deal for transport: better for everyone* and the daughter document *From workhorse to thoroughbred: a better role for bus travel*.

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Summary of main points

- The Conservative government introduced the *Transport Acts 1980 and 1985* to deregulate the bus industry outside London. Road service licensing outside London was abolished from October 1986. At the same time proposals were introduced to change the structure of the bus industry through privatisation. London was treated differently: the bus companies were privatised but it retained a regulated regime and all services are secured following competitive tendering.
- In 1985, 75% of bus turnover was in the hands of the public sector. By 1997, it amounted to about 7%. The large number of units set up after 1985 have quickly consolidated into a smaller number of large players and now the three largest private groups - Arriva, FirstGroup and Stagecoach - control about 53.3% of the bus market by turnover.
- Bus patronage now appears to be fairly stable at about 4.3 billion journeys a year after a long period of decline since the 1950s. Buses are still the dominant form of public transport for local journeys, accounting for 67% of journeys on all public transport.
- Most bus services in Great Britain are operated commercially, but some 16% are subsidised. The House of Commons Transport Committee is currently looking at tendered bus services. It is concerned that decreasing competition is leading to increased tender prices and fewer tenders.
- The success of the present government's integrated transport policy will rest largely on the increased use of buses. Details of government policy were set out in the transport white paper *A new deal for transport: better for everyone* in July 1998 and the "daughter" document, *From workhorse to thoroughbred: a better role for bus travel*, published in March 1999. Great emphasis is given by the government to quality partnerships where the local authority provides traffic management schemes such as bus lanes, priority at junctions, park and ride; and the bus operator offers better quality (in terms of comfort, 'greenness', accessibility and staff training), improved marketing, better integration and more reliable services. Legislation will be introduced to back these up. Legislation will also introduce quality contracts. These would involve operators bidding for exclusive rights to run bus services on a route or group of routes, on the basis of local authority service specifications and performance targets, similar to what happens in London at the moment. Other factors being considered by the government are the scope for more effective use of bus priority measures, better arrangements for passenger information and ticketing, and better regulation.
- Support from central government for the bus industry totalled £983 million in 1997/98. £222 million for additional bus services through competitive tendering, £441 million for concessionary fares, £270 million as bus fuel duty rebate and £50 million to support rural buses and rural community transport projects. The Commission for Integrated Transport

is to be asked to review funding priorities, including what is spent by local authorities on social services transport and school travel (£520 million).

- The government announced in the transport white paper that it would introduce legislation for a new national minimum standard for concessionary fare schemes for elderly people with a maximum £5 a year charge for a pass entitling the holder to travel at half fare on buses.
- The *Disability Discrimination Act 1995* requires buses to be fully accessible to disabled people, including wheelchair users. It is proposed that new large single deck buses (over 7.5 tonnes) and new double deck buses will have to comply with the accessibility requirements by January 2000 (except for wheelchair access on double deck buses which will be introduced in January 2002). All single deck buses will have to comply with the requirements by 2015 and all double deck vehicles by 2017.

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I The Past

The regulation of passenger-carrying motor vehicles was introduced by the *Road Traffic Act 1930*. This Act marked the beginning of comprehensive state intervention in the bus industry by its introduction of both quality and quantity regulation. The Act remained virtually unchanged until 1980 despite two government reviews in 1953 and 1961.

The *Road Traffic Act 1930* established a system of road vehicle licensing controlled by regional traffic commissioners. This covered quality regulation - of the operators, vehicles and drivers - and quantity regulation of the number and types of services operated. It provided for the award of licences to operators to run a service defined by a route and timetable with a specified fare scale. Once granted, a licence in effect conferred local monopoly rights on the operator particularly where local services in urban areas were concerned. Such services were developed on a comprehensive basis and provided a co-ordinated network, parts of which were usually dependent on cross subsidy. Ownership of the local services was predominantly public.

The structure of the bus industry had changed little over the 50 years to 1980, but the market in which it operated had altered dramatically with the increased use of the car. Patronage of the buses halved between the 1960s and 1980s.

Concomitant with this the bus industry was finding that operating costs, fares and levels of subsidy were on the increase. Almost all companies suffered from a shortfall between revenue from fares and their operating costs. Following the *Transport Act 1968* and the *Local Government Acts* of 1972 and of 1973, local authorities played an increasing role in sustaining public transport through revenue support payments, in line with their statutory obligations to provide co-ordinated public transport to meet the needs of their populations. To retain the network of services and maintain fares at acceptable levels, local authorities were asked to make good the losses by subsidy payments. The level of support provided varied considerably from area to area. Because of the extent of cross-subsidy between routes, it was often difficult to assess the value for money obtained. Bus services in large parts of rural Britain, together with many commuter-based rail and bus networks in the conurbations, continued in existence only because of the subsidy paid by local authorities and the urban Passenger Transport Authorities (PTAs).

The Conservative government, committed to reductions in public expenditure and an increased role for commercial objectives, developed policies to reduce subsidies to buses, to reduce the role of local government in planning and controlling bus systems and to increase competition between bus companies. It decided that the way to deal with the decline in bus services, rising costs and increasing subsidies was to deregulate the industry and allow services to be subject to competition. Legislation to deregulate the industry outside London was introduced through the *Transport Acts 1980* and *1985*. The former dealt with express coach services and the latter with

the traditional bus service. The aim was "to halt the decline that [had] afflicted the bus industry for more than 20 years".¹

A. The Conservatives' Legislation

1. Transport Act 1980

The *Transport Act 1980* lifted regulations on express coach services and also allowed county councils to set up "trial areas" in which road service licences were no longer required and operators could run services on any route they wished. The Transport and Road Research Laboratory (TRL) reported on the three trial areas in 1984.² The TRL report concluded that "at this stage the situation appears to be unstable and the final outcome is uncertain". Nevertheless, all three trial areas showed reductions in revenue support, as well as lower fares and better levels of service while deregulation had provided opportunities for operators to experiment with new services. However, there were also problems caused by overcrowding of buses in the town centre and with the operation of the concessionary fare scheme.

2. Transport Act 1985: Deregulation

Proposals to deregulate local bus services were published in 1984 in the white paper *Buses*³ and a subsequent series of more detailed consultation papers. They were brought into effect by the *Transport Act 1985* (part I). This abolished road service licensing in Great Britain (though not in London) from October 1986. It replaced the licensing system with a system of registration, removed the duties of local authorities to co-ordinate public passenger transport in their area, and empowered them to subsidise public passenger transport services only on condition that they went out to open tender.

The licensing authorities, the traffic commissioners, lost many of their former powers. Once the Act was implemented, any licensed bus operator merely needed to register its intention to set up a service with the traffic commissioner responsible for the area, giving at least 42 days' notice. (The only exception to this is where the traffic commissioner, in special circumstances, uses his or her discretion to shorten the period of notice on request.) Any subsequent variation or withdrawal of the service also requires this period of notice. To register a new service an operator has to provide the traffic commissioner with information on the proposed route, on the terminal points, timetable and stopping arrangements, and on the vehicles to be used. The operator is then obliged to run the service according to the specification in the registration.⁴

¹ Nicholas Ridley, *Transport Bill 1985* second reading HC Deb 12 January 1985 c 192

² TRRL Report LR 1131 *Deregulation of bus services in the trial areas 1981-84*, 1984

³ *Buses*, July 1984 Cmnd 9300

⁴ *Public Service Vehicles (Registration of Local Services) Regulations 1986*, SI No 1671. These allow three exceptions to the registered specification: a change in timing of services of not more than 5 minutes; the use of

Individual bus operators are responsible for the timetable and the introduction of new services will depend on the operator's opinion of the demand for it and its commercial viability. There is no requirement in the *Transport Act 1985* or its regulations for the commercial bus operator to consult before making changes to the timetable and the position of bus stops. The criteria for registration do not include any reference to public demand or to existing services and objections can no longer be made by other operators or local authorities.

The traffic commissioners are appointed by the secretary of state to license the bus operators, deal with disciplinary cases and check on the quality and safety of the service offered. Their powers include the ability to attach conditions to an operator's licence and if an operator is not running a service he has said he will, the traffic commissioner can become involved. They cannot, however, tell him to run a particular service or stop in a particular place.

Passenger Transport Executives (PTEs) and county councils were given powers to secure, using subsidy, socially necessary services which were not provided by the commercial market. Controls over these services in terms of fare levels, type of bus and so on, could be maintained. Operators had the right to participate in concessionary fare schemes and the Passenger Transport Authority had powers to compel participation in the schemes. Operators were to be reimbursed for the net financial loss incurred by participating in the scheme.

The Act abolished the concept of network support. A bus company could register any service which it chose to operate on a commercial, i.e. unsupported, basis. If there were deemed to be any social needs not met by commercial services then the local authority could invite competitive tenders for additional routes or journeys on a case by case basis.

3. Transport Act 1985: Privatisation

At the same time proposals were also put forward to change the structure of the bus industry through privatisation. Deregulation was intended to increase competition through an increase in the number of competitors and by reducing the possibilities of entry-detering behaviour. Privatisation, in itself, was not necessarily going to increase competition. The 1984 white paper envisaged that the various types of public ownership then existing in the local bus sector would gradually be replaced by private companies. Privatisation was seen by the Conservative government to be a means of achieving a more committed management and better access to private capital.

In the ten years before 1985 the bus industry was dominated by public sector companies. In the six English metropolitan counties and Greater Glasgow the vast majority of urban bus services were planned, funded and operated by Passenger Transport Executives. A number of other cities and towns had, by historical precedent, municipal bus companies under the control of the relevant district council in England and Wales, or the regional council in Scotland. Most of the remaining urban services and a high proportion of inter-urban and rural routes were operated by

duplicate buses to meet unusually high demand; and the registration of a "frequent service" (i.e. at least one bus every 10 minutes) which means a timetable is not required.

subsidiaries of the state owned National Bus Company in England and Wales, and by the Scottish Bus Group subsidiaries in Scotland.

Part III of the 1985 Act required the sale of the National Bus Company subsidiaries to the private sector. The National Bus Company reorganised its services into 72 separate companies and these were all sold to the private sector or to management and/or employee buy-outs by April 1988.⁵ Forty of the companies were bought by management or employee teams and many of the sales included provision for employee share schemes or profit-sharing schemes. Gross proceeds of the NBC privatisation amounted to £323 million, resulting in a net surplus to the government of £89 million after all debts and privatisation expenses had been accounted for.⁶ The Public Accounts Committee was critical of the department's conduct of the sale of the individual companies as it felt that they had not accurately forecast their value.⁷

Section 75 of the Act allowed local authorities, should they so choose, to dispose of their bus undertakings subject to the secretary of state's approval. Portsmouth City Council was the first municipal bus company to sell its bus operation in June 1988. There are now only 17 operators still owned by local authorities (about 6% of the bus market).

In Scotland the position was slightly different as the Scottish Bus Group operated the buses and coaches. As in England, long distance journeys had been deregulated by the *Transport Act 1980* and local bus services had been deregulated in October 1986 by the *Transport Act 1985*. However, whereas the 1985 Act placed on the NBC a duty to draw up plans for its privatisation, a similar duty was not placed on the SBG. It was not until 1988 that Malcolm Rifkind, then secretary of state for Scotland, announced he would privatise the company. The *Transport (Scotland) Act 1989* restructured the SBG into 10 separate independent bus companies before being privatised. The sales were completed by October 1991 and yielded some £90 million for the Exchequer. The sale was considered by the National Audit Office in 1993⁸ and the Public Accounts Committee, which was critical that the costs of the sale had increased so much and that a considerable amount was spent on work not subject to competitive tender.⁹

4. London

Buses in London are governed by the *London Regional Transport Act 1984*, which transferred responsibility for the bus network from the GLC to London Regional Transport (LRT). A government statement of November 1993 deferred the previously intended deregulation of buses in London, although privatisation of the bus operating subsidiaries of

⁵ PQ HC Deb 18 April 1988 cc 357-360W

⁶ PQ HC Deb 25 January 1989 c 573W

⁷ PAC 9th report *Sale of the National Bus Company*, 18 March 1991 HC 119

⁸ National Audit Office *Sale of the Scottish Bus Group*, 23 July 1993 HC 884

⁹ Committee of Public Accounts 21st report *Sale of the Scottish Bus Group*, 21 April 1994 HC 97

London Transport proceeded.¹⁰ This was in contrast to the rest of the country where the *Transport Act 1985* deregulated and privatised the buses. Ten bus companies were sold between September 1994 and January 1995 for £233 million (£218 million net). In a report, the National Audit Office concluded the key objectives of the sale had all been achieved and that it had raised £30 million more than the original indicative offers but it questioned the success fee arrangements.¹¹

The *Greater London Authority Bill 1998/99* transfers responsibility for London's bus services from LRT to Transport for London (TfL). It will decide which local services are required for the purpose of providing "safe, integrated, efficient and economic" transport services in Greater London and will plan the detailed pattern of bus services, which will be known as the "London bus network". Only TfL, its subsidiary or someone with an agreement with TfL, may provide a service on the network. The government believes the present arrangements for bus services in London work well but that TfL will be able to develop and improve these arrangements.¹²

In London's regulated regime, all services are secured by London Transport, through LT Buses, from private operators following competitive tendering. Its role, in addition to securing services from private operators, is to determine the level and structure of fares to be charged, to determine the general structure of bus routes and their frequency of operation, to provide and maintain the infrastructure, to promote customer information and develop technology and to ensure operators deliver safe, reliable and clean buses.

5. Changes since 1985

The Conservative government remained committed to the promotion of competition in the provision of bus services and saw competition as in the best interests of the consumer and the public interest. The 1985 Act resulted in dramatic changes to both the operating environment and the pattern of ownership in the bus industry but there was criticism about predatory behaviour and the powers of the regulatory authorities.¹³ The conflicts between rival operators highlighted the absence of a regulatory framework, leaving an ad hoc policing arrangement to the Office of Fair Trading (OFT) and the Monopolies and Mergers Commission (MMC). Following a consultation exercise on local bus services outside London, the transport minister, Roger Freeman, ruled out major changes to the legislation but announced a package of minor rule changes.¹⁴ These included clarifying the powers of the traffic commissioners to make it clear that they could use their powers to regulate the number of buses used in

¹⁰ Department of Transport press notice 8 November 1993

¹¹ NAO *The sale of London Transport's bus operating companies*, 14 December 1995, HC 29

¹² *A mayor and Assembly for London: the government's proposals for modernising the governance of London*, March 1998, Cm 3897 para 5.23

¹³ See, for example, OFT *United Automobile Services Ltd - the operation of local bus services in Darlington*, March 1995

¹⁴ Department of Transport press notice 455, 16 November 1993

providing a service and to control the use of duplicate buses.¹⁵ The government also worked with local authorities on the Bus Working Group to look at issues concerning the provision of bus services and ways in which they could be improved.¹⁶

Regulation continued to be a concern throughout the period. In 1985, 75% of bus turnover was in the hands of the public sector. By 1997, it amounted to about 7%. The large number of units set up after 1985 have quickly consolidated into a small number of large players and now a few very large private groups - Arriva, FirstGroup and Stagecoach - control about 53.3% of the bus market by turnover.

B. Effects of the 1985 Legislation

Deregulation would seem to have been neither as disastrous as the opponents to the legislation feared or as successful as its proponents had predicted. It can be argued that it failed to deliver the Conservative government's stated objective of halting the decline in the bus industry but it did reduce the costs of providing the services and the government subsidy. The question of ownership has now become largely irrelevant and the debate has moved on to the regulation of the industry. Critics of deregulation point to an asset base diminished by property sales since privatisation and windfall gains from sales; a decreasing passenger use and dissatisfaction from those who have no choice but to use the buses. Others see emerging a new stable structure of profitable companies with large sources of City finance to invest in new vehicles, improve quality and seek to attract more passengers.

There have been a number of studies of the industry in recent years.

TRL report 1982

In 1992 the TRL reviewed the operation of the industry after the first five years of deregulation.¹⁷ It found that while the threat of competition appeared to have acted as an incentive to bus companies to reduce operating costs and improve services, only a small minority of bus services had been affected by actual on-the-road competition. The more remarkable cases attracted considerable publicity but, since they were atypical, may have produced a somewhat distorted impression of competition in general.

¹⁵ Department of Transport press notice 264, 19 July 1994

¹⁶ Steven Norris announced a number of measures aimed at improving bus performance which would lead to more stable services, high quality accessible vehicles, convenient waiting areas, ticketing schemes, good passenger information and traffic management measures designed to help buses. Department of Transport press notice 8 January 1996 "Norris announces measures to improve bus performance"

¹⁷ TRL Report 353, 1992

Transport Committee 1993

In 1993 the Transport Committee considered the government's proposals for the deregulation of buses in London and made a particular point of asking witnesses about the effects of deregulation on buses outside London. A comprehensive analysis of the effects of bus deregulation was carried out at the Committee's request and printed as appendix 1 of their report.¹⁸ The evidence showed substantial changes in the pattern and delivery of bus services since the implementation of the 1985 Act, including an increase in the total number of bus routes run; an increase in the real level of fares; a fall in operating costs; a fall in the number of passengers; and a fall in public subsidy. The picture varied considerably in different areas: the greatest increases in services had occurred in some inner and central urban areas at busy times whereas reductions had been in the less well-used suburban, weekend and evening services. There was broad consistency in the statistical evidence submitted to the Committee by the various interested parties, but there were significant differences in the interpretation of the figures. In particular, there was no consensus about which of the principal effects observed were due directly to deregulation and which were the result of other factors.

Transport Committee 1995

Two years later, the Transport Committee again looked at the bus industry and considered the consequences of bus deregulation outside London.¹⁹ There seemed to be no desire on the part of the local authorities to own the bus companies again, but there was serious concern about some aspects of their operation. It must be recognised, however, that the degree of disquiet depended to some extent on where one lived. There seemed to be less concern at the effects of deregulation in, say, Oxford or Bristol than there was in Sheffield or Warrington. The committee found that many cities with competing bus companies had streets congested with half-empty, old buses and only where there was a near monopoly did people get newer buses running to reliable timetables. It recommended a series of reforms to ensure that the effect of market mechanisms in the bus industry operated in the interests of the passengers. It also concluded that some re-regulation was needed and recommended the establishment of a bus industry regulator although not perhaps on the scale of those in the privatised utilities. "The bus industry is small-scale, essentially local in nature, faces extremely fierce competition from the private car and has virtually no monopoly power. The regulator would not be involved in monitoring service standards or in the general pricing decisions, but would acquire a special expertise in bus industry matters and act as referee, quickly on the spot, able to settle disputes in a firm and free manner."²⁰

¹⁸ Transport Committee *The Government's Proposals for the Deregulation of Buses in London*, 4th report 1992-93, 14 July 1993 HC 623

¹⁹ Transport Committee *The Consequences of Bus Deregulation*, 1st Report 1995-96, 22 November 1995 HC 54

²⁰ *Ibid*, para 143

In its response to the committee's report, the Conservative government accepted that existing arrangements for dealing with the abuse of market power were inadequate but preferred to strengthen existing legislation to give the OFT greater investigatory powers and the power to take quick interim measures where abuse threatened to damage competitors.²¹

Hibbs and Bradley

Another report on the effects of deregulation, *Deregulated decade: ten years of bus deregulation* by John Hibbs and Matthew Bradley, was published in 1997.²² The figures are similar to those appearing in other publications but these authors offer rather more positive conclusions about deregulation than some other commentators. They show a decline in subsidy and an increase in mileage. Although bus use has continued to fall, it has fallen since 1986 by far less than in the previous period and since 1991 by less still. The report certainly views the reforms as an "overall success".

C. Long Term Trends

Basic statistical information on the bus industry is published in *BusData 1998*,²³ *Focus on Public Transport 1999*,²⁴ and *Transport Trends 1999*.²⁵ These include statistical information on various aspects, including the numbers of kilometres covered, the passenger journeys and fares, costs and government support. In many cases the years back to 1950 are covered. The following tables are principally interested in looking at the changes over a period of time.

1. All modes

The volume of personal travel is increasing each year but passenger journeys by public transport have declined since 1950. The most marked decline was in journeys by local bus. Bus patronage has fallen over a long period from 42 per cent of passenger kilometres to 6 per cent, and has only recently shown signs of levelling out. Private motoring in contrast has increased its share from 26 per cent in 1950 to 86 percent in 1997.

²¹ Transport Committee *Government observations on the report on the consequences of bus deregulation*, second special report 1995-96, 8 May 1996 HC 392

²² Adam Smith Institute 1997

²³ DETR *BusData 1998: a compendium of bus, coach and taxi statistics*, 1998 Statistics bulletin SB(98)13

²⁴ DETR *Focus on Public Transport 1999* February 1999

²⁵ DETR *Transport Trends 1999* March 1999

Table 1 Passenger transport by bus, car and rail 1952-1997 (billion passenger kms)

	Buses and coaches	Cars, vans and taxis	Rail	All Modes
YEAR	billion passenger kms			
1952	92	58	39	219
1955	91	83	38	239
1960	79	139	40	282
1965	67	231	35	349
1970	60	297	36	403
1971	60	313	36	419
1972	60	327	35	432
1973	61	345	35	452
1974	61	333	36	441
1975	60	331	35	438
1976	58	348	33	453
1977	58	354	34	461
1978	56	368	35	474
1979	56	365	35	471
1980	52	388	35	491
1981	49	394	34	495
1982	48	406	31	504
1983	48	411	34	511
1984	48	432	35	534
1985	49	441	37	544
1986	47	465	37	566
1987	47	500	40	604
1988	46	536	41	639
1989	47	581	40	684
1990	46	588	40	690
1991	44	582	38	681
1992	43	583	38	679
1993	44	584	37	678
1994	44	591	35	684
1995	44	596	37	690
1996	44	609	38	706
1997	43	619	41	717

Source: *Transport Trends* 1999 table 1.1:

If one looks at the number of passenger journeys rather than of passenger kilometres, bus journeys in 1997 account for 7% of the total passenger journeys, but for 67% of the journeys on all public transport.²⁶

²⁶ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 p 12

2. Industry statistics

Table 2

Local bus passenger journeys, passenger receipts and vehicle kilometres

Outside London, the number of passenger journeys was fairly constant between 1982 and 1985/86, possibly because of slower growth in car ownership and low fares policies pursued in the English metropolitan areas, but there has been a general decline in patronage since then. After a gentle decline to 1992/93, real passenger receipts (including concessionary fare reimbursement) for local services have gradually increased. Between the mid-1950s and the early 1980s, local bus mileage in Great Britain declined by an average of 2 per cent each year. It was then fairly constant between 1982 and 1985/86. More competition on the road amongst PSV operators following the *Transport Act 1985* increased supply and from then on it increased steadily until 1994/95 since when it has been relatively stable. [Source: *Focus on Public Transport* annex B tables 2 and 6]

	Local bus Passenger journeys	Passenger receipts at 1997/98 prices	Local bus Vehicle km
YEAR	millions	millions £	millions km
1950	16445		
1960	13313	3491	3179
1970	8687	3154	2623
1980	6224	2945	2263
1981	5694	2736	2142
1982	5518	2765	2111
1983	5587	2783	2117
1984	5650	2734	2125
1985/86	5641	2694	2077
1986/87	5341	2651	2160
1987/88	5292	2631	2342
1988/89	5215	2589	2390
1989/90	5074	2573	2442
1990/91	4850	2559	2448
1991/92	4665	2490	2488
1992/93	4480	2445	2515
1993/94	4385	2489	2585
1994/95	4420	2551	2649
1995/96	4383	2541	2623
1996/97	4350	2555	2638
1997/98	4337	2632	2632

Table 3
Changes in bus fares compared with other modes

In Great Britain, over the last decade, local bus fares have increased by 18 per cent in real terms and rail fares by 22 per cent. Motoring costs have increased by 4 per cent in real terms. Over a longer period, since 1975, rail fares have increased by about two thirds in real terms and bus fares have increased by more than half, but real motoring costs have fallen by 6 per cent. Bus fare increases vary across Great Britain. Table 1.7 of *BusData 1998* shows changes in bus fares compared with other modes since 1974. Comparisons with rail and with motoring costs are given below:

YEAR	Motoring costs	Rail fares	Local bus fares
1995=100			
1974	103.1	56.2	60.7
1975	107.6	61.3	66.1
1976	104.3	69.8	72.2
1977	103.0	70.2	69.8
1978	102.8	74.1	73.7
1979	107.2	72.3	72.7
1980	107.0	76.2	78.9
1981	107.1	77.8	79.4
1982	104.2	82.3	84.6
1983	106.4	83.4	85.5
1984	103.8	79.8	83.2
1985/86	101.7	80.4	81.7
1986/87	97.4	82.7	87.0
1987/88	99.5	84.1	88.4
1988/89	98.4	85.4	88.4
1989/90	95.9	85.7	88.6
1990/91	93.3	86.3	88.9
1991/92	96.4	89.9	92.4
1992/93	98.3	93.5	94.7
1993/94	101.6	97.6	97.3
1994/95	101.3	99.2	99.2
1995/96	99.7	100.4	100.5
1996/97	101.4	101.1	103.1

1995=100 Adjusted for general inflation using the RPI

Source: *BusData* table 1.7

Table 4
Spending on bus services

Table 19 of *Focus on Public Transport* includes information on public transport support, the fuel duty rebate and the cost of reimbursing local authorities for concessionary fares. It also includes

the rural bus grant for the years 1986-87 to 1989-90. Today about 71 per cent of bus income comes direct from the passenger compared with about 64 percent ten years ago.

Public transport support, in real terms, is now one third of what it was in 1986/87. The provisional estimate of support during 1997/98 is put at about £222 million. About two thirds of all public transport support is actually passed on to the operators, the remainder is absorbed in expenditure incurred by PTAs and local authorities in tendering procedures, promotion of bus services and maintaining infrastructure such as bus stations. The proportion that the operator receives will vary from area to area.

Since the 1985 Act came into force, subsidised mileage as a proportion of all local bus service mileage outside London has been fairly constant, whereas the proportion of mileage operated commercially has generally increased.

Year	Payment by or for passengers		Payment for services			Total
	Payment by passengers	Concessionary fare reimbursement	Public transport support	Fuel duty rebate	Rural bus grant	
At 1997/98 prices						£ million
1977/78	2826	340	672	197		4,035
1978/79	2754	368	681	183		3,986
1979/80	2605	368	700	179		3,852
1980/81	2491	377	837	180		3,885
1981/82	2355	386	906	181		3,828
1982/83	2309	454	1070	197		4,030
1983/84	2319	458	1042	184		4,003
1984/85	2266	461	1056	220		4,003
1985/86	2235	459	814	216		3,724
1986/87	2198	453	671	207	28	3,557
1987/88	2161	470	513	205	25	3,374
1988/89	2134	455	480	225	18	3,312
1989/90	2093	480	395	201	6	3,175
1990/91	2062	497	405	212	1	3,177
1991/92	2024	466	467	222		3,179
1992/93	1992	453	452	223		3,120
1993/94	2039	450	305	242		3,036
1994/95	2085	465	295	243		3,088
1995/96	2082	459	264	242		3,047
1996/97	2101	448	246	234		3,029
1997/98	2185	441	222	227		3,075

Source: *Focus on Public Transport* table 19

II The Present

A. An Integrated Transport Policy

For the past ten years or so the emphasis has been on the effects of deregulation, and whether it was a good or bad thing. The policy emphasis now is on buses being a major part of an integrated transport policy. It is not just on the level of fares or subsidy, or the number of passengers carried, but also the effects on pollution and congestion if the public do not use the buses. Bus patronage now appears to be fairly stable at about 4.3 billion journeys a year after a long period of decline since the 1950s and buses are the dominant form of public transport for local journeys. It is also recognised that there have been some notable successes.²⁷ This section looks at what the government has said about buses in *A new deal for transport: a better deal for everyone*, its white paper on an integrated transport system.²⁸ How its policies can be achieved is considered in the next section.

The government announced a review of the buses in June 1997 as part of the integrated transport review.²⁹ The then minister, Gavin Strang, said his aim was to see increased use of the bus as a means of reducing congestion and pollution, particularly by attracting motorists from their cars.

The transport white paper was published in July 1998 and, on buses, it concluded:³⁰

2.36 Deregulation of the local bus market, outside London, caused substantial upheaval because of 'bus wars' and confusion over changing service patterns. There have been some good examples of innovation but frequent changes to bus services, poor connections and the reluctance of some bus operators to participate in information schemes or through-ticketing undermined bus services. In this climate, it was not easy for buses to match the levels of comfort, reliability and access offered by the private car.

2.37 Deregulation has not broken the spiral of decline in local bus use. Since 1986 bus use has fallen by about a quarter—by about one billion fewer journeys a year; in contrast with London, within a regulated market, where use has held up. More recently, there have been good examples of bus companies and local authorities working together in Quality Partnerships to change the image of bus services and stem, sometimes even reverse, the decline in patronage.

²⁷ For example in Oxford and Ipswich. See next section for further references.

²⁸ DETR *A new deal for transport: better for everyone*, July 1998 Cm 3950 paras 3.13-3.25 and 3.47-3.78

²⁹ PQ HC Deb 25 June 1997 c 518W; DETR press notice 25 June 1997 "Gavin Strang announces bus review"

³⁰ Op cit, Cm 3950 paras 2.36-2.37

Buses are seen as vital to an efficient transport system that gets people where they want to be without having to rely on cars. The aim is to persuade more people to take more journeys by public transport and fewer by private car. This has to be done by making journeys not only viable but attractive. According to emerging market research, there are three key factors that determine public attitudes to using public transport - frequency of service, reliability of service and attractive fares. People will not switch from the comfort of their cars to buses that are old, dirty, unreliable and slow. A radical change is needed in overall public perception of bus services to attract middle income and car using groups.

More detail of how this could be done was given in the white paper's "daughter" document, *From workhorse to thoroughbred: a better role for bus travel*, published in March 1999.³¹ This set out the government's overall policy but also requested views on matters of detail. It looked at all aspects of buses including the scope for more effective use of bus priority measures, coupled as necessary with traffic restraint; better arrangements for passenger information and ticketing, including inter-modal travel; regulatory and other measures to improve the quality of bus services notably through the "quality partnership" approach between operators and local authorities. Great emphasis is given by the government to quality partnerships where the local authority provides traffic management schemes such as bus lanes, priority at junctions, and park and ride, and the bus operator offers better quality (in terms of comfort, 'greenness', accessibility and staff training), improved marketing, better integration and more reliable services. Some of the proposals need primary legislation but this does not preclude action being taken by bus operators and local authorities on a voluntary basis. Indeed the aim is to encourage them to adopt best practice and not to wait for legislation.

With car traffic estimated to grow by more than a third over the next twenty years, the success of the government's integrated transport policy will rest largely on the increased use of buses. Without it pollution and congestion will inevitably increase with a corresponding damage to both the health of the population and the economy.

B. Local Authorities

The government can set out the legal framework but local needs have to be met locally and responsibility for improvements in bus usage will rest largely with the local authorities and the bus operators.

1. General responsibilities

The prime objectives for public transport for local authorities are:

³¹ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999

- To reduce the amount of travel by private car
- To reduce social exclusion

The first objective is to prevent the economic and environmental conditions of the community degenerating as a result of increasing traffic congestion, pollution and noise. The objective is enshrined in the *Road Traffic Reduction Act 1997* and one of the ways of achieving this is by increasing the number of people travelling by bus. The second relates to the need for people to reach activities essential to lead an active and fulfilling life. This includes work, education, shops, medical facilities, leisure facilities and suchlike. There are also political and financial considerations that have to be considered by any local authority. The introduction of a bus lane or higher parking charges, for example, may need some "carrots" to be introduced as well as a vigorous public awareness campaign.

Local authorities, through the new local transport plans (LTPs), will have the opportunity to take a more strategic view of public transport provision in their area and related expenditure.³² They will be encouraged to set objectives and targets for such factors as traffic reduction, air quality improvement and the increased proportion of journeys in their area by public transport. The guidance is clear that the LTP will be expected to contain standards for the bus network and that there will need to be extensive consultation with the local community beforehand. Planning policy guidance is also being updated.³³ The government has stressed that transport and land use planning must be approached together, and that this must be reflected in the local transport plans.

2. Publicly subsidised services

Although most bus services in Great Britain are operated commercially, some 16% are subsidised. As a consequence of the *Transport Act 1985* local authorities are no longer permitted to provide blanket support for bus services in their areas. They are, however, allowed to subsidise services required to meet social needs that would not otherwise be met. The powers of local authorities to subsidise public passenger transport services are subject to detailed tendering provisions.³⁴ All contracts over £12,000 per annum must be awarded through tender and any one operator may receive a maximum of £70,000 a year without tendering. The rule applies to changes to existing contracts as well as to new ones and is known as the *de minimis* rule. The current limit can present a problem where there is a

³² The DETR has already issued guidance on preparing local transport plans, draft published 12 November 1998; revised 12 April 1999. These are currently non-statutory but it is intended to give them statutory force in due course.

³³ PPG 11 (regional planning) and PPG 12 (development plans) were published in February 1999. A draft PPG 13 (transport) is expected in the summer.

³⁴ Laid down in sections 88-92 of the *Transport Act 1985*, Department of Transport circular 5/85, and the *Service Subsidy Agreements (Tendering) Regulations* SI No 1985/1921, as amended by SI 1989/464 and SI 1994/1227

dominant operator in a given area: the limit is quickly reached by an accumulation of smaller contracts, and the authority is then obliged to put all future contracts, however small, out to tender, which can be cost-ineffective.

Section 89 of the 1985 Act states that the objective of competitive tendering is to secure the most effective and economic use of funds, and to secure the required level of service through fair competition. Most contracts include clauses allowing them to be suspended if another operator decides to register the service commercially: the tendering authorities are not allowed to subsidise services which are commercially registered. The contract usually specifies the detailed characteristics of the service (vehicle requirements, route, exact timetable) and very often the fares.

There are two main types of contract used for tendered services:³⁵

- minimum cost: the tendering authority retains all revenues and the contractor tenders for the whole cost of operating the contract (revenue risk is taken by the authority); and
- minimum subsidy: the operator retains all revenues and tenders for the cost of operating the service less the estimated revenue (revenue risk is taken by the operator).

The Code of Practice on Tendering states that "the terms of authorities' subsidy powers need not constrain authorities to subsidising services only along routes where no commercial service whatsoever will be available."³⁶ It goes on to say that local authorities will wish to assess how far registered services meet the transport requirement which they have identified in drawing up their public transport policies. In doing this they might take account of the geographical extent and frequency of services, stopping patterns, type of vehicles used etc:

In so doing they may take account not only of the geographical extent of services, but also of such matters as period and frequency of operations and the passenger-carrying capacity of services. Apart from the quantity of services available. Authorities may sometimes wish to take account of the nature of services available, for instance stopping patterns, the design of vehicles used, where that is of particular relevance to the transport requirements within their area, and of the fares charged to passengers. Authorities must themselves assess the costs and benefits of subsidising additional services where, in the judgement of the local authority, the services provided commercially meet those requirements only in part.

The code of practice identifies two main reasons why authorities need to consider the implications of subsidised services for existing commercial services:

³⁵ Monopolies & Mergers Commission, *The supply of bus services in the North East of England*, Cm 2933 August 1995 p.41

³⁶ Contained in annex to circular 5/85

- Under section 92 of the 1985 Act, transport authorities have a duty not to inhibit competition. The code considers that "it is inevitable, except in remote areas, that an authority's decision to subsidise a service may affect other existing services" (paragraph 4). That should not necessarily be held to inhibit competition, even if this involves some loss of revenue on commercial services, but local authorities could, for example, be in danger of inhibiting competition "if the subsidy mechanism was used to support services which combined lower fares and higher frequencies to such an extent that existing commercial services could not be expected to compete successfully." In practice this section may have deterred authorities from using their bus subsidy powers to buy additional frequency.
- Second, the local authority has a duty to obtain the best value for public money in achieving improved services for passengers.

The government's proposals

The government has announced that it will clarify local authorities' powers to buy in extra services to boost frequencies on a particular route.³⁷ It is clear local authorities do have power to buy additional frequency but the duty not to inhibit competition may have prevented some from doing so. Options set out for consultation include:

- repealing section 92(1) and relying instead on scrutiny by the Director General of Fair Trading to ensure that competition is not inhibited;
- qualifying the requirement not to inhibit competition with an obligation to take into account the interests of the travelling public (actual or potential), to allow the social benefit of the extra frequency to be weighed in the balance, alongside other factors; or
- simply disapplying the requirement in the case of frequency enhancements.

Transport Committee's inquiry

From deregulation in 1986 until recently the cost of tendered services fell significantly and continuously, although the decline since 1993 has been more modest. From 1984/85 to 1997/98 public transport support outside London fell by 65% in real terms, from £631 million to £221 million (in 1997/98 prices). A November 1998 survey by the Association of Transport Co-ordinating Officers (ATCO) suggested that prices for tenders since 1 April 1998 were up almost 12% on average. One fifth of English shire counties reported increases of over 20% but there were substantial differences. It is not clear, however, whether any increase is permanent and whether it applies throughout the country. Data on individual local

³⁷ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 5.6

authority tenders is not collected centrally and so the DETR has no firm information. It is, however, undertaking a case study of five areas (Cheshire, Kent, Staffordshire, Suffolk and a PTE to be announced) to review trends over the past three years.³⁸ It will be able to compare the results with surveys done in 1991 and 1995.

The Transport sub-committee of the House of Commons Environment, Transport and Regional Affairs committee is currently looking at tendered bus services.³⁹ One of the problems of the increasing concentration in bus ownership is that a reduction in the number of operators may lead to a fall in the numbers able and willing to tender for local authority contracts. The committee is concerned that decreasing competition is leading to increased tender prices and fewer tenders.

The DETR has said that it has no evidence that this is so but it admits that it has no statistical analysis to be able to prove or disprove such a link. The large reduction in operating costs following deregulation has largely ended. Driver shortages and increased wage costs may have contributed to both higher tenders and a reduction in the number of bidders. The cost of preparing bids and the effect of publishing tender prices may also have an effect.

C. Bus Operators

The period from deregulation to the early 1990s was a period of rapid change as the industry adjusted to a very different environment. Since the early 1990s there has been greater stability and considerable consolidation of ownership. The three major groups account for over 50% of the market although small independent operators have maintained their 15% share. Regionally the situation varies with some towns or areas having only one large operator (e.g. Birmingham and Blackpool) whereas in others, such as Manchester and Liverpool, quite large numbers of companies operate.

To some extent mergers and eventual flotation were inevitable. It can be more difficult for a private company to raise money either to repay debt or fund acquisitions and a company may find itself starved of capital with which to grow and compete. A stock market flotation enables a company to discharge its debts and make acquisitions, and allows management and employees to sell their shares if they want to. On the other hand, a trade sale realises cash for the business and gets access to the borrowing facilities of a much larger group more quickly and more cheaply than a flotation.

The bus operators are largely commercial operators who need to make a profit if they are to continue in and expand their business, replace and renew their assets, and reward their

³⁸ Evidence to Transport Committee, 26 May 1999

³⁹ Environment, Transport and Regional Affairs committee press notice 4 May 1999; first meeting 19 May 1999, HC 429

shareholders. The City calculates that growth of just 1 per cent in passenger numbers would boost the UK industry's annual turnover by 13 per cent.⁴⁰ Professor David Begg calculates that an extra two passengers on every bus would increase the industry's revenue by £400 million per annum.⁴¹ The TAS Partnership looks regularly at industry profitability and performance. It estimates that a return of 16 to 18% is needed.⁴² At present the operating margin for the industry as a whole is 11.8% but this disguises considerable differences between areas and companies. The West Midlands is the only region to achieve the target and Wales is the worst area. TAS analysed 146 operators and found that 21% achieved an operating return of 15% or more and 21% achieved 12 to 15%. However 14% were making less than 5% and 8% were making a loss. It found that there was a continuing growth in investment, an improvement in profit levels, a real growth in revenue and, though patchy, an apparent stabilisation in patronage. However it also found that small operators were not investing enough, labour shortages were hampering reliability and profit improvements were still coming from cost control rather than revenue growth.

Since deregulation the industry has been slow to invest in new vehicles but this is beginning to change. The number of new bus registrations is running at historically high levels. The DETR estimate that investment in new buses by the industry is around £270 million a year, some 80% higher in real terms than it was five years ago.⁴³ TAS calculates that total investment by the industry is £372.9 million but it also argues that £460 million is needed to bring fleets up to date, plan for renewal, invest in ticketing equipment and depot facilities, and contribute to infrastructure improvements.⁴⁴ However modern low-floor buses, with easy access for people with shopping, for the elderly and people in wheelchairs and for parents with children in buggies, are increasingly common, ahead of proposed legal requirements under the *Disability Discrimination Act 1995*. There is also increasing interest in buses running on alternative fuels, including compressed gas.

The Transport Committee, in its report on the integrated transport white paper, was concerned that as the bus operations became more profitable, additional revenue would increase shareholder dividends rather than be re-invested in better services.⁴⁵

⁴⁰ See for example, *Observer* 26 July 1998 "Any more fares please, they're mostly profit"

⁴¹ Quoted in speech, Centre for Transport Policy 23 March 1999

⁴² Details given in presentation at conference on the government's bus policy changes, Regents College 20 May 1999; they will appear in *Bus Industry Monitor*.

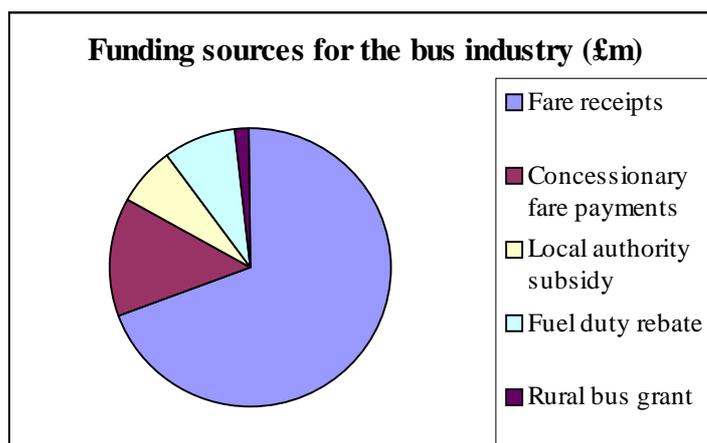
⁴³ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 2.12

⁴⁴ TAS estimates that 9% vehicles date from before 1980, 18% from 1980-85

⁴⁵ Environment, Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32 para 99

D. Finance

Local transport plans will replace the existing system of allocating capital resources. Local authorities and PTAs spend £222 million from Revenue Support Grant (RSG) on buying additional bus services through competitive tendering and £441 million on concessionary fares. As a result of fuel duty increases, the government will provide £270 million to the bus industry in the form of bus fuel duty rebate this year and following the 1998 Budget, an extra £50 million a year is available for three years to support rural buses and rural community transport projects. Support from central government totals £983 million:⁴⁶



The newly established Commission for Integrated Transport is to be asked to review funding priorities in England and Wales, including what is spent by local authorities on social services, transport and school travel (£520 million, much of it on children with special needs).⁴⁷ Future financial arrangements in Scotland will be the responsibility of the Scottish Executive.

Local authorities may benefit from workplace parking charges and road user charges. In the transport white paper the government promised a consultation document on how these schemes could operate.⁴⁸ The consultation document, *Breaking the Logjam*, was published in December 1998 and promised that the government would introduce primary legislation to enable traffic authorities to introduce road user charging and/or workplace parking charges in all or part of their area or on particular roads.⁴⁹ The *Greater London Authority Bill 1998-99*, which is going through Parliament at the moment, provides for the introduction of these charges in London. Schemes will be implemented and operated by Transport for London

⁴⁶ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 3.7

⁴⁷ *Ibid*, para 11.9

⁴⁸ DETR *A New Deal for Transport: Better for Everyone*, July 1998 Cm 3950 para 4.98

⁴⁹ DETR *Breaking the Logjam*, December 1998

(TfL), the new transport executive body. It will not be compulsory for authorities to introduce a scheme, and it will be up to those local councils which think it would help in their area to put up well reasoned proposals. The government is already looking for volunteers to act as pilot schemes.

It has been agreed that local authorities should be able to retain for ten years the revenues from such charges, primarily to spend on improving local transport. This could in theory lead to a considerable amount of extra income.

III The Future

This section sets out the main bus policy changes advocated in the government's consultation paper and other changes expected to be introduced in the future.

A. Quality Partnerships and Contracts

1. Quality Partnerships

Quality partnerships (QPs) are partnerships between the bus operator and the local authority. Bus operators invest in higher quality services, including new vehicles (often environmentally friendly ones) and staff training. Local authorities invest in traffic management schemes which give buses priority, or in better bus stations, shelters and other facilities for passengers. Often too there are concerted efforts to improve passenger information, covering both timetables - how the buses ought to run - and information on how they actually are running.

Quality partnerships are considered by many to be the key to improvements in bus use. Most commentators will agree that the main successes of the last ten years have come where local authorities have worked with operators to establish higher quality services on selected corridors. Examples such as Ipswich Superoute 66, Edinburgh Greenways and the Leeds Guided Busway are often cited. One of the most extensive is Greater Manchester's 1998 Countywide Agreement covering a population of over 2.5 million. Quality partnerships have been developed in over 30 other towns and cities, including Aberdeen, Birmingham, Brighton, Bristol, Nottingham and Oxford. The bus consultation paper reports that they have increased patronage by typically 10 to 20% and by up to 40% where there is bus segregation and substantial improvements in roadside infrastructure. They have also attracted new passengers who previously used cars and taxis.⁵⁰

⁵⁰ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 p 22

The Transport Committee, however, is less convinced:⁵¹

With a few notable exceptions, they [quality partnerships] had not been very successful. A survey of 16 quality partnerships found clear evidence of car users transferring to buses in only three of the schemes. Increased bus use, which was quite small in some cases, could often be attributed to existing passengers travelling more frequently. Most of the schemes were too small and unambitious to reduce bus journey times significantly.

Similar findings were also reported by the Audit Commission.⁵² In a recent report, it criticised quality partnerships and argued that local authorities invested far more than the bus operators but had few specific objectives and no systematic programme to assess results. It found a shortage of local authority funds and a chronological mismatch between operator and authority spending periods. The Commission maintained that there was only limited evidence demonstrating that QPs resulted in a switch in trips from the car to public transport, despite the fact that this was often the major reason for investing in improved bus provisions. It also suggested that increases in patronage were generally due to existing passengers travelling more often.

The government accepts the argument, advanced both by operators and by local authorities, that QPs would be more effective, and more widely adopted, if they had statutory force. Legislation would address the potential problem that operators who do not agree to raise their standards cannot be excluded from using the new facilities. Bus operators might be reluctant to enter partnerships and spend money if they can be undercut by low cost, low-quality rivals. Statutory backing would allow local authorities to set quality standards for the QP facilities that they provide such as bus lanes, or access to high-quality shelters with real-time passenger information. Buses that did not meet the standards could be excluded. This would give local authorities extra scope for influencing bus quality, whilst providing operators with the confidence to invest and to decide about service provision and innovation. In many cases QPs do not involve bus operators and local authorities alone, but also involve train operators (e.g. through ticketing), light rail operators and enforcement authorities.

QPs vary enormously and can be adapted to suit different locations and situations. Highest standards can be set where there is high demand and a need to restrain local car traffic, with priority measures helping to give the bus an advantage in congested streets. More modest standards might be appropriate where operators stand to benefit less from local authority investment, or where the level of demand may not justify high levels of investment. Rural Quality Partnerships, for example, might have a stronger emphasis on better information for

⁵¹ Environment, Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32 para 87

⁵² Audit Commission *All aboard: a review of local transport and travel in urban areas outside London* 1999

passengers and improving bus stops and shelters. Any legislation will need to incorporate this flexibility.

The consultation paper sets out the key legislative provisions of a statutory QP as:⁵³

- fair and open access: all operators would be entitled to be a QP partner so long as they met the necessary standards. There would be no room for local discrimination in favour of particular operators.
- QPs would be about quality standards - typically vehicle standards: easy-access low floors, features to assist the mobility or visually impaired (as recommended by the Disabled Persons Transport Advisory Committee), emission standards or other aspects like driver training/customer care qualifications (e.g. NVQs). If a local authority wants extra routes or more frequent services, it can buy them through tendering.
- the power of a local authority to exclude operators would apply only to the facilities it was providing or improving as part of the QP agreement. It could not be used to ban non-QP operators from whole routes or areas.
- before implementing a QP, a local authority would be obliged to consult all operators in their area who used, or might use, the QP facilities, to make clear what those facilities would be and what standards it would be imposing on bus operators in return for using them. There should also be consultation with the local community.

Concern has been expressed that partnerships could be anti-competitive. The Audit Commission found doubts expressed over the legality of partnerships, in terms of competition law, and warned that "robust defences against cartels or other anti-competitive practices will be essential" if they are introduced.⁵⁴ Some operators and local authorities are wary about agreeing to quality partnerships until the effects of the *Competition Act 1998* have been clarified. In recent years there has been increasing co-operation between companies. Operators recognise that if they are to expand their market, they have to win passengers from the private car. However, some operators have had difficulty constructing multi-operator partnerships, which might involve restricting the number and ensuring the quality of buses in urban streets, which are not considered to be illegal "market sharing".

The success of a quality partnership can be judged on the basis of four criteria: higher bus ridership; a good rate of return on bus operator investment; a modal shift from car to bus; and a consequent reduction in vehicle emissions and accidents. The DETR wants to encourage more quality partnerships but there are no rules or guidance available on how they should be

⁵³ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 4.6

⁵⁴ Audit Commission *All aboard: a review of local transport and travel in urban areas outside London 1999*

implemented or judged. It has therefore commissioned the TAS Partnership and Leeds University's Institute of Transport Studies to look at some examples to identify the optimum structures and contractual arrangements. Competition concerns are a particular focus, while the study also aims to develop tangible strategies and benchmarks. The first results should be available in the summer.

2. Quality Contracts

The transport white paper recognised that quality partnerships may not be sufficient to guarantee the necessary improvements. The government is therefore proposing to introduce primary legislation to give powers to local authorities to enter into quality contracts (QCs) for bus services.⁵⁵

These would mark a real change from the present system as it would involve operators bidding for exclusive rights to run bus services on a route or group of routes, on the basis of a local authority service specification and performance targets. At present London is the only area where this happens. The government proposes to grant enabling powers for a local authority to move to quality contracts for all or part of its services subject to prior ministerial approval, or that of the National Assembly for Wales or the Scottish Executive. The onus would be on the local authority to demonstrate as part of the local transport plan that the benefits could not be met by other means and that any extra costs involved would be offset by other benefits. The government has made it clear that it only expects a minority of cases to be covered by quality contracts.

Some of the advantages and disadvantages of such a system were set out in the bus consultation paper.⁵⁶

6.4 The expected benefits of a 'contracted' bus network include stability of the network and services, local authority control over fares and the ability to specify the quality and quantity of services, and the connections with other buses - or other modes. There is also an argument that passengers would benefit if operators used revenues on the busier routes to subsidise the less busy ones.

6.5 But there are also potential disadvantages. Decision-making would be largely removed from the operators, with a danger that there would be less responsiveness to the customer, reduced flexibility and less incentive to innovate. Smaller operators in particular could find themselves squeezed out by the larger groups. Experience suggests that contracting can become a competition between operators for the lowest-cost wages and conditions for staff. And there would be costs to local authorities in setting up and monitoring bus Quality Contracts.

⁵⁵ DETR *A New Deal for Transport: Better for Everyone*, July 1998 Cm 3950 para 3.20

⁵⁶ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 6.4-6.6

6.6 Bus franchising in various forms is fairly common elsewhere in Europe, though other circumstances differ. Public ownership in the bus sector is still high in many parts of Europe compared with the UK, and public subsidy (as a percentage of operating costs) tends to be substantially higher. Results vary from country to country in terms of service levels and the degree of integration and no single model emerges as a template for success.

The bus operators are supportive of the idea of bus partnerships, but are not enthusiastic about contracts. They consider them to be bureaucratic and inflexible, will lead to increased public expenditure, and will reduce the incentive for operators to improve the quality and quantity of services, to the detriment of the travelling public.⁵⁷ Franchise administrators, rather than the commercial operators will take an increasing role in decision making, based on short-run rather than long run impacts. There could be practical and legal problems over the withdrawal of a right to offer a service to the public that could lead to compensation claims. On the whole the bus operators see their potential existence as a strong inducement to make partnerships work.

The Transport Committee, however, questions whether quality partnerships will be "sufficient to bring about the necessary improvements in bus services" and instead calls for local authorities to be urgently given the powers to enter into quality contracts, allowing them to specify the level of services they require.⁵⁸

B. Regulation and Competition

How the industry is to be regulated, who is to do it and the extent to which it is desirable are topics which have been discussed ever since the industry was deregulated in 1985.

The traffic commissioners, appointed by the secretary of state, already have a role in applying entry standards for the bus and coach industry - that is, deciding (through the operator licensing regime) who meets the standard to operate buses and coaches - and then making sure that those standards are maintained. They oversee the bus registration process, which governs all new bus services and changes to existing services, and they have powers to ensure that bus operators run the services they have said they will run.

They are currently empowered to fine a bus operator 20% of eligible fuel duty rebate (FDR) for failure to operate services in accordance with the registered details. This is seen as too draconian and rigid because it applies to operators, rather than services. So, for example, a misdemeanour by a major operator on only one of his routes lays him open to recovery of 20% of his entire FDR for that quarter. This would almost certainly be disproportionate to the

⁵⁷ Environment, Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32. See, for example, evidence from bus companies, 18 November 1998.

⁵⁸ *Ibid*, para 94

'offence' and, as a result, the penalty is rarely used. One way forward would be to amend the penalty provision so that a fine of 'up to 20%' can be imposed. This would be much more flexible, and would make it a practical option in a wider range of circumstances. An alternative might be to create a new free-standing penalty more closely linked in some way to the bus operations in question. Both changes would require primary legislation.⁵⁹

The government's plan seems to be for the traffic commissioners to enforce the quality partnerships by rejecting service registrations which do not conform to specified QP standards and by making sure operators run services as they have registered to run them. However traffic commissioners are basically reactive and therefore as presently constituted are unlikely to take a proactive role. Nor do they have the manpower or resources to act as an independent regulator.

An alternative would be to allow the Office of Fair Trading a greater role although there is already considerable confusion as to how the government's bus policy is going to work alongside its new competition policy. The bus industry wants guidance from the DTI and the OFT on joint services and through ticketing, particularly in the context of quality partnerships. It is not clear whether co-ordination of fares and schedules would be treated as anti-competitive.

Oversight of competition issues is conducted by the OFT under the competition legislation. The present law is described in some detail in an earlier Research Paper.⁶⁰ The existing monopoly and merger provisions of the *Fair Trading Act* continue as now but the new *Competition Act 1998*, expected to be introduced on 1 March 2000, will introduce significantly increased powers to act against anti-competitive agreements and abuses of market power. The new legislation introduces two specific prohibitions: of agreements which prevent, restrict or distort competition (chapter I) and of abuse of dominant market positions (chapter II). The OFT will be the main enforcement body for both prohibitions. It may conduct an investigation if there are reasonable grounds for suspecting (more liberal than the present rule) that either prohibition has been infringed, and will have powers to investigate possible abuses and to introduce and enforce prohibitions. Sector regulators will have similar powers in relation to the prohibitions for their sectors except for the power to make procedural rules where the OFT retains sole responsibility. Agreements that do not have an appreciable effect on competition will not be prohibited. The general rule will be that no appreciable effect is likely if the market share of the parties involved is less than 25%. However, agreements to fix prices or share markets will be seen as capable of having an appreciable effect even if the market share falls below 25%. An agreement can be exempt from the chapter I prohibition if the Director General is satisfied that it has positive benefits. There could therefore be a block exemption for quality partnerships proposals.

⁵⁹ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 10.7

⁶⁰ House of Commons Library *Deregulation of the Buses*, Research Paper 95/57, April 1995

The Transport Committee has advocated the appointment of a specialist regulator for the bus industry.⁶¹ It has said that it will be considering this issue again "shortly".⁶² The government's integrated transport white paper makes no mention of an independent regulator for the bus industry. It merely talks of a wider role for the Traffic Commissioners in strengthening the passenger voice.⁶³ A bus regulator was considered prior to the publication of the transport white paper but the government decided that the competition authorities already had sufficient powers, especially in view of the increased power to act under the 1998 legislation.

In 1998 the Confederation of Passenger Transport and the National Federation of Bus Users set up an independent Bus Appeals Body to handle bus passenger complaints outside London that cannot be resolved directly with the bus operator. In London this is the responsibility of the London Regional Transport Committee, to be replaced under the *Greater London Authority Bill 1998-99* by the London Transport Users' Committee. The address is c/o NFBU, PO Box 320, Portsmouth PO5 3SD.

C. Bus priorities and red routes

Whatever investment is put in by the bus operators the buses will not be used if they are stuck in traffic. Bus services are particularly susceptible to congestion. Passengers are deterred because of slower and less reliable services; delays increase operating costs and so increase fares. Allocation of road capacity to buses improves their speed and reliability for the public and is also commercially advantageous to the operator. Research by the TAS Partnership for the DETR has shown that for every £1 spent on bus priority there are three times as many passengers as from £1 spent on bus subsidy.⁶⁴

It is up to the local authority to provide the traffic management schemes. The operators may invest in infrastructure improvements but this will depend on the likely return. The TAS Partnership estimates that the break even point is £140,000 pa in new revenue for each £1 million spent. This is equivalent to about 200,000 extra passengers.

Bus lanes are road lanes where buses have priority and are the commonest form of bus priority measure. A traffic regulation order under the *Road Traffic Regulation Act 1984* must be made to identify the length of the bus route and to limit its use to those types of bus and other vehicles the authority wishes to allow. Buses can also be given priority at road junctions, either by

⁶¹ Transport Committee, *The consequences of bus deregulation*, 1st report 1995-96 HC 54-I; and also in Environment, Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32

⁶² Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32 para 99

⁶³ DETR *A new deal for transport: better for everyone*, July 1998 Cm 3950 para. 3.23

⁶⁴ Quoted by David Begg, Centre for Transport Policy conference 23 March 1999

permitting buses to make a turn prohibited to other traffic or by adjusting signals when a bus is detected in the traffic. Allowing buses to make a turn prohibited to other traffic is a measure that is usually cheap to install and which can give buses a considerable advantage. The *Road Traffic Act 1991* provides for the designation of Red Routes in London. These are routes where stopping is strictly controlled to ease the flow of traffic. Buses benefit from the general reduction in congestion and the more reliable journey times. Local authorities outside London can use their powers to establish urban clearways and to introduce stringent waiting and loading restrictions on what they regard as priority routes.⁶⁵

Regular and consistent enforcement is essential to the success of all these schemes. Illegal use of a bus lane carries a maximum penalty of £1,000, but many offences are dealt with under the fixed penalty procedure, with a penalty of £20. The government takes a serious view of bus lane offences and will consider the case for a higher penalty, in the context of the current review of fixed penalties. It will also consult police associations and others on the scope for relieving police officers of some of the enforcement task by transferring responsibilities to traffic wardens or police civilians.⁶⁶

Wider use of cameras can help enforcement. A pilot project has shown cameras are effective for proceedings against bus lane offences, whilst minimising the workload on the police. The project will be extended across London, with a view to having some 360 cameras on board buses or at the roadside adjacent to bus lanes by the year 2003. The government is keen to see how the lessons learned from the London trials can be applied more widely, and will consider preparing national guidance.⁶⁷

Another problem is parking at bus stops. Bus stops do not carry an automatic parking restriction. Local authorities have to introduce restrictions by a traffic regulation order, as for other parking restrictions. The nature and time of operation of restrictions vary considerably from place to place, and may not be obvious to drivers. The government is currently consulting on making all bus stops 24 hour clearways, where no other vehicles may stop on the markings, even to pick up or set down, or load and unload. It would be done as part of the consultation on changes to the Traffic Signs Regulations.⁶⁸

⁶⁵ DETR *Keeping buses moving* Local transport note 1/97. This provides advice and guidance to local authorities wishing to implement bus priority measures.

⁶⁶ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 11.2

⁶⁷ *Ibid*, para 11.14

⁶⁸ DETR consultation letter on proposals to amend provisions in the *Traffic signs regulations and general directions (TSRGD) 1994* relating to bus stop clearways, 18 May 1999

D. Deregulation

Bus services must be stable and reliable to attract new custom. One of the criticisms most commonly levelled at the deregulated system has been instability of services. It is argued that timetables change too frequently, confusing potential passengers. Sometimes frequent changes have been associated with 'bus wars', with one company's buses being run just ahead of another's. The government is therefore proposing a package of measures to promote greater stability and integration, improve enforcement and streamline administrative procedures. Some can be introduced through secondary legislation, but others will require primary legislation. Most will be relevant whether or not a local authority operates statutory backed quality partnerships, but will not apply where exclusive contracting replaces the service registration process.

Timetable changes

There are currently over 22,000 registration changes a year, of which only a quarter are new applications. All that is required of the operator is 42 days notice to the traffic commissioners.

It is argued that bus operators need to be able to respond quickly to external changes such as road works, demand from new schools or factories and college terms, and that operators should have freedom to innovate. Operators also argue that many of the changes are brought about by local authorities changing the specification for the services which they purchase. On the other hand, there are concerns that there is at present too much flexibility, which creates uncertainty and instability and is damaging to the cause of the bus. It certainly makes the task of keeping passenger information up-to-date very difficult and costly.

Options being considered are to permit changes only twice a year, as on the railways, or monthly or bi-monthly, with power for the traffic commissioners to exercise discretion.⁶⁹ Some authorities already have voluntary agreements with operators limiting change to specific dates.

Notice periods

A new bus service needs no prior approval: it can be introduced as soon as the necessary notice period for registration purposes (42 days) has expired. Once registered, the service can be varied, subject only to giving a further 42 days notice. The traffic commissioners can agree to reduce the 42 day period in certain cases. Three possible changes are being considered by the government:⁷⁰

⁶⁹ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999, para 7.5

⁷⁰ *Ibid*, para 7.7

- reduce the category of cases where the Traffic Commissioners can grant a waiver. For example, a shorter notice period for improvements to existing services only;
- ban cancellations within, say, three months of introduction. This might pose some enforcement difficulties, and might discourage experimentation. On the other hand, it is argued that the benefits of stability outweigh the loss of flexibility, and that no self-respecting operator should shrink from a requirement to keep a new service going for at least three to six months;
- lengthen the notice period to, say, 56 days (8 weeks). This would give local authorities more time to decide whether they should adjust their tendered services and, if so, to go through the process of inviting and agreeing bids. There is no reason why there should not be different notice periods for starting and stopping a service.

The five minute rule

Operators can adjust registered timetables by up to five minutes without further notification. It is said that adjustments are sometimes used anti-competitively, to gain commercial advantage by scheduling services just ahead of a competitor. A standard requirement to notify changes (21 days in advance) could be a deterrent, and would at least give early warning of intent.

Alternatives being considered might be to:⁷¹

- limit the changes to those which put service timings back rather than forward (which may lessen the anti-competitive problem);
- require a variation notice which would carry a fee;
- require notice unless the variation represents an additional service.

Information

Legislation is planned to ensure bus information is available locally. This will contribute to the government's aim of a national integrated journey timetable covering all public transport services planned for 2000. Local authorities have the statutory power to publish information but are not required to do so. Guidance on good practice was issued by the Department of Transport in 1996 and in practice some 80% do so. The new proposal makes it a duty for local authorities to publish information but will also allow them to recover reasonable costs

⁷¹ Ibid, para 7.9

from the operators (there is no guidance as to what is "reasonable"). The information will have to be supplied in a standard format and perhaps even electronically.⁷²

Stricter requirements will also be introduced about displaying the route number more clearly, perhaps with fare and timetable information. This will be done through regulations to be made under the *Disability Discrimination Act 1995*.⁷³

Ticketing

A frequent complaint about deregulation, and the fragmentation of services it often entailed, has been the loss of flexibility in ticketing. Too often, passengers cannot buy a ticket which permits a return journey on a different bus operator's service or they cannot easily buy tickets for through journeys involving different bus operators or bus and train services. The position varies widely across the country, and between operators. Travelcards and multi-modal tickets have survived in most PTE areas, and more recently there has been an increase in bus/rail ticketing, often stimulated by joint ownership of the two industries in parts of the country. Modern ticketing systems are helping to reduce the practical problems of revenue allocation. Simple 'add-on' tickets, with revenue being retained by the operator who sells the ticket, do not need a sophisticated allocation method.

In November 1997, the government issued new instructions to the Rail Franchising Director to encourage multi-modal travel schemes, including the London Travelcard, provided they did not incur new net costs to his budget. Many new schemes have been established under train operators' franchise commitments and at their own commercial initiative, for example Thames Trains and the Oxford city bus network issue through tickets and Virgin/Stagecoach have a £1 add-on return bus ticket in 21 towns. The government is proposed to give local authorities more power to make bus operators offer integrated ticketing if existing arrangements are not considered adequate.⁷⁴

E. Concessionary fares

The government announced in the transport white paper *A new deal for transport: better for everyone*, published in July 1998, that it intended to introduce a new national minimum standard for concessionary fare schemes for elderly people:

We will introduce a national minimum standard for local authority concessionary fare schemes for elderly people with a maximum £5 a year charge for a pass entitling the holder to travel at half fare on buses. This will enable elderly people, especially those

⁷² Ibid, para 8.5, 8.11

⁷³ Ibid, para 8.13

⁷⁴ Ibid, para 9.5

on low incomes, to continue to use public transport and to use it more often, improving their access to a range of basic necessities such as health care and shops and reducing social isolation. Local authorities will still be able to offer more generous schemes if they wish to do so. The change will require legislation.⁷⁵

Glenda Jackson was asked about an expected implementation date but would only say that "the necessary primary legislation will be brought forward as soon as Parliamentary time permits".⁷⁶ There will be consultation with local government beforehand.

It has not been decided how this policy will be financed. It is thought the extra cost will be about £25 million a year.⁷⁷ Many local authorities already give generous concessions and it is likely that the extra money will be added to the total amount available to all local authorities. It will be up to those who do not now provide travel concessions to adjust their budgets to find the money. This will be one of the factors in the consultation.

There are considerable differences between one area and another in the nature and availability of concessionary schemes. Hitherto such fares have been seen as a matter for locally elected and accountable authorities. Within a statutory framework setting out the categories of people eligible, local authorities take their own decisions on what schemes to provide in the light of their judgements of local circumstances and financial priorities. Local authorities may operate joint schemes with another local authority or a group of local authorities. Several districts may participate in a common scheme at county level, or set their own permit fees within a county based scheme. Unitary authorities may run a scheme in conjunction with an adjacent county. Outside London, schemes generally have an annual fee for a pass at county or district level which permits the holder to travel half fare. Some schemes offer travel tokens or vouchers instead of, or in addition to, a reduced fare. There are 10 local authorities in England with no concessionary scheme for their pensioners and these pensioners represent 2.6 per cent of the total number in England.⁷⁸ All Scottish local authorities, except Orkney Islands Council, operate concessionary travel schemes.⁷⁹ Orkney has no scheme within its area but does provide help to pensioners travelling to the mainland.

The relevant legislation is set out below:

Outside London

The *Transport Act 1985* allows the Passenger Transport Authorities and local authorities in England, Scotland and Wales (outside London) to provide at their discretion travel for elderly

⁷⁵ DETR *New Deal for Transport: Better for everyone* July 1998 Cm 3950 para 4.81

⁷⁶ PQ HC Deb 31 July 1998 c 620W

⁷⁷ PQ HC Deb 12 January 1999 c 96

⁷⁸ PQ HC Deb 8 December 1998 c 127W; 1 February 1999 c 470W

⁷⁹ PQ HC Deb 9 November 1998 c 36W

persons as well as for other specifically defined categories of persons set out in section 93. This includes:

- pensioners
- children under 16
- those between 16 and 18 in full time education
- the blind
- the disabled

It should be noted that the Act simply limits the groups to whom authorities can provide concessionary travel; authorities need not provide concessionary travel at all (and a number do not) nor need they provide concessions to everybody within the statutory categories.

Concessionary fares are within the remit of the new Scottish Parliament and Welsh Assembly. In Scotland, the white paper *Travel choices for Scotland* announced a commitment to work towards a voluntary national scheme offering free travel on public transport for blind people.⁸⁰ In Wales ministers have made it clear that they expect all local authorities to meet the planned minimum standards for pensioners with effect from April 1999. They also made clear their intention to move towards free bus fares for pensioners over the next two or three years.⁸¹

London

The existing London concessionary travel scheme is operated under section 50 of the *London Regional Transport Act 1984*.⁸² The 32 London boroughs and the City of London may between them unanimously agree a scheme of concessionary fares for elderly, blind and disabled people, to be operated by London Transport on their behalf. The transport operators are then reimbursed by the local authorities. Unanimous agreement to continue the voluntary scheme for each financial year must be reached by 31 December of the previous year and if it is not reached, the secretary of state may enforce a scheme on the boroughs.

The London scheme provides a standard concession for elderly, blind and disabled people across the 33 boroughs, with the costs of the single scheme being charged back to each of the boroughs under an agreed formula, based on the number of permits issued to the residents of each borough. The scheme provides free travel for passholders on bus, underground and the DLR services. The London scheme of free travel was extended to the London area services of British Rail in April 1995 in lieu of the previous half fare. Child concessions are not included in the legislation and are provided on a commercial basis by London Transport.

⁸⁰ *Travel choice for Scotland* July 1998 Cm 4010

⁸¹ PQ HC Deb 20 April 1999 c 502W

⁸² *London Regional Transport Act 1984* section 50(7)(a)

Under the *Greater London Authority Bill 1998-9* responsibility for concessionary fares will remain with the boroughs. Clauses 193-6 establish a similar scheme to the existing one. The local authorities may make voluntary arrangements with TfL and other transport operators, but if they do not agree, TfL will be able to implement a reserve scheme and charge the boroughs for the cost of doing so.

F. Community Buses

The bus consultation paper reports that the DETR review of voluntary and community transport is expected to recommend that community transport services should be eligible for fuel duty rebate (FDR).⁸³ The government has also announced that possible changes to the scope of the scheme will be considered as part of the advice on all aspects of the public funding of buses which is to be requested from the new Commission for Integrated Transport.⁸⁴ If a change was agreed it would be a significant move from the long-standing principle that FDR is designed to support only registered local bus services available to the general public. Most community transport schemes do not presently qualify for the FDR as these schemes are not available to all members of the general public and, as a door-to-door service, cannot supply a schedule of their stopping times and places.

Hitherto the government's view was that summarised in response to a petition on 2 February:

By means of a grant, known as Fuel Duty Rebate (FDR), the Department of Environment, Transport and the Regions reimburses to the operators of local registered bus services the majority of the excise duty paid on the fuel used in operating such services. The longstanding purpose of this grant, which was first introduced in 1965, is to support local bus services available to the general public. To be eligible for this rebate a bus service must be one the route for which has been registered in advance with the Traffic Commissioner and which meets a number of strict criteria to ensure that it is a service available to the general public, using the registered stopping places (rather than being for example a prebooked door-to-door service).

There is a wide range of transport services which do not meet these requirements. To include all such services, useful though they are to particular groups of people, in the scope of the FDR scheme would be a significant and costly extension to the scheme's purpose and the Government has no plans at present to introduce such a change.

However, my Department has been undertaking a wide-ranging review of the role of transport provided by the voluntary transport sector, including door-to-door transport services. One of the review's aims has been to look at the ways in which central and

⁸³ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 11.6

⁸⁴ PQ HC Deb 26 May 1999 c 173W

local government policies, such as FDR, impact on these services and to make recommendations for change where necessary.

Earlier this session Patrick McLoughlin, with all party support, introduced a Private Members Bill "to exempt operators of certain community bus services from payment of excise duty on fuel used in operating those services".⁸⁵

G. The *Disability Discrimination Act*

The *Disability Discrimination Act 1995* contains provisions for increased access to transport and to transport infrastructure by the disabled. The Act enables the government to make regulations to require buses, trains and taxis to be fully accessible to disabled people, including wheelchair users. Section 40 gave the secretary of state the power to make regulations covering access for the disabled to public service vehicles (PSVs), including those who use wheelchairs. The purpose of the regulations will be to enable disabled people to get on and off buses and coaches in safety, without unreasonable difficulty and to be able to be carried in such vehicles in safety and reasonable comfort. Flexibility is allowed. For example the access solution for a full-size single deck bus may be a low floor but for a coach it might be a lift. It also permits different time-scales and allows regional and local variations.

Proposals for consultation were published on 19 December 1997.⁸⁶ The DETR is well aware that viable access solutions are not yet available for all vehicle types and there is likely to have to be more research and development before regulations can be introduced. For example, there are no viable access solutions for small buses and coaches at present. The regulations will only apply to new vehicles. To apply the provisions retrospectively would be technically difficult and costly and in some cases could render some transport services commercially unviable.

It is proposed that all large single deck buses (over 7.5 tonnes) and all double deck buses will have to comply with the accessibility requirements detailed in the annexes of the consultation document. New single deck vehicles are to comply by 1 January 2000 and all vehicles by 2015. New double deck vehicles are to comply with the non wheelchair accessibility requirements by 1 January 2000 and with all requirements by the year 2002. All vehicles will have to comply by 2017.

⁸⁵ Bill 10 1998-99

⁸⁶ DETR *Disability Discrimination Act 1995: the government's proposals for buses and coaches*, December 1997

H. The Working Time Directive

In October 1998, the *Working Time Regulations*, which introduce a statutory right to paid annual leave and regulate working time, came into force in Great Britain.⁸⁷ They implemented the EC *Working Time Directive*, adopted in 1993.⁸⁸ The directive excluded the transport sectors. It applies to:

All sectors of activity... with the exception of air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training.⁸⁹

The *Working Time Regulations*, similarly exclude these sectors.

The European Commission is anxious to extend the provisions of the directive to the excluded sectors, and, on 18 November 1998, published proposals for four Council directives, two of which could be relevant to the bus industry:⁹⁰

- To amend directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that directive
- Concerning the organisation of working time for mobile workers performing road transport activities and for self employed drivers

The first of these would delete the words "with the exception of air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training" from article 1 (3). But further changes would put in place other rules to take account of the particular difficulties faced by particular groups in complying with the directive. The proposals are rather complicated because they include the different excluded sectors by different means and apply different approaches to mobile and non-mobile workers.

The provisions of the *Working Time Directive* would be extended to cover non-mobile workers in the road transport sector. A "mobile" worker would be defined as:

Any worker on board a sea-going fishing vessel flying the flag of a Member State, or employed as a member of travelling or flying personnel by an undertaking which for hire or reward operates transport services for passengers or goods by road, air or inland waterway.⁹¹

⁸⁷ SI 1998 No 1833

⁸⁸ Council Directive 93/104/EC

⁸⁹ Ibid, Article 1 (3)

⁹⁰ EC Commission *Communication on the organisation of working time in the sectors and activities excluded from Directive 93/104/EC of 23 November 1993*, COM(1998)662 final

⁹¹ proposed new Article 2, para 7

Mobile workers in the road transport industry would be excluded from the provisions on daily rest, breaks, weekly rest and the limit on night work. They would, however, have to be given "adequate rest".⁹² They would qualify for four weeks' paid leave. It would be possible to extend the reference period over which the 48 hour limit on the working week could be averaged to 12 months.

The sector-specific draft directive on mobile workers performing road transport activities and self employed drivers would take precedence over the amended version of the *Working Time Directive*. The main elements of this proposal would broadly:

- Define working time to include activities such as loading and unloading, supervising passengers getting in and out of a bus or coach, and cleaning and maintenance, as well as driving;
- Place a limit of 48 hours on the working week averaged over a four month reference period;
- Place an absolute limit on 60 hours work in any week;
- Grant a break of at least 30 minutes after 6 hours' work and at least 45 minutes after 9 hours;
- Give a right to daily rest of at least 11 hours (which may be reduced to 10 hours provided there is compensatory rest of 12 hours in a day within the following 4 weeks);
- Give a right to weekly rest of 35 hours;
- Place a limit of 8 hours on night work (which may be extended to 10 hours as long as an average of 8 hours is not exceeded over a 2 month reference period).

The first proposal is being considered in the Social Affairs Council whereas the second is being negotiated in the Transport Council and is progressing rather more slowly. The proposals will be the subject of much further consultation and negotiation both in the Council of Ministers and in the Parliament before they are finally adopted. They may be considerably changed. Once adopted, member states will have two years to implement them.

⁹² proposed new Article 17A

IV Further Reading

Transport Committee *The Government's Proposals for the Deregulation of Buses in London*, 4th report 1992-93, 14 July 1993 HC 623

Transport Committee *The Consequences of Bus Deregulation*, 1st Report 1995-96, 22 November 1995 HC 54

Transport Committee *Government observations on the report on the consequences of bus deregulation*, 2nd special report 1995-96, 8 May 1996 HC 392

DETR *A new deal for transport: better for everyone*, July 1998 Cm 3950

Audit Commission *All aboard: a review of local transport and travel in urban areas outside London* 1999

DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999

Environment, Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32

House of Commons Library *Deregulation of the Buses*, Research Paper 95/57, April 1995