

Completed acquisition by Glendale Transport Limited, a wholly owned subsidiary of Stagecoach plc, of the assets and business operating out of Birkenhead, Chester and Wrexham depots of Firstgroup plc

PARTIES

1. **Stagecoach Group (Stagecoach)** operates commercial and tendered bus and coach services from depots across the UK. **Glendale Transport Limited (Glendale)** is a wholly owned subsidiary of Stagecoach. Glendale forms part of the Stagecoach Merseyside and South Lancashire operating unit (**SMSL**) operating commercial and tendered bus and coach services in and around Merseyside and South Lancashire. Stagecoach's turnover for the financial year to 30 April 2012 was £2.5 billion (excluding acquisitions). The SMSL's turnover for the year ended 30 April 2012 was £[] million.
2. **FirstGroup plc (First)** operates commercial and tendered bus and coach services from depots across the UK including services operated from Birkenhead, Chester and Wrexham depots (**the depots**) through wholly owned subsidiaries: First Manchester Ltd; Chester City Transport Ltd; and First Potteries Ltd. First's turnover for the financial year ended 31 March 2012 was £6.6 billion. The relevant turnover of the business and assets transferred for the year ended 31 March 2012 was £[] million.¹

TRANSACTION

3. Following a competitive tender carried out by First, Stagecoach acquired the business and assets operating out of the depots on 13 January 2013 (the **Transaction**). The business and assets (the **transferred business**) comprise, amongst other things, the following:
 - two depots in Birkenhead and Chester;
 - a leased out-station in Wrexham;
 - 110 vehicles, and
 - 290 employees.

The OFT notes that First operated only tendered services, such as school services, out of the Wrexham depot. The purchase price is £4.5 million.

4. The administrative deadline for the OFT to make a decision in this case is 11 April 2013.

¹ For the operations out of the depots only.

JURISDICTION

5. The OFT considers that the business and assets acquired amount to an enterprise within the meaning of section 129 of the Enterprise Act 2002 (the **Act**). The OFT considers that the Transaction has resulted in two or more enterprises ceasing to be distinct.
6. The parties overlap in the provision of local bus services in the North West of England² where the parties estimated their combined share of supply to be 30.6 per cent with an increment of 2.2 per cent.³ The parties together supply more than 25 per cent of local bus services in a substantial part of the UK. Consequently, the share of supply test in section 23(4) of the Act is satisfied.
7. As a result, the OFT believes that it is or may be the case that a relevant merger situation has been created.

MARKET DEFINITION

8. The parties overlap in the provision of local commercial bus services and competition for tendered bus service contracts in the North West of England.¹

Product scope

Commercial bus services and competition for tenders

9. Stagecoach submitted that there are separate markets for the provision of commercial bus services and the right to operate tendered bus services.
10. This is consistent with previous OFT and CC decisions⁴ and with the CC's local bus market report which concluded that competition for tenders should be analysed separately from the provision of local bus services,

² The OFT has defined this geographic area as the North West Government Region. The Competition Commission (the **CC**) has previously identified the shares of bus operators in the Urban Area of the North West of England. See *Competition Commission: Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London)*, 20 December 2011.

³ The parties calculated shares of supply using operator mileage statistics collated by the Department of Transport.

⁴ See for example, OFT decision: Anticipated acquisition by Arriva Northumbria Limited of the bus operations of Go North East Limited in Ashington, Northumberland, 11 February 2010; OFT decision: Anticipated acquisition by Stagecoach Bus Holdings Limited of Islwyn Borough Transport Limited, 23 December 2009; Competition Commission Report: Completed acquisition by Stagecoach Group plc of Preston Bus Limited, 11 November 2009 and OFT decision: Anticipated acquisition by Stagecoach Group Plc of the North Devon business and assets of First Devon And Cornwall Limited, 28 August 2012.

while taking into account that there may be some linkages between commercial and tendered services.⁵

11. The OFT considers it appropriate to follow previous decisional practice in this area on the appropriate product scope and has therefore considered the provision of commercial bus services and competition for tendered bus service contracts separately. To the extent appropriate, the OFT has taken into account any linkages between these two product frames in its competitive assessment.

Other forms of transportation

12. In its recent local bus market report, the CC concluded that other forms of transport did not form part of the same product market as bus travel.⁶
13. Stagecoach submitted that competition from rail or tram service providers may point towards a wider product frame of reference. The OFT notes that the CC commented that competition from fixed modes of transport, such as rail or tram services, may provide an effective competitive constraint in some circumstances.⁷ Stagecoach also submitted that private cars and taxis also present a competitive constraint
14. The OFT has not received compelling evidence to conclude that the constraint imposed by private cars and taxis, rail services or journeys conducted on foot or by bicycle may be sufficient to render unprofitable a small but significant not-transitory increase in the price⁸ (or a deterioration in quality) of local bus services. However, in the absence of competition concerns on any basis, the OFT has not found it necessary to conclude on the extent of the constraint on bus services from other modes of transport. The OFT has assessed the Transaction at the narrowest level on which it considers competition concerns may arise – local bus services – for the purposes of the competitive assessment.

⁵ *Competition Commission: Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London)*, 20 December 2011, paragraph 7.120.

⁶ *Competition Commission: Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London)*, 20 December 2011, paragraph 7.64.

⁷ *Competition Commission: Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London)*, 20 December 2011, paragraphs 7.52 to 7.63.

⁸ See *Merger Assessment Guidelines*, paragraph 5.2.11 *et seq.*

Geographic scope

Flow level

15. Consistent with previous cases,⁹ the OFT has assessed the impact of the Transaction on a flow-by-flow basis, where a 'flow' is defined as a connection between two specific points. This approach is taken because passenger demand is for travel between two points. The OFT has also considered whether nearby flows on other routes may be in the same market, given the CC's finding that flows that have their origin and destination within 500 metres of one another are likely to be demand-side substitutes.¹⁰

Network level

16. Consistent with previous cases,¹¹ the OFT considers it may be appropriate to assess the impact of the Transaction at a network level in addition to competition on specific point-to-point flows.
17. As regards demand-side considerations, there is some evidence¹² to suggest that some customers may use the parties' services to make multi-journey (as opposed to point-to-point) trips across their networks. Supply-side considerations can also make it necessary to assess competition at the network level. This is especially relevant where potential entry/expansion from one party may exert a significant competitive constraint on the other party on non-overlap flows.
18. First services operating out of the depots and Stagecoach overlap in the supply of bus services. The narrowest plausible candidate geographic market in which the parties overlap and in which network effects could arise is in relation to the supply of bus services in Merseyside and Cheshire as these are the areas where First's network of local bus services operated. However, in the absence of competition concerns on any basis, the OFT has not found it necessary to conclude on the relevant geographic market that network effects should be considered.

⁹ Competition Commission report on the proposed acquisition by FirstGroup plc of the Scottish Passenger Rail franchise currently operated by ScotRail Railways Limited, June 2004, OFT decision on the anticipated acquisition by FirstGroup plc of the Greater Western Franchise, 30 September 2005. A flow is a bus journey between specific start and end points, which may be all or part of a longer bus route.

¹⁰ Competition Commission Report, completed acquisition by Stagecoach Group plc of Preston Bus Limited, 11 November 2009.

¹¹ OFT decision, acquisition by McGill's Bus Services Limited of the Arriva Scotland West local bus business, 18 April 2012.

¹² Such as the existence of a multi-operator ticketing schemes in the area.

Competition for tender contracts

19. In previous cases the OFT has considered the geographic frame of reference for tenders to be sub-national, based on the region where the tenders are offered.¹³
20. This is consistent with the CC's local bus services market investigation which found that the market for tenders will generally include all bus operators in the local area. Accordingly, the OFT considers that the geographic frame of reference for competition for tenders includes at least Merseyside, Cheshire and Wrexham¹⁴ and may include neighbouring areas.

Conclusion

21. For the purposes of the competitive assessment, the OFT considers:
 - local bus services (commercial and tendered) on overlapping flows
 - local bus services in Merseyside and Cheshire at a network level and
 - competition for tender contracts in the Merseyside, Cheshire and Wrexham areas.

HORIZONTAL ISSUES

Local bus services

22. The OFT has assessed whether unilateral effects would arise from the loss of competition on overlapping flows in Merseyside. In this area, the parties overlap to a significantly limited degree on routes into and out of Liverpool city centre termini. The First services exit the Queensway Tunnel from the Wirral peninsula and travel towards the Queens Street and Cook Street termini in Liverpool city centre. This quickly becomes the same route used by other services, including a number of Stagecoach services, from the north and west of Liverpool travelling towards these same termini.
23. Stagecoach submitted that there is limited, if any, competition between the parties on the overlap flows. This is for several reasons. The relevant First services travel between Liverpool city centre, through the Queensway Tunnel, to destinations in the Wirral peninsula and beyond; the relevant Stagecoach services travel between Liverpool city centre to the outskirts of Liverpool to the west of the River Mersey. There is no direct overlapping routes in terms of the destination or area the route services. The only overlap flows (that is, the portion of a route where the parties' respective

¹³ OFT decision: Anticipated acquisition by Stagecoach Bus Holdings Limited of Islwyn Borough Transport Limited, 23 December 2009.

¹⁴ These are the areas where First could compete for tenders using assets operating out of the depots.

services overlap) are points of entry or exit into the termini in Liverpool city centre.

24. The overlapping flows involve four First services operating to and from the Wirral peninsula as detailed below.

Route 1

25. **Route 1: Services 1 and 2 - Liverpool – Chester (Via Ellesmere Port):** This overlap flow is from the exit of the Queensway Tunnel to the Queens Square bus station, a distance of about 100 meters. Both Services use one drop off bus stand into the city centre and one pick up bus stand out of the city centre. Stagecoach submitted that there is no interchange between First services operated on that route and its services and no possibility for passengers to alight and disembark these services before exiting the Queensway Tunnel on the east side of the River Mersey. As such, there is unlikely to be any substitution by passengers between any Stagecoach service and Route 1 services.

Route 2

26. **Route 2: Services 471 and 472 – Liverpool – Heswall and Barnston (Via Birkenhead):** The overlap route is from the exit of the Queensway Tunnel to the Cook Street terminus. This uses a circular route and has two drop off bus stands into the Dale Street terminus and two pick up bus stands out of the Dale Street terminus. Stagecoach services use the same bus stands for pick-up and drop off purposes. The OFT assessed whether passengers would use the Stagecoach and First services as alternatives on this overlap flow.
27. Stagecoach submitted that this overlap flow is for a total distance of 450 meters out of a total distance of around 20 km. Stagecoach also submitted that whilst it is possible for passengers to alight and disembark between the two pick-up / drop-off points in Route 2, passengers will choose the service to board based solely on their intended destination, which is very likely to be outside of the overlap area. Stagecoach also submitted that passengers would not board a bus in order to make a largely circuitous journey around the bus terminal area in the centre of Liverpool. Stagecoach further submitted that revenues achieved on the overlap flows are highly likely to be below 10 per cent of the total revenue of the routes and that the distance of overlap flows on the Route 2 flow is around 450 meters. The OFT notes that the CC has in many cases chosen to exclude from initial analysis those routes for which overlaps account for less than 10 per cent of passengers and revenue.¹⁵

¹⁵ *Competition Commission review of methodologies in transport enquiries*, 2006, paragraph 26.

Assessment

28. Given the above, the OFT believes that the Transaction will not give rise to a realistic prospect of a substantial lessening of competition on any overlap flows.

Tendered services

29. Stagecoach and First are both active in bidding for tender contracts from Merseytravel. Stagecoach does not bid for contracts in the West Cheshire or Wrexham areas.
30. Stagecoach submitted that the Transaction will not impact on competition for tendered bus services since there are a large number of actual and potential operators of tendered services in Merseyside. The evidence shows that many alternative operators have been successful in winning tenders in this area.
31. The OFT understands that Stagecoach has not bid for tender bus service contracts in the Wirral, West Cheshire or Wrexham areas. Stagecoach explained that this was due to the location of its existing depots, the nearest being located in Gillmoss. The OFT notes that the Gillmoss depot is within a 30 minute drive time of the First depot in Birkenhead however it is 40 minutes and 55 minutes drive time from the First depots in Chester or Wrexham respectively. The OFT therefore considered whether Stagecoach could expand from its Gillmoss depot in Liverpool into the Wirral area. Stagecoach submitted that it would have been difficult for it to expand from Liverpool into the Wirral from an operational perspective as:
 - its Gillmoss depot is located on the north east side of Liverpool whereas successful expansion into the Wirral would likely require a depot to be located near the city centre with easy access to the Mersey Tunnels, and
 - in addition, the costs of operating south and east of the River Mersey would be further increased by the presence of tolls on the Mersey Tunnels.
32. As a result, Stagecoach confirmed that it has not considered expansion using the Gillmoss depot (or any other depot) into First's area of operation in the Wirral and Chester. Stagecoach submitted that it is likely that expansion into Liverpool (east of the River Mersey) from Birkenhead was not contemplated by First for similar reasons.
33. The OFT notes that there are a large number of bus operators registered with Merseytravel competing for and winning tenders. Merseytravel confirmed that Stagecoach and First have not competed to operate tendered bus services in Merseyside over the last three years. Stagecoach

has bid for tendered bus service contracts on the Liverpool side of the River Mersey, and First has bid for contracts on the Wirral side. Both Cheshire West and Chester Council and Wrexham Integrated Transport confirmed that Stagecoach is not active in their areas.

34. The evidence available to the OFT indicated that there was no active competition between the parties in the market to operate tendered bus service contracts in the Merseyside, West Cheshire or Wrexham areas.
35. The OFT notes that its market investigation did not reveal any third party concerns about the impact of the Transaction on competition for tendered bus services.
36. In light of the above evidence, the OFT does not believe that the Transaction gives rise to a realistic prospect of a substantial lessening of competition for tendered bus services in the Merseyside, West Cheshire or Wrexham areas.

Network competition

37. The OFT has considered whether the Transaction would give rise to a loss of actual or potential competition between Stagecoach and First at a network level, such that the effects of the Transaction could be expected to extend beyond the overlap flows.
38. The evidence available to the OFT indicated that there is limited *actual* competition between Stagecoach and First at a network level in Merseyside and West Cheshire. Although both Stagecoach and First operate in the Merseytravel and West Cheshire areas, there is no significant geographic overlap in their main areas of operation:
 - Stagecoach's main area of operation is east of the River Mersey, (including Liverpool City, Sefton, Knowsley and St Helens) including routes from these areas into Liverpool City Centre.
 - First operates services from the depots west and south of the River Mersey. The main area of operation of services from the Wigan depot is in and around Birkenhead, Ellesmere Port and Chester including services to from these areas into Liverpool City Centre.
39. Based on the evidence available to it, the OFT does not consider that the Transaction will have a material impact on *potential* network competition as the parties do not appear to have been making strategic or commercial decisions on the basis that they anticipated entry by the other party into their main geographic area of operation. While the OFT notes the conclusions of the CC that competition for tenders can be a method by

which operators expand geographically,¹⁶ the evidence does not suggest that the parties in this case have actively bid for tender contracts in each other's main geographic area of operation such that concerns arise.

40. Furthermore, Merseytravel and Cheshire West and Chester Council also operate a multi-operator ticketing system in their relevant areas. Both parties participate in this scheme. The OFT understands that the Transaction will have no detrimental effect on the operation of this ticketing scheme.
41. Accordingly, the OFT believes that the Transaction does not give rise to a realistic prospect of a substantial lessening of actual or potential competition with respect to network level competition.

Barriers to entry and expansion and countervailing buyer power

42. Given the OFT has not identified any competition concerns in this case it has not found it necessary to examine barriers to entry and expansion or countervailing buyer power in this case.

THIRD PARTY VIEWS

43. The OFT received six responses to its questionnaire from competitors. Of these, three expressed the following concerns.
 - that the Transaction will severely restrict smaller operators' ability to expand and compete.
 - that Stagecoach may terminate their membership of Quality bus network (an inter-ticket network) to the detriment of consumers.
 - that the Transaction will make Merseyside more of 'a closed shop'.

These concerns have been addressed above where appropriate.

44. Responses were received from the three transport authorities – Merseytravel, Cheshire West and Chester Council and Wrexham Integrated Transport Authority – affected by the Transaction. None of these Authorities had concerns that the Transaction would have a detrimental effect on competition, indeed one of the Authorities considered that the Transaction will have a positive impact resulting in consumer benefits.

¹⁶ *Competition Commission: Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London)*, 20 December 2011, paragraph 9.223.

45. In addition, a passenger group generally welcomed the acquisition, anticipating a reduction in fares which it considered would be beneficial to passengers.

ASSESSMENT

46. The parties operate bus services in the Merseyside, Cheshire and Wrexham areas. Stagecoach's main areas of operation are concentrated east of the River Mersey, whilst First's operations from the depots are concentrated in the west and south of the River Mersey. The parties do not provide competing bus services on any major routes in this area. The extent of overlap between them relates to the provision of local bus services on a small number of flows on routes in or around the bus termini in Liverpool city centre. The OFT found that the overlap on these flows is very limited, in terms of the small number of passengers, revenues as a proportion of the overall revenues and the distance involved (with maximum overlap flows of 450 meters). The OFT does not therefore consider that the Transaction will give rise to unilateral effects concerns on any overlap flows.
47. The OFT has also found that the parties' respective bus networks in the area do not overlap to a material degree and that neither party had any strategic plans to enter each other's area. The OFT therefore has no grounds to consider that the Transaction gives rise to a substantial lessening of actual or potential competition at a network level.
48. The OFT has not found any evidence to indicate that the parties have actively competed for contracts to operate tendered services. There is no suggestion that the Transaction removes a key competitor in tendered services since there is no significant geographic overlap in their main areas of operation within the Merseyside, Cheshire or Wrexham areas (in terms of depot locations or current service provision). Third parties also confirmed that the Transaction would have no effect on competition for tendered services and that sufficient competition for tendered services will remain after the Transaction.
49. The evidence also did not point to this Transaction having any impact on the ability of local transport authorities to ensure the effective operation of multi-operator ticketing systems in the Merseyside or West Cheshire and Chester areas.
50. Consequently, the OFT does not believe that it is or may be the case that the Transaction has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

51. This merger will therefore not be referred to the Competition Commission under section 22(1) of the Act.

OFFICE OF FAIR TRADING

11 April 2013

ⁱ Stagecoach did not agree that the North West of England was either an obvious or reasonable area over which to assess jurisdiction in relation to this merger.