

## Coach regulation

### Introduction

1. This appendix outlines the system of regulating coach services. Coach operators are entirely free to set their own fares. Outside Greater London there are very few statutory restrictions that in any way limit the ability of a properly-run coach operator to start up new services. Where coach services have stops within 24.15 km (15 miles) of each other, they must be registered as local bus services. Where they have stops within 24.15 km (15 miles) of each other in Greater London, coach services are controlled through a more prescriptive form of local bus regulation. In practice this is unlikely to prevent coach operators from introducing new long-distance coach services, although it may prevent them from using old vehicles on some registered sections of routes within Greater London.

### Coach and bus deregulation

2. The Transport Act 1980 and the Transport Act 1985 (the 1985 Act) respectively deregulated the coach and bus industries and substantially reduced operator licensing requirements. Operators are free to start new coach services or change existing services provided that they satisfy the undemanding legal requirements that are set out below.

### Traffic Commissioners

3. A Traffic Commissioner is appointed by the Secretary of State for Transport for each of eight traffic areas. The Traffic Commissioner for the Eastern Traffic Area (the Traffic Commissioner) is the licensing authority for operators of public service vehicles (PSVs), ie buses and coaches carrying nine or more passengers for hire or reward,<sup>1</sup> and large goods vehicles (LGVs) in the area including Greater Anglia. The Traffic Commissioner is also responsible for handling disciplinary cases involving the conduct of LGV and PSV drivers, and for ensuring that any operator holding a licence has sufficient financial and other resources to operate and maintain a fleet of its size. The Traffic Commissioner has no other economic regulatory role and cannot control fares.

### *Public service vehicle operator's licences*

4. Each coach or bus operator needs to obtain a PSV operator's licence (operator's licence) from the Traffic Commissioner. Operators must meet a number of criteria for eligibility and must give several undertakings. A coach or bus operator must:
  - satisfy a good repute requirement;
  - demonstrate appropriate financial standing;

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<sup>1</sup>Or eight or fewer passengers when small vehicles are used to carry passengers at separate fares in the course of the business of carrying passengers.

- employ at least one professionally competent transport manager;<sup>2</sup>
  - have adequate arrangements to maintain its number of vehicles in a fit and serviceable condition and have proper operating centre(s);
  - meet service quality standards for any registered local bus services it operates;
  - comply with the laws relating to driving and operating the vehicles used under the licence (including speed limits and insurance);
  - ensure that the rules on drivers' hours and tachographs are observed; and
  - ensure that vehicles do not carry more than the permitted number of passengers.
5. An operator's licence authorizes the number of buses and coaches that the operator may use for all types of operation and is open-ended, subject to the payment of annual or five-yearly fees. A variation application must be made if the operator wants to operate more coaches or buses. The Traffic Commissioner can attach conditions to the operator's licence if, for example, it interferes with another operator's services, or operates dangerously. The conditions may ban the operator from operating on certain routes, or even from providing services at all. The Traffic Commissioner may also limit the length of the licence period.
  6. If an operator is alleged to have breached its licence conditions, the Traffic Commissioner can consider taking action. Where the failure or breach is not serious, this may be dealt with by correspondence and the issuing of a warning letter. In more serious cases the Traffic Commissioner calls the operator to a public inquiry. If he or she finds that the operator is at fault, action can be taken. This can consist of a formal warning; suspending or curtailing the licence; adding conditions to it; restricting its validity; and in serious cases, revoking the licence.
  7. Each operator must display a licence disc on every vehicle in use.
  8. None of these requirements is likely to cause any problems to a competent coach operator. The following, slightly more demanding, requirements also apply, however, to sections of coach routes where coach stops are within 24.15 km (15 miles) of each other.

### ***Registration of local bus services***

9. Where a bus or coach service charges separate fares and has stopping places less than 24.15 km (15 miles) apart, it has to be registered as a 'local bus service'. There are no registration requirements for coach services with stops more than 24.15 km (15 miles) apart. Under the 1985 Act, an operator wishing to provide a new local bus service has to give 56 days' notice to the Traffic Commissioner. There is no need for any 'approval'. If a service is cancelled or altered, the operator must give 21 days' public notice of the change by displaying a notice in each bus or coach concerned. Any subsequent variation or withdrawal of the service also requires these periods of notice. Other than in extraordinary circumstances, new bus routes must be run for at least 90 days before they can be cancelled or changed. The Traffic Commissioner publishes details of bus service registrations fortnightly.<sup>3</sup>

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<sup>2</sup>Other than in the case of a restricted licence.

<sup>3</sup>In *Notices and Proceedings* (available at [www.vosa.gov.uk](http://www.vosa.gov.uk)).

10. Operators have to provide the Traffic Commissioner and the relevant local authorities with information about the proposed route of each local bus service, including its starting and finishing points, a map, the timetable (or a statement that the service interval is 10 minutes or less) and stopping arrangements. Operators are required to comply with the timetables they have submitted.
11. On a long-distance coach service, there may be a number of parts of the route where passengers can make local journeys of less than 24.15 km (15 miles). In such cases each of those parts of the route has to be registered as a separate local bus service.

### ***Registration of local bus services in Greater London***

12. Different legal arrangements for local bus services apply within Greater London under the Greater London Authority Act 1999. Any part of a local bus service with one or more stops in Greater London is subject to regulation by TfL. TfL is responsible for defining a network of London local bus services; for providing these services, normally by means of tendered contracts with bus operators; and for setting fares on them. No operator may provide any local bus services within London that are additional to the London network unless it has been granted a 'London service permit' by TfL. The Mayor of London (the Mayor) issues a guidance document that sets out the criteria under which London service permits will be granted. The permits are valid for up to five years and may include conditions about the vehicles to be used. Under the Mayor's guidance document, he is seeking to raise environmental standards and accessibility for disabled people. This may limit the ability of operators with older vehicles to obtain permits after October 2005. The sections of a number of National Express coach services within Greater London have been granted London service permits. These include the services from Victoria Coach Station to Stansted airport, Cambridge and King's Lynn.

### **Bus service operators' grant**

13. Immediately after deregulation, the only form of subsidy available to commercially-operated local bus services was fuel duty rebate. Operators of registered local bus services received a grant which offset a substantial part of the duty paid on the fuel used in running local bus services. The Transport Act 2000 replaced this grant with the 'bus service operators' grant' (BSOG). Coach operators are able to claim BSOG for sections of coach routes that are registered as local bus services.

### **Competition law**

14. Except where the transport legislation makes specific provision, rail, coach and bus operators are subject to general UK competition law. Since coach and bus deregulation, the OFT has received frequent complaints concerning alleged anti-competitive practices (particularly predatory action) by operators and this has led to numerous investigations. The Competition Act would normally prevent transport operators from agreeing joint ticketing arrangements, including multi-operator, multi-modal tickets. The Secretary of State has by order created a block exemption from the provisions of Chapter 1 of the Competition Act for multi-operator ticketing schemes.<sup>4</sup> To qualify for exemption a scheme has to satisfy certain criteria. In particular a scheme must:

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<sup>4</sup>The Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 (SI 2001/319).

- be open to all operators, unless there is an objective, transparent and non-discriminatory reason why it should not be;
  - allow revenue to 'lie where it falls' in the case of multi-operator individual tickets;
  - remunerate operators on the basis of passenger miles in the case of travel cards;<sup>5</sup>
  - allow operators to make independent commercial decisions about their numbers of vehicles, service frequencies and timetables, except where necessary for connections; and
  - be accompanied by 'own-brand' singles and/or returns in the case of multi-operator individual tickets.
15. To qualify for exemption, a scheme must not:
- limit the variety or number of routes offered by individual operators;
  - limit the price or availability of any single-operator ticket;
  - limit the frequency or timing of any service, except where necessary for connections;
  - facilitate the exchange of information between parties, except where this is necessary to the scheme and conducted openly and transparently; or
  - allow price fixing for tickets, except travel cards (although posted prices are allowed for through tickets and 'add-ons').

### **NEG's London–Stansted Airport undertakings**

16. In 2000 the OFT examined the acquisition of Prism Rail plc (Prism) by NEG under the Fair Trading Act. Prism at that time held the franchise for the Stansted Express rail service. The OFT considered that there were likely to be adverse effects on the public interest associated with a reduction in competition between coach and rail services on routes from central London to Stansted Airport. It decided, however, not to recommend that the merger be referred to the CC after receiving undertakings from NEG.
17. NEG gave undertakings concerning the coach route from Victoria Coach Station to Stansted Airport. It undertook that on this route it would not:
- reduce the frequency, seat capacity or quality of its services;
  - change the timings of the first and last coaches to be more than 1 hour later or 1 hour earlier than before the merger, respectively;
  - operate any service that precedes the service of any competitor by less than 10 minutes; and
  - charge any fares higher, or with less favourable terms and conditions, than those applying on its London–Heathrow services.

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<sup>5</sup>Unless this is not 'reasonably practicable'.

18. These undertakings remain in force so long as NEG holds the franchise for the London–Stansted rail service. NEG told us that the frequency of its Stansted coach service had in practice been enhanced considerably.

### **Effect of regulation on operators' commercial freedom of action**

19. Outside London, coach operators operating safely and achieving normal standards of service are free to operate whatever coach services they wish. If a service has no stops that are within 24.15 km (15 miles) of each other, there is no requirement to register the service. Coach operators are generally free to decide what frequency of service to offer and completely free to determine their fares.
20. Where a service has stops that are within 24.15 km (15 miles) of each other, the relevant sections of the route must be registered as local bus services. This additional requirement is unlikely to cause the operator any difficulty, other than obliging it to operate according to a registered timetable, and entitles it to claim BSOG. (It may vary the registered timetable freely after giving notice.) Even within London, where a more prescriptive form of regulation applies to local bus services, this is unlikely to present undue problems other than possibly limiting the use of older vehicles. The coach operator can avoid these restrictions by having very few stops within London.