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**Competition Commission local bus services market investigation –
provisional report**

Summary

The Competition Commission published a report of provisional findings of its Local Bus Market Investigation on 6 May. This paper provides a summary of those findings and proposed remedies and seeks Members' views on the findings, key elements of the LG Group's response and suggested next steps.

Recommendations

Members are invited to comment on:

- The proposed LG Group's response to the provisional findings and proposed remedies (paragraph 8), and
- The suggested means of progressing policy work on buses (paragraph 9)

Action

LG Group officers to progress work programme on buses subject to Members' views on proposed next steps.

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Summary

1. The conclusions of the Competition Commission provisional findings from their investigation into local bus services vindicate the arguments and positions that the LGA has been campaigning on for a number of years and reflect the policy solution proposed in the LGA publication last summer that **councils should have a greater ability to commission and stipulate standards on bus services by contracting with operators to deliver services in a local area.**
2. The LGA issued a press release (attached at annex A) in response to the announcement.

Background

3. The Office of Fair Trading (OFT) referred the local bus market to the Competition Commission (CC) in January 2010, following its initial study into the sector and public consultation. The CC is now carrying out a comprehensive investigation to see if any features of this market prevent, restrict or distort competition and, if so, what action might be taken to remedy the adverse effects on competition. The investigation is looking at both competition in the provision of local bus services and competition in the tendering of contracts to operate supported bus services.
4. The CC published a report of provisional findings on 6 May 2011 and concluded that there is a lack of competition in local bus markets in the UK (excluding London and Northern Ireland). The report also seeks views on addressing this problem and is exploring councils' role in encouraging competition, and specifically whether franchising (where operators would compete for the right to provide services) might be required in cases where there has been a particularly marked failure of competition.
5. The CC is now seeking responses to the report and proposed remedies by the end of May and intends to publish its final report in November 2011.

Provisional findings of the Competition Commission

6. In summary, the key findings of the report which the CC is now seeking views on are as follows:
 - Head-to-head competition is limited and is unlikely to be sustained. This prevents lasting competition developing and also deters potential entrants;

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- Local markets often exhibit persistently high levels of concentration at both the route and local area levels - the average share of supply of the largest operator in an urban area is 69 per cent;
- There are 1,245 bus companies in the UK (outside London and Northern Ireland), but the five largest operators (Arriva, FirstGroup, Go-Ahead, National Express and Stagecoach) provide 69 per cent of local bus services. Only five other operators have a share of services which exceeds 1 per cent of the reference area as a whole;
- The five largest operators have tended to make profits above the cost of capital over the last five years (this for competition regulators is one rule-of-thumb indicator of whether the market is operating fairly);
- Incumbent operators can benefit where multi-operator network tickets are inferior to their own network tickets;
- Incumbents have an advantage over new entrants in the fact that they are already running an existing network;
- Entrants can sometimes have difficulties in accessing bus stations on fair terms and developing depots;
- The great majority of urban areas have not experienced any large-scale entry in recent years—risks and costs are likely to increase with the scale of entry;
- Many of these factors result from both the historical and present-day operation of the bus industry;
- A substantial proportion of trips are accounted for by multi-trip tickets. This indicates that network effects can be important and that passengers will often commit to an individual operator's services through the purchase of an operator-specific multi-journey ticket;
- Partnerships between operators and Local Transport Authorities (LTAs) do not cause an adverse effect on competition, although the concessionary fares schemes could encourage higher fares if new guidance to travel concession authorities is not followed;
- Concern about adverse publicity and relationships with LTAs can moderate operators' behaviour;
- The low number of operators in some areas, along with the design of tenders themselves, restricts competition for tendered services.

Remedies proposed by the Competition Commission

7. The CC is also consulting on possible remedies to address the competition problems identified in the report, including:
 - Recommendations to LTAs on the circumstances in which to pursue Quality Contracts, or other franchising models, in areas most affected by a lack of competition;
 - Measures to increase the number of multi-operator ticket schemes and to ensure that these are effective and attractive to customers;

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- Restrictions on aggressive behaviour, such as 'overbussing' on particular routes and other obstructive behaviour aimed at reducing a rival's ability to compete;
- Ensuring fair access to privately owned and managed bus stations for all operators;
- Recommendations to LTAs on how to use other powers (for example, Quality Partnerships) to promote competition or improve outcomes to local consumers;
- Recommendations to the Department for Transport (DfT) to update its best practice guidance on supported services in the light of the CC's findings, to the Scottish Government and Welsh Assembly Governments to develop suitably tailored guidance and to LTAs to follow this guidance, in order to increase the number of operators bidding to win such contracts; and
- Measures to make more information available to LTAs and potential bidders about the performance of supported services.

Proposed LG Group response to the Commission's provisional findings

8. Members are asked for views on the LG Group's response to the provisional findings and proposed remedies, and in particular, the following suggested key messages:
- The LG Group supports the key findings and conclusions of the report which endorse the findings of our own work that found that limited competition within local bus markets adversely affects services and outcomes for bus passengers;
 - Councils have an important role to play in increasing competition. The report supports the conclusion that more towns and cities should make greater use of franchise arrangements to introduce and ensure genuine competition in the market at the point where bus operators compete for contracts;
 - Under this model, councils would let contracts to bus operators for specified services or bundles of services through an open tendering process. Councils would be able to set output specifications for routes, frequencies, fares and vehicle standards, therefore delivering better value for money for passengers and tax payers;
 - Councils commissioning services would allow them to hold bus operators to account for the billions of pounds of public subsidy that is annually paid to bus companies. This will require replacing the existing package of support for bus subsidies with a single stream of public funding for bus services delegated to councils to commission services and specified outcomes (such as the concessionary fares scheme).

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Next steps

9. Members are asked to comment on the suggested means of progressing policy work on buses:
 - LG Group submission in response to the Competition Commission provisional findings (by the end of May 2011);
 - Present the LG Group views on the CC report to Ministers and bus operators at the Bus Partnership Forum meeting on 11 July 2011;
 - Feature the CC findings and the LG Group response at the session on bus services at the LG Group's annual conference at the end of June 2011;
 - Ensure that the CC findings are reflected in on-going discussions with Ministers and officials to inform proposals for the reform of bus subsidy expected in summer 2011.

Financial Implications

10. The proposed actions can be delivered within the Board's existing work programme budget.

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Annex A

Councils best placed to ensure more competition among bus operators

LGA media release - 10 May 2011

Responding to the Competition Commission's interim findings on opening up the bus market, Cllr Peter Box, Chairman of the Local Government Association's Economy and Transport Board, said:

"The Competition Commission's findings vindicate what councils have long been saying.

"We need to break up the markets and introduce more competition in the bus industry to stop a small number of multi-national companies dominating our towns, cities and villages. This report recognises that councils are best placed to commission services, which would increase competition locally and deliver better value for money for passengers and taxpayers.

"It is not right that bus barons can claim billions of pounds from the public purse while hiking up fares, and passengers are left with no alternative from other operators. "The logical conclusion to draw from this report is that more towns and cities should make greater use of franchise arrangements, similar to those in London, which would bring more competition into the market.

"Councils should also be able to hold bus operators to account for services, standards and fares in return for the £2.6 billion of public money invested in bus services every year.

"Bus travel is the most popular mode of public transport in England, but taxpayers and passengers are being short-changed.

"Putting councils and residents in the driving seat will help ensure all public funding for buses is used to subsidise the running of vital services and not just to prop up the profits of routes which are already making money."

ENDS

Notes to editors

1 In 2009/10 bus operators received £2.6 billion in public subsidy. One-third of this is controlled by councils, which means local authorities and residents have little say in which services are operated locally in return for the national subsidy bus operators receive.

2 The Office of Fair Trading (OFT) referred the local bus market to the Competition Commission in January 2010. The commission is carrying out a comprehensive investigation to see if any features of this market prevent, restrict or distort competition and, if so, what action might be taken to remedy the resulting adverse effects on competition. For further details of the commission's interim findings go to: http://www.competition-commission.org.uk/press_rel/2011/may/pdf/2611_Press_Release.pdf