

# 9 Views of third parties

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## Introduction

9.1. In this chapter we summarize the views of all the interested parties which gave evidence to us other than the major bus operators whose views are summarized in Chapters 10 and 11.

## Department of Transport

9.2. The DOT gave written and oral evidence. It said that DOT Ministers believed in the deregulated market although they were against unfair competition. This was the reason the 1985 Act had made provision for competition legislation to apply to the bus industry.

9.3. Deregulation had, in general, worked well and benefited the public. Despite some regrouping of the larger bus companies, many new operators had joined the industry since 1986 and there were now over 1,800 local bus operators. Deregulation had produced a substantial reduction in costs (41 per cent in real terms per vehicle kilometre) to the benefit of passengers and the providers of subsidy.

9.4. The Secretary of State's consent was required for the sale of municipal bus companies. In 1992 Ministers had hardened their policy on such sales following a reminder from the Public Accounts Committee of the importance they attached to ensuring that public sector sales were concluded by open tender. Since then, other than in exceptional circumstances, all new proposals for sale had been subject to compulsory competitive tendering.

9.5. The DOT did not think that DBC or KPMG could be criticized over their handling of the sale process of DTC. Neither of them had any reason to believe that an unsuccessful bidder would react to its failure to buy DTC by destroying it. DTC had not been a particularly vibrant company, but there was no question of this being a distress sale-the size of Busways' bid had demonstrated that it regarded DTC as a going concern.

9.6. DOT Ministers had said it was regrettable that DTC had collapsed during the attempted sale and been put into administration, but in any deregulated market strong companies sometimes took over weaker ones. More generally, smaller local authority-owned companies could be vulnerable if larger operators started competing against them. But that risk had not changed since 1986 and all bus operators must be prepared to meet competition if it came. The DOT's view was that the 20 remaining local authority-owned companies would be better able to hold their own if they were free from financial and other constraints of the public sector. It was partly for this reason that the Government had encouraged the sale of municipal bus companies and many had successfully made the transition. A few had collapsed during sale, but their failure had been due to the particular local circumstances.

9.7. In the DOT's view Busways' wholesale recruitment of DTC's staff had been crucial to the collapse of DTC-more so than any of its other actions. A bus operator which did not have trained staff with knowledge of the local routes was instantly put at a disadvantage-even more so if its drivers had joined an immediate competitor. Indeed, as there was a shortage of qualified passenger-carrying vehicle (PCV) drivers in the area, DTC had been unable to recruit more staff and had been forced to reduce its registered services. The MMC should consider whether poaching of staff was an anti-competitive act, or, at least, whether poaching by the frustrated buyer in the circumstances of the sale of DTC had been anti-competitive.

9.8. There was little doubt that DTC would have been affected by the free services operated by Busways even if it had been able to continue operating a full service. Other operators in Darlington must also have been adversely affected. Operators that offered free services were at a disadvantage compared with those running fare-paying services because they were not eligible for fuel duty rebate. In the Darlington case they were also unable to use bus lanes and other facilities restricted to 'local bus services'. The ability to offer free fares was obviously dependent on the financial resources of the operator concerned.

9.9. The events in Darlington and the actions concerning Hylton in South Shields were likely to inhibit competition against Stagecoach generally and to deter new entrants. They could therefore affect the sale of the 20 remaining local authority-owned bus operators. The DOT was particularly concerned that Stagecoach's actions throughout the country could be seen as an attempt to secure local monopolies by buying other operators or persuading them to withdraw from the market. Such a monopoly might not necessarily act against the public interest-a single operator might be more stable and more easily accessible to passengers. But without a realistic threat of competition, a monopoly situation could easily be exploited, and costs and thus fares could rise.

9.10. Asked about the release to short-listed bidders of commercially sensitive information on the company being sold, the DOT said that this was a recognized problem in every sale of this kind. The only way of avoiding it was to exclude all immediately competing bus operators from bidding.

9.11. On the suggestion that operators should not be allowed to register new services on routes currently served by the local authority company during the tendering process or for a specified time thereafter, the DOT said that it could see the advantage of such a ruling but it might be difficult to implement. If introduced, the ban would probably have to apply during the sale of any bus company and not be restricted to those in local authority ownership.

## **Traffic Commissioner for the North Eastern Traffic Area**

9.12. The Traffic Commissioner (see paragraphs 3.18 to 3.25 for a description of his role) gave written and oral evidence. He said that there was a high usage of buses in his area of responsibility and consequently intense competition existed between operators in several areas. Complaints had been received about operators not running their services in accordance with the registered details (for example, not running to the stated time and running off route), non-compliance with Traffic Regulation Orders, and instances of alleged dangerous practices in Sheffield, Barnsley, Nottingham, Newcastle and Durham. Of the 300 complaints he had received in 1994 regarding unfair competition, about half were from individual bus operators complaining about the activities of one another and about half were from the public. The Traffic Commissioner gave priority to the latter, particularly when they concerned traffic congestion or public safety. His resources were limited and it was impossible to investigate all complaints made by operators. He was able to call upon traffic examiners from the Vehicle Inspectorate on an *ad hoc* basis to fulfil specific monitoring requirements. But even when he did monitor services in the area in question he was often unable to find evidence to support the complaint.

9.13. Prior to February 1993, when Your Bus was granted an operator's licence, there had been two principal operators in Darlington-United and DTC-and moderate competition between them. In response to the entry of Your Bus, United and DTC had increased the frequency of their services. DCC and DBC had expressed concern about the effect that the increased competition was having in Darlington town centre and had sought the Traffic Commissioner's assistance. On 16 June 1993 DCC imposed a Traffic Regulation Order restricting waiting times at bus stops in some of the main streets. The Traffic Commissioner's staff met with all operators on 22 June 1993 to remind them of their legal obligations and responsibilities. His subsequent monitoring showed that DTC, United and Your Bus were failing to adhere to the Order and continuing to deny competitors access to bus stops. The Clerk to the Traffic Commissioner interviewed all three operators who argued that they had only been responding to similar action by their competitors. DTC and Your Bus gave undertakings that they would comply in future but United was reluctant to do so. However, United was left in no doubt that further contravention would be treated very seriously.

9.14. On 28 October 1994, after Busways had failed in its bid for DTC, it registered local services which replicated those operated by DTC. The registrations were to take effect from 12 December. On 3 November DTC advised the Traffic Commissioner that it was unlikely to be able to operate the majority of its local services from 7 November owing to lack of drivers, since most of its drivers had been recruited by Busways. On 4 November Busways asked the Traffic Commissioner for a dispensation to start operating its registered services with effect from 7 November (with less than the required 42 days' notice) because DTC would be unable to operate its services. Because he was not certain at that stage whether DTC would be able to operate services or not, the Traffic Commissioner refused Busways' request as it fell outside the legal provisions allowing the introduction of a service at short notice. He told Busways that a dispensation could be requested at a later date if DTC's inability to operate was likely to be long term. On 7 November Busways started operating free services, which did not require registration.

9.15. On 11 November Touche Ross, which was acting as the administrator for DTC, told the Traffic Commissioner that an administration order had been made and that the company had suspended its operation of bus services. On 15 November Busways reapplied for a dispensation to commence operating its registered services early and this was granted with effect from 28 November. Busways was reminded of its obligation to adhere to the Traffic Regulation Order in force in Darlington town centre and it confirmed that it would do so.

9.16. On 5 December the Traffic Commissioner arranged for local bus services in Darlington town centre to be monitored. Busways, United and Your Bus were all observed breaching the Traffic Regulation Order by staying at bus stops longer than the time permitted. As a result the Traffic Commissioner called the three operators to a public inquiry in February 1995 and action was taken against the licences of all three (see paragraph 6.56).

9.17. The Traffic Commissioner said that he was most concerned to investigate complaints made by the general public. He was not so quick to investigate complaints made by competing operators unless they were endangering the public by their actions, using unsafe vehicles or causing congestion. There was a danger that an operator could be seen to be using the Traffic Commissioner's Office as a competitive weapon against another operator. In 1993 DCC had asked him to intervene in Chester-le-Street and Stanley. At a meeting on 29 June 1993 his staff had advised the operators concerned that DCC could ask the Traffic Commissioner to impose a Traffic Regulation Condition if it felt there was a severe traffic congestion or a danger to road users. The problems appeared to subside but recently he had received more complaints. Following press reports about Classic Coaches and Go-Ahead, where each had alleged breaches of Traffic Regulations by the other, the Traffic Commissioner monitored operations in Stanley and Chester-le-Street on 15 February 1995. He found no evidence to substantiate the allegations.

9.18. The Traffic Commissioner had also recently received complaints from Hylton that Busways was operating unregistered duplicates. Monitoring had been carried out and no evidence had been found to support the allegation. No further complaints had been received since then.

## **Local government**

### ***Tyne & Wear Passenger Transport Executive***

9.19. Tyne & Wear PTE, which gave written and oral evidence, provided background information on the Metro and other forms of transport in the area. It told us that it implemented the policies laid down by the Tyne & Wear PTA. The PTE's responsibilities included determining the level of bus services required to meet the needs of Tyne & Wear; identifying what was being provided commercially; and meeting the shortfall by offering contracts for tendered services. In Tyne & Wear, as in other areas, competition between operators had led to congestion, and the PTE regularly met operators to discuss how to strike the balance between meeting passengers' requirements and environmental concerns. Most of the complaints it received from the public were about poor timing and non-arrival of buses and were passed on to the operators concerned.

9.20. From 1974 until deregulation the PTE had financed and marketed all bus services operating in Tyne & Wear. But it had allowed United and Northern (now Go-Ahead) to retain their separate identities.

9.21. After deregulation Hylton had been one of a number of small operators which had taken advantage of the opportunity of providing commercial bus services and it had registered services to compete with those offered by Busways. But it also provided a few new links. In 1987 Hylton had started a new route which, whilst competing in part with Busways' services, also sought to serve new areas and provide new links along the coast from South Shields to Sunderland. Shortly after that Busways had introduced a service along the same route. The two operators had competed fiercely until late 1988 but since then, until Busways' acquisition by Stagecoach, there had been no further competition on each other's routes. This had resulted in a relatively stable situation, and the two operators' single fare levels had generally been in line. After Stagecoach bought Busways, competition increased-in September 1994 Busways introduced new services to compete directly with those offered by Hylton. Busways had also introduced a revised pricing structure. Hylton had responded by increasing the frequencies of its services and had also introduced a new service to compete against a Busways service from South Shields to the Fellgate Estate, an area where Hylton had previously shown no interest.

9.22. Redby, which was based in Sunderland, had first registered services in 1986 and its fleet ran mostly on main corridors and on to housing estates competing against Busways and Go-Ahead.

9.23. The PTE described the current competition in South Shields and Sunderland as fairly aggressive, resulting in overcapacity. Such levels of competition were unlikely to be sustained indefinitely and were likely to result in a reduction in capacity to reflect demand. The large companies with the resources to sustain competition would have the advantage over small companies which were unable to withstand competition indefinitely.

### ***Darlington Borough Council***

9.24. DBC, which gave written evidence and attended a hearing, outlined its responsibilities and interests in respect of public transport, particularly buses. Prior to DTC's incorporation in March 1986 under the provisions of the 1985 Act, DBC had directly provided all local bus services. DTC, which was fully owned by DBC, was set up at arm's length and direct shareholder involvement was initially limited to attendance at the Annual General Meeting. From 1990 onwards financial management information was obtained on a monthly basis from DTC by DBC finance staff. Also there were occasional meetings between leading DBC councillors and officers and the Board of DTC.

9.25. DBC said that the bus war in Darlington in 1993 initially involved United and Your Bus, but DTC suffered as a result of the competition between these two companies. Until then there appeared to have been an acceptance that United and DTC would not compete actively on each other's routes. In January 1994, after the resignation of DTC's Managing Director and the departure of two other directors, the Board of DTC appeared to take a more pro-active view of competition and started to retaliate by changing some of its routes.

9.26. The decision to sell DTC was recommended by its Board, and accepted by DBC, primarily because the company could not survive the intense competition without the backing of a larger operator. Such an operator would have financial strength and DTC, which was relatively small, would benefit from economies of scale, eg in vehicle maintenance and the experience of senior management. A large operator would also offer employment security.

9.27. Soon after the decision to sell DTC was announced, United registered some additional routes in direct competition with DTC. The DTC Board thought this action was destabilizing the local market and possibly lowering the perceived value of DTC. DBC thought United had been under the impression that it would be able to buy the company. DTC responded to United's action by requesting a loan of £80,000 from DBC to purchase seven second-hand buses which it intended to introduce on out-of-town routes in direct competition with United.

9.28. KPMG was appointed as DBC's financial adviser in connection with the sale of DTC on 29 July 1994. It produced an information memorandum which described DTC's business operations and the sales procedure and included details of routes and financial statements. The memorandum set out DBC's 'non-price objectives' including the maintenance of current services; compliance with DTC's obligations under the concessionary fare scheme; proposals for the workforce, including security of employment; and approach to future level of services and fare structures. The memorandum was sent to 16 interested parties.

9.29. At an early stage in the sales process Busways indicated that it was interested in buying DTC. A bid from United was excluded because its acquisition of DTC would result in a monopoly in the provision of bus services in Darlington and consequently not meet the council's non-price objectives. On 24 October 1994 DBC selected Yorkshire Traction as the preferred bidder because it had offered easily the highest price (40 per cent higher than the next bidder). DBC did not think Yorkshire Traction overbid to secure preferred bidder status. On 25 October Busways withdrew its offer for DTC and on 27 October it placed press advertisements for drivers. The package on offer included an inducement of £1,000 for each qualified new employee and a higher basic rate of pay than DTC, although lower than United. This was very harmful to DTC as about 70 of its employees accepted offers for employment at Busways and resigned. On the same day Busways cancelled the earlier registrations it had made and registered services on all DTC's commercial routes, effective from 12 December. Moreover, the previously rumoured five weeks' free travel offered by Busways was confirmed in a press article on 1 November. DBC saw Busways' action as part of Stagecoach's strategy to frighten off competition. These developments, together with the fact that Stagecoach had publicized its acquisition of Cleveland Transit in the local press on 22 October, when it knew that DBC was

making a decision on the preferred bidder two days later, had destabilized the local bus market and substantially reduced the value previously ascribed to DTC.

9.30. On 2 November Yorkshire Traction withdrew its offer because, DBC believed, it could not risk a large financial loss during the first year or so in a continuing bus war in Darlington with United and Busways. DTC hoped that its employees who had resigned could be persuaded to stay but industry intelligence indicated that, in any event, Stagecoach had buses and drivers ready for relocation to Darlington from 7 November. DBC subsequently approached the other parties which had shown an interest in the company (including United) but they were no longer interested. Busways made a late offer for the bus depot only; this was at a figure substantially below the assessed market value. Accordingly, following advice, DBC was not able to accept Busways' offer. On 10 November DTC went into administration forced by the impending loss of £150,000 of fare income caused by the free travel offer by Stagecoach which had commenced on 7 November.

9.31. DBC said that Busways' actions increased public scepticism about Stagecoach. Stagecoach was expanding and wanting to increase market share and profits, but its effective demolition of small operators, including DTC, had to be checked. It had used its financial resources to destabilize the sales process in Darlington and its actions were determined, predatory, probably anti-competitive and against the interests of the local taxpayers.

9.32. The long-term effect in Darlington would be that fares would rise and services would decline. United was unlikely to be an effective restraint on Busways. Stagecoach's strength was also likely to deter other operators from entering the area. If there was a reduction in commercial services it was probable that subsidized services would increase at the ultimate expense of the taxpayer. DBC expressed concern that there were now just two large operators, Stagecoach and North East Bus, covering most of the route network in Cleveland, parts of North Yorkshire, Darlington and other parts of South Durham. It thought it likely that these two large operators would reach an understanding to carve up the area between themselves and not encroach on each other's territory.

9.33. DBC believed the Government's policy of selling municipal bus companies was flawed and only the Government could prevent the situation which had occurred in Darlington being repeated elsewhere. At present companies were able to register routes during the sale process in order to show their strength and discourage other operators' interest. Neither the OFT nor the Traffic Commissioners had the powers to intervene. Inquiries by the OFT and the MMC took months to complete and their powers seemed ineffective. If only for the realization of public assets, powers should be given to the Traffic Commissioners to ensure equitable contests in the future. This could be by means of a freeze on the registration of bus routes in the immediate area from the beginning of the sales process, and possibly for a few months after completion of the sale.

## ***Durham County Council***

### ***The bus industry in the reference area***

9.34. DCC, which gave written and oral evidence, outlined its role and responsibilities in connection with bus services in County Durham. It said that prior to deregulation the two NBC subsidiaries, United and Northern (now Go-Ahead), had dominated the scene in Durham, but in addition there had always been independent operators and the municipal operator in Darlington. At deregulation over 30 operators had registered services, chiefly by converting their existing operations to local bus services. There had been six new entrants, of which only one had survived. In general they had not tried to innovate, for example with new fare schemes or the operation of taxi buses, but simply to compete with existing operators. Although the sale of the NBC subsidiaries had resulted in changes in ownership, the same territorial divisions appeared to be dominant in the pattern of services. For example, United and Northern did not normally compete for contracts outside their established areas. There had been a slight increase in levels of service since deregulation.

9.35. Classic Coaches and Stanley Taxis, two recent entrants to the market, had challenged Go-Ahead's dominance. Following its success in obtaining peak-time contracts from Tyne & Wear PTE, Classic Coaches had registered a variety of off-peak services from January 1993 onwards competing with several of Go-

Ahead's services. Go-Ahead responded in most cases by registering competing services. In July 1994 Stanley Taxis obtained nine contracts from DCC, requiring the use of four vehicles, on services which Go-Ahead did not consider to be commercial. In December 1994 Go-Ahead had registered services in competition on routes covered by three of the contracts in what appeared to be a response to Stanley Taxis' choice not to follow Go-Ahead's fare scales.

9.36. In general Go-Ahead and United had strengthened their positions since deregulation. They had reacted vigorously to any new competition from existing or new operators and some of these had been purchased or eliminated. OK Travel had shown the largest growth of any of the former independent operators but the company had been careful to achieve this largely without provoking head-to-head competition with other companies. Both at deregulation and subsequently OK Travel had registered local bus services where the major operators had withdrawn, without seeking the support of the local authorities. It had been the only company which had actively pursued DCC contracts throughout the county.

9.37. The purchase of Busways had given Stagecoach immediate entry into a core sector of the urban bus market in the North-East and the ability to use the expertise of an established local management structure. It appeared that Busways' main target in Tyne & Wear had been the new commercial operators which had entered the market since deregulation. It did not appear to have competed actively with long-established operators, especially Go-Ahead and United.

### *Events in Darlington*

9.38. The first public indication that DBC intended to sell DTC had been in a press announcement on 12 July 1994. DCC became aware of Busways' interests in Darlington after 8 September 1994 when it registered local services replicating four of DTC's services. The unusual feature of these registrations had been the long period of notice given in advance of the start date of 12 December 1994. DCC thought this had been intended to make other operators aware of Busways' intentions to run a commercial network of competitive services should it fail to buy DTC, while leaving time for the new registrations to be cancelled if it was successful.

9.39. Busways did not discuss its intention to introduce free services in Darlington from 7 November with DCC as the highway authority. It had apparently been unaware that, under the Traffic Regulation Orders, unregistered services could not use certain key town centre roads. DCC brought the orders to Busways' attention and Busways changed the terminus from which its services operated, using an alternative street which was further away from the town centre. The services still achieved significant patronage, predominantly at the expense of DTC whose services it mirrored.

9.40. DCC said that the arrival of Stagecoach as a key player in the area had had an immediate impact in Darlington and might, in the long term, determine the structure of the bus industry in the North-East. With its acquisitions of Busways, Cleveland Transit and Hartlepool Transport, and its move into Darlington, Stagecoach appeared to be aiming to secure a dominant share of the urban bus market in the North-East. DCC thought Busways' method of entering Darlington was questionable, including the lack of any consultation with the highway authority prior to introducing free bus services. Operating free services could be seen as a consequence of the market power enjoyed by Stagecoach and this type of action was clearly beyond the scope of normal competition.

### *Competition between the larger operators*

9.41. The purchase of Northumbria by British Bus and of North East Bus by West Midlands Travel, together with the presence of Go-Ahead, showed that there were other major players in the North-East. The remaining operators were only of local significance. Experience elsewhere suggested that there was little prospect of extensive competition between the large operators. Such competition could not be expected to create opportunities for increased profit in view of the likelihood of rival companies responding in kind. This was particularly true in County Durham where there was a long-established territorial pattern. The only area where the large operators overlapped was in Darlington.

9.42. DCC said that the difficulty new operators faced in trying to survive in the commercial UK bus market suggested that the developing pattern of domination by major operators would continue. The 1985 Act relied on the contestability of the market to ensure that competition (or the realistic threat of competition) would protect the public interest. DCC questioned whether this outcome could be relied upon in the developing circumstances of the bus service market in the north-east of England.

### ***Local authorities with bus companies***

9.43. We wrote to the 20 local authorities which owned municipal bus companies, asking for their views on the collapse of DTC. We enquired whether the events in Darlington had affected any plans they might have had for the sale of their bus companies or had influenced their views about the future prospects of bus companies in their control. Nineteen local authorities responded and their views are summarized below.

#### ***Darlington***

9.44. All the local authorities said that they were aware of events in Darlington. Most referred to the £1,000 paid to new recruits and the free fares offered by Busways. Some said that the collapse of DTC had resulted directly from what they regarded as predatory tactics by Busways (or in some cases Stagecoach). One said that Stagecoach had destroyed the market and the value of DTC before the sale was completed, leaving DBC with a worthless asset. Another said that the combination of a financial inducement of £1,000 for drivers, together with free fares, had totally undermined DTC's revenue base, and its ability to run its registered levels of service. Another said that the local taxpayer in Darlington had lost a valuable asset without any financial recompense.

9.45. Some authorities attributed the collapse of DTC to a combination of factors. One said that competing bus companies had so devalued the routes operated by DTC by flooding the market that it was impossible for DTC to be sold effectively at a realistic price. Another commented that DTC was already encountering some management problems and its historic market share made it particularly vulnerable. This authority believed it was that background, linked to the defection of employees, which had led directly to DTC's demise.

#### ***Effects of DTC's demise on remaining municipal bus companies***

9.46. Most authorities were concerned that events in Darlington could be repeated throughout the country. There was widespread concern that all publicly-owned bus companies were now under threat. One said that Stagecoach had demonstrated that it was no longer necessary to pay large sums of money for goodwill; it was cheaper to force the municipal operation into receivership. Five authorities compared Stagecoach's actions in Darlington with its actions in Lancaster. One said that in Darlington and Lancaster the severe competition was only initiated by Stagecoach as a consequence of the councils' decisions to sell their companies on an open-tender basis. Both councils had acted in accord with Government policy but the value of their assets was reduced because of the resultant competition. One had concerns about Stagecoach in the light of its recent action on the Burnley-Rawtenstall-Manchester express service and its previous action in Lancaster. Another said it was becoming evident that the philosophy of Stagecoach, and other large groups, was to take predatory action to devalue municipal operations which remained outside their increasingly monopolistic enterprises.

9.47. One authority said that, whilst DTC was not the strongest of municipal companies, the tactics which had been adopted by Stagecoach would, if applied to the remaining municipal companies, have catastrophic effects on them with the inevitable consequences of reducing network size and ending socially essential but less profitable routes. Another said that the Darlington situation had been the result of several years of intensive competition. This had reduced the resources available to operators, causing them to use elderly vehicles and to provide a lower-quality service than might have been expected. The new operator, Busways, had provided a higher quality of service by using modern vehicles. The situation Busways brought to a head would not have happened but for the deregulated bus market.

9.48. Several authorities criticized the DOT's requirement for open competitive tenders, which they believed had contributed to the collapse of DTC. One commented that, without additional Government controls, operators like Stagecoach would be allowed to carry on as they were, which made a mockery of the term 'fair competition'. One, reflecting the views expressed by many of the other authorities, commented that the law did not protect municipal companies from unfair predatory practices, which would lead to monopolistic practices and result in a potential downturn in quality and service.

### ***Other local authorities***

#### ***Cleveland County Council***

9.49. Cleveland County Council said that the principal bus operators in its area were now part of larger groups whose headquarters were remote from the area. However, there did not seem to have been a change in local operating policy: in particular there had not been a large increase in the number of registered services. The council's main concern was to obtain value for money from the tendering system for local bus services. The development of a duopoly or monopoly situation might lessen the effectiveness of this system and increase the council's costs.

#### ***Easington District Council***

9.50. Easington District Council said that it had no evidence that a possible monopoly situation was having an effect on services in its area, but obviously it would be concerned if an operator was engaging in activities which might affect the viability of other operators. In view of the low level of car ownership within the district, it was concerned to ensure that adequate bus services were available and the establishment of a monopoly situation would be detrimental to that objective. Several essential services were only provided at present because competition existed between operators. If that competition was reduced services which were only marginally viable might be withdrawn.

#### ***Stockton-on-Tees Borough Council***

9.51. Stockton-on-Tees Borough Council said that Cleveland Transit's fares had risen recently but it did not know whether this was a direct result of the company's acquisition by Stagecoach. It was concerned that this increase might be a forerunner of larger fare rises and thought that, in the absence of any genuine competition, this might ultimately prove to be the case. The majority of bus services in Cleveland were now effectively in the hands of two large operators, Stagecoach (which had acquired Hartlepool Transport as well as Cleveland Transit) and West Midlands Travel (which had acquired North East Bus). A reorganization which was currently proposed within Cleveland might result in the council extending its funding of local bus services beyond its present concessionary fares scheme, eg in the form of subsidized routes. As there was likely to be less choice in terms of the number of operators, the council might not be able to fund the services it would otherwise have wished to, simply because the range of competitive prices would be more limited. This would have a detrimental effect on the local community. Although the council had no direct knowledge of the situation in Darlington it was aware of the events as they had been reported in the press and thought it likely that the concerns there were similar to those it had expressed in relation to Stockton.

#### ***Tynedale Council***

9.52. Tynedale Council gave us information about its district and the changes in the bus market within it since deregulation. Population density in the area was low and the area had not attracted much competition between operators. The take-over of a rural operator (Rochester & Marshall Ltd) in 1989 by Northumbria, which had itself been acquired by British Bus in 1994, had reduced competition to the extent that Tynedale was approaching a monopoly situation. There were continuing route frequency reductions, little innovation and few new routes. This trend was likely to continue.

9.53. The council expressed concern over the way in which Busways had acquired DTC's business. This had only been possible because of Stagecoach's power which had enabled Busways to operate buses brought

from elsewhere in the country at very short notice; to offer free fares on DTC's routes; and to pay £1,000 to drivers joining Busways. Medium-sized and small operators were now vulnerable to take-overs from large operators such as Stagecoach. This could lead to the establishment of monopoly situations in both rural and urban areas. The council did not think this had been the intention of the 1985 Act and believed the legislation should be changed along the lines of the US anti-trust laws to assist in the retention of fair competition.

### *Wear Valley District Council*

9.54. Wear Valley District Council was not aware of any anti-competitive actions in its area. However, it knew of the difficulties which had occurred in Darlington as a result of Busways' actions and would be very concerned if such predatory pricing was adopted by any company in Wear Valley.

## **Bus operators**

### ***Badgerline Group plc***

9.55. Badgerline was one of the three short-listed bidders for DTC. It told us that its indicative bid had been based on its assessment of the future profitability of DTC. Following a visit to DTC, at which it had obtained further financial information on the company, Badgerline had revised its bid from £995,000 to £825,000. Given the structure of DTC, and its future capital expenditure requirements, it was likely to have achieved pre-tax (post-interest) margins of about 6 per cent on a turnover of £2.6 million. Badgerline's bid had been based on a normal tax charge of 33 per cent and a price:earnings ratio of eight. If Badgerline had reached preferred bidder status it would have commissioned an accountant's long-form report. As it did not, it was unable to say whether it would have tried to negotiate a lower figure.

9.56. If Badgerline had bought DTC, the company would have continued to be managed locally. It was smaller than the typical Badgerline subsidiary and, in the short run, would have been less profitable. However, Darlington was good bus territory and Badgerline anticipated an improvement in DTC's financial performance.

### ***Classic Coaches (Continental) Ltd***

9.57. Classic Coaches gave written and oral evidence. It said that normally bus operators competing in the same market used common sense to stagger the timing of services over common stretches of road. Go-Ahead, however, had not followed this pattern. Since Classic Coaches had entered the local bus market in 1992 Go-Ahead had mirrored its operations continually. Its behaviour had included replicating Classic Coaches' services by registering similar services a few minutes ahead, or by adjusting the times of its existing services to run ahead of Classic Coaches'. Wherever Classic Coaches had withdrawn, Go-Ahead had followed suit. Go-Ahead's main intention had been to seek to eliminate Classic Coaches from the routes involved.

9.58. Go-Ahead had also operated duplicate buses ahead of, or close to, Classic Coaches' scheduled timetable. The intention had been that Go-Ahead should always be ahead of Classic Coaches. Some of Go-Ahead's duplications had been illegal. Their buses had not run within five minutes of their scheduled journeys but had been timed specifically to gain an advantage over Classic Coaches. Go-Ahead had used radio control to direct its activities against Classic Coaches.

9.59. In November 1994 Classic Coaches collected videotape evidence of bus movements and operations at terminals and on the road. The video evidence showed that Go-Ahead had used additional vehicles, supervisory staff and radio to deny Classic Coaches passengers. Classic Coaches had obtained some direct evidence by listening to Go-Ahead's radio transmissions and recording them (see paragraphs 8.28, 8.29, 11.43 and 11.44).

9.60. Go-Ahead had deployed additional vehicles ahead of its own scheduled services which, in turn, were usually timetabled ahead of Classic Coaches'. However, Classic Coaches had not sought to alter its timetables continually because to do so would confuse passengers. It was not uncommon to see a procession of

buses on a section of road-a duplicate Go-Ahead bus, followed by the scheduled Go-Ahead service bus, followed by a Classic Coaches bus, and at the rear another Go-Ahead duplicate bus (the last being used to take over the head of the procession if the front bus was delayed through loading).

9.61. Classic Coaches believed the regulatory powers of the Traffic Commissioners were insufficient. The local Traffic Commissioner had written to it refusing to intervene in disputes it had with Go-Ahead.

### *Commercial services*

9.62. Since it began operating local bus services Classic Coaches had introduced ten new commercial services, nine of which had been replicated wholly or partly by Go-Ahead. In response to this intensive competition Classic Coaches had introduced some services which replicated Go-Ahead's. In each case Go-Ahead had retaliated.

9.63. Classic Coaches had introduced new services 736 and 738 in November 1992, providing new links to areas which were not served or were served badly by public transport. Go-Ahead had introduced identical services running five minutes ahead of the Classic Coaches service and in similar livery. In February 1993 Classic Coaches had extended these services to Newcastle. This extension was immediately replicated by Go-Ahead. In April 1993 Classic Coaches had been forced to withdraw and within a week Go-Ahead also withdrew.

9.64. In November 1994 Classic Coaches had introduced new services 83, 84, 85 and 86 in Gateshead, and in January 1995 it had introduced a new service C66 between Gateshead Metro station and the MetroCentre designed to run in gaps between Go-Ahead's X66 service. Go-Ahead maximized its efforts against service C66 by employing pavement ticket sellers at both terminus points and, as manager of the bus station, allocated Classic Coaches a stand which was remote from the stand where Go-Ahead's X66 waited. The effect of this was that Classic Coaches carried excellent loadings into the MetroCentre but, more often than not, no passengers on the return journey. The above new Classic Coaches services were mirrored by Go-Ahead. In March 1995 Classic Coaches withdrew its services 83, 84, 85, 86 and C66 from Gateshead because of the level of competition from Go-Ahead. Subsequently Go-Ahead cancelled its replicating services 73, 74, 75 and 76 with effect from April 1995.

### *Tendered services*

9.65. Classic Coaches had operated tendered school journeys for Tyne & Wear PTE since July 1990. In December 1994 Go-Ahead registered (commercially) several of these journeys. The PTE was then obliged to suspend some of Classic Coaches' tendered routes. Classic Coaches did not believe the Go-Ahead services were financially viable although they were still operating through one of Go-Ahead's low-cost units.

9.66. In April 1994 DCC awarded a temporary contract to Classic Coaches to operate an evening service 709 following reductions in Go-Ahead's existing service. In retaliation Go-Ahead registered the journeys commercially. After the temporary contract expired Classic Coaches began operating service 709 in the evenings and on Sundays commercially. Go-Ahead continued with its own commercial service 709 and made timetable changes to run ahead of Classic Coaches' new services.

9.67. In August 1994 DCC indicated that Classic Coaches had won a contract to operate the 729 service in the evenings and on Sundays. However, this contract was not awarded as Go-Ahead registered the Monday to Saturday evening service commercially, despite having operated this service with subsidy immediately prior to this round of tenders. The route was later retendered for Sundays only and Classic Coaches was successful in winning the contract.

### *Bus stations and stands*

9.68. Go-Ahead's operation was large and well organized enough to ensure that at a bus terminus one of its buses could occupy a stand continuously. As one Go-Ahead bus moved away, another replaced it. Some Go-Ahead buses were used exclusively to block a stand and never left the terminus. Go-Ahead buses blocked Classic Coaches buses in the terminus forcing them to delay their departure.

9.69. The bus station in Worswick Street, Newcastle, was owned and operated by Go-Ahead. Classic Coaches preferred to use a bus stop outside the bus station in the street. Go-Ahead had then regarded the bus stop as commercially advantageous and started to use it too in preference to using stands in the bus station. Go-Ahead had frequently blocked Classic Coaches' access to the stop using a bus deployed specifically for that purpose. To alleviate the congestion that followed, the PTE leased one bay in the bus station from Go-Ahead for use by Classic Coaches. However, the bay chosen was so remote from the main area of activity that Classic Coaches moved its buses to another bus stop in an adjacent street.

9.70. At Stanley Bus Station, Go-Ahead ensured that it had sufficient buses available close to Classic Coaches' departure times to monopolize the stands and prevent Classic Coaches from loading. At the stands in Chester-le-Street Go-Ahead used duplicate buses and a blocking bus to prevent Classic Coaches' buses from gaining access.

### *Other aspects of competition*

9.71. Classic Coaches believed Go-Ahead maintained buses in a reserve pool at strategic locations. Such action was not to meet passenger demand but solely to frustrate Classic Coaches' scheduled operations. Passengers had to wait at bus stops while a relief Go-Ahead bus waited close by, pulling to the bus stop and loading passengers just before the scheduled arrival of a Classic Coaches bus.

9.72. Whenever Go-Ahead raised its fares, its operations manager personally delivered copies of its new fare schedules to independent operators in the area seeking to ensure that its fares were followed by all.

9.73. Classic Coaches told us that generally it had sought to avoid a price war with Go-Ahead and had thus entered with fare levels equivalent to those of Go-Ahead. An exception to this was on the 83/84/85/86 route where, as an introductory offer, it had introduced fares at half the level of Go-Ahead's competing services. In response, Go-Ahead reduced its own fares on both its existing and its newly-registered services to match those of Classic Coaches.

9.74. Classic Coaches alleged that recently some of its suppliers had stopped doing business with it for fear of losing Go-Ahead's business (see paragraphs 8.31 and 9.170).

9.75. Commenting on Go-Ahead's introduction in April 1995 of saver tickets in Consett, marketed as 'Spring Madness', following Classic Coaches' registrations of new services in the areas concerned, Classic Coaches said that Go-Ahead was exercising its financial strength to run services at a loss until the demise of its competitors (see paragraphs 8.16 and 8.17).

9.76. Classic Coaches said that it was not true that it had established its operation simply to encourage Go-Ahead to buy it. In fact in March 1994 and January 1995 Classic Coaches had been invited to meetings with Go-Ahead to discuss business possibilities. On the second occasion a formal offer was made, but Classic Coaches had declined it.

### ***Darlington Transport Company Limited***

9.77. We received written evidence from the Managing Director of DTC, who also attended a hearing together with the Finance Director. They told us that from 1986, when the company was formed, until 1989 there was intense competition between DTC and United. In 1989 both companies simultaneously concluded that their actions were unprofitable and there was an informal agreement to compete less fiercely.

9.78. Your Bus entered the market in May 1993 and within weeks DTC was affected by the competition between Your Bus and United. The DTC directors estimated that the company's market share dropped from 60 to 45 per cent over a two- to three-week period. Although United was similarly affected, it was part of a larger group with greater resources. This policy had consequences for DTC such as an increased number of competing buses on the main corridors, inability to increase fares and a drop in concession revenue. (This was because Your Bus and United had given free fares to concessionaires and DTC had to follow suit in order to maintain market share.)

9.79. In June 1994 the directors resolved to ask DBC to sell DTC because they could see no long-term future for it. They said that unless the competitive environment had changed in its favour DTC would have become insolvent in about 18 months.

9.80. DTC took no part in the sales process which had been established by DBC in conjunction with DOT (see paragraph 6.19). United was excluded from bidding and it registered new services involving 15 additional buses in Darlington to strengthen its own position against the purchaser of DTC. DBC loaned DTC funds to buy buses to counter this attack and preserve its market share.

9.81. On 8 September 1994 Busways registered four cross-town services in Darlington to commence on 12 December. These broadly followed DTC services and DTC believed it was an attempt to frighten off other bidders. By registering the routes Busways was keeping its options open. In mid-September it became one of three short-listed bidders and, as such, was allowed access to company information including service revenue performance. Busways told the DTC directors that it was determined to operate in Darlington; if it did not acquire DTC it would adopt other measures to achieve its objectives. If it was successful in acquiring DTC it aimed to restore the company to its pre-deregulation prominence in the town.

9.82. Busways then announced its acquisition of Cleveland Transit, the proximity of which made it more convenient to operate in Darlington—a move which the DTC directors saw as indicating Busways' intentions for the area. On 24 October DBC named Yorkshire Traction as the preferred bidder. The next day DTC heard that the TGWU Branch Chairman for DTC had been summoned to Newcastle to see Busways and Stagecoach representatives. In the next few days it became clear that Busways intended to operate free buses in Darlington. It advertised in the press for staff. The DTC directors believed Busways was only interested in DTC staff. Busways offered the drivers an increase on all rates of pay; a 'non-training bonus' of £1,000; and guaranteed no compulsory redundancies for three years. Seventy-five DTC drivers resigned and started with Stagecoach Darlington on 7 November. Meanwhile Busways registered all DTC's commercial services using, the directors believed, photocopies of DTC's registrations with the company's name changed. Yorkshire Traction then withdrew its bid. DBC was unable to find any other interested party and informed DTC on 9 November that the company was unsaleable. DTC carried on its operations as best as it could.

9.83. DTC had been faced with an operator prepared to run DTC's network for five weeks with free fares. Initially the effects of Busways' free services had not been as great as DTC had feared because Busways had not been able to run on the scheduled routes which passengers were used to. Nevertheless DTC had lost about 60 per cent of its revenue in the first week and it could not sustain this loss of cash flow. Consequently, to protect the interests of its shareholders and creditors the DTC directors had no option but to place the company in the hands of administrators.

9.84. Stagecoach's ambitions in the area became clear when it acquired Cleveland Transit. Having failed to become the preferred bidder for DTC, Busways succeeded in acquiring its market without having to compete for it. Busways knew exactly how weak DTC was and had to make it unsaleable before it fell into the hands of a stronger operator. It succeeded in this strategy by the strength of its resources and not by its abilities in the Darlington market.

9.85. The DTC directors thought they should have been more involved in the sales procedure. They also felt that once the three preferred bidders had been given information about DTC, the unsuccessful bidders should have been restricted from using it in any way that could affect the sale. They suggested that to avoid a repetition of the events in Darlington, a freeze should be put on commercial activity in the market concerned during the bidding process for local authority bus companies. The market could be reopened once the sale had been completed.

### ***Hart Coaches***

9.86. Hart Coaches, which has offices in Hartlepool and a depot in Stockton-on-Tees, commented in a written submission that it believed the offer of free fares by any bus company competing with another was damaging to competition. If it were to face a similar situation to DTC's, it too would have to cease trading. It had no doubt that only the biggest and most efficiently-run companies would survive in the present climate. Whilst this situation was traumatic for those involved, the final result could be in the best interests of the travelling public.

## ***Hylton Castle Motors Limited***

9.87. Hylton, which gave written and oral evidence, said that after deregulation in 1986 it registered bus routes which, with one exception, were entirely within South Tyneside. Hylton had tried to introduce new routes rather than cover existing ones and, as a result, had been financially successful. In February 1991 its proprietor and major shareholder had died and later that year Busways, Hylton's principal competitor, had offered to buy it. Hylton had not been interested but the two companies had agreed to keep in touch in case Hylton changed its mind. Until 1994 when Busways had been acquired by Stagecoach, competition between the two companies had been fair. Both had adhered to their published timetables and neither had registered new services between 1990 and July 1994.

9.88. Hylton told us of telephone conversations it had with Busways around the time of Busways' acquisition by Stagecoach in July 1994 (see paragraph 7.9), and of a meeting it had been invited to by Busways on 16 September 1994. At that meeting Busways had told Hylton that there were going to be changes in the area following Busways' acquisition by Stagecoach. Busways had said that Stagecoach wished to increase its market share in South Shields and to do so by acquiring Hylton. If Hylton did not comply Stagecoach would 'flatten it'. Hylton had asked why Busways was competing more aggressively than it had in the past and had been told that it was Stagecoach company policy. Busways had suggested that it might take over the bus services side of the company and leave Hylton to carry on with private coach hire. Busways had asked for financial information about Hylton and had offered a confidentiality agreement. Busways had mentioned an indicative price of £1 million which it might be prepared to pay for Hylton. It had also observed that, at the date of the meeting, Hylton was worth less than it had been on 5 September. When Hylton had asked why this should be so Busways had referred to its new weekly Shields Saver tickets which had been introduced on 5 September (see paragraph 7.10). Hylton had agreed to consider Busways' offer and to let Busways have its decision in due course.

9.89. On 3 October Hylton had received a telephone call from Busways seeking to know if Hylton would agree to sell. Hylton had replied that it had not yet reached a decision. Busways told Hylton that it was not prepared to wait any longer. Almost immediately Busways had registered two new services on identical routes to those operated by Hylton and timed to run one minute ahead of Hylton's services. Busways' service 18A started on 6 November and competed with Hylton's service 48. Its service E6 started on 13 November and competed with Hylton's service 6. Hylton told us that together its services 48 and 6 accounted for half its turnover from local bus services. Hylton's response had been to introduce a new C20 service which started on 28 November and operated from South Shields market-place to Fellgate Estate, competing with Busways' X20 service. Hylton also increased frequencies on some of its existing services (see paragraph 7.17). After Busways learned of Hylton's intention to introduce the C20 service it had extended its weekly Shields Saver ticket to cover its X20 service (see paragraph 7.17).

9.90. Hylton had complained to the Traffic Commissioner about Busways' introduction and timing of services E6 and 18A but the Traffic Commissioner had advised Hylton that he had no powers to intervene.

9.91. Hylton said that the substantial cuts in the price of Busways' Shields Saver tickets were predatory: they were uneconomic for Busways and introduced in order to force Hylton out of business. One aspect which Hylton said supported this interpretation was that the new tickets did not require an accompanying photocard and were therefore effectively transferable between passengers. In Hylton's view this showed that Busways' real interest lay in abstracting revenue from Hylton, not in maximizing its own revenue. Shields Saver tickets were not available to passengers in any other area of Tyneside and had been introduced solely to target Hylton's routes. If Busways continued to sell these tickets at such low prices and to run buses one minute ahead of Hylton's, Hylton would be forced out of business or obliged to sell the company at an uneconomic price.

9.92. Hylton also alleged that Busways had deliberately blocked its allocated bus stand in South Shields market-place; had approached some of its drivers in an effort to persuade them to join Busways; and employed some drivers who had already agreed to join Hylton.

## ***Leven Valley***

9.93. Leven Valley, which operated in Cleveland and North Yorkshire, said that over the last six years it had asked the OFT to review practices employed by other operators to prevent its effective operation of tendered and commercial services. In each case the OFT had found no grounds to investigate. Leven Valley believed this was because the companies concerned had ceased the particular anti-competitive action when they realized the competition authorities were interested in their behaviour.

9.94. In Leven Valley's opinion Stagecoach's actions in Darlington had lived up to its image. Since Stagecoach had acquired Cleveland Transit, there had been signs of informal agreements being reached with other companies. For example, Cleveland Transit had cancelled its services which competed with those of North East Bus.

9.95. Leven Valley urged that restrictions should be placed on companies which registered services commercially against successful tendering by a small operator. It also condemned the practice of registering commercial services just ahead of a competitor's service where that new service was innovative. Operators which undermined a competitor to the extent that it was forced to withdraw should be required to continue operating the services for a considerable period without benefit of subsidy.

### ***North East Bus Limited***

9.96. North East Bus gave written evidence and attended a hearing. (For a brief history of the company, see paragraph 5.68.) It told us that United, whose activities were concentrated in County Durham and North Yorkshire, was the largest of its three operating companies with about 260 vehicles and 600 employees.

### ***Competition with other operators***

9.97. North East Bus said that there were numerous independent operators in County Durham and as many as 40 companies sometimes applied for a particular tendered service with the local authority. United had several major competitors, particularly to the north where Go-Ahead, Northumbria and Busways operated, and to the east where it competed with Cleveland Transit. It had also faced competition from three municipal companies, including DTC, and from sizeable independent operators such as OK Travel. North East Bus said that its aim was to be as profitable as possible, rather than to increase its market share. It achieved this by cutting costs rather than by increasing fares (which it did only once a year in line with the RPI). Keeping its fares down gave it the edge over its competitors. However, in the tendered market the smaller operators were more successful. This was because North East Bus required an 8 to 10 per cent profit margin on every tender. Small operators had lower overheads, were able to quote lower prices and were probably prepared to work for smaller profit margins.

9.98. North East Bus said that before deregulation United was based in Darlington but ran only inter-urban services. Deregulation enabled it to compete with DTC and it introduced 60 minibuses on DTC's routes in the town. Fierce competition continued between the two companies until both realized that they were losing money on town services and gradually reduced the number of buses. Competition remained fierce, but in 1992 and early 1993 both generated small profits. In May 1993 Your Bus (see paragraph 6.10) entered the market and registered buses on nearly all United's routes in Darlington. This resulted in a heavy loss for United. DTC was also affected by the increased number of buses on common parts of certain routes. United responded by running another 13 buses in Darlington and consequently managed to reduce its losses in the town by more than half. Your Bus then offered free fares to concessionaires in Darlington. United and DTC followed suit. As DTC's services carried the highest number of concessionaires it would have suffered most from this action. United had been the subject of an OFT inquiry (see paragraph 6.14) but it maintained that it had competed fairly with Your Bus.

### *Busways' entry into the market*

9.99. In July 1994 Busways made it clear to United that it intended to register services. At the same time DBC announced that DTC was to be put up for sale. United then registered new services involving 20 additional vehicles in the town in order to negate the Busways threat. DTC also registered additional services to compete with United, but on out-of-town routes. North East Bus thought this decision was forced on DTC by DBC, which refused to add to the congestion in the town centre. It did nothing to reduce DTC's losses.

9.100. United had been interested in acquiring DTC and offered £1 million for the company but this had been rejected on the grounds that the DOT did not consider United a suitable bidder because of its existing high market share in Darlington. There were several other offers for DTC and Yorkshire Traction was named as the preferred bidder. Busways then started to run buses in Darlington free of charge. Busways had not registered the services and so was not allowed to charge the passengers or use the recognized bus stops. Until then all competition in Darlington had been on a frequency basis with no fare reductions or ticketing innovations. Within three days of Busways commencing its free services, DTC announced that it was being put into liquidation. Shortly afterwards it ceased to operate services.

9.101. United said that it had expected to lose 90 to 95 per cent of its revenue as a result of Busways' free services but instead had lost 70 per cent. It believed this was because Busways was unable to use town centre stops. Passengers probably used the free service to travel into the town but paid for the return journey rather than walk to Busways' improvised bus terminus which was further away from the town centre.

9.102. Busways' actions had led to Yorkshire Traction withdrawing its bid for DTC. DBC was then left with little to sell and no potential buyers. In an attempt to salvage some value from the company, DBC had met United and asked it to make a bid for DTC. United was no longer interested. The sole worthwhile asset then was a tax loss which could have been transferred to North East Bus. Against this was a sizeable redundancy liability. The facts that most of DTC's drivers had joined Busways and that Busways was running free services in the town meant that as a business DTC was worthless because effectively its business had been taken over by Busways. DTC could offer nothing that United could not have gained from further expansion of its own operations.

9.103. In December 1994 United was approached by Your Bus, which could see no future for itself in the town. It asked United to buy the company. United estimated that to buy Your Bus would be cheaper than continuing to compete with it, even though Your Bus would not be able to stay in business much longer, and the deal therefore went ahead. The market in Darlington was now dominated by Busways but United had established a considerable, if minority, market share.

### *Yorkshire Traction's bid for DTC*

9.104. Asked about Busways' allegation that Yorkshire Traction was simply acting as a stalking horse purchaser for United, North East Bus said that United had accepted the rejection of its bid for DTC and had at no time approached any other operator with a view to having that operator act on its behalf. As the bid was approaching its final stages Yorkshire Traction had contacted United for its views on the Darlington market and asked what United's reaction would be if Yorkshire Traction acquired DTC. United's response had been that the bus war was detrimental to United and it wished to see a reduction in competition as soon as possible. North East Bus said that the relevance of this was that, whilst nothing could be taken for granted at the time, Yorkshire Traction had at least made its bid in the knowledge that United desired a reduction rather than an escalation in competition. North East Bus had received a similar approach from another company interested in acquiring DTC.

9.105. North East Bus confirmed that various operational problems, including driver training and recruitment, had delayed the introduction of new services planned to take effect from 30 August, 19 September and 3 October 1994. In all cases the delay had been for two weeks and had nothing to do with the bid for DTC by Yorkshire Traction or any other company.

### *Busways' actions in Darlington*

9.106. North East Bus said that entry into a new bus market was relatively easy and could be achieved fairly cheaply. Nevertheless it thought entry should involve investment capital, especially when it was effected by taking over the business of an incumbent. Costs incurred by a new entrant traditionally put it at a slight disadvantage to the incumbent. Busways reversed this position. It acquired the business of DTC from working capital rather than from investment capital. Its expenses had been the cost of the buses, the £1,000 payments to DTC's employees and the forfeiture of fares. This had enabled Busways to acquire the business at less than half the amount needed to buy it.

9.107. The free fare tactic had inflicted considerable damage on the incumbents and disadvantaged them at a time when they could reasonably have supposed that the disadvantage would lie with the new entrant because of the cost of financing the purchase price. North East Bus considered this to be cross-subsidization and predatory pricing. The tactics used by Busways were only possible because of its access to Stagecoach's resources. Stagecoach was able to absorb the impact on its profit and loss account rather than having to capitalize the costs of the purchase. Few, if any, companies other than Stagecoach could have afforded to do this. Busways' dubious tactics, rather than the sales procedure followed by DBC, had led to the sale of DTC being aborted. North East Bus said that, in view of the offer of £1,000 for qualified drivers, it was possible that some of its drivers had applied for the jobs advertised by Busways. But Busways had appeared to be targeting DTC's employees.

9.108. Stagecoach's actions, through its subsidiary Busways, had frightened smaller operators who saw no future in the industry if Stagecoach should at any time desire their businesses. Since the events in Darlington some smaller operators had asked North East Bus whether it would be interested in buying their businesses.

9.109. Although North East Bus was in favour of the Traffic Commissioner exercising what powers were necessary to protect public safety, it did not think that his powers of intervention should be extended, for example to stop a bus war. It thought a central regulatory authority should be introduced which could act quickly on specific situations as they occurred.

### *Northumbria Motor Services Limited*

9.110. Northumbria confirmed in written evidence that it operated in parts of the reference area. It did not wish to make any comments about the current inquiry other than to say that it had no complaints about the activities of other operators in the area.

### *Primrose Coaches*

9.111. In written evidence Primrose Coaches of Runhead Ryton, Tyne & Wear, told us that it disapproved of Busways' actions in Darlington. It did not regard the offer of free fares, and 'signing on' bonuses to drivers as business trading. Both actions had led directly to DTC's collapse. This was not in the spirit of deregulation. However, Primrose Coaches was not affected adversely by other companies in the area and had no firm evidence of unfair competition between itself and Busways.

### *Redby Bus and Coach*

9.112. Redby gave written evidence but did not attend a hearing which we had arranged for it. It had entered the market at deregulation in 1986. Its principal competitors were Busways and Go-Ahead. Until Busways was acquired by Stagecoach it had not competed with Redby on fares but it had engaged in the use of duplicates and overbussing.

9.113. In August 1994, after Busways was acquired by Stagecoach, Redby had complained to the OFT about Busways targeting its routes in Sunderland by offering Busways' passengers return tickets for a discounted fare. Redby had been unable to respond to the return fares offer owing to the infrequency of its services. Its revenue had been reduced substantially. Had Busways' offer been available throughout

Sunderland Redby would not have complained, but the discounted tickets were only available on routes shared with Redby.

9.114. Redby said that the large companies did not attack each other's territory, but preferred to concentrate their activities on the smaller, independent companies, and those they believed were weak. Redby had experienced problems with Go-Ahead which had mirrored some of its services. When Redby had been forced to withdraw, Go-Ahead had followed suit.

9.115. It was unfair that the large companies could secure favourable time-slots for stand allocation at bus stations. The allocation of slots in Sunderland Central Bus Station had been implemented with the full knowledge of the PTE; smaller operators were denied access to stands, and thus potential revenue. Go-Ahead occupied slots at the Central Bus Station (effectively reducing the number of slots available to smaller operators) despite having its own bus station at Park Lane, 200 metres away. Yet Go-Ahead charged operators a far higher rate to use Park Lane Bus Station than the PTE charged for the use of the Central Bus Station. This situation was typical of the restrictions imposed by the large groups on smaller companies.

### ***South Durham Bus Company Ltd (Your Bus)***

9.116. Your Bus, which gave written and oral evidence, said that when it entered the market in May 1993 it had aimed, as a small competitor to DTC and United, to give a more personal service. At the end of the first year, and again in July 1994 when it secured some contracts from DCC, its prospects seemed good. But in the end it could not survive. United had adopted a more aggressive policy than Your Bus had expected. Even without the entry of Busways, it might not have been able to continue in business.

### ***Busways' entry into the market***

9.117. Busways had made it clear that it intended to enter the Darlington market in whatever way it could. Its September registrations of services which were scheduled to come into operation on 12 December were designed to enable it to compete in Darlington if it was not successful in its bid for DTC. Your Bus said that Busways' method of entry was anti-competitive. Within a week of learning that it was unsuccessful in its bid for DTC, Busways had advertised for drivers at a rate in excess of that paid by DTC, and offered £1,000 to each driver. It was common knowledge in Darlington that Busways was specifically targeting DTC drivers. Three of Your Bus's own drivers had applied and none of these had been interviewed. Drivers recruited in later weeks did not receive the £1,000 inducement. Busways had then brought in about 50 buses from other Stagecoach companies. It had also run free services. These actions were only made possible by Busways' access to Stagecoach's resources which enabled it to assemble a fleet of buses at short notice and to sustain the resulting losses. Busways' willingness to operate free services for up to five weeks was too long to be a promotional gesture.

9.118. Busways' actions were designed to weaken the financial position of all operators in Darlington, not just DTC. At first the effects of its free services were not as great as Your Bus had feared because Busways was unable to use the town centre bus stops. However, within a few days passengers had become accustomed to this and, certainly for journeys into the town, they used the free services. Your Bus estimated that it had lost over £2,000 during the three weeks that Busways offered free services. After DTC collapsed, Busways began charging fares on 28 November 1994. But it set a price of £2.50 for a weekly ticket (against £3 charged by other operators) and continued with an uneconomically high level of operations. In sustaining further losses, Busways deliberately tried to force other operators out of the market. Busways' behaviour was against the interests of small companies and restricted the opportunities afforded by deregulation.

9.119. Your Bus said that it sold its buses to West Midlands Travel and ceased operations on 16 December 1994 because it was unable to compete with such resources.

### ***Stanley Taxis***

9.120. Stanley Taxis gave written and oral evidence. In July 1994 it had won nine contracts to run tendered services for DCC. It had purchased four new vehicles to meet the contract requirements, and recruited six additional drivers.

9.121. Within 14 days of the services commencing, Go-Ahead had telephoned Stanley Taxis requesting an informal meeting, which subsequently took place on 6 September. At the meeting Go-Ahead commented that Stanley Taxis' fares were, on average, 15 per cent lower than fares charged by Go-Ahead. It had suggested that Stanley Taxis should increase its fares to a level just below that charged by Go-Ahead. It had also warned Stanley Taxis not to compete on any of Go-Ahead's commercial routes.

9.122. Go-Ahead had convened another meeting with Stanley Taxis on 21 September at which it had accused Stanley Taxis of undermining its market share and abstracting its passengers. Go-Ahead had said that it was losing passengers on sections of routes common to both operators, and where Stanley Taxis was charging lower fares. If Stanley Taxis did not increase its fares, Go-Ahead would introduce taxis into the area and compete directly with Stanley Taxis' taxi services. This was of concern to Stanley Taxis because taxis accounted for about 40 per cent of its business.

9.123. Stanley Taxis had not considered it appropriate to respond to Go-Ahead's suggestions because it had only been operating its tendered services for a short while and wanted to analyse fully their running costs and revenue. On analysis it had found that it was meeting its targets adequately and no fare increases would be necessary. It had also felt that it would have been unfair to its passengers to have implemented a fare increase so soon after the introduction of the services.

9.124. Following feedback received from its taxi customers, Stanley Taxis had introduced its first commercial service, service 710, on 16 January 1995, serving an estate which had been without a bus service since Go-Ahead had withdrawn in August 1993. Go-Ahead immediately retaliated, not only by registering an identical service to operate five minutes before, or at the same times as, Stanley Taxis' service, but also by mirroring three of Stanley Taxis' tendered services (715, 719 and 802).

9.125. Stanley Taxis said that Go-Ahead's action had been predatory. The commercial services it had introduced in competition with Stanley Taxis' tendered services (715, 719 and 802) ran at the same time as, or five minutes ahead of, Stanley Taxis' services.

9.126. Go-Ahead had also prevented Stanley Taxis' buses gaining access to the stands at Stanley Bus Station by parking vehicles on the stands and delaying their departure times.

9.127. Stanley Taxis had co-existed with Go-Ahead for several years and it was only since the recent increase in its business that problems occurred. Go-Ahead resented Stanley Taxis' expansion and said that its plans must be 'nipped in the bud'.

9.128. In a second written submission Stanley Taxis told us that in March 1995 Go-Ahead proposed a solution to the conflict between it and Stanley Taxis. In exchange for Stanley Taxis agreeing to move to another stand at Stanley Bus Station, Go-Ahead would cancel all the competitive measures it had introduced against Stanley Taxis with effect from 2 April 1995. Stanley Taxis agreed to this proposal and all the Go-Ahead services which had been the subject of Stanley Taxis' complaints were withdrawn.

### ***The Yorkshire Traction Company Ltd***

9.129. Yorkshire Traction (see paragraphs 5.86 to 5.88 for a brief description of the company), which gave written evidence and attended a hearing, told us that it was medium-sized and keen to expand. The acquisition of DTC seemed to provide a good opportunity to do this and it had submitted an indicative offer on 13 September 1994. After being advised that it had been short-listed for the purchase of DTC, it visited Darlington on 30 September and spent some time with the DTC management and DBC's advisers, KPMG. As a result of that meeting and its observations in the town, Yorkshire Traction knew that there was some overbussing in Darlington and that DTC was in financial difficulty. However, it believed the benefits Yorkshire Traction could bring to it could make DTC profitable, whilst providing a good service to passengers in the Darlington area. DTC had told Yorkshire Traction that Busways had registered services on four routes in Darlington, but this was a common tactic when companies were put up for sale, and Yorkshire

Traction believed Busways would withdraw the registrations if it was unsuccessful in acquiring DTC. After learning that Busways, Badgerline and itself had been short-listed Yorkshire Traction made a final offer on 13 October. Yorkshire Traction said that this offer had been considerably higher than its indicative bid because it had been told that its original offer had not been the highest. It was very keen to acquire DTC and it had previously lost out in bids for other companies elsewhere.

9.130. On 24 October it was informed that it had been granted preferred bidder status and had until 21 November to complete the deal, after which time the preferred bidder status would expire. In several telephone conversations with DTC management over the next seven days it learnt that Busways was to operate a network of services covering all DTC's services. It was also advised that an offer of employment to PCV drivers had been circulated in Darlington which appeared very attractive and that this would almost certainly attract many drivers from DTC. Yorkshire Traction was invited by DBC to submit a revised offer. It met KPMG and DBC on 31 October. DBC again said that in view of the substantial change in circumstances it would be prepared to consider a revised offer from Yorkshire Traction. During that visit Yorkshire Traction was informed that over 60 of DTC's drivers had already resigned and that it would be extremely difficult to operate services during the following week. Yorkshire Traction told DBC and KPMG that it would reconsider its bid, but was fairly sure that it would be unable to proceed. After the meeting, at the request of the Managing Director, Yorkshire Traction met the DTC workforce. This was its first meeting with the employees.

9.131. In view of all it had been told, particularly the fact that the company would have a massive shortfall of drivers whilst competing against free services, Yorkshire Traction withdrew its offer for DTC on 2 November believing that the company was now unsaleable.

9.132. With regard to a reported comment by the Chairman of Stagecoach that the company did not believe Yorkshire Traction would have completed at the price quoted, Yorkshire Traction said that this was probably correct. Yorkshire Traction's bid was for the net asset position (as shown in the balance sheet supplied by DTC's advisers, dated 28 August 1994) with a clause indicating that any reduction in that balance sheet would cause the offer price to reduce on a pound-for-pound basis. Since DTC was losing money, it was likely that there would have been a reduction in the net asset value. Moreover due diligence work was to be completed by Yorkshire Traction's accountants after the final offer, and if this had revealed any serious problems Yorkshire Traction would have had to review the offer price.

9.133. Yorkshire Traction emphasized that it was not its intention to negotiate a lower price after reaching final bidder status. It had completed most of its previous acquisitions at the offer price or very close to it. It was doubtful whether the completion price in the case of DTC would have been substantially below the price offered. Yorkshire Traction considered that, if it had attempted to achieve such a reduction, DBC would have reintroduced the second bidder into the competition for DTC. Asked about Busways' allegation that Yorkshire Traction was simply acting as a stalking horse purchaser for United, Yorkshire Traction said that it was completely untrue, although it recognized that this was a plausible assumption for Busways to make.

## **Trade unions**

### ***Transport and General Workers' Union-Central Office***

9.134. The TGWU outlined the national view in a written submission. It said that in the years since privatization, local monopolies had developed in the bus industry as many of the former NBC companies had been acquired by a small number of emerging large operators. By nature bus services tended towards local monopolies which benefited passengers, operators and their employees.

9.135. Large operators such as Stagecoach were better able than their smaller competitors to renew their vehicle fleets and thus provided a higher quality of service to the public. They also had a pool of vehicles which could be drawn on by their subsidiaries when required, for example in times of fleet servicing, testing or seasonal demand. In addition economies of scale ensured better pensions and, in the TGWU's experience, better vocational training.

9.136. A local monopoly was able to take advantage of cross-subsidy and there was a tendency for a local network of services to be created. This also gave the benefits of integration of services and greater

stability which a fragmented, highly competitive market could not provide. The TGWU argued that although a monopoly in the bus industry might be anti-competitive, it was in the public interest. Therefore if the operator concerned gave an undertaking not to inhibit free and fair competition, the present state of the market should be confirmed.

### ***Transport and General Workers' Union-Northern Branch***

9.137. The Northern Branch of the TGWU, which gave written and oral evidence, said that nearly 3,000 of its members worked in bus companies in the region. The TGWU had represented the entire DTC workforce. Over the last four years DTC had been struggling to achieve profitability. Therefore the TGWU had not sought to improve its members' earnings or conditions but had tried to retain as many jobs as possible, even with the fall in DTC's passenger numbers and revenue. In early 1994 DTC had made some employees redundant; these further cuts in costs had become necessary to keep the company in business. By then the morale of the workforce was low and many employees were seeking alternative employment.

9.138. On 12 July 1994, when DBC had announced its intention to sell DTC, the TGWU had met with DTC's workforce to discuss the company's future. The drivers had hoped that DTC would be bought by a large operator with the resources necessary to replace the old buses and operate competitively. After considering likely possibilities they had agreed that Stagecoach would be the best choice. The TGWU's subsequent investigations confirmed that Stagecoach had a good record on industrial relations with other acquired companies and for investment in new vehicles and capital expenditure. Stagecoach's conditions were also better in almost every respect than those enjoyed by the TGWU's members at DTC and than those offered by other large national operators.

9.139. On 19 September the TGWU told DBC that its members working for DTC would prefer Stagecoach to buy the company. On 22 September DBC short-listed three bidders, Badgerline, Busways and Yorkshire Traction. The short-listed bidders were invited by DTC to meet the workforce informally when they visited DTC to obtain further information. Only Busways took up this offer. It met DTC's employees on 29 September and told them that Busways had registered four routes in Darlington, to come into operation on 12 December. The workforce then realized that Busways proposed to enter Darlington whether it acquired DTC or not. After the meeting its members told the TGWU that their preferred purchaser was Busways. Several drivers said that if Busways did not succeed in its bid and launched a recruitment drive in Darlington they would resign and join Busways rather than face an uncertain future. DTC advised the TGWU on 24 October that Yorkshire Traction was the preferred bidder. Mr Tait, Chairman of DTC's branch of the TGWU, requested a meeting with Busways and on 25 October he met Busways' Finance Director, Mr Conroy, and Busways' non-executive Chairman, Mr Souter. Busways' proposals for the DTC workforce were discussed: it intended to offer £1,000 to each driver and better conditions than they had at DTC, together with three-year guarantees of no reduction in wage rates and no compulsory redundancies. Mr Tait told Busways that the majority of the workforce would be prepared to join it.

9.140. The TGWU approved of Busways' £1,000 payments to DTC's drivers. If a company saved money by recruiting trained drivers it was fair that the employees should be paid for their experience. At present the cost of training a PCV driver, including test fees, examiners, trainers and fuel, would be far in excess of £1,000. Whilst the payment had been attractive to its members, job security had been the main attraction.

9.141. The TGWU did not see Yorkshire Traction as a major operator which could help DTC out of its difficulties. Its Chairman and Managing Director, Mr Carter, met the DTC workforce on 31 October at the TGWU's request. When given details of Busways' terms and conditions Mr Carter said that Yorkshire Traction would not be able to match them. The TGWU was surprised that Mr Carter then said that he would be reducing wages and staffing levels.

## **Associations and other bodies**

### ***Association of Local Bus Company Managers***

9.142. The Association of Local Bus Company Managers (ALBUM) said that it no longer had any representatives in the north-east of England. ALBUM's principal concern was that what had occurred in Darlington could be repeated in other areas of the country where there were local authority-owned bus companies.

9.143. The Government had indicated its desire to see municipal companies passing to the private sector. However, any one of them could be at risk from predatory behaviour as had occurred in Lancaster and Darlington. Moreover the asset value of such companies could be reduced to a nil base, as had happened in Darlington, acting as a deterrent to other local authorities which were contemplating the sale of such companies.

9.144. In ALBUM's view the only possible way of preventing a recurrence of the Darlington saga would be to give powers to the Traffic Commissioner to refuse any registrations over an existing operator's route during a sale process and to refuse to allow unregistered free services.

### ***Association of District Councils***

9.145. The Association said that it did not usually comment on regional investigations as it was not aware of the full facts of individual cases, but the issues involved in Darlington had been brought to its attention and discussed within the Association. It was concerned that fair competition should be maintained in local bus operations and concluded that the Government should review, as a matter of urgency, whether the objectives of the 1985 Act, which appeared to be working in some areas, could be upheld if the trends exhibited in the North-East were allowed to continue. The Association firmly believed that if a situation developed where long-standing small operators could apparently be driven out of business, and new entrants were unable to survive, there could be no fair competition.

### ***National Federation of Bus Users***

9.146. The National Federation of Bus Users (NFBU) based its comments on its own impressions and on interviews held with 20 passengers in Darlington town centre on Saturday 4 March 1994. It said that for some time buses in Darlington had been of poor quality. In 1992 competition between United and DTC, in what appeared to be a declining market, had produced some overbussing and consequent lack of investment in new vehicles. The situation worsened after the entry of Your Bus in 1993 and the resulting fierce competition. Passengers appreciated high levels of service, but did not like congestion at bus stops which made boarding difficult and often dangerous. The waiting area was made dirty, smelly and noisy by old, poorly-maintained buses.

9.147. The NFBU said that the fact that passengers tended to get on the first bus that came along made it possible for any operator with a few old buses and low-paid staff to succeed in making a profit, simply by abstracting passengers on main routes at busy times. In this way the company which could make a profit with the lowest investment was arguably the most efficient competitor and could make it difficult for other operators to succeed.

9.148. Competition which improved, rather than undermined, the quality of bus transport would be the exception rather than the rule unless and until more effective quality standards were imposed on all operators. The NFBU thought the worst type of competition had prevailed in Darlington in the last few years and it had been of little real benefit either to those travelling by bus or the public at large using the town centre.

### *Busways' actions in Darlington*

9.149. The NFBU said that it did not condone Busways' actions. It should not be possible for any company to bypass the registration period whilst awaiting a dispensation from the Traffic Commissioner, even though in this case the public had benefited from free travel. Neither was it proper for staff to be tempted to join another company by means of a £1,000 payment in recognition of training and experience, even though Busways was clearly responding to an initiative from most of DTC's workforce.

9.150. Nevertheless, the collapse of DTC had not been due solely to the action of Busways. Rather, it had been the inevitable result of destructive and wasteful competition in which all competitors had been involved and which had begun in 1993, well before Busways appeared on the scene.

9.151. Now that Busways had succeeded in taking over DTC's operations, the NFBU did not think there was any evidence to suggest that it would use Stagecoach's resources to attack United and then reduce services and increase fares in such a way as to disadvantage passengers. Experience elsewhere suggested that Stagecoach was in fact committed to a low-fares policy and the provision of a high-quality service network.

9.152. Passengers interviewed by the NFBU said that the situation was much safer and more pleasant as a result of the reduction in the number of buses going through the town centre. But they thought the standard of waiting areas was poor. There was an urgent need for local authorities to discuss methods of improving the infrastructure for public transport with operators. Although passengers had noticed and appreciated the new buses brought in by Busways, they still thought of buses as dirty vehicles-an impression that was not likely to change until United, too, invested in newer and better maintained buses.

### *The new situation in Darlington*

9.153. The fact that there were now only two major operators in Darlington had had a positive effect in reducing unacceptable levels of bus congestion with its associated noise and pollution in the town centre. The effect of Stagecoach had been especially encouraging because of the high quality of the company's vehicles and good standards of vehicle maintenance.

9.154. The market for bus travel in Darlington was good, but not enough to provide sufficient revenue for more than two operators to operate a network with good-quality vehicles and staff. The reduction in competition would encourage United and Busways to focus attention on providing a high-quality bus network in Darlington.

9.155. Bus users had got out of the habit of using timetables. With levels of frequency reduced, much more attention would need to be paid to the provision of travel information. The information at town-centre stands was not as good as it should have been.

9.156. The NFBU hoped that if services were now being changed and reduced to provide a more viable network, both Busways and United would work together, not only to produce an area timetable with better bus-stop information, but also to develop a coherent network to meet community needs in which services complemented rather than duplicated each other.

9.157. It was encouraging that pensioners could now obtain passes allowing them to buy concessionary tickets on all buses in Darlington. The NFBU would like to see better value for money for everybody in the form of multi-journey tickets which could be used on all local buses. Busways, with its experience of the transfer-ticket system in Newcastle, should not have difficulty in putting this into practice.

## ***The Omnibus Society***

9.158. The Society, a nation-wide organization founded in 1929 to study the development and history of road passenger transport, said that one outcome of deregulation was that companies with large resources were able to purchase other businesses. When DTC had been put on the market Busways had quite legally registered services in Darlington and its subsequent action after its bid for DTC had been refused was a shrewd business move. It was said to have poached drivers, but the drivers had seemed very willing to accept Busways' offer. Although DBC might have lost money in failing to sell DTC as a going concern, there could have been little goodwill from a company which ran up losses every year. DBC still retained DTC's assets. The Society did not consider that Stagecoach had acted unfairly in any way.

9.159. On the question of unfair competition in South Shields (and in Sunderland) the Society observed that Busways was the successor to two long-standing local authority-owned companies. The companies which complained about Busways had started operating after deregulation, running services on established routes-usually immediately ahead of Busways' services-with the object of abstracting its passengers. This resulted in congestion and was of no real benefit to the public. It was reasonable that Busways should do all it could to combat such wasteful competition.

9.160. Generally the North-East had not suffered excessively from this type of competition but it still existed. The latest occurrence was in Gateshead between Classic Coaches and Go-Ahead. Go-Ahead responded to action by Classic Coaches by putting on additional buses in a different livery; the Society thought that was deceiving the public.

9.161. In the present free-market conditions the only way to avoid an eventual monopoly situation was by means of regulation to restore integrated transport services.

## **Others**

### ***KPMG Peat Marwick***

9.162. KPMG, which gave us a written submission concerning the advice it gave to DBC on the sale of DTC, said that it was fully conversant with the DOT guidelines for the sale of municipal bus companies. The guidelines did not permit a private sale. KPMG consulted the DOT throughout the sale process, keeping DOT officials informed at each significant stage-establishing DBC's objectives; drawing up the sales circular; identifying potential purchasers; drawing up the short list of bidders; and selecting the preferred bidder.

9.163. Yorkshire Traction was selected as preferred bidder after a process of open and fair competition which was conducted in accordance with the DOT's guidelines. Busways' actions, when it learned that it had not achieved preferred bidder status, resulted in the withdrawal by the remaining bidders of all offers received for the purchase of DTC.

9.164. It was Busways' actions which explained the failure of the sales process and it was wholly inappropriate and irrelevant to suggest that any aspect of the procedures followed played any part in that failure.

9.165. KPMG included appropriate covenants and consideration provisions in the draft purchase and sale agreement. Commenting on Busways' arguments on ways in which the DTC débâcle could have been avoided, KPMG said that to have required short-listed bidders to covenant not to register competing services during or for a period after the sale would have been unenforceable and thus worthless. It would have been totally impractical to have invited bids for DTC on the basis that the terms of sale (other than price) could be negotiated and made legally binding with all the short-listed bidders before final bids were submitted, or that a signed share purchase agreement should be delivered with the final bid.

### ***Members of the public***

9.166. A resident of the Harton Moor Estate in South Shields complained that Busways' drivers operated on the estate without proper regard to safety and used residents' driveways as unofficial bus stops. Another South Shields resident said that he had observed Hylton's buses being obstructed by Busways' and, on one occasion, a Busways driver had tried to persuade him to use a Busways service rather than wait for a Hylton bus. He disapproved of Stagecoach's actions, which he believed would lead to a loss of jobs if Hylton were to be forced out of business.

9.167. A resident of Sunderland deplored the aggressive tactics employed by Busways, and the deterioration of the maintenance and cleanliness of its vehicles since its acquisition by Stagecoach. It did not seem to matter that many duplicate buses ran half-empty as Busways was able to reclaim fuel duty rebate to recover its losses.

9.168. For some years this witness had travelled daily along Hylton Road in Sunderland, which was one of the main routes into Sunderland city centre. Since July 1994 regular progress along the road had been hindered by convoys of two or three Busways buses, especially at peak travel times. He had observed many incidents of aggressive driving by Busways' drivers endeavouring to overtake or keep ahead of other operators.

9.169. On one occasion he had observed a Redby bus being hemmed in by three Busways vehicles, holding up the traffic for several minutes. On another occasion an accident had nearly occurred through the dangerous driving of a Busways driver in his attempts to overtake a Redby driver.

### ***Suppliers***

9.170. We asked two of Classic Coaches' suppliers about its claim that they had refused to supply it because they had been threatened by Go-Ahead that to do so might jeopardize the business Go-Ahead gave them (see paragraphs 8.31 and 9.74). Both suppliers denied this allegation.