



# URBAN TRANSPORT GROUP

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Consultation response

## **Bus Services Bill**

Transport Select Committee

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## 1. Introduction

- 1.1. The Urban Transport Group (UTG) represents the seven largest city region strategic transport bodies in England, which, between them, serve over twenty million people in Greater Manchester (Transport for Greater Manchester), London (Transport for London), the Liverpool City Region (Merseytravel), the North East (North East Combined Authority), the Sheffield City Region (South Yorkshire Passenger Transport Executive), the West Midlands (Transport for West Midlands) and West Yorkshire (West Yorkshire Combined Authority).
- 1.2. This response is on behalf of our full members other than TfL (given the very different legislative context in London).

## 2. Response

### **The need for the Bill: why buses are important**

- 2.1. Over 80% of all public transport trips in the six Metropolitan areas (Greater Manchester, Merseyside, South Yorkshire, Tyne and Wear, the West Midlands and West Yorkshire) are made by bus - around one billion journeys annually and around half of all the bus trips made nationally every year outside London.
- 2.2. Buses deliver multiple and overlapping economic, transport, social and health benefits. In Metropolitan areas alone, bus networks are estimated to generate over £2.5 billion in economic benefits by providing access to opportunities; reducing pollution and accidents; and improving productivity.
- 2.3. The relatively low cost and flexibility of bus services makes the bus a key weapon in the battle against traffic congestion which costs urban economies at least £11 billion a year. Just one double decker bus can take 75 cars off the road. A new generation of cleaner, greener buses is a further boost to the environmental credentials of the bus.
- 2.4. Better bus services are also central to promoting social inclusion and keeping people connected to opportunity - especially the quarter of all households (and half of those on the lowest incomes) without access to a car.
- 2.5. For more on why buses matter, see our 2013 report, 'The Case for the Urban Bus', a detailed evaluation of the economic and social value of bus networks which can be downloaded here: <http://www.urbantransportgroup.org/resources/types/reports/case-urban-bus-economic-and-social-benefits-investing-urban-bus>
- 2.6. For all these reasons efficient and effective bus networks are key to city regions' wider aspirations for growing and inclusive economies and for a cleaner environment. Being able to exercise greater control over bus networks can be used in harmony with other measures to achieve these benefits – which can include better management of road capacity, clean air zones, economic planning, devolution of health and social care and so on.

### **The need for the Bill: learning the lessons of previous legislative experience**

- 2.7. Bus services outside London were deregulated in 1986. Since then, there have been two systems of bus provision - one for London and one for the rest of Great Britain.



- 2.8. In London, Transport for London (TfL, which is accountable to the Mayor) specifies in detail what bus services are to be provided. TfL decides the routes, timetables and fares. The services themselves are operated by private companies through a competitive tendering process.
- 2.9. In the rest of the country, it is a free market meaning that anyone (subject to minimum safety and operating standards) can start up a bus service. In this environment, bus operators are free to run whatever services they like as well as decide the fares they will charge and the vehicles they will use. Although in theory, it is a competitive market, in reality, most bus services are provided by five large companies who rarely compete against each other (Arriva, First, Go-Ahead, National Express and Stagecoach). As there is no obligation on commercial operators to provide a comprehensive service in areas where they operate, the market delivers services only on profitable routes. As a result, the public sector, subject to funding being available, steps in to subsidise services which commercial operators do not operate.
- 2.10. The ability for London to specify, manage and develop its bus network has underpinned the very different outcomes on bus services between London and the rest of the Great Britain. Since 1986/87, patronage in London has doubled, mileage has increased by 74% and fares have on average been lower than in the city regions. Meanwhile, since 2004/5 patronage in the metropolitan areas has fallen by 7% whilst patronage in London has increased by 31%.
- 2.11. There have been two attempts to provide a legislative remedy since bus deregulation. They are the 2000 Transport Act and the 2008 Local Transport Act. Both of those pieces of legislation provided a route to the franchising of bus services for local transport authorities outside London as well as other measures to make improvements within the existing deregulated framework. However both of those pieces of legislation made the route to franchising too convoluted, complex or restrictive. As a result no bus services in Great Britain (outside of London) have been franchised. The 2016 Bill represents the third attempt at legislative reform and given the experience of previous legislation there is no benefit or purpose in reproducing the failings of the previous legislation through a process which is disproportionate or which would be easy for incumbent monopoly operators to use their considerable resources to thwart. The key lesson of previous legislative failure is that the new legislation should be based on allowing each area to choose how it wishes to provide local bus services through utilising processes which are simple, fair and transparent.

### **The benefits of franchising and what the legislation needs to do**

- 2.12. Franchising can unlock a wide range of benefits. The public sector specifying the outcomes they want to pay for and the private sector competing to provide those outcomes through open competition is well established for public services in general and for transport in particular (including all bus services in London, light rail systems across GB, national rail services throughout GB and bus services in Jersey). When well-constructed, a franchise provides a means by which the commercial sector can make a reasonable return by growing the market in a way that also provides good value for money for passengers and taxpayers. There are an increasing number of private sector bus operators with a strong track record of high quality provision that are enthusiastic about the opportunities that extending franchising to bus services outside London can bring. A briefing on this can be downloaded here:



<http://www.urbantransportgroup.org/resources/types/briefings/bus-operators-backing-regulation>

- 2.13. The benefits that franchising can bring include:
- Single, integrated local transport networks under one brand and one simple, smart Oyster-style ticketing system (which could ultimately cover a wide range of modes from bus to rail and from cycle hire to car clubs);
  - The ability to cap and regulate fares and deliver good value concessionary schemes;
  - Contractually guaranteed vehicle and service standards (e.g. on fleet age, emission levels, cleanliness and reliability);
  - More local accountability as bus networks are responsible to locally accountable bodies and are properly consulted on;
  - Better information and consumer rights;
  - Better value for money for the taxpayer through more efficient use of subsidy (including cross subsidy between profitable and unprofitable services within a network), less leakage into excessive profit taking, and no need for defensive over-bussing of key corridors in order to deter incursions from potential competitors;
  - A planned network where services are integrated with each other and with the wider public transport network and which can be developed in line with demand and changing land use patterns.
- 2.14. We believe that the Bill as drafted at the time of writing does broadly provide a simpler route to being able to deliver these benefits. We would be deeply concerned if there were any moves to introduce any further criteria or tests as this risks moving this legislation into the same category as the 2000 and 2008 Acts i.e. unusable in practice.
- 2.15. Even where franchising is not a local transport authority's preferred option for their area in the first instance, having it available as a workable option is an incentive for operators to enter into negotiations on what can be achieved through other means.
- 2.16. We do not think the clauses which would prevent **new municipal operators** from being established are justified. If local determination of bus services and ensuring value for money is the objective then it is not sensible to rule out this option especially given the generally positive track record of existing municipal operators.
- 2.17. We do not support limiting the automatic right of access to franchising powers to **Mayoral Combined Authorities**. In an environment where national policies on Mayors may change it does not make sense to make a particular format of governance the precondition for a format for the provision of bus services where a local transport authority believes that this is the model which is appropriate for them.

**The benefits of improving the existing deregulated framework (Advanced Quality Partnerships, Enhanced Partnerships, Ticketing Schemes) and what the legislation needs to do**

- 2.18. It should be for each area to determine how they wish to provide their bus service in line with local aspirations. The Bill therefore rightly contains measures which extend what can be



achieved through working within the existing deregulated environment where voluntary agreement can be reached. We therefore welcome the provisions in the Bill in this area.

- 2.19. The first measure would extend the scope of the Quality Partnership Scheme provisions in the 2008 Act (and in doing so renames them as **Advanced Quality Partnerships**). Under an AQP a Local Transport Authority commits to taking measures that will benefit bus services (such as traffic management and parking policies or bus priority) for a route or routes. In order to use these facilities bus operators must meet set standards for the services that benefit from these facilities. This could include vehicle standards, frequency and timings, maximum fares and information provision. Note that a Local Transport Authority cannot compel an operator to use the facilities it provides and therefore operators voluntarily enter into an AQP and as such are in a position to negotiate on terms.
- 2.20. The predecessors to AQPs (the QPS) were a feature of the 2008 Act that was taken up by a wide range of transport authorities and has proved useful. The widening of the scope of AQPs is welcome (for example, the removal of the requirement that the threshold for local authorities for such schemes is limited to the provision of physical infrastructure for buses).
- 2.21. The second measure is to extend the scope of existing ticketing scheme legislation through new **Advanced Ticketing Schemes** and as such are welcome. However it should be noted that although the scope is extended to take into account smart ticketing, and also the promotion and availability of such tickets, it does not allow for the setting of fares by a local transport authority nor does it prevent operators from pricing multi-operator tickets artificially high such that they are rarely attractive to customers.
- 2.22. The third measure would introduce new provisions for **Enhanced Partnerships** (which will allow, to a greater or lesser extent, operators and the local transport authority to manage the local bus market). It would do this through an authority producing an Enhanced Partnership Plan and Scheme for how bus services would be provided in future. This could at its maximum extent include such requirements as vehicle specifications and branding, ticketing structure and timetables. It could not however (for competition law reasons) include the price of operator single tickets.
- 2.23. There would be some kind of qualified voting system which would ensure that such a scheme could not be imposed on operators against their will (how this would be done in practice is still to be defined). In other words an EP is still a largely voluntarily arrangement, the detail of which incumbent bus operators have a de facto veto, but once agreed upon it takes statutory form.
- 2.24. It is important that the qualified voting system is applicable in a way that meets the very different market conditions that can exist in different areas whilst at the same time guarding against the largest operator (or operators) skewing an Enhanced Partnership in their favour at the expense of smaller operators or the public interest. Or the danger of progress only moving at the speed of the least committed partner in a way that could prevent affordable and attractive schemes being blocked.
- 2.25. Although these measures, either used individually or combined, offer significant scope for better outcomes for passengers, it is important to understand that the scale of the benefits that might emerge are conditional on operator consent (either directly or indirectly) whereas



in a franchise the outcomes are contractually guaranteed. In addition, full fares integration can only occur through franchising.

### **Improving the standards that apply to bus services in key areas**

- 2.26. During the parliamentary debates that have taken place so far on the Bill there has been a great deal of focus on the need to improve the standards for bus services including in areas like emissions, concessions and accessibility for people with disabilities. We share many of the aspirations that have been expressed in these areas and our members have a track record of supporting improvements in these respects. However we would also be concerned about any moves to introduce new blanket national standards that apply only to one format for the provision of bus services (such as franchised services or Enhanced Partnerships). To do so would risk adding costs to one format for the provision of bus services which could deter local transport authorities from pursuing such a format. It also risks two tier provision for passengers depending on the format by which their bus services are being provided. We would therefore argue that the best way to make improvements to national standards is via regulations which apply to all bus services.
- 2.27. However, in doing so it is also important to recognise that where there are cost implications (for example a new national concession), that in an environment where available local authority resource for funding is under severe pressure, this could lead to cuts being made elsewhere to bus services to compensate. This in turn means that there is a need for any uplifts in national standards with significant cost implications to be reflected in levels of Government funding for the sector.

### **Small and medium sized operators**

- 2.28. Small and medium sized operators are in decline in the existing deregulated framework and there is a steady process in many areas where such companies either go out of business or are taken over by larger concerns. Without a change in the legislative framework there is no reason to suppose that this process of consolidation will not continue.
- 2.29. One way in which the SME sector is supported is via the franchising of loss making services within the existing deregulated market. Indeed it is in the interests of the local transport authority to keep the market competitive through ensuring there is a diversity of suppliers.
- 2.30. How the measures in the Bill (from franchising to Enhanced Partnerships) are applied is best determined locally however there is already reference in the legislation to ensuring that the interests of SMEs are reflected. It is also clearly not in the interests of local transport authorities to undermine a high quality SME bus sector where it remains.
- 2.31. It is also important to understand that the status quo is not amenable to the entry of new small and medium size operators due to the likely response of large incumbent monopolies. This is why SMEs like Hackney Community Transport have welcomed the opportunities that the new legislation offers.

### **Open data**

- 2.32. Consumer rights in relation to bus services are extremely limited at present. For example, there is no right of access to fares information (other than when boarding a bus) and



available data on how bus routes are performing is often subject to secrecy clauses imposed by operators. Even the Traffic Commissioners, who have the statutory role on enforcement on poor performance, have no right of access to the performance data which is derived from the increasingly common real time information systems (systems which have often been subsidised or grant funded by national or local government).

- 2.33. The contrast with London is marked, in the capital Transport for London has been able to use its powers to act as an open data pioneer. By creating an open data environment, software developers are able to utilise data feeds to create new applications for passengers. These applications often consolidate information from multiple sources, and offer a wide range of benefits for travellers, including real-time information, opportunities for interchange, and the locations of cycle/car share schemes. More than 6,000 developers have registered for TfL's open data sets, which power over 460 applications and other products, to add real value for passengers accessing transport services.
- 2.34. Open data could also enable the wider integration of transport services with other sectors, offering up an integrated package for passengers accessing healthcare, education and employment opportunities. It could enable developers to discover and exploit new economic opportunities in the digital and creative industry.
- 2.35. The intent of the legislation to open up data on bus services is therefore both long overdue and welcome. However, much of the detail of how the open data provisions will work in practice is yet to be worked through. It will be important to ensure that the data is in a form which is usable both for transport planning and for passenger information, for example.

### **Ticketing and new technologies**

- 2.36. It is important to make a distinction between ticketing products and the smart means by which they are delivered. Transformative technological change is opening up new smart ways by which bus services (as part of wider public transport networks) can be paid for - including smartcards, bankcards and mobile devices (phones, tablets, smart watches and so on). These can require contact with a reader, or they can be contactless. They can also be through a particular retailer (such as Apple Pay).
- 2.37. The other half of the equation is the ticketing products that are being accessed by one or more of these smart means. In large urban areas in particular we argue that these products should be as simple and integrated as possible and that passengers should be confident that they are not paying more than they need to due to the complexity of different fares provided by different operators. We need to seek to avoid the situation where different services require different products or where different services are accessible by different smart means. Or to put it another way, we need to avoid having ticketing that may be smart rather than paper - but is still disintegrated rather than integrated.
- 2.38. The Bus Services Bill has a crucial role to play in ensuring that the ticketing products (which may well be available by a diversity of smart means) are simple and integrated through its promise of a simpler route to franchising as well as improvements to the existing deregulated system.