

6 Conclusions

The merger situation

6.1. Under the reference dated 15 October 1993 (see Appendix 1.1) made under the provisions of sections 64, 68 and 69(2) of the Fair Trading Act 1973 (the Act), we are required to investigate and report whether a merger situation qualifying for investigation has been created in that enterprises carried on by or under the control of Saltire Holdings Ltd (Saltire) (incorporated in the UK) had within the six months preceding the date of the reference ceased to be distinct from enterprises carried on by or under the control of National Express Group PLC (NEG).

6.2. As described more fully in paragraphs 2.2 and 2.3, it was announced on 5 May 1993 that NEG had received irrevocable acceptances from over 90 per cent of shareholders of an offer to acquire Saltire. The offer valued Saltire at £5.1 million. It became unconditional on the admission to the Official List of the new NEG shares issued in connection with the acquisition, also on 5 May. NEG therefore acquired control of Saltire on that date and the two enterprises then ceased to be distinct.

6.3. Our terms of reference also refer to the test specified in section 64(1)(a) of the Act (the market share test) in respect of the supply of scheduled coach services in Great Britain. We are required by the relevant statutory provisions to be satisfied that, as a result of the enterprises of Saltire and NEG having ceased to be distinct, NEG supplies at least one-quarter of scheduled coach services in Great Britain or, if this was already the case, that the supply of these services by NEG was enhanced.

6.4. As explained in paragraph 3.11, there are no published statistics relating to scheduled coach services which enable market shares to be calculated accurately. It is generally accepted in the industry, however, that NEG's subsidiary, National Express Ltd (NEL), is by far the largest supplier of scheduled coach services. It is followed by Scottish Citylink Coaches Ltd (SCC), formerly a subsidiary of Saltire and since the merger a subsidiary (through Monarch Coaches Ltd-see Appendix 2.1) of NEG, and then by a number of medium-sized operators on several routes who are often themselves subsidiaries of larger companies. There are also some small operators present only on one or two routes. We noted that the prospectus issued by NEG in November 1992, in connection with its flotation and listing, stated that NEG believed NEL supplied 75 per cent of the scheduled coach services in Great Britain, estimated on the basis of vehicle miles. From information provided by NEG and other coach operators in Great Britain, we have estimated NEG's share of scheduled coach services in Great Britain in October 1993, in terms of vehicle miles. As set out in Table 3.4, this indicates shares for its two subsidiaries of 67 per cent for NEL and of 10 per cent for SCC, giving a combined share for NEG of just under four-fifths of the total market. We recognize that the vehicle mile measure is not a precise method of measuring market share. However, we are satisfied that NEG's share of scheduled coach services in Great Britain before the acquisition was well above one-quarter and that this share has been enhanced as a result of the acquisition by the share of the market held by Saltire. We note also that NEG did not question the existence of a merger situation qualifying for investigation.

6.5. We therefore conclude that the market share test is satisfied in respect of the supply of scheduled coach services in Great Britain and that a merger situation qualifying for investigation has been created. We have therefore to consider whether the creation of this merger situation operates or may be expected to operate against the public interest.

The market for scheduled coach services in Great Britain

Scheduled coach operations by NEL and SCC

6.6. Largely for historic reasons, stemming from the decision to privatize the long-distance scheduled coach service operations of the National Bus Company as an entity, NEG, through its subsidiary NEL, is the dominant operator of scheduled coach services in England and Wales and the only one with a network of long-distance trunk routes, focused on seven hub bus stations including Victoria Coach Station in London.

6.7. SCC's operations are within Scotland, where it operates a country-wide network of long-distance routes covering all the major towns on the mainland and the Isle of Skye. It has been retained within the NEG organization after the merger with operational responsibility for these routes, although its long-distance Scotland to London routes have been transferred to NEL.

6.8. Unlike their competitors, neither NEL nor SCC operates coaches directly. They handle the scheduling, booking and advertising arrangements for their services but contract out the actual running of the services to other bus or coach operators, who frequently run scheduled bus services or non-scheduled coach services but do not offer scheduled coach services in competition with NEL or SCC. Under the terms of the arrangements with contractors NEL and SCC bear the risk of failing to fill the seats.

6.9. NEL contracts typically run for one to three years and specify both the 'diagrams' (the detailed timing and sequence of services to be run) and detailed operational requirements, covering, for example, maintenance, staffing and the on-board services to be provided. Staff and coaches must be in NEL livery. At the time of the merger NEL had contracts with almost 60 operators. In addition NEL can call on up to 400 other operators at relatively short notice to provide duplicate coaches-which play an important part in meeting demand at peak periods (see paragraphs 3.25 and 3.26). SCC had similar arrangements, but with only 14 operators, reflecting its smaller network, typically less formal and for only six-month periods.

6.10. NEL's fare structure as adopted on 1 November 1993 is relatively simple and is described more fully in paragraphs 3.27 and 3.28. The base fare is the Economy Return, available except on Fridays, and Saturdays in July or August, when Standard fares are charged. Advance Purchase Savers provide discounts of about one-fifth but have to be booked at least a week in advance for specified journeys. Discount cards for over-60s, young people and students offer discounts of up to 30 per cent but not on Advance Purchase Savers. SCC's fare structure on the Scotland to London routes was similar to NEL's (see paragraph 3.62). On intra-Scotland routes it offered Single, Day Return, Economy Return and Period Return fares with no pre-booking requirements. Most tickets for travel within Scotland are sold on the day at the bus station or by the driver; the majority of NEL tickets are pre-booked.

6.11. Since 1989 NEL's fares have increased by 15 per cent more than inflation, primarily as a result of increases in 1990/91 to retrieve the significant losses incurred by NEHL. NEG told us that since then it had aimed to keep fare increases in line with inflation where competition allowed. No increase had been possible on its Scotland to London routes.

6.12. Shortly before the merger SCC announced an average increase of 3.5 per cent in fares, to take effect at the start of the summer season. Fares on the Glasgow/Edinburgh to Aberdeen services were increased by just over 2.5 per cent. NEG told us that following the merger fares on these routes had been adjusted to the lower of the two operators' fares and that some fares had thus been reduced. Other fares within Scotland had not been affected by the merger.

Scheduled services on which NEL and SCC overlapped

6.13. Before the merger the main areas of overlap between the two companies' operations were, first, on the long-distance routes between Scotland (Edinburgh/Glasgow) and London and, secondly, within Scotland, on the Glasgow/Edinburgh to Aberdeen routes. On both sets of routes active competition between the two companies dated from August 1989, when NEL purchased the cross-border and some intra-Scotland routes of Stagecoach Ltd, which at that time withdrew completely from coach services in Scotland although it has subsequently re-entered on routes between Dundee and Glasgow/Edinburgh (see paragraph 6.20).

6.14. SCC for a number of years ran services from both Edinburgh and Glasgow to London; immediately before the merger its summer timetable offered five services through the day to and from Glasgow (plus two lower-grade, lower-price services under the London Liner name) and one evening and one morning service to and from Edinburgh. Immediately before the merger NEL ran four services spread through the day from Glasgow and two services from Edinburgh, and the same services in the opposite direction, all with almost identical timings to those of SCC and very similar fares.

6.15. On the Glasgow/Edinburgh to Aberdeen routes NEL's 1989 acquisition of Stagecoach services seems to have initiated a period of strong competition, with SCC and NEL increasing services and matching departure timings on these routes and with NEL operating some new services, which were all withdrawn in September 1990, when the period of intense competition appears to have ended. Over the following three years NEL reduced its services from Aberdeen, Dundee and Perth while SCC services remained broadly unchanged. Immediately before the merger SCC ran a full daily service to and from Aberdeen, Dundee and Perth; NEL ran a limited number of services southwards in the morning and northwards in the afternoon, timed to connect with the London to Scotland services.

Developments since the merger

6.16. Since the merger took place all the marketing, sales and support operations connected with SCC's Scotland to London services have been moved from Glasgow to NEL's operations centre at Birmingham. The operation of SCC's Scotland to London routes has been transferred to NEL. The operational management of SCC's services within Scotland has remained in Glasgow and it has become responsible for marketing all NEG services in Scotland.

6.17. Before the merger neither operator was achieving loads sufficient to make its Scotland to London routes profitable. Since the merger NEL has taken over the running of SCC services, removed one of the overlapping services where the two companies were both running coaches at the same time and improved scheduling by introducing two new services on the Glasgow to London route. With this consolidation of services NEL's loadings and gross margins on the routes have improved through the recent high season, although when account is taken of overheads, the route does not yet appear to have moved into profit (see paragraphs 2.40 to 2.45). NEG has given undertakings to the Secretary of State that no further steps will be taken to merge the operation of the two businesses pending the outcome of this inquiry.

Other operators of scheduled services

6.18. NEG gave us details of about 20 operators in England and Wales operating services in competition with NEL and about a dozen operators providing services to and from London which do not directly compete with its own operations (Appendix 3.3). There are perhaps half a dozen substantial operators of scheduled coach services in competition with NEL, including Blue Line on the London to North-East routes, and competitors on the Avon and Somerset routes. Of the smaller operators, some operate on perhaps a single route, others only a single service on a route. No other operator, however, offers an extensive network of services, let alone a national network.

6.19. Although a number of competitors run over parts of the route, on the Scotland to London routes, from 1989 until the merger, SCC and NEL were the only continuing operators over the whole length of the route. Since the merger two small operators have entered on the London to Glasgow route. In October 1993 Gem Travel (Coaches) (Gem) introduced a single service each way on Fridays and Sundays only which has since been withdrawn. A month later Silver Choice started, and continues to operate, a twice-daily Glasgow to London service timed directly against the NEL service.

6.20. In Scotland we were told of nine other operators of services competing against SCC on various routes throughout the country, of which Fife Scottish Omnibuses Ltd (Fife Scottish), a Stagecoach subsidiary, operates between Dundee and Glasgow/Edinburgh. As well as competition on routes from Glasgow and Edinburgh there are other operators on routes out of Inverness to Wick and Ullapool and on an airport coach service between Glasgow and Glasgow Airport.

Competition to scheduled coach services

6.21. The long-distance traveller has a choice of air, rail or coach services or the private car. In terms of the total number of journeys made the car is the most important but for longer journeys tends to be less attractive. Given the relative pricing, air tends to be in competition only on the longer journeys and an option primarily for the business user. Scheduled coach services are in competition with rail at the lower end of the price range, particularly for the leisure and student markets.

6.22. NEG provided us with the results of a passenger survey which suggested that, given the shorter journey times and greater convenience and comfort of rail, most passengers would choose rail over coach travel for longer distances given equal prices; lower British Rail (BR) fares therefore have a direct effect on the level of fares that a coach operator can charge. NEG told us that it aimed to keep its fares 30 per cent below the lowest rail fares available but that this was not always achievable. Over recent years BR has engaged in a more active marketing policy, to maximize income, particularly on InterCity routes, where operating subsidies are no longer available, and has developed a varied pricing structure with fares selectively targeted at different types of passenger and discount cards for over-60s and students. This can be seen on the Scotland to London routes, where NEL is in competition with both InterCity West Coast (InterCity (WC)) and InterCity East Coast (InterCity (EC)).

6.23. Currently the BR and NEL fare structures on the Edinburgh/Glasgow to London routes are as follows:

TABLE 6.1 BR and NEL return fares on the Edinburgh/Glasgow to London routes

Type of return ticket	Rail		Type of return ticket	Coach	
	Price £	Railcard price £		Price £	Discount card price £
Standard Open	112	80.50	Standard	38	26.50
Saver	69	44.55	Economy	36	25.00
SuperSaver	59	38.95	Advance Purchase	25	-
Apex	44	-			
SuperApex	29	-			

Source: BR and NEG.

On the Glasgow/Edinburgh to London routes the most heavily discounted Apex and SuperApex fares were introduced in 1987 and 1992 respectively. (Saver and SuperSaver tickets, which are available on all services in unrestricted numbers, are in the same price range when purchased with a railcard by students and over-60s.) Fare levels and the availability of cheaper seats have to be adjusted to avoid siphoning revenue from higher-yielding ticket sales. Only limited numbers of the Apex and particularly SuperApex seats are made available and they have to be booked 7 days and 14 days respectively in advance. Apex seats are available on nearly all trains but SuperApex only on the least popular.

6.24. The numbers of both types of ticket made available vary considerably by time of day, day of week and season; on average, however, the daily number of seats made available at Apex and SuperApex fares is larger than NEG's daily scheduled capacity and not all the Apex or SuperApex seats are filled.

6.25. NEG produced evidence showing a correlation between the introduction of Apex rail tickets on various routes and a fall of coach passengers (see paragraph 3.103) and it seems clear that they have had a direct effect on coach ticket sales.

6.26. On intra-Scotland routes the competition from rail appears less of a constraint on coach fares, in part because of the limited rail network. There is direct competition on the Edinburgh/Glasgow to Inverness line and onward to Wick/Thurso, and on the Glasgow to Fort William/Oban line and the Edinburgh-Glasgow-Aberdeen triangle. The perceived time advantage for rail, however, is generally less (and on some routes is non-existent). ScotRail told us that because its trains were so much smaller filling of spare capacity

was a less important objective and mainly a winter problem. Given ScotRail's substantial revenue shortfall overall, most fare incentives were introduced to maximize revenue rather than being directly targeted against coach competition.

Barriers to entry

6.27. Licensing requirements for scheduled coach services, in contrast to those for bus services, relate only to operating standards and there is no requirement to register coach services (unless the operator wants to claim fuel duty rebate over part of the route). For the new entrant second-hand coaches are widely available at reasonable cost and there is no difficulty in recruiting drivers. For an existing operator a single new service will need only modest expenditure on leaflets and publicity. Regulatory and direct cost barriers to entry are therefore low. These costs, however, relate to the introduction of a point-to-point service to London or another major centre, where the majority of users can be expected to come from the originating town.

6.28. Although access to bus stations does not appear generally to be a problem there have been some complaints that SCC tends to enjoy a benefit from priority access to more convenient stands, for example in Glasgow and Ullapool, and that its on-site ticket-selling arrangements have a higher profile, making it more difficult for smaller operators to attract customers.

6.29. An operator who wishes to set up a more extensive network of services, and possibly to encourage feeder traffic on to his own services from other operators, will face significant investment in particular for setting up arrangements for selling tickets and providing publicity for his services. This may be more difficult if an existing operator has already established his own network arrangements. There is no historic precedent for an operator building up a network, since both NEL and SCC began as operating divisions within the National Bus Company and Scottish Bus Group respectively and were then privatized in that form. In the current market there is no evidence of any other operator moving to develop a network.

6.30. A barrier for all potential entrants is the likelihood of retaliation by an incumbent operator to match fares and schedules. We were given some examples of such action by SCC before the merger on the Skye to Glasgow route and on the Glasgow Airport service. NEG told us that it was not its policy nor its invariable practice to react if a competitor cut prices, and produced some examples of initiatives to which it had failed to respond, including the post-merger entry by Silver Choice and Gem on the London to Glasgow route. There are, however, some important routes where fares have been matched and it seems reasonable for a new entrant to assume that both its fares and its timings are likely to be matched by the merged company.

The public interest

6.31. In considering the effects of the merger on the public interest we examine first the extent to which it has reduced competition in the provision of scheduled coach services, and whether this is likely to result in higher prices or reduced levels or quality of service. We then consider other possible adverse effects and whether there are any benefits to the public interest arising from the merger.

6.32. NEG told us that its aims in undertaking the acquisition were to enhance profitability through the addition of SCC's higher-margin services in Scotland; to widen its customer base and geographic spread; and to compete more effectively with BR on the cross-border routes.

6.33. Before the merger, as outlined in paragraph 6.13, NEL and SCC were both operating long-distance services between London and Glasgow/Edinburgh and within Scotland both operated services between Glasgow/Edinburgh and Perth, Dundee and Aberdeen. These were the only two areas of direct overlap. We therefore consider them in turn.

The Scotland to London routes

6.34. At the time of the merger NEL and SCC were running virtually the same schedule of services on the routes between Glasgow/Edinburgh and London, with each running a morning and evening service to and from Edinburgh and with more frequent services on the Glasgow routes (although SCC also operated its twice-daily London Liner service from Glasgow to King's Cross at a single cheaper fare). In recent years competition had been on scheduling and quality of service rather than fares. As a result of the merger, where two services were being operated at around the same time one has been removed, and one further service has been added on the Glasgow routes. All services are run under the NEL livery. Where fares differed they have been aligned with the lower fare. NEG told us that it intended to bring all the coaches used up to the NEL 'Rapide' standard.

6.35. It therefore appears to us that the immediate effects of the merger on these routes have been marginally beneficial in maintaining and potentially improving frequency and quality of service.

6.36. The more important issue, however, is whether there will be any constraints on the merged company's ability to raise fares on these routes in the future, either from other competitors or from BR, and whether service standards are likely to decline. We discuss first competition from other coach operators. There is no evidence that before the merger SCC was competing on price on these routes nor of any attempt by it in recent years to gain market share through price. NEG told us that in so far as it affected these routes the merger was defensive; both NEL and SCC were making losses on the routes before the merger and they do not yet appear to have moved into profit. Since the merger there have been two new entrants on the Glasgow to London route at lower fares but one has already withdrawn. NEL has not so far responded to the lower prices of the other entrant, Silver Choice, and it is too early to say whether this will happen or indeed whether the competitor's operations are viable given that there does not appear to have been enough business on the route to support full services by two operators. It seems likely that if NEL were to increase its prices substantially this or another competitor would see this as an opportunity. Given, however, the absence of any sustained competition from new entrants in the past we are not convinced that such competition would be sustainable or that one or even several of such ventures would provide an effective constraint on NEL's ability to maintain a higher level of prices in the longer term.

6.37. NEG, however, argued strongly that the main constraint on its ability to put up fares on these routes was the pricing policy of BR and particularly the level and availability of Apex and SuperApex fares on InterCity (EC) and InterCity (WC). We accept that these do at present provide an alternative for a sufficient number of potential coach passengers to act as a constraint on NEL's pricing and that, in particular, BR's SuperApex return fare of £29 constrains NEL's cheapest (Advance Purchase) fare. Given the advantage of time and convenience of rail we think that with the current Advance Purchase fare at £25, NEL has little scope at the moment, with present BR fare levels, for any significant upward adjustment of fares. Should the new EU speed limit on coaches be combined with a ban on coaches using the fast lane on motorways, the time advantage for the railways will be much increased.

6.38. We would, moreover, expect the present InterCity (EC) management to continue to develop its policy of commercial pricing in order to maximize capacity usage and thus to maintain the pressure on NEL's fares. Impending privatization obviously introduces uncertainties. The two competing InterCity groups are, however, to be franchised in their present form and it seems likely that the same commercial pressures on franchisees will lead to a broadly similar approach to pricing structures in the period after privatization. Although there is a possibility that the privatized operators might increase their lowest fares and thereby lessen the pressure on NEL's prices, we do not think that any expectation of change can be sufficiently firm to justify basing any conclusions on it.

6.39. We have also considered possible effects on quality and volume of service on these routes. NEL's decisions will depend ultimately on demand and profitability, taking into account both traffic on the routes themselves and their contribution to the network. The merger has not introduced any incentive to cut these routes back; on the contrary by increasing loadings and profitability it is likely to have improved their medium-term prospects.

The Scottish routes

6.40. On the Scottish routes too the immediate effect of the merger has been some harmonization of services and alignment of fares on the lower of the two fares offered before (see paragraph 3.69). NEL ran only a few services and the extent to which they competed with SCC was limited by the fact that, as feeder services, their timings were set to fit in with those of the cross-border services, and in the northward direction were therefore also subject to possible delays. The immediate effects of the merger have therefore been small.

6.41. In considering the longer-term effects, we think these routes are best considered in the context of SCC's network, where since privatization in Scotland it has been the dominant coach operator and the only one with a route network. We have looked as before at the prospects for competition from BR (ScotRail) and from other coach operators.

6.42. For a number of reasons BR is likely to be a less effective constraint on NEG's fare strategy on these routes than the InterCity operators on the cross-border routes. InterCity (EC) runs a few trains through to Inverness and to Aberdeen but these, like the old NEL services, were linked to the through London services. ScotRail is not present on all scheduled coach routes and on a number of these routes on which it does compete it has no advantage of time or convenience over coach. ScotRail does not see coach as a significant competitor and uses pricing promotions sparingly; its preferred strategy is to contain its financial deficit by maximizing its revenue.

6.43. There are no other coach operators that cover the whole of the Glasgow/Edinburgh to Aberdeen routes but Fife Scottish operates south of Dundee. There are a number of other established operators at present competing on different parts of the SCC network-and most of them have been doing so for a number of years-but few appear to have substantial resources and we understand that one at least has been discussing with SCC a joint operation on the Glasgow to Isle of Skye route. If SCC were to attempt to raise prices substantially we would expect that other operators would wish to enter; some potential entrants, however, will be SCC actual or potential contractors and this might well act as a disincentive to entry by them. SCC has advantages in selling tickets and in access to bus stands which strengthen its position versus competitors. The network has been profitable; NEG told us that the earnings from the network were the chief attraction of the acquisition. It is possible also that SCC will be seen as a result of the acquisition as a more effective competitor and with deeper pockets. Overall we cannot be confident that competition from other operators is likely to act as a major constraint on SCC's ability to raise prices in the future, although we think the presence of Fife Scottish may provide some deterrence, particularly on the routes directly affected by the merger. Our concerns, however, arise from SCC's dominant position in Scotland, which existed before the merger, and not from the circumstances of the merger.

6.44. A number of those who submitted evidence about the merger expressed concerns about aspects of SCC's behaviour, including predatory pricing and other forms of aggressive behaviour on routes in which it was in competition with Skye-Ways Express Coaches and on the Glasgow Airport service, and that it had privileged access to stands at Buchanan Bus Station in Glasgow and in Ullapool and advantages in selling tickets not open to other operators, all of which gave it an unfair advantage in competition from other operators. Our initial examination of these complaints suggested some grounds for concern. We did not consider it appropriate to investigate them in detail because all appeared to relate to SCC's market position before the merger. We revert to them, however, at the end of our report.

Other effects of the merger

Effects on the use of contractors

6.45. We considered the effects of the merger on the use of outside contractors. The unification of the NEL/SCC timetables on the Scotland to London and on the Edinburgh/Glasgow to Aberdeen routes has removed some work for contractors, which may be somewhat offset by increased hiring of duplicate

coaches. However, SCC told us that the changes had been absorbed as part of the renegotiation of `diagrams'¹ which had led to some reallocation of work. One contractor has withdrawn. SCC's arrangements for contractors in the past have been somewhat less formal than NEL's, consisting usually of letters of appointment for a timetable period, and we were told that SCC may now gradually move to NEL's system of longer-term contracts. Overall the reduction of potential choice might be expected to put NEG as a whole in a stronger negotiating position *vis-à-vis* contractors. On the other hand most contractors appear to have other coach or bus activities and not to be wholly dependent on NEG. On balance we do not see any changes arising from the merger resulting in adverse effects on the contracting of services.

Effects on employment

6.46. NEG has introduced few organizational changes since the merger. The arrangements for selling tickets for SCC cross-border routes and general marketing, sales and support activities have been transferred to NEL's Birmingham headquarters, but otherwise SCC operations in Glasgow have been left unchanged. The net effect has been job losses of about 20. NEG has given undertakings to the Secretary of State not to make further changes until the outcome of our inquiry. NEG told us that while further consideration would be given to company structure and costs associated with maintaining SCC as a separate limited company, the intention was to retain it as a separate operational entity close to its market.

6.47. We note that as part of the acquisition arrangements NEG disposed of SCC's coach operating subsidiary, Bruce's Coaches Ltd (Bruce's Coaches), to an associate company of British Bus PLC (British Bus) and that Bruce's Coaches' depot was subsequently closed down. British Bus told us that it had found the operation in poor condition; a number of staff had left before closure but there were 48 redundancies of staff in post at closure. We do not think that the disposal of Bruce's Coaches can reasonably be taken into account in deciding whether the merger operates against the public interest.

Benefits of the merger

6.48. The acquisition has established a country-wide network with the advantages of scheduling and interchangeability of tickets that this provides for through travellers, particularly those using the London to Scotland routes for onward travel. It may also have improved the prospects of the London to Scotland routes, at least in the short term. There seems likely to be upgrading of some SCC services and, more generally, SCC operations within Scotland may benefit from the management input from NEG and from central marketing and support. We noted that the merger was strongly supported by the National Federation of Bus Users (NFBU) as maintaining a viable alternative to rail travel of particular benefit to less affluent consumers.

General effects

6.49. In considering the general effects of the merger we recognize that, even though the direct competition eliminated may only have been on a small number of routes, the merger has brought together the two largest coach operators in Great Britain, each the only one with a comprehensive network in its area, and has resulted in one comprehensive network covering Great Britain. We have noted above the benefits to the public of this network. But the network is also a powerful advantage to the incumbent. As an established network operator NEG has various advantages in timetabling, feeder services, through-ticketing, ticket sales arrangements and access to stands. SCC was the only existing operator with a base which offered a prospect (admittedly slim) of developing as an alternative network operator to NEL. We think it unlikely that any major operator can now develop to provide a serious alternative to its operations. Moreover, with NEG's resources and expertise behind it, SCC may be seen as a more effective operator in Scotland.

6.50. Competition in this market seems to be locally generated on individual routes and while some entry can be expected on this basis there seems little likelihood of a new major route network being created in present circumstances in an industry offering few prospects of growth. SCC appears already to have

¹See paragraph 6.9.

occupied a very similar role in Scotland towards other operators as NEL has in England and Wales. The present NEL and SCC networks exist as a result of privatization decisions, not of a process of competition or organic growth. While therefore there is a potential competitive loss from bringing the networks together, we do not think that the prospects for competition in the absence of the merger would have been so much stronger that we would be justified in basing on these grounds any finding that the merger situation may be expected to operate against the public interest.

Conclusions

6.51. Accordingly, having considered the effects of the merger, we do not find that the acquisition itself has led or may be expected to lead to effects adverse to the public interest in terms of either prices or levels and quality of service. We recognize the potential benefits of the merger to which the NFBU has drawn our attention. We therefore conclude that the creation of the merger situation does not operate and may not be expected to operate against the public interest.

6.52. We have, however, noted above a number of concerns about the competitive constraints on NEG and have also been concerned about the possible future direction of NEG's policies on prices and services, as the single large network operator. We have also noted the complaints from competitors about the privileged position that SCC enjoys in some respects, eg on access to stands, and about reactions from the two companies in the past to competition from other operators. The merged company is even better placed to continue such policies if it so wishes and is also in a stronger position *vis-à-vis* contractors to ensure that it extracts its full share of profit from the operators.

6.53. We are clear, however, that these concerns arise primarily from the dominant positions already enjoyed by NEL and SCC and not from the merger situation itself. They therefore fall outside the scope of our present inquiry. We urge the Director General of Fair Trading, however, to keep the scheduled coach services market under review; if the pricing or other behaviour of either NEL or SCC gives rise to concern, further action under the competition legislation could be considered.

J D MONTGOMERY (*Chairman*)

A G ARMSTRONG

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S EILON

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21 January 1994