

Local Transport Bill Consultation
Department for Transport
Great Minster House (Zone 3/16)
76 Marsham Street
London
SW1P 4DR

7th September 2007

Dear Sir/Madam,

CONSULTATION ON THE DRAFT LOCAL TRANSPORT BILL

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the above named document.

The FSB is the UK's leading non-party political lobbying group of UK small businesses, existing to promote and protect the interests of all who own and manage their own businesses. With over 205,000 members, the FSB is also the largest organisation representing small and medium sized businesses in the UK

The FSB supports the Government's aims to reduce congestion and improve public transport. Small businesses rely heavily on the transport network to meet their business needs. However, the FSB has two major concerns with the Draft Bill in its current form:

- the lack of consultation with business stakeholders
- the removal of necessary checks and balances within the system

Improving the quality of local bus services

The FSB welcomes proposals to develop a new punctuality regime. The Government is right to make local authorities and bus operators accountable for bus punctuality. However, the business community must be engaged with this process before and after the

implementation of new local schemes. In a recent FSB survey of 3,500¹ small business owners:

- 21% of businesses said that bus travel was important to their business in terms of employees;
- 25% of businesses said that bus travel was important to their business in terms of customers.

Small businesses rely on employees and customers being able to reach the businesses in a timely and reliable manner. The FSB urge local authorities and bus operators to regularly liaise with the business community to provide feedback on the progress of new punctuality regimes. It will enable businesses to assess whether the 'punctuality performance regime' is having a positive impact on productivity, for example, whether employees are turning up to work earlier.

Taking forward local road pricing schemes

The FSB is concerned that the Draft Bill is written with a strong bias towards the environmental impacts of local charging scheme. Clauses 67 and 71 talk at great length on the likely effects of a potential scheme on vehicle emissions.

In recent discussions with the Department for Transport (DfT) on the Road Pricing "Demonstrations" Project the FSB were told that the main aim of road charging was not to cut air pollution, yet the Draft Bill states that local authorities are under "a new duty to consider potential impacts on climate change and air pollution when considering whether to introduce a scheme".

A similar example is Transport for London's consultation on the Low Emission Zone. Over 5,000 businesses responded to that consultation, yet the business view was largely ignored.

The FSB wholeheartedly supports improving local air quality and reducing carbon emissions, however, the consultation must be balanced and discuss the economic and social objectives to which a charging scheme might contribute. The FSB urges the DfT not to follow the example of the Low Emission Zone consultation which ignored the business voice.

¹ FSB Survey, Transport Habits in small businesses, September 2006

Information

Clauses 79 and 80 discuss the issue of information provided by the Government to local authorities in England, Wales and Scotland.

Recent research by SPARKS² showed that 'Foreign Registered Vehicles are more likely than British vehicles to avoid paying the congestion charge, drive in bus lanes, commit speeding offences, be involved in road accidents and fail roadworthiness tests.

The FSB supported the Government's drive for a Lorry Road User Charge (LRUC), before it was scrapped in the summer 2005. The LRUC would have addressed the unfair competitive disadvantage that British drivers face against their foreign counterparts.

The FSB urges the Government to legislate to allow local authorities to access overseas driver and vehicle registration data. This will enable civil financial penalties to be issued in the UK, and can be enforced in other member states. Stricter enforcement will lead to increased revenue and less congestion on UK roads.

Accountability

The FSB is concerned by Clause 73 which removes a check on the power of local authorities. The power of the Secretary of State to check a local authority (introducing a charging scheme), through an independent inquiry, has been removed. We urge the Government to remove this clause. The level of consultation with local businesses, during the Transport Innovation Fund (TIF) pilots, has not been sufficient enough to demonstrate extensive consultation with all stakeholders. Local authorities must be fully checked, by the Secretary of State, to ensure that full consultation is taking place.

² SPARKS - **Foreign registered vehicles on UK roads** – July 2007
http://www.sparksproject.org/UserFiles/File/news%20documents/Sparks_report_final_230707.pdf

Manchester TIF consultation Case study

The FSB and other private sector representative organisations were extremely concerned that they were ignored by the Association of Greater Manchester Authorities (AGMA) before and during the consultation process. In a private agreement between AGMA and the Manchester Chambers of Commerce, representatives (who were allowed to sit on the panel) were charged with assessing whether the conditions for the TIF bid had been met. This panel consisted of representatives of publicly funded bodies and employees of AGMA controlled organisations. Many of those on the panel were associated with companies and organisations who publicly declared their support for road charging before the consultation period had elapsed. Despite several attempts to gain a place on the panel the FSB were refused.

The vast majority of surveys on road charging, conducted in the Manchester area, were heavily against the proposals. Only AGMA's survey gave marginal support from the business sector. In addition, part of the consultation material produced, and the media releases issued by the Greater Manchester Passenger Transport Executive (GMPTE), were based on theoretical scenarios giving a biased and positive view on the benefits of charging.

In the FSB's opinion, Clause 73 could be strengthened by including a further check in the form of a referendum, for the public to vote on a new road pricing system. A decision on road charging should not be made by local authorities who are likely to receive Government funding by demonstrating the use of road pricing within a package of transport measures.

Charges

Apart from the increase in costs for businesses as a result of road-pricing, businesses are also facing uncertainty about which issues affect the cost. The costs for the business are determined by:

- i) the chosen method of payment made by the individual;
- ii) the area of the UK that the individual is driving through;
- iii) the time of day the journey is made.

This could lead to confusion on top of the significant costs. The DfT must ensure that there is at least one universal method of collecting and paying charges which is transferable between schemes.

Workplace Parking Levy

The FSB supports the Government's reluctance to promote Workplace Parking Levies in the Draft Bill. We are opposed to the principle of using a blanket workplace parking levy as a way of controlling congestion. A levy on all businesses would have the greatest impact on small businesses, who would be less able than larger businesses to absorb the cost.

We trust that you will find our comments helpful and that they may be taken into consideration. The FSB is willing for this submission to be placed in the public domain.

Yours sincerely,

Matthew Jaffa
Policy Development Officer

FIRSTGROUP plc

The Draft Local Transport Bill

A Response to Consultation

6 September 2007

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Response to the Regulatory Impact Assessments Paper

EXECUTIVE SUMMARY

1. First welcomes the introduction of new legislation to improve the provision of local transport services, and will work co-operatively and constructively with Government to ensure that the new arrangements are well-designed, proportionate and have the highest chance of achieving their legitimate public policy objectives.
2. In particular, we support the Government's aim¹ to promote more effective partnership working between local authorities and bus operators. True partnership requires delivery from both parties and needs to survive through periods of stress – only if a partnership can stand the test of time is it worthy of the name. Partnership in the good times is not enough. That means that both partners need to have the right incentives to make things work.
3. First does however have material concerns about several aspects of the Government's proposals, principally those relating to quality contracts (QCs). In essence, we believe that:
 - (a) The factual basis on which some of these proposals rests is unsound, particularly in relation to the quality of service provision now being achieved, fare structures, patronage, profitability and the investment track record of bus operators;
 - (b) To proceed with them would not achieve the stated public policy objectives in the DfT's consultation papers; and
 - (c) Their introduction would do real and lasting harm to both the quality and coverage of bus services in Great Britain and private sector participation and investment in the bus industry, consequences which would be felt first by passengers.

Quality contracts

4. Our principal concerns and objections concern the proposals for extending the quality contract regime.
5. Conferring exclusive operating rights, to a single bus company, in an area will not produce efficient, economical or effective outcomes. As in every other field of commercial endeavour, competition is the best regulator. Competition – coupled with partnership working with local authorities where it has been possible to secure it – has produced substantial benefits for passengers and the public interest. These benefits have been in investment – principally new buses – and the quality and coverage of services.
6. If, despite this, quality contracts are introduced, incumbent operators who have invested in the establishment and development of their

¹ as set out in E.8 of the consultation document

businesses should be compensated. There is ample precedent for compensation in other transport and regulatory fields, and no sustainable case for unfairly denying compensation to bus companies who lose out because the rules have been changed against them.

7. It will take some time for a quality contract to be established in any particular area. Bus companies cannot be expected to continue to invest in their businesses in the face of such a potent threat of loss of that investment. If Government does not wish to halt private investment in buses, or even to encourage bus companies to run down assets and plan for withdrawal, it should amend the Bill to ensure compensation which is prompt, adequate and effective.
8. The rights of employees of dispossessed companies require proper protection too and the draft Bill does not achieve this given the likely complexity of the situation and the number of transfers and changes that would have to be achieved.

Quality partnerships

9. We welcome the Government's focus on quality partnerships in the draft Legislation. Quality partnerships are the best basis for a true public-private partnership, and have already yielded substantial successes. They provide the necessary degree of flexibility for the local authority and the private sector and are the best vehicle for the achievement of further improvements in bus services.
10. In particular we welcome the Government's proposal to further that success by allowing for more than one operator to join together in a quality partnership – since it allows the delivery of more extensive passenger benefits. To ensure that these partnership options are widely adopted the legislation should also provide protection from OFT interventions in such multiple-operator partnerships providing that a public interest test can be passed.
11. Partnership is best achieved by agreement and we believe that principle should be applied to Quality Partnership Schemes and to the frequencies, timing and fares for services within them. Proper provision should be made for the contributions made by both sides to be proportionate to one another, and to be made in good time to ensure that their benefits can be obtained during the life of the contract.

Punctuality

12. Local authorities should be properly accountable for their planning measures and other actions, and the impact they can have on bus performance. Poor performance on either side of the public-private partnership should carry proportionate sanctions.
13. Cross-default measures are unnecessarily penal.

Community transport

14. Proper provision needs to be made in relation to the potential lowering of health and safety standards. Passengers need to be properly protected, whatever form of transport they use.

Flexibility for local authorities

15. Greater flexibility for local authority sale of council owned bus companies is welcome, as is the extension of bus subsidy contracts from five to eight years.

Local governance issues

16. PTEs have failed to be successful in promoting and delivering their public transport agenda – in part because they do not have the tools they need. It is essential therefore that they have powers to ensure effective use of road space and deliver priority for bus passengers. In addition the proposed longer term strategic planning framework will better deliver integrated public transport services.

Road pricing

17. We welcome the proposals and propose greater linking of revenues to spending on alternatives to use of the private car. For this to be effective though, there needs to be early capital investment both in new bus lanes and in new buses. There is currently little or no spare capacity during peak times for passengers, so to retain new passengers and ensure service quality remains high, there needs to be immediate investment in additional buses and improved road usage. Where operators invest upfront in these additional buses that needs to be recognised in partnerships.

Introduction

18. As the largest transport operating group within Britain, with a market capitalisation of around 100 in the Financial Time Stock Exchange Index, and with an international presence, FirstGroup has considerable experience and interest in local transport issues.
19. Our rail division carries 260 million passengers a year and our UK bus fleet 2.9 million passengers daily. We operate a fleet of over 9,000 buses in the UK and 22,000 yellow school buses in the USA and Canada. More recently we have expanded into continental Europe with the purchase of a small bus operation in Germany and we recently won the rail franchise, in partnership with Danish Railways, to run services between Denmark and Sweden. We are in the process of completing the purchase of Laidlaw in the USA which will increase the number of yellow school buses operated daily to 60,000. We are a global business – nevertheless we recognise the importance of being local in our approach. We operate bus services within five of the six Passenger Transport Authority (PTA) areas in England and in around 100 towns and cities across England and Wales. Our local bus operating companies work closely with local authorities and PTEs in their area to establish that the right balance between quality and affordability can be offered to our customers and to ensure that the service network provides for increased accessibility for all.
20. FirstGroup's growth agenda is not limited to the wider international horizon, where our development has been much quoted – we are growing locally within the UK at present in the recognition that this is a key moment for the bus industry. There have been five decades of decline in bus use since the second world war – largely as a result of the changing economic and social climate. The increasing recognition of the damage of climate change caused by the consumption of fossil fuels, and impatience with the delays caused by traffic congestion, are causing people to review their travel patterns. Convenient, high quality bus services are attracting them to the bus. We look forward to working with Government and local authorities, in partnership, to build on this positive trend.
21. We have examined the draft Bill proposals in detail and considered the impact of its proposals, not just on transport operators, but also local authorities, and most importantly of all, passengers.
22. Our response to the consultation comes in two parts:
 - (a) This response to the specific consultation document and the questions contained therein; and
 - (b) Annex A, a reasoned response to the draft RIA with specific and quantified financial and economic evidence in support.

23. The Government has also already published another consultation document covering the Traffic Commissioners. We will respond to that in due course.
24. We are also expecting a consultation document covering the guidelines the Government proposes to adopt in relation to quality partnerships and QCs. We believe that this will be useful in informing our sense of imperative around the additional legislative provisions proposed in this document, and may well give rise to further requests for amendment of the draft legislation – given the importance of the guidelines in aiding understanding of the Bill.
25. We therefore reserve our right to make further submissions in relation to the details of the draft Bill

Consultation document

26. Putting Passengers First (PPF) and the consultation document accompanying the draft Bill imply that the current UK bus industry is at crisis point with declining passenger numbers, a failure to invest in providing improved services, and a perceived decline in quality of services from passengers. The inference is that the one way to reverse this position is to provide PTEs and other local authorities with additional regulatory powers so that bus services can be more akin to those operated in Greater London.
27. It is our belief, founded on objectively ascertainable and quantifiable facts, that the picture painted above is incorrect, and it fails to properly recognise and reflect the many positive things that are happening within the UK bus industry. Listed below (with section references) are some of the comments made in the Consultation document which reveal a simplistic understanding of the myriad factors (social, economic, urban design related etc) at play in the bus market and the complexity of cause and effect behind the different degrees of success or failure in growing that bus market across the UK. In addition, these comments reflect a belief in the power of Government to set all of these factors to rights simply with control over the bus supply market. In fact these different factors are largely unrelated to the bus supply market and should be addressed by Government in other ways e.g., through changes to urban planning and development arrangements:

E7:

“...in too many places the current framework is still not delivering the quality of service that passengers expect.”

E8:

The need to “...deliver services that are better matched to the needs of passengers in their local areas.”

“make the implementation of ‘quality contracts’ schemes a realistic option in areas where it is in the public interest for local authorities to take greater control over bus services.”

3.3

“In too many places, bus services are still not meeting the high standards that the travelling public expects. This includes many of our major cities where bus patronage continues to fall.”

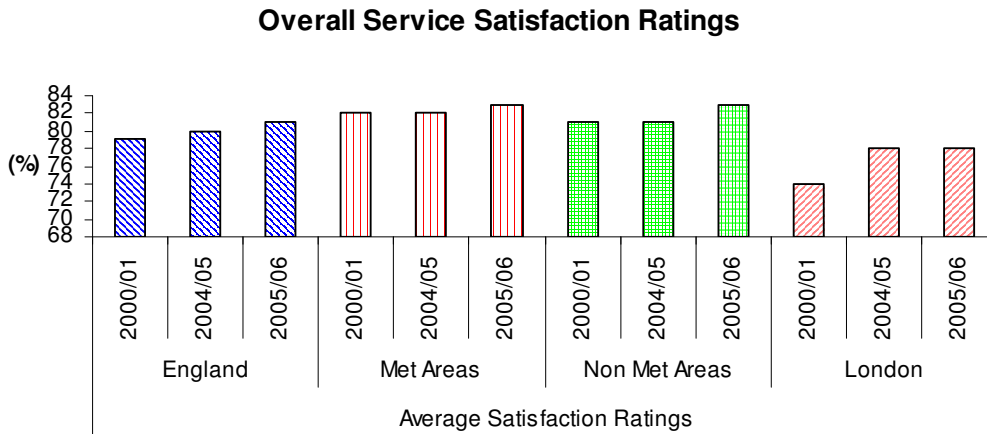
“Without further action, we risk bus services in more and more of our communities becoming locked into a vicious cycle of decline.”

28. The evidence however overwhelmingly shows that the deregulated bus market is working, although of course there is more that can and should be done in developing further the partnerships that have already been successfully deployed across the bus industry. But that requires both partners to play their parts.
29. The desire for Government control also appears to go against the evidence supported both by economists, academics and the Government, that competition is a good thing and that competition in the market is better than for the market. This supports the case that the deregulated market provides a far more efficient framework in which to grow the bus industry. First recently commissioned a report by independent consultants First Economics/L.E.K. on Private versus Public ownership. Its conclusions are that the deregulated market in Britain has generally delivered the best outcomes for customers where competition in the market (as might be seen under voluntary partnership agreements, but not the more restrictive QC schemes), rather than competition for the market, has allowed the development of products and services and focus on customer needs. This obviously echoes Government policy – repeatedly enunciated over the years by the present Prime Minister whilst Chancellor – that competitive markets are the best way of delivering services, and that public policy should always work towards that end whenever it can.
30. It is essential that Government takes policy decisions – especially ones of this significance – on a sound factual basis. It should not be tempted to shape policy on the basis of myths.
31. There are five core myths underlying the arguments and proposals in the consultation document supporting greater local authority control in the bus industry outside London. We have set out each myth below and described the reality which is very different. We have used Government data to provide evidence of that reality.

Myth 1: Bus services are of poor quality especially outside London

Reality 1: 83% of bus users outside London are satisfied or very satisfied with their service whereas only 78% are within London.

32. These satisfaction figures come from the Department's own annually published Public Transport Statistics Bulletin 2006 and are reproduced below in graph format.



Source: DfT Public Transport Statistics Bulletin 2006

33. These statistics show that there is a growing trend in quality of service outside London, and that despite the additional funding given to the London Mayor and Transport for London (TfL), satisfaction rates outside London for most categories are equal to or better than inside.

Myth 2: The fares are complex, overpriced and passengers are confused

Reality 2: Different groups of passengers have different needs and market segmentation ensures that there is a fare, ticket or travel product tailored to each of these. It is not overly complex.

34. Most reputable companies in the industry offer simple day or week tickets for those who are making multiple journeys, underpinned by singles and usually discounted returns. All PTE areas and most major towns and cities have multi operator tickets covering other bus companies and rail which overlay the single operator tariffs for those requiring even greater flexibility. This is exactly the same as the Travelcard product in London.

35. First bus companies around the country offer a range of simple fare structures enabling people to choose the product that is most suited to them. For example, FirstDay, FirstWeek and FirstMonth tickets are available in all major towns/cities where we operate with simplified 'Overground' route networks. These offer outstanding value for those

making frequent journeys. For example, the FirstDay ticket in Manchester provides access to the whole First network for just £3.50.

36. In addition First participates in the Plusbus scheme, allowing passengers to purchase a single ticket for use on both rail and buses. Multi-modal tickets are available in a number of locations including rail for example Manchester, West Yorkshire, Sheffield, Doncaster, Cornwall, Bristol and Bath.

Myth 3: A regulatory framework similar to London will deliver the improvements local authorities are looking for in bus networks

Reality 3: London’s growth comes from higher public funding not the regulatory framework.

37. Undoubtedly London has seen some impressive patronage growth since 2000. However this has come at significant additional cost to the taxpayer. The table below shows that 43.5% of total Government support for buses in England and Wales is allocated to Greater London which supports just 14% of the total population. It is little surprise therefore that London has 42.6% of total bus passengers.

Government Bus Support: London and non-London (England and Wales)

	London (£m) 2005/6	Non-London+ (£m) 2005/6	Total (£m) 2005/6	London Share of Total
Concessions	150	392	542	27%
BSOG	100	278	378	26%
Local Bus Support	638	346	984	65%
Other	100	267	367	27%
Total	988	1,283	2,271	43.5%
<i>Population 2006</i>	<i>7.5*</i>	<i>45.9*</i>	<i>53.4*</i>	<i>14%</i>

* - millions, not £ millions

+ - non London is England and Wales only

Source: DfT Public Transport Statistics Bulletin GB: 2006 Edition Supplement (November 2006)

38. This has come against a background of a significant decline in public transport support in areas outside London, whilst London itself has seen a sharp increase in financial support. The table below shows the extent to which support has decreased in the PTE areas, versus the increased requirement to sustain current growth within London.

	Greater (£m)(1)	London	PTEs (£m)(1)
1985/6	282.3		423.4
1995/6	36.9		127.5
2005/6	638 (2)		128.6

Notes – (1): prices in 2005/6 prices

(2): estimate. 2004/5 was £560m

Source: DfT Transport Statistics Great Britain (1996 and 2006 Editions)

39. English PTE support for bus services has **reduced** by over 300% as a result of deregulation. In Greater London it has **increased** by over 200% compared with the last full year before deregulation and 1700% since 1995/6, just after privatisation of London bus companies left public transport support at an all time low.

40. Bus operators have delivered service quality significantly in excess of that in London (see Reality 1 above), without the need for substantial additional public sector resources. The improvement in London bus services has come at a considerable cost to the public purse. Outside London the level of support has been gradually reducing since deregulation and stable since 2002/3.

Myth 4: Passenger numbers have fallen – in part due to short term focus of bus operators

Reality 4: Passenger numbers have fallen because of wider economic and social changes evident since the end of the war. Prior to deregulation there was a significant decline in bus patronage. This has levelled out since deregulation.

41. Since the Second World War car ownership and use has substantially increased. In 1961 only three out of every 10 households had use of a car. By 1998 this had increased to seven out of 10 households with at least one car. The table below from the DfTs' 2006 Public Transport statistics bulletin shows a continuing rising trend in car ownership amongst those who normally travel by bus.

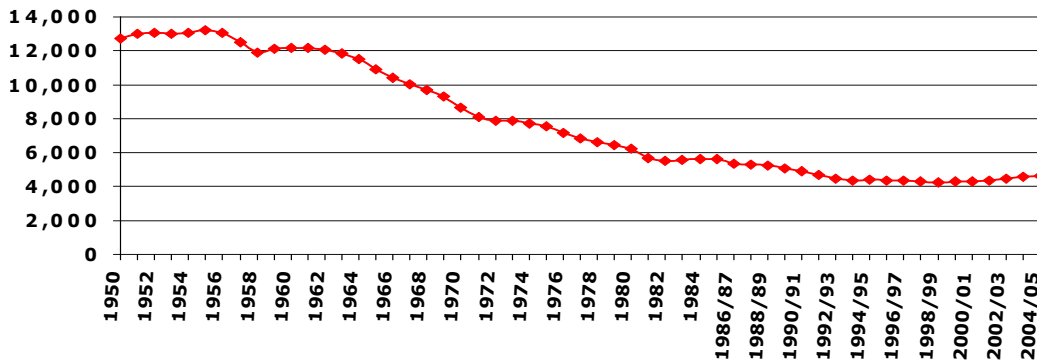
Local Bus Travel by Household car Ownership

Percentage of People	1995/96	2004	2005
In Household with			
No car	23	19	18
One car	44	42	40
Two cars	33	39	41
In households with cars	77	81	82
All people	100	100	100

Source: DfT Public Transport Statistics Bulletin 2006

42. This has not been the only economic change. Although there have been ups and downs according to fuel prices the period has seen a trend of falling real and perceived costs of motoring.
43. Despite this economic backdrop the table below shows that whilst passenger numbers continued to decline immediately after deregulation, since 1998/99 bus usage has now stabilised and started to grow again. This improvement should be strengthened, not jeopardised.
44. We are not arguing that bus service quality and coverage are irrelevant in this equation – and recognise the fact that where bus passengers are withdrawn customers often have no choice but to acquire a car. However we do not believe that these trends are caused by bus service reductions alone. Indeed over the same ten year period bus service registrations (measured in registered mileage) has increased (source: DfT Public Transport Statistics Bulletin 2006).

Long Term Trends in Bus Usage in Great Britain



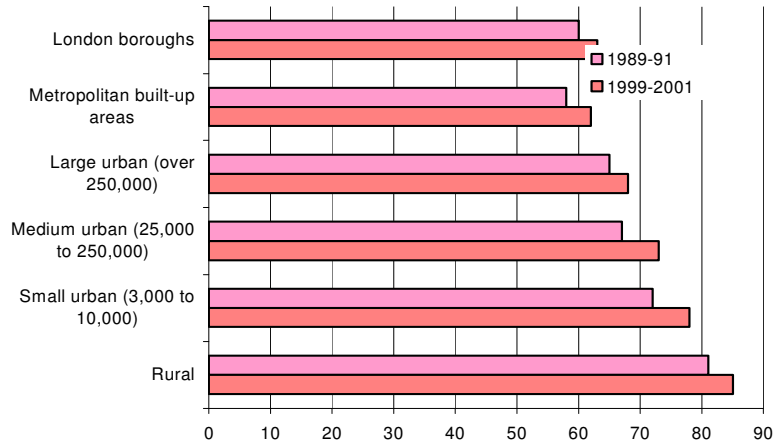
Source: DfT Transport Statistics Great Britain 1986 and 2006

45. Some of this is attributable to the growth in patronage in London since 2000 and the concessionary fares schemes in Scotland and Wales but there has also been stability and then growth in the English non metropolitan areas. Indeed it is only the English metropolitan areas where decline is being experienced.

Households with access to one or more cars: by type of area, 1989-91 and 1999-2001

Great Britain

Percentages



Source: National Travel Survey, Department for Transport

46. As the table above shows, growth in car ownership in the metropolitan areas has been significant but the record of local authorities in creating bus lanes to protect bus services against increasing congestion is patchy. In York, where First has an excellent partnership relationship with the authority, returns from Local Transport Plan Annual Monitoring Reports submitted to DfT by local authorities show there to be 47.5 miles of bus lane. This compares sharply though to Sheffield City Council area which has 4.9 miles. Indeed despite the metropolitan areas outside London having 48% of bus patronage, they only have 22% of bus lane mileage. This is not the fault of the bus operators, or an instance of any lack of innovation, investment or commitment on their part.

47. In addition, there has been a poor record of linkage between transport and land use. Unrestricted car parking provision and out of town development are both examples of policies that have been adopted widely outside London but not seen in central London.

48. Despite all of these factors working against growth in the bus market, First can point to some significant success stories in terms of passenger growth where we operate. Some of our successful examples are highlighted in the table below.

	Base year	Patronage in base year (million journeys)	2005/06 patronage (million journeys)	% Increase
Glasgow*	1996/97	120.1	134.8	12.2%
Leeds	1995/96	59.5	62.6	5.2%
York	1995/96	6.8	13.3	95.6%
E Counties	1995/96	22.8	24.4	7.0%

* Base year for Glasow is 1996/97 as this is first year of First's involvement
Source: FirstGroup UK Bus Division internal data

Myth 5: Bus Operators have made excessive profits for the sole benefit of their shareholders

Reality 5: Bus operators make reasonable profits reflecting their cost of capital and the risk that they take by investing and innovating in the market.

49. Independent consultants First Economics/LEK have carried out a detailed analysis of the available information from the quoted bus companies on behalf of First to understand the cost of capital in the deregulated bus market. It suggests that the industry's return on capital is and has been roughly comparable to its cost of capital, implying that the industry is not making excess profits.
50. Moreover profit should not be seen as a bad thing. Profitable businesses are necessary in order to sustain the investment and innovation required to keep bus operations fresh without relying on additional direct subsidy from either Government or local authorities. Private bus operators bring a level of skill and expertise to the table that delivers improved services, higher levels of investment, and improved profitability of operations. We continue to take risk by investing in innovative ideas to improve service quality such as the development and introduction of our high quality ftr operation in York and Leeds.

ftt PROJECT – 2003 to 2006

The Project was conceived towards the end of 2003 following discussions between First's Chief Executive and the then Secretary of State for Transport. They debated the question – "is it possible to devise a cost effective alternative to light rail using a bus based solution?"

First's Development Team believed it was important to take the best from the bus in terms of its affordability, accessibility and flexibility, together with the best from the tram in terms of its image and dedicated infrastructure which is vital to give customers guaranteed journey times.

The team spoke to users and non bus users to determine what ingredients would deliver the "Perfect Journey" experience from the moment they identified a need to travel, to arrival at their ultimate destination. Image was vital, hence the decision to move away from the word "bus" and call the project "ftt", which is the texting shorthand for "future".

Armed with the results of the research, First joined forces with vehicle manufacturer The Wright Group and the concept design phase commenced. A number of other technology providers joined the partnership to assist with the integration of a package of elements which included real time and next stop information, together with on and off vehicle ticketing. In April 2004 further research was undertaken with existing/potential customers and also First drivers, cleaners and engineers on the whole concept to feed into the design phase of the project. The objective was to build in new and innovative thinking and design out historical problems.

In September 2004 the ftt concept was unveiled by First's Chief Executive to key stakeholders and opinion formers. In October this was turned into reality as the first vehicle started on the production line at the Wright Group factory. Testing took place at the Millbrook vehicle proving centre, culminating in the National Launch of ftt in Greenwich, London on 10th March 2005.

First carried out intensive endurance testing on the pre-production vehicle to simulate service operation and the vehicle build phase started during the summer of 2005. In parallel, First worked with City of York Council to develop the necessary highway and stop infrastructure to enable ftt to commence full operation.

The first ftt scheme went live in York on 8th May 2006 just under three years from the initial idea. The ftt Project would never have met the demanding timescales without using innovative working practices and a collaborative approach with partners rather than the historical supplier/customer demand approach.

The ftt has since won two Route One Operators Excellence Awards, for innovation and a special award for the Project Director.

51. It is wrong to assume profitability is all about satisfying the needs of large corporate shareholders. Half FirstGroup's shareholders are our own staff. Within our UK Bus division many staff benefit from the

company's success through the Buy As You Earn and Save As You Earn share schemes that we operate.

52. If we were maximising short term profit without consideration for the long term we would not be displaying other characteristics such as absorbing cost increases through improved efficiencies so that we can avoid passing these on to customers. Some of our operations deliver returns below the cost of capital, but we maintain those operations so long as they are covering marginal costs in the full knowledge that we need to balance our service to the local economy and community to encourage its development.

53. We can point to a good record of investment which belies the myth that profitability is for the benefit of shareholders only:

54. First has committed nearly £1bn of asset investment in the UK bus market in the 12 years to March 2007, including circa £740m in new vehicles. Over recent years, First has invested an average of over £90m per annum in new vehicles.

55. As a result our average fleet age has declined from 10 years to 7.8 years and as part of this investment, 91.3% of our fleet is now Euro I to IV compliant, helping to reduce emissions and making fleets more fuel efficient.

56. First spends between £15-16m a year on training bus staff and undertakes a wide range of initiatives with staff. Our commitment to staff training builds on learning ladders so that everyone from the apprentices and cleaners right up to the Managing Director has the opportunity to continue to develop his or her skills.

57. In particular we work closely with the T&G division of Unite and with the Learning and Skills Council (LSC) to ensure that we:

(a) Allow life long learning by providing life long learning centres covering 60% of our staff and in particular:

- i. We run annual life long learning competitions to promote employee engagement with skills for life in the learning centres;
- ii. We are working with DfES to promote, jointly, life long learning and the Government's 'gremlin' campaign;
- iii. We are analysing the levels of literacy and numeracy in the new entrant workforce to enable us to better understand the training needs of our workforce. This is a joint project with the T&G and other external partners; and
- iv. We are beginning a phased roll out of an internet based literacy and numeracy assessment process that

automatically builds learning plans and gives individuals access to online learning modules.

(b) Facilitate the development of “skills for life”

- i. We are developing and encouraging the use of NVQs and vocational training across the company to allow staff to reach their full potential; and
- ii. We have over 2500 RPT NVQ’s with a further 1200 forecast for 2006/7.

(c) Ensure diversity in the workplace:

- i. We are committed to working towards the Investors in Diversity standard and have 2 pilot sites in London and Hampshire & Dorset; and
- ii. We have committed to working with the National Centre for Diversity in promoting the 2007 year of equal opportunities.

(d) Help drivers drive safely and deliver a good quality customer service

- i. We are leading the way in the industry to develop and introduce safety and security initiatives to better protect our staff including the assaults policy;
- ii. We release drivers for the “bus driver of the year” competition, throughout all operating subsidiaries; and
- iii. We enter and fund drivers into the Royal Society for the Prevention of Accidents safe driving competition.

(e) Help apprentices team skills in their first jobs

- i. This year we have recruited 73 engineering apprentices with plans for more next year;
- ii. This year we have recruited 30 driver apprentices; and
- iii. We are formally recognised by the LSC as an employer committed to promoting apprenticeships in the workplace.

58. Privately operated bus companies have long-term investment horizons, both in new buses and staff. We have already seen within the rail franchise area that it is more difficult for train companies to invest significantly in a market where they are restricted by short-term contracts and a heavily regulated environment.

59. Despite this clear evidence to the contrary, it appears the Government has planned its draft legislation around these five myths. Our consultation response - which follows this introduction

- deals with each point made by the Government in its consultation document. In summary, the table below sets out how First believes that partnerships are the right way to address the problems within the system and to deliver the benefits which the Government is seeking. First therefore believes there is no need to pursue the QC approach, however, were the Government to continue this line, explicit provision in the legislation for compensation to safeguard the legitimate interests of bus operators would be appropriate.

Myth	Reality	Recommended approach
Bus services are of poor quality especially outside London (ref. para 3.2 of the consultation document)	83% of bus users outside London are satisfied or very satisfied with their service. In London only 78% are.	The Government should strengthen the multi-operator partnership proposals in the draft Bill.
The fares are complex and passengers are confused (ref. para 2.33 of the Regulatory Impact Assessment)	Consumers have different needs and the various fares and service types meet those different needs.	The partnership provisions in the Bill should be strengthened and the protections on frequencies, timings and fares retained.
A London-style regulatory framework will deliver improvements from bus networks (ref. para 2.14 of the Regulatory Impact Assessment)	The results achieved in London are through additional public funding rather than the regulatory framework.	The partnership provisions in the Bill should be strengthened and the punctuality arrangements provide for sanctions if a local authority fails to deliver.
Passenger numbers are falling – in part due to short term focus of bus operators (ref. para 2.34 of the Regulatory Impact Assessment)	Passenger numbers fell because of economic and social changes and in fact have increased in recent years.	The City governance arrangements proposed in the Bill should be used to ensure better integrated transport and land use planning.
Bus Operators simply make big profits for their shareholders (ref. para 2.53 of the Regulatory Impact Assessment)	Bus operators are run efficiently and make profits reflecting their cost of capital and the risk taken by investing and innovating in the market.	The partnership arrangements in the bill should be strengthened in particular to ensure that investments are delivered and the partnership duration is appropriate.

Response to specific issues raised in the Consultation Paper

Chapter 3

60. It is First's experience that the current deregulated market is working both efficiently and effectively, and most importantly, for the benefit of the passenger and the public interest. There is both dialogue and action between the private sector and the PTEs and local authorities in the improvement of local bus services. Listed below are just some of the initiatives First is currently involved in under partnership agreements, all of which have helped bring about substantial improvement in services for passengers. A major factor in the successes we have seen regarding both voluntary and quality partnerships has been First's substantial investment in new bus assets. Unlike QC schemes which are more restrictive in terms of specification and the ability to develop new services, partnership agreements have allowed us to develop a number of new schemes in conjunction with local authorities, with First usually taking the financial risk – which it would likely be restricted from doing under a QC scheme.

61. We do not claim that the bus market is perfect; there is, of course much more work to be done. However, we see the most economic and efficient approach to improving service quality further and generating additional investment, is for the draft Bill to facilitate future partnerships and improvements on local authority governance that will help support future road traffic schemes such as dedicated bus lanes and the improvement this would bring to punctuality of services.

62. Improvements achieved through partnership agreements by First:

Stability and Growth Pact with Glasgow City Council and Strathclyde Partnership for Transport. The Pact will bring major improvements to Glasgow's bus services with an annual Route Development Plan where we set out our commitments for the year, a Joint Performance Improvement Plan with punctuality targets, reliability and sustained growth in passenger numbers with a commitment to reasonable fares.

Sheffield Bus Agreement – This is a Voluntary Quality Partnership with Sheffield City Council and South Yorkshire PTA. We believe this is the most comprehensive voluntary agreement ever signed. Customers will get a more stable network and reliability will improve with financial investment and improvements to the city's bus infrastructure. First investment is £10m in new vehicles, extra CCTV and staff training over the next two years and £6.9m in infrastructure improvements by the City Council and PTE. One of the key objectives with the Sheffield Bus Agreement is to achieve new passenger growth.

Working with the four unitary authorities in Greater Bristol area putting together ten 'Showcase' routes as part of the Greater Bristol Bus Network. There will be infrastructure investment of some £49m in bus lanes, road

widening, improved bus stops, enhanced traffic control and real time passenger information. First will invest £20m in new buses.

Pioneered the concept of yellow school buses. Our pilot scheme in West Yorkshire was the precursor to Metro's MyBus initiative which has successfully reduced congestion at the school gates by giving parents a high quality alternative to using their cars for the school run. From starting with one vehicle in 2000, we now have 185 all over the UK and are looking to do more. First has just appointed David Blunkett MP to chair a commission on home to school transport.

Twintrack initiative - Match funding for infrastructure works on the highway. First has part funded two guided busways in Leeds and one in Bradford. Opened in 1999/2000. £4m investment.

Smartcards – First was the first bus operator to introduce a commercial smartcard scheme in Bradford (1999). Current participants in the Yorcard multi modal pilot in Sheffield with Stagecoach, Northern Rail, First Trans Pennine Express.

Introduced commercial night buses to a number of UK towns and cities including Leicester, Norwich, Colchester, Manchester, Glasgow, and Bristol.

Jurassic Coast Express - We run buses on behalf of a number of local authorities in an initiative to improve public transport accessibility to a rural tourist area between Exeter, Weymouth and Bournemouth.

Voluntary Partnership Agreements (3.11 – 3.17)

Q1 (a): What are our views on the proposals relating to voluntary partnership agreements?

63. We see voluntary partnerships as the best way in which further improvements can be made to the quality of service for passengers. They provide a framework within which private operators are able to invest in and grow these public services and, so, their businesses. First now has over 100 quality partnership agreements across the country.

64. We have also seen passenger growth in a number of the areas where these partnerships have been successfully negotiated and implemented.

65. As drafted, the Bill is designed to help facilitate voluntary partnership agreements between local authorities and bus operators. We welcome the objective of improving the current competition rules as they apply to buses but urge the Government to go further than the draft Bill to ensure certainty in multiple operator voluntary partnerships.

66. Unlike the other options outlined in the draft Bill voluntary partnership agreements are the most deliverable. They have already been successfully deployed within England and the rest of Britain, and are well understood by both bus operators and local authorities. Unlike QC schemes they do not carry the risk of restricting future market

development and as a relatively low risk strategy, they offer an opportunity to minimise the cost of capital.

67. It would be helpful if Clause 24 (Schedule 10 Part 2 test) was amended so that there is a pre-clearance scheme with the OFT in relation to future voluntary partnership agreements to avoid unnecessary costs and actions being taken against operators at a later date.

In Greater Manchester a new partnership has been developed between Greater Manchester PTA/E and Greater Manchester Bus Operators' Association (GMBBoA) where the two parties have agreed to work together to deliver a step change in the quality and capacity of bus service provision as part of the PTE/A's Transport Innovation Fund (TIF) bid.

The initiative builds on the previous joint working that has taken place but takes it to a different level – one not yet seen in this country. It means fully integrating the design and delivery of bus services into the Greater Manchester transport vision which with the successful delivery of the TIF package will include a groundbreaking congestion charging regime, whilst at the same time retaining the benefits of commercial flexibility and competition between operators.

Within this framework GMPTE/A and GMBBoA have agreed a set of deliverables with delivery timescales that build on each other's strengths. The congestion charging will deliver journey time improvements and roadspace for bus priority. In return the bus operators will deliver new buses, additional capacity and better network provision in terms of frequencies, ticketing and overall coverage.

Quality Partnership Schemes (3.18 – 3.21)

Q1 (b): What are our views on the proposals relating to quality partnership schemes?

68. Whilst we support the basic principles of quality partnership schemes, we also recognise that their success is very much dependent on there being agreement between the parties as to the content of the scheme. As mentioned earlier, the success of voluntary partnership agreements has mainly been due to a degree of flexibility offered operators in being able to develop ideas and invest in new and improved services. This should not be jeopardised and hence we do not support local authority specification of fares, frequencies, or timings in quality partnerships.
69. Nevertheless, if fares, frequencies and timings in quality partnership schemes are to be based solely on local authority specification, then, given the potential constraints that this could put on an existing service, and the risk that this might make it both inefficient and uneconomic, we

believe that it is necessary for there to be a right of appeal to enable an operator to challenge proposed changes.

70. We also have concerns regarding investment under quality partnership schemes. Where an operator is expected to invest several years into a scheme (where a quality partnership is to be phased in over time), the asset life (and its depreciation) may well go beyond the end of the scheme period, with the risk that the investment is therefore unviable for the operator. Clause 6 (Section 118(4)(a)) as drafted does not provide the level of certainty required for operators if an authority elects to postpone the introduction of certain facilities under a quality partnership scheme. If a local authority delays the introduction of facilities under a scheme, protection must be afforded to the operator in the corresponding introduction of services. Where the operator has already been required to invest in the start up of operations, the clause needs to provide a mechanism for compensation by the local authority to the operator for any reduction in revenue, and reduced rate of increase in revenue, due to the local authority's actions.

71. Quality partnership schemes remain in place for a minimum period of five years. Where a quality partnership scheme includes investment part way through the scheme, we suggest the five year period needs to run from the date on which the last facility to be provided under the scheme is introduced. Failure to provide this level of protection for investment may make future quality partnership schemes unviable.

72. In Clause 24 we support the proposed continuation of QP Schemes included in the "revised Schedule 10 Test". It is important that operators continue to be in a position to obtain a decision from the OFT as to whether or not a proposed quality partnership scheme is likely to have a significant adverse effect on competition. We believe this will be particularly important where a local authority identifies maximum fares that may be charged under a quality partnership scheme, and the potential competition risks that such a scheme might give. This is particularly important where we are under pressure to sign up to a scheme but have concerns about possible competition challenges.

Q2: What are your views on the specific questions relating to competition legislation (Box 3.4)?

73. Whilst we welcome the proposed changes on competition legislation, we would wish to see it possible in the future for not just the local authority to enter into partnership discussions on a multilateral basis, but also for operators to enter into similar discussions direct with other operators, without the risk of regulatory or criminal intervention or sanctions. Such partnerships would be appropriate where passenger benefits could be increased.

Quality Contracts Schemes (3.22 – 3.27)

Q1 (c): What are your views on the proposals relating to quality contract schemes?

74. The problems in the bus industry in the UK are best tackled through partnership and delivery of investment in bus priority from the public sector. The failure in that delivery has been explained clearly earlier in this response. Introducing quality contracts does nothing to address these failures and therefore cannot of itself improve the outcomes.
75. Furthermore privately operated bus companies with public sector/ antecedents and long term horizons are efficient and do not make super profits and therefore there can be no sustainable argument that a quality contract can create an improved service or cut fares without requiring subsidy.
76. Given this background we believe that the draft Bill unnecessarily and inappropriately focuses on the facilitation of QCs. We have however addressed substantive issues in relation to the draft Bill and QCs below. This is because we wish to ensure, should the Government continue to pursue this course, that the proposals should be implemented in the way that is least detrimental to the industry and to passengers throughout the country.
77. We see the introduction of QCs, in the ways outlined by the draft Bill, as having the potential to damage the current business interests of bus operators to a significant extent, and to harm, not promote, the interests of passengers.
78. In particular, the draft Bill does not contemplate compensation being payable to operators who lose the right to continue operating existing services. FirstGroup has invested heavily in the UK bus industry (see paragraph 54 of this submission), and we are greatly concerned that the value of this investment may be materially diminished – or even extinguished – if the draft Bill's proposed amendments to the QC regime are introduced.
79. If a local authority introduces a QC scheme – granting exclusivity to one operator and thereby putting other, incumbent operators out of business in the area in question – the case for compensation is strong.
80. In other parts of transport and public policy, Parliament and public authorities acting under the authority of Parliament have made proper provision for the payment of adequate compensation for dispossessed incumbents who will sustain losses as a result of changes to law or in regulatory rules or in the application of regulatory policy. For example:
- (a) Under clauses 26(6), 28(3) and 33(5) of the Crossrail Bill, there is provision for the payment of compensation when assets of an incumbent operator (namely contractual rights) have been

diminished in value as a result of the interference of the Crossrail project with established rights on the basis of which investments may have been made;

- (b) Under section 4(5) of the London Olympic Games and Paralympic Games Act 2006, there is provision for the payment of compensation when land assets are injuriously affected by the olympics works;
- (c) Under sections 16A-I of the Railways Act 1993, a facility owner is entitled to adequate compensation if his railway facility is altered to his financial disadvantage;
- (d) Under the standard access contracts for the rail network, Network Rail is entitled to full change of law protection by way of financial compensation;
- (e) Under the DfT's template franchise agreement, change of law protection – by way of financial compensation – is provided to franchisees; and
- (f) As part of the original rail privatisation process, PTEs requested, and received, financial compensation (via a Deed of Assumption) for rail assets that they had previously invested in.

81. In sharp contrast to these contemporary and substantial precedents, and the draft Bill and consultation paper are silent on the financial risk that may arise from a major change in the regulatory regime for buses. And yet the risks which bus operators face in these cases are real and substantial.

82. Further precedents for the payment of financial compensation in similar situations can be found elsewhere in the UK, in particular in respect of:

- Energy market restructurings;
- The introduction of retail competition in the water industry; and
- The regulation of telecommunications.

83. We believe the Approvals Board should have an obligation when they evaluate proposals to introduce QCs, to consider and give appropriate weight to the need to protect the legitimate interests of all affected persons, and to ensure that those protections are prompt, adequate and effective. This should be enshrined in the legislation itself and explicitly provide for the payment of adequate compensation, to be assessed by an impartial tribunal operating to fair and transparent criteria.

84. The draft Bill should be amended to deal adequately and fairly with the costs of any increased liabilities or losses arising from the establishment

of a QC scheme. Clause 7 (Section 124(1) of the TA 2000) should be amended to reflect the potential financial impact on the incumbent bus operator should the introduction of a QC Scheme cause financial loss. In such circumstances, the dispossessed operator should be entitled to financial compensation.

85. As drafted, the Bill takes no account of the likely impact on the incumbent, its workforce, their pensions or the application of TUPE. The detrimental impact of a QC on an incumbent bus operator's workforce would be contrary to the public interest. That should constitute sufficient ground for the Approvals Board refusing to approve the scheme.
86. The introduction of QC schemes could have serious adverse consequences for existing staff. This is because intense competition for the quality contract would require operators to reduce their costs of delivery. Given that around 48% of bus operators costs are in paying driver wages, the most immediate mechanism for this would be to reduce staff benefits - particularly easy for new entrants. Staff transferring to new operating companies would lose current benefits with no certainty of future pension provisions. In the case of First staff, they would have to relinquish any share saver scheme that they have with the company. Also at risk would be many of the other benefits currently enjoyed by our drivers.
87. As part of the original acquisition by First of publicly owned bus operating companies we undertook transfer of the Local Government Pension Scheme (LGPS) for existing members. It is unlikely that a future operator taking control of a route(s) via a tender process for a QC scheme would be in a position to continue offering this facility. This will be a major concern, not only for the staff involved, but also for the unions who represent them. The Department may wish to consider whether the draft Bill needs to include a provision that ensures the future protection of existing pension schemes for staff.
88. In terms of process, we welcome the decision to establish a new Approvals Board. It is important that there is a strong independent process for assessing individual QC schemes, particularly given the potential impact of schemes on operators, passengers and the wider public interest. It is essential that the Approvals Board is properly resourced, with adequate funding and trained and experienced independent staff, particularly given that they must also consider competition, economic, and financial issues.
89. We remain unclear as to the extent to which statutory "powers" may be required for the Approvals Boards that are being created under clause 10 to 12 of the draft Bill to enable them to carry out their function of approving QC schemes. We note that Section 133 of the TA 2000 enables the Secretary of State to make regulations with respect to a number of matters, including "the approval of schemes" and "the local services or classes of local services which are to be, or may be, excluded from schemes". Please will DfT clarify whether it is its

intention to confer upon Ministers the power to make regulations in these areas.

90. The draft Bill provides in Clause 11 the Approvals Board with the discretion as to whether or not to hold an inquiry relating to a QC Scheme request. We believe this would create an element of uncertainty about the process to be adopted for individual applications as it would be unknown as to whether the Approvals Boards would routinely hold inquiries in relation to a proposed scheme. The word “may” in section 126B should be replaced by “must” to ensure consistency in the way QC schemes are assessed.
91. We believe that there may be circumstances where operators would want to present evidence under section 126B in private, particularly where it involved submissions about their plans. This is what frequently happens in regulatory hearings conducted by Traffic Commissioners and under the Railways Act 1993.
92. Section 126B provides the Approvals Board with discretion to make an order as to which party should be responsible for costs. We would welcome greater clarity on the circumstances in which an Approvals Board would be expected to make an order for costs.
93. Under Clause 13(7), the proposal in section 127(2A) is for a reduction in the current lead time for a QC scheme from a minimum of 21 months to only six months. This would be a seriously adverse change. Unlike rail franchises that transfer in totality – with the significant advantage of a statutory transfer scheme for the assets in question – the establishment of a QC scheme is likely to be far more complex, with restructuring required by the incumbent to protect its business investments and the well-being of its staff. The existing 21 month period is no more than is necessary to undertake these tasks. Six months is unreasonably short. Moreover, in view of the potentially significant adverse effect on staff, there should be a special consultation regime for them.
94. Paragraph 2.86 of the RIA states that, through consultation, options for ensuring due regard is paid by local authorities to the impact of QC Schemes on competition will be explored. In this respect, the RIA notes that the draft Bill makes provision (in proposed section 134A) for the Secretary of State and Welsh Ministers to issue guidance to local authorities regarding the performance of their powers, which would cover competition issues. Similarly, in its Consultation Paper the DfT also says that it expects the panel from which members of an Approvals Board will be drawn will include individuals with relevant economic expertise and that the lay members of the Transport Tribunal should also include individuals with relevant economic expertise. Given the likely lack of competition expertise within local authorities, the Approvals Boards and the Transport Tribunal, we urge the Department to include economists with specific competition expertise to be included within the make-up of the Approvals Board. The Bill should explicitly require this.

Public Interest

Q3: Do the proposed “public interest” criteria for quality contracts schemes cover the right issues (Box 3.5)? Do they strike the right balance between making schemes a realistic option and protecting the legitimate interests of bus operators?

95. Although the five criteria appear, on the surface, to be quite stringent we do not consider they are sufficiently well defined to protect the legitimate interests of bus operators. The room for conflicting interpretations and varying application is considerable. Bus operators and those who use and depend on their investments – passengers and local authorities – need and deserve more specific criteria in this respect.
96. The Government wanted to make the tests for QCs easier. In their evidence to the Transport Select Committee the PTEG argued that the process should be made even easier. However, the proposals in the draft Bill give a false assurance of protection of the public interest. This is because by showing that the QC is efficient local authorities may have done enough to satisfy all other tests – each test should stand on its own and local authorities should ensure that they meet each in its own right. Otherwise what appears to be five tests are in reality only a single test.
97. In response to the QC question earlier we argued that there needs to be compensation provided for on the face of the Bill. Similarly, as part of the “public interest” test we would expect there to be a condition that takes account of the requirement to compensate existing operators fully.
98. This is why the criteria are quite inadequate as they stand and do not provide sufficient protection of the legitimate interests of bus operators. The only way this could change would be if the criteria are sufficiently defined in the Bill. There is precedent. This is the approach that the Government took when it was considering changes in market structure in the water industry. Schedule 4 of the Water Act 2003 explicitly states that an incumbent should be allowed to recover amounts that it ‘reasonably expected to recover from relevant customers, but is unable to recover from those customers as a result of their premises being supplied by a new entrant’. We would expect the same principles to apply and for this compensatory element to be a key consideration in the assessment of economy, efficiency and effectiveness.
99. The transition risks associated with the period between announcement by a local authority that they would want to introduce a QC and the start of such a contract must also be considered in the evaluation of the scheme.
100. The current industry structure is finely balanced and has evolved over time to ensure different market needs are met. Any Government

intervention will clearly have an impact across the industry structure. The consultation paper does not cover all of the potential ramifications of an individual QC. For example, acquisition of new buses for a QC would reduce the availability of new vehicles in other parts of the country and could lead to significant supply side cost pressures. We have not attempted to deal with all of these potential knock on effects in this response.

Punctuality (3.28 – 3.31)

Q1 (d): What are our views on the proposals relating to bus punctuality?

101. In broad terms, we are in favour of the proposals to improve the punctuality of services. It is important that passengers know they can depend on a reliable service. We believe, though, that the emphasis here needs to be very much focussed on the means of making Local Authorities accountable for their planning measures and the impact that these can have on bus performance.

Q4: How can the proposed new bus punctuality regime (paragraphs 3.32 to 3.39) best be designed to achieve the desired benefits at minimum cost, particularly for smaller operators?

Para 3.32 – 3.35

102. It is important that we keep things in perspective here. To develop an all singing/all dancing “black box” to collect data from all buses is clearly a step too far. The industry needs to agree how data can be captured in a measured, proportionate way. First and other larger operators already have systems in place for collating and analysing data. Identifying the cause of delay in the bus network is much more difficult than in the rail industry where there are only three parties normally responsible (the train operator concerned, Network Rail, another operator). Bus delay data on its own is not particularly helpful as there could be many different causes (normally outside of the control of the bus operator) for it. The environment is dynamic and involves many other operators (of cars, of delivery fleets, of other public transport or utility services etc.), the road maintenance organisations, utility providers etc. Developing a black box system for all buses identifying the locations of delays is not going to be the answer here.

Para 3.36 – 3.37

103. We welcome the draft Bill proposals to make local authorities accountable for poor punctuality where they have been responsible for it. However, we question whether the steps here go far enough in penalising local authorities for failures in their own actions. In the same way that para 3.39 discusses the proposal to introduce a penalty regime for bus operators who perform badly, it is our view that the draft Bill should also enable local authorities to be penalised if they are failing to

take actions to reduce or remove the delays. Our experience is that the majority of delays to our buses are due to road congestion issues, many of which result from poor coordination of road works or failures to address known bottlenecks on the road network. First already works with local authorities in developing and implementing punctuality improvement partnerships, enabling us to take appropriate action and root out mitigating causes of delays.

Para 3.38 – 3.39

104. Whilst we understand the importance of making operators more responsible for their performance, we do not agree with the proposal to allow Traffic Commissioners to cross-default or cross-penalise to another subsidiary within the same group. It would not be possible to penalise other local authorities for the poor performance of one. Therefore we do not believe bus operators should be given disproportionately harsh and discriminatory treatment here. Regulatory sanctions should be proportionate and fair; these proposals are not, and would be in violation of the Government's own standards for better regulation.

105. In the past from time to time bus operators have fallen below the standard required by Traffic Commissioners – this has been the case for some of our subsidiaries, just as for others. These were failures of local management, not of the wider system, and hence, unless failures cover multiple management teams or standard Group policies, Traffic Commissioners' actions should only affect failing parts. The only context therefore where we might consider cross-default to be appropriate is that where a single management team is responsible for operating under more than one licence.

Community Transport (3.40 – 3.44)

Q1 (e): What are our views on the proposals relating to Community Transport?

106. Whilst we generally support the proposals to remove some of the current barriers against voluntary organisations' ability to operate their own vehicles, we are concerned that safety issues should be properly considered. There are two major concerns in this respect: drivers' hours and vehicle maintenance. Bus operators must adhere to domestic (or where appropriate EU) drivers' hours legislation governing periods of work and rest. For the voluntary sector it is highly likely that drivers will be doing something else as their "day job", for instance teaching or care work. Ensuring that these other jobs do not mean that they infringe European regulations is important.

107. Whilst vehicles used by a local bus operator have to meet rigid requirements for testing and inspection, enforced by VOSA, there is no equivalent requirement for voluntary sector vehicles operating under a

permit. However if these vehicles are being used to provide a local bus service, they should be maintained to the same standards as vehicles operated by an O licence holder, and this must be monitored and enforced. The proposed modification in the draft Bill to remove the upper seating capacity limit (currently 16 seats) on vehicles used in this manner could lead to large buses being used on such services but not falling within the maintenance requirements of an O licence holder.

108. To summarise we agree in principle to the voluntary sector playing a greater role but only if standards of safety are raised to the level of the conventional provider. The draft Bill should contain appropriate safeguards to ensure that health and safety for community transport is on par with that for public transport operators.

Other Measures

Q1 (f): What are our views on the proposals relating to other measures?

“Taxi-bus” services (3.45 - 3.46)

109. Our views here are similar to those on our response above on Community Transport. We are concerned about the potential lack of safeguards that would be in place to protect passengers. We would expect any driver of local bus services to adhere to domestic (and where appropriate EU) drivers’ hours legislation governing periods of work and rest.

110. It is also our understanding that many local authorities apply lower thresholds for driver and vehicle standards for private hire operators than for hackney carriage operation. Vehicles operated to provide a local bus service need to be subject to the same maintenance standards as those operated by O licence holders, and we would urge caution in making amendments to current private hire vehicle requirements if this results in a potential lowering of safety for passengers.

Increased flexibility for local authorities

Q5: Do the proposals to amend the existing powers relating to subsidy contracts provide sufficient flexibility to meet local authorities’ needs (paragraph 3.47)?

111. We do not see the need for local government to have wider powers in respect of subsidising quality of service – indeed this may confuse the relationship between the commercial world and the subsidised one. Our understanding is that under existing legislation it would not be possible for an authority to start subsidising a route where an existing operator already provides a similar service without the need for subsidy.

112. We would suggest a better approach to provide the flexibility requested by local authorities is to raise de-minimis limits for individual contract awards and by operator, to give local authorities more flexibility to buy-in additional services. We support the decision to extend bus subsidy contracts from a maximum of five years to eight years. It will allow operators more opportunity to recover their initial costs of any investments made over this period.
113. We also welcome the greater flexibility proposed to be given to local authorities in the sale of municipally owned bus companies.

Appeals relating to traffic regulation conditions (3.48 – 3.50)

114. We welcome the move to allow future rights of appeal in relation to traffic regulation conditions in England and Wales to be with the Transport Tribunal.

Bus Subsidy (3.55 – 3.56)

115. Bus Service Operating Grant (BSOG) was previously known as Fuel Duty Rebate. It is exactly that. It is not a subsidy. Passengers of airlines and on the railways benefit from the fact that operators in these industries pay no fuel duty whatsoever. A similar approach should be used for the bus industry.
116. Nevertheless, if the government does continue to require fuel duty to be paid by bus operators, we see no reason why BSOG should not be paid direct to operators as long as appropriate mechanisms are in place to ensure that the operators deliver as required by the regulations.
117. We know from our experience in passenger rail franchising that grant subsidy received direct from the Department is a much less complex process than where grant is paid via a PTE, resulting in a complicated money-go-round. Similarly our experience with the payment from the Government via local authorities for the carriage of OAPs under concessionary fares has been a slow and inefficient process.

Chapter 4

Policy Context and Proposals (4.1 – 4.19)

118. The tenor of the Government's proposals with regard to local transport governance is that existing structures, particularly in the major metropolitan areas, are not necessarily the optimal way of delivering what is needed effectively to meet movement needs in their areas. To address this, a more flexible approach is suggested potentially leading to a range of governance solutions which could be dynamic, evolving as transport, and the factors which influence demand for it, change.

119. In broad terms, we support this approach. We have long held the view that in metropolitan areas, the existing PTA/PTE structure and the relationship with district councils does not work well; the lack of real powers in the hands of PTEs means that delivery of outcomes can be delayed, watered down or not happen at all. This contrasts with some of the success stories in the unitary areas – York and Brighton for example – where the co-ordination of highway, parking and passenger transport powers lie with the same authority.

120. Paragraph 4.17 of the DfT Consultation document identifies a number of barriers to effective transport planning and delivery which emerged in a number of workshops held with the six metropolitan areas in January 2007. To those already mentioned we would add:

- A need to create a climate in which local authorities pay more attention to project delivery and performance management;
- Implementation of governance structures which encourage more longer term thinking; and
- Funding: increasing levels of revenue spending which is more aligned to supporting transport strategies which encourage demand management solutions.

Proposals in the Draft Bill (4.20 – 4.22)

Q7. Do you agree there is a need for flexible arrangements which allow for variation in the governance developed for different areas?

Q10. Do you think that the power to review and amend governance arrangements should allow development over time, or should the powers lapse after an initial period?

121. The consultation document suggests here that in the drive to create greater flexibility with regard to local transport governance, the enabling powers in the draft Bill may be too wide and flexible and considers the possibility of narrowing the legislation.

122. As an operator, we welcome the draft Bill's approach that recognises that different solutions may be required in different parts of the country. We believe that a 'one size fits all' approach is far too restrictive.

123. We do, however, think that there should be some limit to the timescale in which further changes can be made after initial review and implementation. This should not necessarily extend to lapsing of powers, but more an imposition of minimum time limits before the next review, unless specifically authorised by the Secretary of State.

124. Circumstances do change, but partnerships take a long time to develop, as does successful scheme delivery. This can only be encouraged by continuity. Constant re-organisation does little to nurture the type of relationships necessary to deliver sound, efficient, economical and sustainable local transport outcomes, and leads to lack of focus amongst staff. A realistic proposition would be to link the potential for reviews into the currency of the Integrated Transport Plans. This would mean considering the effectiveness of governance arrangements on a 15 year cycle, which seems entirely appropriate given the lengthy lead times often associated with infrastructure projects necessary to support strategy delivery.

City-Led Review of Governance Arrangements (4.23 – 4.34)

Q6. Do you agree that governance arrangements in the metropolitan areas outside London require reform?

Q8. Do you agree that the cities themselves should be asked to publish proposals on revised governance? Do you have views on which body or bodies should be asked to prepare these proposals?

Q9. Do you agree that the Bill should enable broad changes, or should there be limitations on what change might be allowed?

125. As noted, we support the review of governance in the city areas. In its report '*Moving Forward: Better Transport For City Regions*', CfIT highlighted a growing performance gap between the English PTA areas and non metropolitan towns and cities. In particular, it found that Local Transport Plan performance in the conurbations (as measured in the DfT's Annual Progress Report scores) has fallen consistently compared with the non metropolitan areas since 2001.

126. Given the weight of the transport issues emerging and the importance of the areas served, this should not be allowed to continue. As a private bus operator, we believe we have often been unfairly criticised for being unable to stem patronage decline in the urban areas when a major contributor has been the difficulty local authorities have had in implementing effective bus priority and in addressing increasing traffic congestion. Cities such as Oxford, York and Cambridge have implemented tough demand management policies with the subsequent positive impact on bus patronage, but generally progress has been slower in the metropolitan areas.

127. As far as Q9 is concerned, we welcome the opportunity the draft Bill presents to join up highways and transportation planning, strategy and delivery into a single body. The CfIT report found this issue to be the biggest single barrier to effective transport delivery, and the draft Bill provides the opportunity for PTAs to take on highway and parking responsibility.

128. Box 4.2 suggests that PTAs may play an even greater role in the specification and funding of rail services. Under the Railways Act 2005, PTAs and PTEs have the power to specify increments (or decrements) to the base franchise specification set out by the DfT. Extension of powers could see local authorities determining the base specification. We do have some concerns. Clearly PTAs will have their own interests at the forefront but consideration needs to be given to longer distance services, freight and indeed the role that other modes (like commercial bus services) play on parallel corridors inside the PTA area.
129. If PTAs are to have a greater role, Integrated Transport Strategies must clearly set out their aspirations for local rail services with evidence that the needs of external rail services and the contribution of other transport providers have been properly considered.

4.35 – 4.46 Changes Which Would Apply In All The Metropolitan Counties

Q11. Do you agree with the changes we are proposing to the powers and duties of PTAs in all the metropolitan counties?

130. We are supportive of the extension of duties of PTAs to have regard to Government guidance and policies on climate change, and giving PTAs powers to participate in the development and implementation of road pricing schemes.
131. Clause 60 of the draft Bill extends wellbeing powers to PTAs. Normally, when exercising wellbeing powers local authorities must have regard to their 'community strategy' as well as guidance from the Secretary of State. It is proposed that PTAs must have regard to guidance issued by the Secretary of State when exercising the wellbeing power, but there is no comparable requirement for them to have regard to their Integrated Transport Strategies. This creates uncertainty as to whether PTAs would be restricted to exercising their wellbeing power to the transport sector. To remove this uncertainty, Clause 60 should be amended to require that PTAs must exercise the wellbeing power having regard to their integrated transport strategies, and restrict its use to transport matters. PTAs should be concerned with transport, not wider public policy issues such as health, education and crime; that is neither what they are for, nor what they are competent to do.
132. An amendment should be made to Clause 61(1) of the Bill in relation to the limitations on the scope of the wellbeing powers to be conferred on PTAs by clause 60. Clause 61(1) should expressly exclude from the wellbeing powers not only things which the PTA is unable to do by virtue of any prohibition, restriction or limitation in an enactment, but also things which PTEs are prohibited from doing. The orders made in 1986 under section 60(5) of the Transport Act 1985 removed the powers of PTEs to carry passengers by road (a power which they had under section 10(1)(i) of the Transport Act 1968). Clause 60 of the draft Bill

should not be capable of conferring on PTAs the powers which PTEs have lost. This is probably an anomaly in the draft Bill.

133. We are comfortable with the abolition of bus strategies as long as the relevant guidance recognises that bus issues have to be properly addressed in the Integrated Transport Strategies. The fact that the Transport Act 2000 placed a duty on local authorities to prepare a bus strategy was positive because it forced all local authorities to consider bus issues even if the separation from the rest of the Local Transport Plan often led to a lack of integration with the overall transport strategy. The linkage with overall policies is therefore correct as long as the requirements for buses are not lost in the wider strategy.

134. Finally, we are supportive of the replacement of Local Transport Plans with Integrated Transport Strategies. Certainly the timescale is more in line with other related documents such as rail route utilisation strategies, and regional spatial and economic strategies. However, it is important the development of these strategies does not become all encompassing – particularly in the early years – to the extent that plan-making takes precedence over programme delivery. The transition process as the Local Transport Plans finish in 2011, and are taken over by the new strategies, will need to be managed carefully, and equal weight should be put on the five year implementation plans.

Chapter 5

Road Pricing Schemes

Q13: What are your views on the proposals relating to:

- (a) local freedom, flexibility and accountability (paragraph 5.18), including the proposals in Box 5.1;**
- (b) consistency and interoperability (paragraph 5.22); and**
- (c) information (paragraphs 5.26 and 5.29)?**

135. Generally we are supportive of proposals to bring local freedom and flexibility in this area. To be effective though there needs to be early capital investment in new bus lanes and buses. Future demands of new passengers needs to be met and there is currently little or no spare capacity on buses during peak times. Kickstart can sensibly be used to move through these periods of uncertainty.

136. The draft Bill provides for revenues from road pricing to be retained by the local authority to be spent on transport related measures that support the transport strategy. Given the emphasis on climate change we would suggest consideration of narrowing this definition to transport related measures that support the strategy which encourage alternatives to private car use. There would be little point in introducing road pricing if revenues were used, for example, to fund borrowing for road building projects which made car travel easier.

Chapter 6: Traffic commissioners

Q14: To what extent is there a problem of 'inconsistency' between the approaches of the different traffic commissioners, and what costs does this impose on PSV and goods vehicle operators?

Q15: Do you agree that the proposals outlined here would help to reduce those costs?

137. The questions raised in the main consultation document have been superseded by the supplementary paper on traffic commissioners recently produced by the DfT. We will be responding to this fully in due course.

Annex A

Strengthening Local Delivery: The Draft Local Transport Bill

Regulatory Impact Assessment

Response to Section 2: Improving Local Bus Services

Introduction

- A1. This Annex forms our response to the Regulatory Impact Assessment (RIA) that accompanies the draft Local Transport Bill. Our RIA response concentrates specifically on the content of Chapter 2: Improving Local Bus Services.
- A2. The RIA assesses the impact of the proposals contained in the draft Local Transport Bill. Chapter 2 looks specifically at Buses and, in our opinion, underplays the impact of the draft Bill proposals on the bus industry and its customers concluding that *'overall we would expect that where quality contract schemes are introduced they will offer good value for money and be demonstrably in the public interest.'* We believe the analysis that leads to this conclusion is flawed and incomplete. Many of the statements about the current situation are incorrect giving a misleading impression of what is happening on the ground and the attempt to quantify the impact of quality contracts and how they compare with quality partnerships contains significant gaps which reduce its worth.
- A3. Our response will highlight the full impacts of this legislation on bus operators and will impart our own modelling work on the costs and benefits of quality partnerships and contracts.
- A4. Our comments are made by linking to relevant sections of the RIA sequentially.

Chapter 2: Improving Local Bus Services

Purpose and Intended Effect (paras 2.2 – 2.10 p. 7 onwards)

- A5. We do not agree with all the statements made in the RIA in terms of setting the context in which the draft Bill is published.
- A6. We are in agreement with the principal objective of the legislation as set out in paragraph 2.2 of the RIA, i.e. *'to improve the standard of local bus services in England and Wales.'* Much has already been achieved, mainly through the formation of successful partnerships between operators and local authorities each of whom realise that they are in part reliant on the other partner to deliver the full benefits from improvement. However the big picture is far from negative, as is illustrated by Figure 1 in the RIA.

Whilst this demonstrates that outside London bus use continues to fall, the rate of decline is at its shallowest since 1970 and even since deregulation of local bus services in 1986. In the non metropolitan areas, patronage is increasing. Against a background of virtually unrestricted parking supply and an ever decreasing real cost of motoring, the decline is hardly surprising. Therefore there is a strong argument that it is not improvement of local bus services that is the principal requirement: rather that it is greater control on car use (as has been done in London with the congestion charge; a major contributor to bus patronage increase).

Rationale for Government Intervention (para 2.14 p.10 onwards)

A7. In this section the justification for bringing forward the draft Bill is based on two reasons which are incorrect:

a. The RIA states that reform is necessary so that benefits from network optimisation and co-ordination of services can be obtained in a way that is impossible under deregulation citing, in particular, inability to achieve evenly spaced frequencies and common ticketing and branding mainly due to competition law. **This is not correct.**

- Whilst it is correct to say that the Competition Act 1998 and Enterprise Act 2002 provide a rigid framework within which bus operators must conduct business there is much that can be done within this framework. The legislation prevents anti competitive agreements between undertakings (bus operators) but does not prevent the situation where one operator can take action unilaterally and another react to it to ensure that a coordinated offering is presented to the public. For example, one operator may run a 20 minute service, another operator may register another 20 minute service evenly spaced between the first operator's service – thus providing a 10 minute headway.
- Furthermore, legislation was introduced specifically to allow the development of integrated ticketing (the Ticketing Schemes Block Exemption, originally introduced in 2001 and revised and renewed in 2006). This itself was the subject of a Department of Transport (DfT) Task and Finish Group to encourage take up, this group producing template agreements for operators to use for such tickets to ensure compliance with the legislation.
- So, overall there is already a mechanism to deliver the desired levels of co-ordination and co-operation. The statement in the RIA in relation to multi-operator

ticketing schemes compared to London *'but it has not been possible to achieve this co-operation in other areas, particularly larger urban areas'* is especially puzzling in this respect. All metropolitan areas outside London have multi-operator ticketing schemes (similar to the London Travelcard) which are legal under the Block Exemption and working well.

b. The RIA implies that the success in increasing patronage in London is due to the regulatory framework of bus franchising (which is different from outside London). The RIA states *'while some aspects of the bus market in London are unique or directly applicable elsewhere, the London experience does suggest that a quality contracts approach can assist in halting or reversing decline, particularly in major urban areas.'* We feel this statement is confusing the regulatory framework with funding.

- We believe the reality is that the success of London's patronage increase (which is undisputed) is more likely to be a result of increased funding and greater restrictions on car use including road pricing and limited parking supply rather than the regulatory framework. In 10 years up to 2005/6, bus support in London has increased by 1700% from £37m to £638m. Outside London in the metropolitan areas it has remained constant (£127.5m compared to £128.6m). Local authorities outside London could invest more in buses (as has been done in London) and achieve patronage growth without the need for a change to the regulatory framework. Similarly, we believe that without increased funding a change in the legislative framework is likely to have little effect on the objective of increasing bus use.

A8. We are therefore concerned that two fundamental reasons for Government intervention are unfounded.

A9. In addition under the third bullet point 'the emerging proposals for demand management schemes, including local road pricing schemes' First agrees that in cases where this is proposed, it is *'especially important for local authorities to be in a position to guarantee accompanying improvements to public transport and ensure value for money from any associated subsidies.'* But we emphasise this is possible in a partnership environment and not necessarily a Quality Contract (QC) environment. First has been working with the four local authorities in the Greater Bristol area develop a partnership framework to deliver the appropriate levels and standards of service to accompany the Transport Innovation Fund (TIF) bid currently under development, work which the DfT is already aware of under the Greater Bristol Bus Network Major Schemes bid. A similar partnership has been announced in Manchester

by the Greater Manchester Bus Operators Association (GMBOA) which will support the Greater Manchester local authorities' TIF bid.

Options (para 2.20 p. 12 onwards)

Option 1 - Do Nothing

A10. Option 1 (do nothing): we agree that current difficulties would not be addressed and that nothing may substantially change. But the development of more (and potentially Statutory) guidance would give greater confidence to both bus operators and local authorities in making the most of the current legislation. Nevertheless, this is not First's suggested solution and it is acknowledged that new legislation will open up new opportunities for improvement. However, First does not agree 'do-nothing' is a real base starting position or that market decline would be inevitable, as has been illustrated by continuing growth of bus demand in locations such as York, Leicester, Brighton and Oxford, nor that demand management proposals would be constrained by an inability to implement complementary measures (as evidenced by First's work in Greater Bristol, and in the work of the Greater Manchester Bus Operators' Association in Greater Manchester).

Option 2 – Voluntary Measures

A11. Option 2 is really an extension of Option 1: a key issue is the incorrect assertion that voluntary measures *'have had only moderate success, due mostly to slow take up and negotiation'* There may be some confusion here with Statutory Quality Partnership Schemes (SQPS) where take up by local authorities has been slow (only local authorities can implement SQPSs) but voluntary agreements are widespread and in many cases, extremely successful. First alone participates in over 100 agreements and a number are major success stories – for example in York delivering major patronage increases.

A12. It is agreed that the restrictions under competition law applying to other than bilateral partnerships can have a restrictive effect on the ultimate benefits and we welcome the DfT's work with the Office of Fair Trading (OFT) to overcome these restrictions. The key to realising any benefits being secured through such negotiations will only occur if there is clear unambiguous and joint DfT/OFT guidance issued to operators and authorities alike setting out what is permitted and what is not, with 'real life' examples and case studies.

Option 3 – Change the Legislative Framework

A13. We support some changes in Option 3 – strengthening partnerships – but do not support the element that makes the implementation of quality contracts easier. Our analysis has shown some key areas where quality contracts would have a significant impact against a background where the

need for local authorities to take greater control over bus services is not proven. Furthermore, the success of partnerships may be compromised by giving enabling powers of this nature to local authorities. Partnerships have the most chance of being successful when each side has an incentive to make them work. If local authorities go into partnerships recognising they have another option i.e. QCs then the likelihood of a successful outcome may be diminished.

A14. We do agree that improved punctuality is important and we support measures that work towards achieving this aim: we believe this is essential to growing the market and other issues such as QCs are a distraction.

Costs and benefits (para 2.29 p.14 onwards)

Benefits

A15. First considers that all of the potential benefits for bus passengers set out in paragraph 2.33 are equally deliverable under the current legislative framework. In particular:

- Stabilised fares – the implication is that fares are ‘unstable’ at the moment but there is no evidence to support this. Most of our subsidiaries change fares on an annual basis (similar to London bus fares in a regulated environment) and where this is not the case it is in response to a change in market conditions – for example when there is a sudden escalation in costs as evidenced by fuel price rises in 2005 and 2006. Such a response is required to maintain an adequate return on capital whether or not bus networks are under private or public control.
- Integrated fare structures – as noted earlier these can be, and are being delivered already within the current legislative framework where customers want them.
- More integrated network planning – where the market requires a need for this, it already happens. The statement in the RIA in this context *‘greater opportunity to catch the right service going to the right destination at the right time’* is quite mystifying. This is much more likely to happen with the continuation of networks under private sector stewardship with their built in commerciality and flexibility.

A16. Bus operator benefits (paragraph 2.34) are either already possible or misrepresented.

- Co-ordination of routes and frequencies – this is already possible and it is only a benefit if customers want it to happen. Diverting a route to serve the railway station to co-ordinate with rail services

may not be good for business if the majority of customers want to go straight to the town centre in the quickest time possible.

- Quality contracts giving greater predictability of revenue – this is a total oversimplification. In London predictability of income has been affected by quality incentives which tendering authorities are bound to impose elsewhere. Moreover even if it is accepted that income streams are more predictable; on the downside the inability to vary costs or to be involved in an unrepresentative indexation process as part of the contract can be equally as risky to profitability.
- Reversing long term decline creating long term security of business – this implies the market is not viable and unprofitable at the moment. Deregulation has seen the emergence of major bus groupings which are strong enough to have expanded overseas into other transport sectors. To give the impression this is a struggling market is quite wrong. In fact as an incumbent, the risk of having your business taken away in a QC environment creates no long term security at all. Indeed whilst it is correct to state that a viable and growing market is more likely to improve business security, this is an outcome delivered through a combination of measures by a number of stakeholders and generally in First's experience through a strong and successful partnership approach.

A17. Benefits to other stakeholders (2.35 – 2.38): the benefits identified reveal the limitations of the proposed legislation; there is little mentioned here that could not be achieved in the existing legislative framework. Co-ordinated networks and frequencies are mentioned in the local authority context, but these are already deliverable. The legislation enables local authorities to gain greater control over bus networks but that in itself does not address the key issues of traffic congestion and the consequent impact on bus reliability.

A18. Indeed the ability of local authorities to address traffic congestion and to provide buses with priority on the highway network they control is much more important than regulatory control and it is that which would achieve the type of mode shift necessary to deliver the benefits identified for commercial and private road users in paragraph 2.35.

Costs

A19. The RIA underplays the cost implications for passengers. As noted elsewhere in this response, there is no guarantee that public sector stewardship of bus services leads to lower fares. In London, cash bus fares increased by 10% for three consecutive years between 2004 and 2006. Local authorities, faced with cost pressures, will respond exactly the same way as private sector operators to maintain viability of networks. The comment that there will be lower costs because of better inter-availability of tickets is incorrect because of the number already in

existence between modes or for entire networks. For example, currently the whole First Manchester network is available for £3.50 for the entire day which makes the cost of individual trips extremely cheap.

A20. Costs to bus operators identified in the RIA are understated. '*Reduced commercial freedoms*' are stated but the greater issue is loss of business. In an urban area, an operator faced with losing routes or networks would have few alternatives for which to use the surplus assets. We do recognise that 'due process' has been introduced to the QC approval process with the new Approvals Board and right of appeal to the Transport Tribunal but this is counterbalanced by the 'only practicable way' test for QCs being replaced by the easier 'public interest' test. Despite reassurances in Putting Passengers First (PPF) that legitimate interests of bus operators would be protected this has not transpired in the draft Bill. A broad and widely defined public interest test is no substitute for an assurance of compensation.

A21. We are surprised that the RIA does not refer to other operator cost issues. These include important issues such as transition costs, potential redundancy costs, pension issues and the cost of assets that may be stranded – without any economic use – before the end of their normal life. Work by independent consultants on behalf of First by LEK/First Economics suggests the cost of capital would increase for operators as bidding for long term contracts are considered to be more risky. It is surprising that a document of this nature does not even mention these fundamental issues and attempt to quantify them.

A22. The cost of assets that may be stranded before the end of their normal life has a wider economic inefficiency issue for the overall economy beyond the confines of the bus industry. Economic efficiency requires minimising the amount of scarce resources (past, present and future) used in the provision of bus services. In wider economic terms, a local authority can only justify investment in QCs if the incremental cost of the implementation is lower than the marginal cost of continuing with the status quo.

A23. This is unlikely. Local authority costs would be greater than those mentioned in the RIA. Start-up and monitoring costs are not the only costs that would be associated with a QC. The apparent requirement for better quality and lower fares in a QC (an issue which is balanced by market forces in a deregulated market) will inevitably import cost. (We have already described the example of London which requires over £600m of revenue support compared to the £127m paid to support operations in all other metropolitan areas.) In addition the cost of ongoing administration is omitted from the RIA. The local authority will become the strategic specifier, let contracts, monitor and enforce contracts. This is a major commitment and will require large numbers of skilled managers as has been shown with organisations like Transport for London and the Strategic Rail Authority. This is a duplication of resource, not replacement and needs to be justified by passenger benefits within a complete RIA.

A24. The RIA mentions the impact of the draft Bill on Traffic Commissioners' costs arising from performance and punctuality monitoring. While we agree with the emphasis on punctuality we are more concerned at the potential cost impact on operators particularly if a bespoke 'one size fits all' approach is adopted by DfT. Data collection has to be proportionate and relevant to the size of operation and network issues faced and the most important aspect of any system adopted is to monitor in a way that identifies issues rather than collects data for the sake of it creating a huge administrative burden. The operators through the Confederation of Passenger Transport (CPT) have already suggested a process based on annual monitoring reports.

A25. Overall, in our opinion, the RIA analysis of cost issues is rudimentary, omits covering some important issues and lacks quantification. Paragraph 1.5 in the introductory remarks to the RIA states '*We consider it unlikely that the package of proposals in the draft Bill would be associated with substantial net new financial costs for local authorities.*' There is not enough breadth of analysis in the RIA to draw this conclusion.

Quality Partnership Schemes and Voluntary Partnership Agreements

A26. We agree with the positive comments made about Quality Partnership Schemes and Voluntary Partnership Agreements. The examples mentioned are typical of the levels of success achieved. We are not aware of '*a significant number of voluntary agreements which have been less successful and have been discontinued when problems have arisen.*' Certainly the First experience, with over 100 Voluntary Partnership Agreements, is that few have been abandoned or regarded as unsuccessful.

A27. The potential for statutory quality partnerships to deliver greater benefits by virtue of them being enforced by Traffic Commissioners is not a logical argument: it is delivery of tangible benefits that that brings increased patronage and putting the partnerships on a statutory footing itself does not deliver additional benefits. However, the security of commitment from both parties is more likely to lead to significant investment by both parties, providing the standards of service are proportionate to the facilities provided and the protection from inappropriate low quality competition will help safeguard operator investment. Therefore the benefits may well be higher as each side will be prepared to commit to additional investment.

A28. Table 1 seems to exclude the operating costs associated with a voluntary partnership agreement. These may increase or decrease the benefit cost ratio (BCR) depending on the scheme but need to be included.

Quality Contract Schemes

- A29. Paragraphs 2.50 – 2.53 concentrate on the mechanisms for achieving QCs. We have provided commentary on this already but we repeat that the public interest criteria and the approvals board process are not sufficient to protect the legitimate interests of bus operators. If this is not enshrined in the draft Bill the impact is potentially substantial. Operators face losing large elements of their turnover without compensation to a public interest test which is far easier to pass than the current ‘only practicable way’ criteria. The latter ensures an operator assisting a local authority in implementation of bus strategy objectives is reasonably immune from QC imposition. Replacement by ‘public interest’ criteria lowers the bar considerably and does not guarantee the operator against QCs even if it has been working successfully to deliver its partnership commitments.
- A30. Paragraph 2.51 states that QCs will be introduced only where they deliver ‘*genuine improvements*’ for bus passengers, yet one of the key criteria - increasing the use of local bus services – is defined as ‘*reducing, arresting or reversing decline*’ which means a QC does not even have to deliver patronage increase to successfully pass one of the tests.
- A31. The discouragement of QC implementation over a whole area is mentioned in the RIA but is not highlighted in the draft Bill or the consultation document that accompanies it. Whilst this might be positive in terms of retaining the involvement of small operators in networks, the downside is that this is likely to create greater impacts for staff. If individual routes or mini networks are parcelled up, not all staff from the incumbent’s depot will be affected. Rosters of ‘affected’ staff may have to be drawn up with all the attendant uncertainty and the real prospect of TUPE applying.
- A32. 2.53 – 2.56 move onto costs and benefits of QCs. The coverage in 2.56 of costs of QCs is more comprehensive than other parts of the RIA, but again, there has been no attempt to quantify. Table 2 only aggregates benefits across all six metropolitan authorities outside London of QCs. This is a surprising omission and is inconsistent with Table 1 which calculates a BCR of voluntary partnerships in a historic city (rather than six metropolitan authorities).
- A33. Therefore the statement in paragraph 2.57 that ‘*Overall we would expect that where quality contract schemes are introduced they will offer good value for money and be demonstrably in the public interest*’ cannot be supported. There is no clear evidence from the RIA. The costs and benefits presented are inconsistent and lack transparency in terms of how they have been calculated and what each figure represents. No attempt has been made to evaluate QCs against partnerships to demonstrate the validity of this statement.

Punctuality

A34. First is in agreement that punctuality is a major issue. Achieving greater reliability in the operation of bus services is key to attracting additional users. The paragraphs in the RIA make the leap from assuming that collection of punctuality data will automatically lead to punctuality improvements. This may not be the case. Services which are already punctual will not necessarily improve just because more systematic data is collected and the benefit of collecting data will only be fully realised if cause of delay can be established and something done about it.

A35. We do not object to the concept of relevant and proportionate data being collected by operators for punctuality monitoring but the BCR set out in Table 3 is far too simplistic and overstated. Only if local authorities can act on the findings of the issues identified can the magnitude of benefits be realised.

Miscellaneous Provisions

A36. We do not agree that proposals for the rules for local authorities and Welsh Ministers subsidising services would have *'little (if any) anticipated regulatory impact.'* The draft Bill proposes to allow local authorities to subsidise services to increase the standard of service on a route. Apart from the potential to distort market provision, the issue is that local authorities are always going to be constrained by the money available to them rather than the powers they have available. In our view it would be better to concentrate these resources where it is impossible for the commercial sector to provide them profitably rather than potentially using them to repeat what the commercial sector does. The impact could therefore be significant in terms of overall provision.

Equality (p.27 para 2.73 onwards)

A37. We agree with the RIA that bus services have *'a key role to play in delivering improved accessibility and social inclusion'* However we do not agree with the RIA's assertion that changes proposed in the draft Bill will *'have a positive impact on equality.'* The RIA sets out with the aid of a number of graphs characteristics of existing bus users but does nothing to indicate how the proposed reforms will help these groups apart from the general comment that if the Bill improves buses it will improve the lives of disadvantaged groups. In our opinion issues such as linking transport with land use, involving bus managers in the early stages of social inclusion strategies and creating the right market conditions for investment that will do the most to assist disadvantaged groups. The extent to which bus operators renew their fleets to be fully accessible in advance of the statutory 2016/7 timescale is an example of needing to sustain an environment where investment is encouraged.

Competition Assessment (p.32 para 2.80 onwards)

A38. We consider it is incorrect to say there is little on-road competition and that '*in many cases, it fails to enhance the quality of service or provide genuine choice.*' It is true that most services are not subject to direct competition on a like for like basis, but most urban routes face competition on the corridor on which they operate. Leeds, Sheffield, Huddersfield, Colchester, Manchester, Leicester, Chester, Norwich, Plymouth and Southend are just a few examples in First of urban networks that face competition that is much more than '*episodic.*' We also face continuing competition with the private car, taxis and private hire vehicles. Our main consultation response makes the point that car ownership and use has substantially increased in the past four decades and in the last decade the real and perceived costs of motoring have reduced. The four per cent direct competition figure quoted in the RIA therefore paints a misleading picture.

A39. It is also wrong to imply that competition, where it takes place, has little customer benefit (especially when this is not substantiated). There have been high profile occurrences, such as UK North in Manchester, which have done much to discredit on road competition but there are other examples where competition has had a positive effect with regard to fares, service levels and investment. The expansion of Stagecoach in Liverpool and Sheffield and Go-Ahead in Birmingham are all examples of sustained interventions in new markets by the major owning groups.

A40. Thus we would conclude that the base position as described in the RIA is incorrect. This is important because the implication that there would be little impact from the loss of low grade competition with the introduction of a QC is misleading. There is competition in the market, it prevents operators from having a free rein and has benefits for customers.

A41. The proposed changes to the legislation on quality partnership schemes would need to meet the revised Competition Test. First considers that it is essential that there remains a mechanism for referring case to the OFT where a local authority is acting in a manner where the standards of service required are not commensurate with the facilities provided, the effect on competition thus being disproportionate. Making this test a 'self policing' one without opportunity for referral would have a significant regulatory impact in that it would have a distorting effect on the ability of the players in the market to provide commercially viable services.

A42. The proposed competition test for multi lateral voluntary partnerships is welcomed, but the impact would be greater if such agreements were equally acceptable developed by operators acting together and presenting proposals to local authorities, rather than only to proposals brokered by local authorities themselves between operators. Provided that the test is met, there is no reason why the former should be deemed to be anti-competitive when the latter are not.

A43. The major change under the draft Bill in terms of competition would be the circumstance where it would be easier to have a QC approved, as the net effect would be to remove competition within the market and replace it with competition for the market. The RIA states this competition '*may be more effective*' but this goes against established theory and is rather dismissive of the negative effects of creating a monopoly.

A44. Research by academics Riordan and Sappington (1987), Laffont and Tirole (1987), Williamson (1976) shows that competition *for* the market falls down when there are unexpected changes in the pattern of demand or sudden cost increases. A monopoly supplier will use this to exploit the lack of competition and adjust the product offering in a way that generates supernormal profits. This contrasts with competitive markets where the response is rapid because of competition between firms and prices are adjusted to new levels of costs.

A45. The contracting authority will attempt to guard against adverse outcomes of the monopoly supplier by aspects such as reserving the right to renegotiate the contract or by constraining certain aspects of the winning bidders' conduct but these rely on the contracting authority knowing what the right outcomes are in a given set of circumstances. Without competition it is left to policymakers to interpret what customers want and how best firms should meet these needs. This can be sub optimal because the tendering authority encounters the following issues:

- Imperfect foresight – inability to predict how the world will look in future;
- Asymmetry in information – is the firm revealing its true costs in contract negotiations; and
- Danger of regulatory capture – the possibility that regulator and firm become too cosy and the regulator begins to act in the interests of the firm rather than of customers.

A46. These characteristics are likely to be familiar to many industries where state or local authority monopolies have been created. It reveals intrinsic difficulties with the QC concept and a likelihood that the impact would be much greater and negative than outlined in the RIA.

A47. The RIA is quite right that the impact on the competition for contracts and the number of operators in an area of QCs will be sensitive to the design of the contract. Batching up contracts on a route by route basis may encourage the continuation of smaller operators but the tendering authority may decide an all embracing network approach is more economic. The effect on the incumbent of losing their right to operate in a QC is to render assets previously deployed on the provision of local services entirely or largely valueless beyond their disposal value.

A48. Paragraph 2.85 also assumes that vehicles used on provision of such services are entirely suited to transfer to provision of schools contracts or longer distance excursion or hire work in the event of loss of work through

a QC process: this is not the case. Different types of vehicle with higher or lower passenger capacities, standards of comfort and performance may be required for all these different types of work.

A49. The impact of a QC on an unsuccessful incumbent is therefore totally understated in the RIA. It would have a major impact, depriving operators of revenue streams, creating uncertainty for staff and stranding assets such as vehicles, depots and the equipment inside them at a time short of their full economic life. As noted earlier, this is a poor use of the nation's scarce resources.

A50. The section concludes with the statement in the last sentence of paragraph 2.86 *'Crucially however, a local authority would need to ensure that the contractual process and the size of individual contracts would be designed to protect the interests of passengers, and to maintain effective competition for future contracts.'* As our analysis has shown, this can be difficult. It is unrealistic to expect a contracting authority to know exactly how a competitive market would respond to changes in costs and/or demand and be able to replicate the competitive outcome through the tools at its disposal.



Draft Local Transport Bill: Consultation Response

The Freight Transport Association represents the transport needs of UK industry. Its membership is comprised of manufacturers, retailers, logistic companies, hauliers and organisations in the public and private sectors. The Association's interests are multi-modal and, in addition to consigning 90 per cent of freight carried on rail and over 70 per cent of sea and air freight, its members operate in excess of 200,000 goods vehicles, approximately half the UK fleet of commercial vehicles.

FTA's policy is directed through its democratic process – our Freight Councils. The responses to the consultation questions follow discussions with our members at our Regional Freight Councils, and at our National Freight Council in July.

FTA is grateful for the opportunity to respond to this consultation on the draft local transport bill and thanks the Department for Transport for the level of stakeholder engagement during this consultation. We hope that this is able to continue as the bill progresses.

The opportunity to review aspects of local transport governance and refine the framework for local road pricing schemes is welcomed. However, the bill in its current form falls short of recognising the diversity of road users whom it will affect. As we have stated at consultation seminars and giving evidence to the Transport Select Committee, the draft bill as presented is a Local *Passenger* Transport Bill. There has been some acknowledgement of this from government officials during the consultation period and we hope that the bill better reflects the requirements of all road users when it is introduced to Parliament. We welcome the Secretary of State's commitment, when giving evidence to the Select Committee that Integrated Transport Strategies will have a requirement to include freight aspects¹. If the government can ensure that the needs of commercial vehicles accessing urban areas can be considered on a par with passenger transport in all aspects of future drafts, FTA believes the Local Transport Bill could be a very positive piece of legislation for local transport planning.

Commercial deliveries are essential services. While the freight industry does all it can to provide these services competitively, increased transport costs will ultimately be reflected in the price of all commodities that must be transported. Any local or national road pricing scheme should not be applied to commercial vehicles since they provide essential services to the nation's economy.

Our responses to the consultation questions are found below.

¹ House of Commons Transport Select Committee inquiry into the Local Transport Bill, Transcript of oral evidence, 18 July 2007: Q820 & Q821.

Chapter 3

This organisation has no specific issues to raise regarding the bus proposals. However, issues raised in this section may have an impact on other aspects of the bill.

- The considerable pressures placed on bus operators and PTAs regarding bus punctuality could lead to PTAs using new powers granted to direct local authorities in the management of their own roads to help meeting punctuality targets at the exclusion of other road users.
- The new functions allocated to Traffic Commissioners in the PSV industry will have a resource impact. It is difficult to see how this would not take place at the expense of the other industry for which traffic commissioners have a responsibility: the road haulage sector.

Chapter 4

A question has been raised by this consultation over whether the reformed PTAs should be required to change their name. This organisation believes they should: In part this is supporting the view of the Merseyside Authorities who believe that a new name will make clear to the public and stakeholders that the reformed body is responsible for planning all modes including freight², but also in some other city regions to remind the authorities themselves that they are responsible for planning all modes including freight. In this document the successor body to a PTA following the bill's enactment is referred to as a "Local Transport Planning Authority."

Q7: Do you agree that there is a need for flexible arrangements which allow for variation in the governance developed for different areas?

There is a need for flexibility, but the proper framework must be put in place to prevent parochial disagreements being given disproportionate consideration over strategic, national issues. Urban centres are usually the start or end point for national and international movements in all modes, for both passengers and freight.

Q8: Do you agree that the cities themselves should be asked to publish proposals on revised governance? Do you have views on which body or bodies should be asked to prepare those proposals?

The cities themselves should publish such proposals in a statement supported by all local authorities involved. The Secretary of State's instruction to conduct a review should indicate why the review is required and what aspects she would like to see addressed. We would expect this instruction to include the appropriate representation of the urban area's commercial delivery needs.

Q9: Do you agree that the Bill should enable broad changes, or should there be limitations on what change might be allowed?

This issue must be considered regarding the bill as a whole. Other proposals suggest that the body currently known as the passenger transport authority should have a key

² Local Transport Today, LTT474, 2-15 August 2007, p7

role in leading proposals for local road charging, as well as local highway management, heavy rail and long term integrated transport planning. The leading role proposed for PTAs in their current form – a body with no compulsion to have regard to facilitating the movement and delivery of goods in urban areas – to have in developing integrated transport plans and local road pricing schemes is wholly unacceptable. Furthermore, local transport planning authorities should have no **direct** management role over any part of the Strategic Road Network, nor should they have any powers which could undermine, or could be seen to undermine, the regulatory powers of the Office of Rail Regulation.

The trunk road network holds a strategic role for the movement of traffic around the entire country, not just locally. FTA believes that management of trunk roads is the responsibility of the Highways Agency on behalf of the Secretary of State for Transport, who are both able to take a strategic view of the management of the network. Concerns were compounded further still by Mr Alexander's willingness, when he was Secretary of State for Transport, to allow the Mayor of London to apply traffic regulation orders to parts of the motorway network under the London Low Emission Zone. The trunk route network must remain solely under the management of the Highways Agency.

We have concerns over the powers being given to PTAs to direct local authorities regarding the management of roads in their authority. While we would hope all PTAs could have a measured consideration of all road users, we are pessimistic in some cases. Further to this, however, are the new pressures this bill places on bus operators and PTAs regarding bus punctuality. We believe this may have the effect of preventing PTAs from taking a wider view of transport needs when considering road management proposals

Q10: Do you think that the power to review and amend governance arrangements should allow development over time, or should the powers lapse after an initial review?

If there is a belief that a city has got it wrong – whether that is from local bodies or the Secretary of State – there should be the power for a review to take place.

Q11: Do you agree with the changes we are proposing to the powers and duties of PTAs in all the metropolitan counties?

It is right that local transport problems should be solved through local solutions. However, this must not be allowed to descend to the point where parochial squabbles are able to drive local transport policy. FTA's concern lies where historically some local bodies (authorities or PTAs) have turned to draconian measures to restrict the movement of commercial vehicles in their wards. This is a cynical and unsophisticated move which relies on the fact that, unlike motorists and, more likely, public transport passengers, the commercial vehicle operators and the goods they carry are not vested with the power to influence the future career of a politician. Put simply, goods deliveries do not have the vote.

Any body responsible for planning local transport must have a statutory duty to facilitate the movement and delivery of goods to an urban area. This may mean significant changes to their structures. It is not clear how the effects of clause 57 on s108 of the Transport Act 2000 would require PTAs to have regard to the freight delivery requirements in a city region. s108 (1)(a) as modified by the draft bill would read:

Each local transport authority must (a) develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area,... (subsection (2)(b) defines “transport” as the transport required for the transportation of freight).

This amended legislation appears more narrow than currently exists. It is not necessary for local authorities to promote and encourage the transport of freight – local commerce will demand it and our industry will supply it. What is required is a statutory obligation for the local transport planning authorities to provide the infrastructure to allow them to operate. Indeed, the term “facilities and services” which is proposed to be removed might be more appropriate, and it is unclear how DfT believes this change has widened the policy functions of the local transport planning authority.

FTA supports the conclusion of the House of Commons Transport Select Committee that *it is critical that the new powers vested in PTAs do not bias decision-making to the exclusion of transport sectors such as freight*³. We question what safeguards exist to prevent this in the existing draft.

Q12: Do you agree with the proposed changes to Local Transport Plans described in paragraphs 4.43 to 4.45? Should these changes be applied only to the metropolitan counties, or should they be applied elsewhere, for example to other city regions?

The basic principles of creating 10-15 year Integrated Transport Strategies seem appropriate. It is not appropriate, however, for these to be prepared by PTAs in their current form. We are pleased that DfT has clarified and committed that the legislation will include a requirement for Integrated Transport Plans to consider the requirements of freight.

Chapter 5

Q13: What are your views on the proposals relating to:

local freedom, flexibility and accountability (paragraph 5.18), including the proposals in Box 5.1;

This organisation has been careful not to dismiss the bill’s local road pricing proposals simply because they appear to represent an increased cost at the point of use. FTA has suggested that road pricing could bring benefits for the freight industry if it is not seen as a panacea to the problem of congestion. Any scheme, whether national or local, will have to be preceded by road infrastructure improvements, an open-minded attitude to social aspects influencing travel (delivery restrictions, school hours, remote working) and improvements to public transport.

The draft LTB recognises this to some degree and FTA welcomes that. However, while there is talk of a package of measures, that is presented in the consultation document as road pricing going hand-in-hand with local transport improvements. Government must make clearer the need for local authorities to be innovative and look beyond simply

³ Transport Select Committee report into the Draft Local Transport Bill and the Transport Innovation Fund, Conclusions and Recommendations para 38.

pouring money into public transport, and see the benefits of reviewing some of the restrictions which currently constrain operators from operating more flexibly. These restrictions on their own are preventing commercial vehicles from travelling at less congested times, and could be resolved today.

Charging for the use of a road during the most congested period attempts to use fiscal pressures to make road users re-consider either how or when they make their journey. To deliver goods to premises in urban areas there is no “how”. FTA supports the principle that the government should provide an environment where people wanting to move goods should have real choice in which mode they use to transport them, but to deliver goods to a shop – such as a small clothing boutique – the final leg of the journey will have to be made by road. The peak times are the most congested, slowest, inefficient and expensive times for a vehicle to be travelling. A driver or operator would not choose to operate their vehicle in urban centres at such times if it could be avoided. It is obviously other factors which are influencing them to travel at peak time and local authorities must identify those factors and take steps to mitigate them, rather than attempting to strangle the local economy’s supply chain.

The Department for Transport must be more prescriptive in its interpretation of “a package of measures” and instruct local authorities to examine existing regulations – and other social practices – which may restrict operators who would like to show greater flexibility in their delivery practices. Scheme proposals must clarify how the road user will benefit. It must indicate targets for the reduction of congestion, and present audited evidence that a scheme will meet those targets. We hope that this would be made clear in statutory guidance, and support the Select Committee’s request that draft guidance be made available before the committee stages of the bill.

FTA is concerned about the degree of autonomy the Secretary of State is prepared to give to local bodies in devising schemes. The road freight industry has experienced some negative attitudes from local bodies in the past. There is a risk that local authorities will not consider the needs of freight operators in the strategic national context that the Secretary of State for Transport could ensure. It is also unclear why the Secretary of State does not seem to trust Welsh local authorities with the same autonomy. We assume that advice will be given to Welsh transport Ministers that they follow this example, notwithstanding the fact that we hope that example will change before the bill is enacted.

Furthermore, the Passenger Transport Authorities in their current form are absolutely the wrong bodies to be proposing road pricing schemes. The consultation document states:

...PTAs have a crucial role in coordinating the public transport provision which would need to work alongside any local road pricing scheme⁴.

FTA maintains:

The Freight industry plays a crucial role in delivering the goods and services needed to maintain and develop the local economy which would need to work alongside any local road pricing scheme.

⁴ The Local Transport Bill Consultation Document, p 72, 5.17 bullet 1

There is no reason why PTAs should sit at the “inner table” when their members will be judged solely on local passenger transport outcomes. Local road pricing schemes cannot be developed independently from strategic national transport planning and as such a body which does not have an exclusive interest in local issues – we suggest the Secretary of State for Transport – must have a role in the approval of any local scheme. Furthermore, this body should take steps to ensure that the proceeds from any scheme are invested in all road users and not solely public passenger transport provision. As this consultation process has already illustrated, the term “*local transport policies*”⁵ is too readily interpreted by many as “local passenger transport.”

consistency and interoperability (paragraph 5.22); and (c) information (paragraphs 5.26 and 5.29)?

The retention of powers to regulate price caps, vehicle classification, equipment and signs, and data formats is welcomed, but regulation must go further still to ensure that local schemes are similar in style. Already two different concepts have emerged: The London Congestion Charge is a boundary which, whether you drive into it or start your journey inside it you get charged. The Manchester proposal works quite differently. If 10 local schemes emerged, all subtly different in approach, the education and training of drivers will become increasingly complicated and expensive. Furthermore, different systems will require different administration; FTA members have had to employ new staff simply to manage the administration of the London Congestion Charge.

DfT is aware of the industry’s concerns about enforcement of foreign vehicles through ANPR. Paradoxically however, for an individual operator ANPR would be the method of choice. This is on grounds of cost and simplicity. It is not necessary for the driver/operator to make any further outlay for hardware with ANPR, as would be necessary with windscreen tags or GPS, and there is no “stealable” asset. Furthermore, the point is worth re-iterating that a charge for any hardware dismissed as a “refundable deposit” – as it was in the Manchester proposal – is a real cost. A successful business will not see a point in the future where they will no longer need use of such hardware. Any scheme should have zero hardware costs to commercial operators.

DfT has rejected FTA’s proposal to the Select Committee of ensuring that vehicles not registered with DVLA attempting to leave the country, pay any outstanding monies at their port of departure. Nevertheless, the ANPR system cannot continue to be left so full of holes. The Select Committee asked DfT to provide information to support its claim that the situation is not as bad as the industry is claiming. It would be useful if this information could be shared.

Chapter 6

The Freight Transport Association (FTA) limits its comments on the proposals contained in this Chapter mainly to matters related to the regulation of goods vehicles.

Q14: To what extent is there a problem of ‘inconsistency’ between the approaches of the different traffic commissioners, and what costs does this impose on PSV and goods vehicle operators?

⁵ The Local Transport Bill Consultation Document, p 73, 5.18 bullet 4

The Freight Transport Association supports the Traffic Commissioner (TC) system and the independent role of Traffic Commissioners in regulating the goods vehicle and bus sectors. It is vital that any change to this system protects the autonomy of Traffic Commissioners in their day-to-day judicial decision making. However it is also necessary to ensure a certain level of overall consistency in matters of general process and policy. FTA believes that the proposal contained in the Local Transport Bill to place the existing role of the Senior Traffic Commissioner (STC) on a statutory footing, would overall strengthen the independence of the TC System.

FTA stresses the importance of, and strongly supports, the independence of the Traffic Commissioner system and at the same time underlines the importance of regionally-based Traffic Commissioners.

Q15: Do you agree that the proposals outlined here would help to reduce those costs.

FTA welcomes the powers to issue guidance and general directions available to the statutory role of STC that would not impede the day-to-day judicial role of Traffic Commissioners. The requirement to consult with Traffic Commissioners and a number of interested parties before issuing any directions or guidance appears to build in sufficient safeguards to alleviate any potential concerns.

FTA believes that replacing the existing power for the Secretary of State to issue directions to Traffic Commissioners with a new power to issue 'guidance' to the STC on matters of general process and policy provides greater autonomy for the TC system as a whole.

The Freight Transport Association welcomes and supports the proposal to put the existing Senior Traffic Commissioner role on a statutory footing.

**Freight Transport Association
September 2007**