

## RELBUS response to Iain Gray's consultation on a possible Bus Regulation Bill

Rural East Lothian Bus Users (RELBUS) is a small membership organisation, which reached its second birthday and just over 100 members earlier this year ( <http://relbus.org.uk/> ). Our membership is spread over a diverse area, which is served very unevenly by public transport, with buses seen by many as a third class form of transport. Our second annual report charts some of our efforts and achievements, focused on improving local public transport in the more remote rural areas of East Lothian, as well as encouraging modal shift e.g. through partnership with Sustaining Dunbar and getting passenger / user input into decision making. We were instrumental in setting up the new East Lothian Bus Forum ( <http://relbus.org.uk/relbus-annual-report-highlights-of-2012-2013/> ).

Only last year we produced a comprehensive discussion document, which we consulted our members on, setting out our concerns about local public transport by bus and what more could be done without legislation ( <http://relbus.org.uk/documents/focus-on-bus-users-consultation-questions/> ). We feel that so much more could be done at the local level to mitigate some of the extreme effects the free market, mainly through stronger and more effective partnership and collaboration between stakeholders, recognising that this is at times in opposition with the competitive market worldview.

So, this consultation on a possible Bus Bill is timely and we very much welcome the wider discussion and debate that this has already brought about, i.e. developing a rationale for introducing better regulation on the one hand, facilitating better co-operation and partnership on the other and the potential introduction of new and effective powers for franchising.

We have also read with interest the reports and investigations by the Competition Commission (CC) ( [http://webarchive.nationalarchives.gov.uk/http://www.competition-commission.org.uk/inquiries/ref2010/localbus/pdf/00\\_sections\\_1\\_15.pdf](http://webarchive.nationalarchives.gov.uk/http://www.competition-commission.org.uk/inquiries/ref2010/localbus/pdf/00_sections_1_15.pdf) ) and the Office of Fair Trade. We note their concerns that competition is working imperfectly and that adverse effects are manifesting themselves in imbalances of services, geographic segregation of operators, lack of head to head competition, persistently high levels of concentration, and problems in the letting of supported services contracts. They found that the overall detriment to the travelling public in the UK could be £300m annually. If that doesn't sound much, we would argue there are additional and incalculable detriments, which arise from inadequate service coverage, resulting in barriers to economic growth and employment potential, all of which tend to be most acute in remote and rural areas.

Although we have some difficulty with the idea that bus services can be treated like any other commodity and with the narrow terms of reference of these investigations, the CC report seem to us to be well researched and clearly point to a number of unintended consequences that arise from the current deregulated approach. We note that the franchising model was considered as a remedy, but that a number of alternative measures were recommended instead. Interestingly, the CC did go on to say that there is already existing legislation enabling LTAs to introduce franchising in Scotland, not just in England and Wales, AND that they would not wish to rule out recommending franchising in particular local markets. So much so, that franchising is currently attracting considerable interest in

the transport press as a viable and potentially less risky market mechanism for getting better value for money in transport services, especially where integration is an objective.

Naturally the focus of the above mentioned reports is on whether 'competition' is working, not whether passengers are being well served. We think the detriment is potentially much greater than either the Competition Commission or Office of Fair Trading have allowed for in their narrow calculations, because they didn't look at the wider economic disbenefits nor the non-monetary benefits (e.g. social and environmental) of a good public transport network.

So it seems to us that there is a strong argument to look freshly at the potential for better regulation, for improved co-operation and partnership and for any number of franchising arrangements in Scotland, even if this is only to address specific issues in local / regional markets. RELBUS does not adopt a doctrinal or ideological approach with regard to regulation, but it does see a need for changes to address the main issues, changes that the 'status quo' has plainly been unable to deliver. Relbus accepts that deregulation has had some positive impacts on service provision by bring prices down in cities, though rural areas in Scotland have not benefited at all evenly. Relbus is acutely aware of the shortcomings of the current competitive regime, notably the democratic deficit, the wasteful competition in some locations and poor coverage in others, and of course the lack of stability of provision as evidenced in East Lothian when the main incumbent operator scaled down and withdrew services with little warning.

We have assessed the consultation against RELBUS' key priorities for the improvement of bus services. These are our working improvement principles - four Ideas for improvement – the 4is:-

1. INTEGRATION, i.e. between services, timetables, ticketing etc. in a manner that will facilitate convenient and seamless public transport journeys, improving arrangements for those who rely on public transport and encouraging drivers out of their cars. Poor integration and inconvenient services are significant practical barriers to Scottish Government achieving its transport policy objectives.
2. INVOLVEMENT of users in the planning of routes and networks and making sure that there are effective mechanisms for complaints and feedback.
3. INNOVATION in terms of introducing new routes which relate to demand and finding novel and cost-effective ways in which services can be provided to the more remote communities. We need to move away from the idea that bus travel is seen as the last resort, when Scotland depends on tourism for much of the year.
4. INFORMATION about services and fares which is up to date and comprehensive and provided in a variety of ways to existing and potential users. Poor information is a significant barrier to non users adopting bus as a means of travel out of choice.

RELBUS will support in principle any action, which will achieve or work towards these improvements.

## **Question 1 - Support for general aim**

Yes, we support the general aims implicit in better regulation, if it will reduce wasteful competition and introduces practical policy tools that help to deliver the high level objectives for a well integrated transport system. We do feel there is a need for more explicit references to the particular issues that affect rural and remote rural areas, where the current competitive model is least likely to bring passenger benefits. Indeed in rural areas certain groups suffer acute social and employment exclusion as a result of higher transport costs and inadequate connectivity.

Bus services do not operate in a policy vacuum, yet narrow commercial imperatives seem to rural passengers to override any wider social, economic and environmental benefits. Passengers in rural areas see a surplus of choice concentrated on commuter routes, but poor inter village and inter town connectivity. Rural areas have not reaped many rewards from deregulation, but face continued uncertainty, declining services and standards, and, in the foreseeable future, declining public subsidy. There is an argument that rural areas should be served by a more cohesive and efficient public transport network. Rural towns do not lend themselves to being gridlocked by unbridled competition for every last passenger and the idea of head to head competition driving up standards and reducing costs has to date proved to be as elusive as it is fatuous.

We do however feel that any Bill should be much clearer as to what the purposes of a good quality public transport system are, defined in wider terms including the multiple social, economic and environmental benefits that accrue to society. With these objectives in mind better legislation can be cast.

We also feel that any bill would need to clarify the spectrum of franchising opportunities that would be open, because we have found diverse manifestations of franchising in Britain and Europe. What is more the Competition Commission asserts a franchising model is already available in Britain (op. cit.), presumably in the form of Quality Contracts. But this is just one model, among a range of others that could be made available.

We have 4 principal reasons for supporting a bill:

1. It would give some democratic control over what is a key “public” service. There is currently a democratic deficit here and an expectation on the part of constituents that their elected representatives should have greater influence.
2. It potentially gives local people a say, through a consultation process, in their local bus services so that services can be better related to current or future need.
3. It would lead to greater network stability than the free market currently allows.
4. The network benefits of a quality transport system transcend the benefits of any single route or corridor and help to promote policies for sustainable development.
5. Coupling the notion of a quality public transport network to other policies e.g. housing policy could help increase sustainability generally, especially new build in rural areas.

## **Question 2 - Advantages and disadvantages**

The practical advantages of the legislation proposed include:

1. The points made under Question 1.

2. Greater integration of public transport services would be possible, meaning connecting services are the norm rather than the exception.
3. It would remove wasteful competition and make better use of available resources as a consequence.
4. It could facilitate better local transport information regime.
5. It could open up any number of financially viable models and mechanisms that could be employed to construct and run services, including franchises.

Potential disadvantages are:

1. It could potentially exclude small local operators who have local knowledge, and provide local employment. Small operators may not be in a position to bid for larger network franchises, (but they could be involved in delivering services through consortia and offer geographic efficiencies such as access to remote bus depots, which the Competition Commission sees as a barrier to entry.)
2. There is a limited range of potential bidders in many rural locations, partly because of the way the big companies have seen off competitors and created geographic segregation. A single large company will often control the local operating bases. This could have an impact on costs either through lack of competition or unproductive running from remote bases.
3. There is a lack of appropriate expertise for planning and franchising bus services in local authorities and the Regional Transport Partnerships. If staff have to be appointed this would be another cost implication, so shared Local Authority services or giving the procurement role to the Regional Transport Partnerships or Transport Scotland might be appropriate.
4. In some areas - and Moray has been cited - local councils are now putting very little money into supporting bus services, leaving little money to fund the new arrangements. See also Question 6 below.
5. Operators who lose out, notably incumbent operators, are likely to challenge any new arrangements unless there are clear reasons and objective tests for introducing them (replacing the current market failure test). They might take the form of the so-called Section 124 Test which applies to the introduction of Quality Contracts and overseen by a Traffic Commissioner.
6. Incumbent operators who fail to win a franchise are likely to expect and seek compensation which could be considerable.

### **Question 3 - How might bus services be improved?**

1. By specifying the quality and type of bus – we frequently see older buses being used in rural areas or others that are inappropriate for the patronage expected.
2. Specify minimum levels of service, including Sunday and evening services. Many bus service routes in rural locations are constructed to suit the operator's convenience and routes are frequently far too long, involving confusing split timetables and overly complex routes. Consequently they are poorly used, and it is no surprise operators complain that they are barely profitable.
3. Through a requirement for an equitable and transparent fares regime.
4. Integrated ticketing and timetables leading to 'seamless' and more convenient journeys, especially as the aim of public policy is to increase passenger trips by bus, which would also help fund the improved services.
5. Services more related to need both in respect of timings, routes and destinations. Market

concentration around commuter routes creates wasteful competition, when connections between localities, villages and towns are poor, declining or completely absent.

6. Easier to provide good quality information about services using both traditional means and new technology. Lack of integrated information in East Lothian is acute, with the LA taking little or no responsibility for it and online services often impractical for a great many users.

7. Effective marketing and promotion of services, perhaps through use of a common livery or local brand.

8. Improved infrastructure required as part of a franchise or by local authorities on a partnership basis. The bus stop infrastructure in East Lothian, e.g., is a significant barrier to many non-bus users considering taking the bus.

9. Link as transparently as possible economic, social and environmental objectives into the terms of the bid.

10. Emphasise the network benefits of a good public transport system.

Help deliver high level policy objectives for sustainable development. In rural areas 3 groups use buses. Young people, those who do not have access to a car, older people who use their concessionary pass. Our current system is built around rural public transport as a last resort, meaning that rural unemployment is harder to tackle, employers are less likely to relocate in remoter localities and new sustainable tourism benefits are being missed. Car users have little or no incentive to use buses and there are no real disincentives to taking the car in East Lothian.

#### **Question 4 - Community Transport**

Conventional buses are not the best way of meeting transport needs in the most isolated rural communities. Flexibility and innovation are required. Community transport, which provides both, already exists in many forms but is uncoordinated and not sufficiently promoted. We see a role for local authorities in achieving the necessary coordination through supporting new initiatives, establishing community transport networks, acting as a central point of contact for users and ensuring integration with other public transport provision. There is also a greater role for the councils' own fleets here.

#### **Question 5 - Role of the Traffic Commissioner**

Yes, the Traffic Commissioner should have powers to impose financial penalties.

#### **Question 6 - Financial implications**

If full franchising is to work financially, it must do a number of things:

- Create bundles of profitable and less profitable services large enough that can support the implied cross subsidy / internal subsidy.
- Be geographically coherent and create a meaningful network – travel to work / tourism-wise.
- Provide enhanced network benefits over route specific benefits.
- Must have significant scope for increasing passengers and patronage.
- It should be distinctive from the direct subsidy approach or a quality contract, a supported service

or community transport.

- Enable high standards of information.
- Improve integration markedly.
- Allow for greater innovation, perhaps through partnership or consortium bids and lever additional capital investments from the local authority.

At this stage it is not clear what the costs to the public purse would be. They could well increase, but equally they could decrease as there are significant market opportunities implied in Scottish Government targets for modal shift. Interestingly, the Competition Commission also takes the view that the larger operators are already making a larger than expected return on capital employed (ROCE), which suggests that their profits are excessive and that a proportion could be reinvested in better services or employed to cross subsidise less profitable services in a network approach, or used to market services more effectively.

There could be costs associated with the acquisition of better buses, if this was a requirement of the franchise, e.g., which if passed onto passengers would be undesirable, so any legislation would have to seek to limit fare rises to a reasonable maximum.

There are likely to be cost implications for those authorities, acting alone or through a Regional Partnership, who would have to fund any additional staff required to administer the procurement system (see also our comment above).

Taking the bigger picture, and declining subsidy for buses generally (compared with the subsidy to rail), it does seem to us that extra funding may be needed from Scottish Government, mainly so that the LTAs alongside operators can engineer the significant innovation and expansion, without which net improvements will remain elusive. From Scottish Government's perspective, this could be money well spent, as it should stimulate economic activity. We would recommend looking at the scope for better targeting of existing subsidies (mainly BSOG and concessionary fares) and indirect subsidies (through licensing and road improvements and repairs).

However, additional money alone will not remedy the detriment to rural passengers. A collaborative and novel partnership between LTAs and the private or third sector could, and this is what any legislation should focus on.

There is also the major issue of compensation to incumbent operators who fail to win a franchise as raised under Question 2.

## **Question 7 - Implications for equality**

The proposal should have only positive implications for equality. It is the elderly, the young and the poorer members of society who rely on buses. If services can be better related to their needs and if greater integration is made possible leading to easier overall journeys then the travel experience and opportunities offered to these groups will improve with positive implications for access to employment and services.

## **Question 8 - Other comments**

1. What is said in paragraphs 19 and 21 is incorrect. Where local authorities pay operators to run supported services they have significant control over how they are run, though they may choose not to exercise it.
2. Bus services do not generally recognise local authority boundaries and so emphasis should be placed on the role of Regional Transport Partnerships in pursuing the Bill's objectives. It would in any case make sense practically and financially to concentrate expertise within the RTPs rather than duplicate it across local authorities.
3. Comprehensive consultation with users is fundamental and must be a starting point, followed by discussions with operators on the matters arising to see what can be achieved through negotiation. Arrangements for ongoing consultation with and involvement of users and local communities should be put in place and should include arrangements for feedback.
4. How best to use the existing subsidy for the supported services is an open question, but if the internal subsidy can operate, and passenger numbers increase (through better promotion, connectivity and quality), this could even be cost neutral. This could release funds for capital and infrastructure improvements. Supported services are however uneven across Scotland, so how this money is voted on could disbenefit some areas.
5. We think there will be cases where the overall profitability of a franchised operation means that operators should be able to make a financial bid to run services and we think this is where some new thinking and legislation should focus.
5. Existing public subsidy should be more outcome focused and incentivised.
6. Consortia of different sized operators should be allowed to bid for public contracts or franchises.
7. The overall emphasis of bus transport policy needs to shift from corridors and individual routes to whole networks, which implies that there must be co-ordination between operators. Under this scenario franchising, and to an extent Quality Contracts are a more appropriate model than the current competitive model.
8. The discretionary aspect of the Bill's provision is important. Its provisions would be a default position. There will be places where new arrangements are not necessary and examples of change being achieved through existing mechanisms.
9. Minimum service levels, specification of liveries, and deeper levels of detail should be covered by the franchise agreement rather than by legislation, but we do think that the LTAs should take greater responsibility for ensuring that adequate transport information is a basic requirement.
10. Any legislation should ensure that local transport authorities are able to undertake any infrastructure improvements, perhaps with central Government support, necessary for the effective operation and integration.

11. Any obstacles to local authorities running their own buses should be removed by the Bill.

12. There is an issue over the position of long distance services running parallel to franchised services.

13. This is not part of the consultation, but we feel that longer and wider consultation for changes or introductions to, and importantly withdrawal of services is appropriate. Neither passenger groups, business nor the travelling public seem to have much say or sway in the current consultation process, which even local authorities have little basis for objection. This should be changed.

Earlier versions of this response have been shared among the active committee members and members have had several opportunities to listen to and to share views and consider also their own responses, which a number of have made as private individuals.

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