

Terms of reference and conduct of inquiry

Terms of reference

1. On 27 May 2004 the OFT sent to the CC the following reference:

Whereas in exercise of its duty under section 22(1) of the Enterprise Act 2002 (“the Act”) to make a reference to the Competition Commission (“the Commission”) in relation to a completed merger the Office of Fair Trading (“the OFT”) believes that it is or may be the case that—

- (a) a relevant merger situation has been created in that:
 - (i) National Express Group plc has acquired the Greater Anglia Franchise such that the Greater Anglia Franchise has ceased to be distinct from enterprises carried on by or under the control of National Express Group plc; and
 - (ii) the value of turnover in the United Kingdom of the enterprise acquired exceeds £70 million; and
- (b) the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services, namely the supply of passenger transport services on point to point routes in the Greater Anglia area.

Now, therefore, the OFT, in exercise of its duty under section 22 of the Act and its power under section 35(6) of the Act, hereby refers to the Commission, for investigation and report within a period ending on 10 November 2004, the following questions in accordance with section 35 of the Act—

- (a) whether a relevant merger situation has been created; and
- (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom.

In relation to the question whether a relevant merger situation has been created, the Commission shall exclude from consideration one of the subsections (1) and (2) of section 23 of the Act if they find that the other is satisfied.

John Vickers
Chairman, Office of Fair Trading
27 May 2004

Conduct of inquiry

2. Notices inviting interested parties to submit evidence to the CC were placed in *Evening Standard*, *Southend/Basildon Evening Echo*, *East Anglia Daily Times*, *Ipswich Evening Star*, *Norwich Evening News*, *Suffolk Advertiser*, *Cambridge*

Evening News, Peterborough Evening Telegraph, Coach & Bus Weekly, Local Transport Today, Rail and Transit Magazine.

3. We also sought evidence from a number of potential third parties including other bus and coach companies, government departments, rail regulators, consumers and public bodies. Non-sensitive submissions received from third parties can be found on the CC's web site, together with a summary of other third party arguments and views, and also results of two surveys from Synovate and other work we commissioned.
4. Written evidence was received from many of these parties and hearings were held with six of them. We also held two hearings with NEG. A non-sensitive version of NEG's opening submission can be found on the CC web site.
5. We travelled in the evening rush hour to Southend and were given a tour of Liverpool Street station.
6. In the course of the inquiry, we sent to NEG and published on the CC web site a Statement of Issues and a Notice of Provisional Findings and a copy of a non-sensitive version of the provisional findings report.
7. We should like to thank all those who have helped us in our inquiry so far, particularly NEG.
8. A copy of this report has been placed on the CC's web site.