
Completed acquisition by Stagecoach Group plc of Highland Country Buses Limited and Orkney Coaches Limited

ME/3702/08

The OFT's decision on reference under section 22(1) given on 17 October 2008. Full text of decision published 29 October 2008.

Please note that square brackets indicate figures or text which have been deleted or replaced at the request of the parties for reasons of commercial confidentiality.

PARTIES

1. **Stagecoach Bus Holdings Limited (Stagecoach)** is part of the **Stagecoach Group plc**, an international public transportation group with operations in the UK, USA and Canada. Stagecoach Group's UK bus division operates 7,000 vehicles across a number of regional operating companies in more than 100 towns and cities in the UK. Each regional operating unit is managed independently and is led by a managing director, reporting directly to the head of the UK bus division.
2. Stagecoach is also a partner in a joint venture relating to the Scottish Citylink coach business. It holds a 35 per cent shareholding in Scottish Citylink Coaches Limited with Braddell plc holding 65 per cent. As part of the joint venture arrangement, Stagecoach transferred the rights to operate its Motorvator and megabus services in Scotland to Scottish Citylink. Stagecoach is responsible for managing the day-to-day operations of Scottish Citylink.

3. **Highland Country Buses Limited (Highland) and Orkney Coaches Limited (Orkney)** are subsidiaries of **Rapsons Coaches Limited (Rapsons)**. The combined business has around 400 employees and a fleet of around 200 vehicles. They have depots in Inverness, Aviemore, Fort William, Portree, Thurso, Wick and Orkney and also a number of smaller outstations/parking facilities. The turnover associated with Highland's business acquired by Stagecoach for its last financial year was £10.9m and that of Orkney £1.6m.

TRANSACTION

4. The acquisition of the entire share capital of Highland and Orkney by Stagecoach completed on 16 May 2008.
5. The OFT's statutory deadline for deciding whether to refer the merger to the Competition Commission (CC), extended under sections 25(1) and 25(2) of the Enterprise Act 2002 (the Act), is 27 October 2008.

JURISDICTION

6. As a result of this transaction Stagecoach and Rapsons have ceased to be distinct. The parties overlap in the supply of bus services in the Inverness area, where their combined share of supply is above 25 per cent and therefore the share of supply test in section 23 of the Act is met. The OFT therefore believes that it is or may be the case that a relevant merger situation has been created.

RELEVANT MARKET

Product scope

Commercial/Tendered bus services

7. Both parties are active in the supply of commercial and tendered bus services. It is usual for operators of commercial services to provide tendered services and, to a lesser extent, for operators of tendered services to provide commercial services. However, in past cases the OFT has taken the view that these two types of services have different characteristics and

are not substitutes from a market definition standpoint.¹ Tendered services are procured by a local authority in areas or for times where it is unprofitable for a private operator to run commercial services, but where the service is nevertheless socially desirable. The local authority usually specifies the terms and conditions of the tendered service (routes, frequencies, fares) and then invites operators to submit bids for running the service, which is subsidized by the local authority either wholly or in part. Competition in tendered services occurs at the bidding stage rather than in operating the service. The evidence before the OFT does not suggest that it would be appropriate to depart from this distinction in the present case.

Supported bus services

8. A number of routes in the Inverness area have been established with the aid of Bus Route Development Grant (BRDG) funding. This funding provides support for a three-year period to aid the development of new and registered local bus services which have the potential to grow and to deliver modal shift. The funding support is designed to decline over three years, and the services to operate on a commercial basis thereafter. Stagecoach and Rapsons currently run five routes supported in some way by BRDG funding. As part of the BRDG funding, should the operator wish to make any service alterations on a supported route, it must first secure the approval of both HITRANS² and the Highland Council. In addition, fares for these supported services are not regulated.
9. Given the evidence provided, supported bus services do not fit clearly into either the commercial or tendered categorisations. Therefore, the OFT does not conclude on the product frame in which to place BRDG supported services and instead analyses whether the parties' BRDG supported services were competing with other types of bus services on a flow-by-flow basis.

¹ OFT *Completed acquisition by Arriva plc of Premier Buses Limited*, 1 June 2006.

² HITRANS is the Highlands and Islands Transport Partnership in Scotland. As a statutory body its remit covers all forms of public transport in the Highlands and Islands of Scotland including ferry, road transport, rail, air travel, cycling and walking. It is tasked with pursuing improvements to the strategic transport services and infrastructure network (www.hitrans.gov.uk).

Coach services

10. Stagecoach is responsible for managing the day-to-day operations of Scottish Citylink. Therefore, the OFT considers Scottish Citylink's services to be part of Stagecoach's network.
11. The parties submit that overlaps between local bus services and those of Scottish Citylink should not be regarded as a matter of competition concern. They argue that Scottish Citylink services are essentially long-distance services, with substantially higher fares than the relevant local bus services as a result. Furthermore, many Scottish Citylink services have far less frequent stops than local bus services.
12. The Highland Council stated that []. However one third party argued that Scottish Citylink services should be included in the relevant product set on the grounds that it shares corridors with local bus services.
13. Given the mixed evidence, the OFT follows the CC's approach³ and, rather than defining the market at a more general level, it has assessed competition between Scottish Citylink and Highland services on a flow-by-flow basis.

Geographic scope

14. When making a journey, passengers travel from a particular origin to a particular destination and therefore other origin/destination combinations are not likely to be substitutable from a demand-side perspective. The OFT and the CC have previously considered local markets in transport cases on the basis of the substitutability of competing services on point-to-point flows.⁴
15. A flow by flow approach is useful for assessing direct actual competition between bus operators serving the same two points, but in this case actual

³ Competition Commission, *A report on the completed joint venture between Stagecoach Bus Holdings Limited and Braddell plc in relation to megabus.com, Motorvator and Scottish Citylink* October 2006.

⁴ Competition Commission *A report on the proposed acquisition by FirstGroup plc of the Scottish Passenger Rail franchise currently operated by ScotRail Railways Limited* June 2004, OFT *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.

overlaps are limited. In this case, the bigger issue examined by the OFT was potential competition (or supply-side substitution), so the OFT considered it appropriate to consider the wider area in which the merging parties' business activities overlap, that is, in and around the Inverness area.

16. The parties both supply commercial and BRDG funding supported bus services in and around Inverness. All of Rapsons' commercial services are branded as Highland services and there are no Orkney commercial services. The parties also supply longer-distance commercial coach services in the area, Stagecoach doing so through the Scottish Citylink joint venture.
17. Contracts for tendered services are awarded by local authorities after a bidding process. In line with previous decisions, the OFT defines the market for tendered services as a local authority-wide. Therefore, in this case there are two relevant local markets for tendered services, (a) the Highland Council area and (b) the Orkney Council area. However, the OFT also considered whether there was pre-merger competition between tendered bus services and other types of buses on a flow-by-flow basis.

Conclusion

18. Therefore, the appropriate frame of reference for this merger is the supply of commercial and supported bus services on each flow in which the parties overlap, as well as the wider area in which the merging parties' business activities overlap, that is in and around Inverness, and the supply of tendered bus services in the Highland Council and Orkney Council areas.

HORIZONTAL ISSUES

Introduction

19. The parties overlap in the provision of commercial and supported bus services in and around Inverness and tendered services in the Highland Council area.
20. The parties do not overlap in the supply of either commercial or tendered local bus services in the Orkney Islands. Therefore, the OFT excluded Orkney's local bus services from the competitive assessment, as the merger does not raise any competition concerns in the Orkney Islands.

OVERLAPPING FLOWS

21. The parties overlap in a relatively small number of flows. In the initial submission the parties organised information on overlap flows into nine corridors. The OFT analysed in-depth all overlaps and assessed whether the merger could result in a loss of competition in relation to these routes/flows.
22. The OFT does not believe that the merger raises competition concerns on the majority of routes/flows where both parties operate bus services. In particular, the OFT took into account the following criteria: the frequency of services, the differences in ticket fares, the route revenues and the type (commercial or tendered) of services provided by both parties. Having considered these factors the OFT believes that the parties are not in competition in any of the overlap routes/flows identified but one (Inverness – Ullapool, Scottish Citylink 961 and Highland 61).

Inverness – Ullapool

23. On a prima facie analysis, the acquisition might raise competition concerns on the flow between Inverness and Ullapool. The theory of harm with respect to this overlapping flow is that, after the merger, Stagecoach (through its Scottish Citylink service) may have the incentive and ability to increase fares and/or reduce service levels on this flow due to the loss of a close independent constraint.

Effective competition between the parties

24. The parties' services overlap twice daily, when the Citylink 961 and Highland 61 services are run by each operator at about the same time. Both services are scheduled to coincide with the ferries departing from Ullapool to Stornoway. As a consequence, the overlapping services have the same frequencies. The journey time of both operators on the route is very similar. Citylink service 961 takes one hour twenty minutes from Inverness to Ullapool, while Highland service 61 takes one hour and thirty minutes.
25. Stagecoach's (Scottish Citylink) and Highland's tickets prices on this flow are slightly different. An adult single fare ticket from Inverness to Ullapool costs £7.90 on Highland service 61, and £9.80 on Citylink service 961.

Stagecoach argues that their ticket fare is higher as Citylink offers a baggage handling service to/from Stornoway and through fares to the rest of its network. Highland Council pays Highland a subsidy to divert its service 61 through Dingwall. The subsidy aims to offset the potential loss of passengers resulting from the, consequently, slightly slower journey to Ullapool.

26. As a consequence of the similarities in frequencies and ticket prices, the merging parties' services can be considered to be competitors to each other.

Relative importance of the flow

27. On the overlapping flow identified by the parties (from Inverness to Ullapool) the overlap accounts for 88.6 per cent of the relevant Stagecoach route revenues, and 94.9 per cent of the Highland revenues. In sum, the overlapping flow is a large proportion of the overall route, and it may be sufficiently large to reinforce the incentive that Stagecoach may face in changing fares and service levels post-merger.

Pre-merger competition and Stagecoach's post-merger incentives

28. There is little countervailing competition on this route: Spa Coaches run a service from Inverness to Ullapool once a week on Fridays. However as a consequence of the differences in frequencies with the parties' bus services on the route, Spa Coaches cannot be considered to compete with them. In addition Spa Coaches' service is fully tendered and therefore is not in competition with commercial services. There are no other alternative bus services to the merging parties' services on this route apart from a summer tendered bus service provided by Tim Dearman Coaches, which operates once a day between April and September and whose timetable does not coincide with all the ferry arrivals and departures and therefore cannot be considered to be in competition with the parties. In other words, the merger reduces the number of operators active on this flow for the purposes of this analysis from two to one.
29. Despite this degree of concentration, Stagecoach will likely lack the incentive to reduce frequencies as the relevant services operate to coincide with the ferry arrivals and departures in Ullapool. Stagecoach also noted that its incentive to cut the Highland service was reduced by the prospect

of losing the subsidy from the Highland Council and by the fact that it would only gain one third of the additional profits realised on the Citylink 961 service (with its joint venture partner taking two thirds of the additional profits). Conversely, Stagecoach's joint venture partner would be expected to oppose any move to run down or discontinue the Citylink 961 service (given that it would not benefit from any diverted demand to Highland).

Timely, likely and sufficient entry

30. When assessing the impact of a merger on a flow-by-flow basis in an area such as this, it is considered appropriate to identify specific potential entrants on each relevant flow and to determine whether they have any intention to enter the flow and whether they have the ability to enter (such as available capacity in nearby depots) on a scale that replicates the increment caused by the merger. As noted, one operator, Spa Coaches, already runs a tendered service on the flow. In this case, depot capacity exists near this flow to allow a new entrant to replace the level of service frequency operated by Highland ([]). In any event, the OFT notes in fact that entry onto this route would be comparatively easy given that only one vehicle would be required, therefore reducing the cost of entry onto this route and meaning that significant depot capacity would not actually be required. In addition, some interest has been expressed to the OFT by third parties in entering this route in competition against Stagecoach (Scottish Citylink) should the prices increase or the frequency of the services be reduced by Stagecoach post-merger.

Conclusion

31. On the basis of the information available, the OFT believes that the transaction does not create a realistic prospect of a substantial lessening of competition on the flow from Inverness to Ullapool because entry would be timely, likely and sufficient to restore competition to its pre-merger level if Stagecoach were to reduce frequency or raise price post-merger.

TENDERED SERVICES

32. The parties both supply tendered bus services procured by Highland Council. Highland Council renewed all its tendered bus services on 5 year contracts from the beginning of 2007. The Highland Council has submitted

that it currently has 27 operators providing tendered bus services, and about 50 providing school buses and minibuses. Pre-merger Highland held 36 per cent of the contracts that began in January 2007, while Stagecoach held nine per cent of them. Shiel Buses hold nine per cent as well and D&E Coaches and Scotbus follow with five per cent each.

33. Although there is a large population of Highland Council contract holders, for many contracts the Council received few bids in the last tender round. Of the 103 contracts that were awarded, in [] there was no other bidder but the winner, in [] there was one other bidder besides the winner and in [] there were two or more bidders besides the winner.
34. The parties both hold contracts in Inverness and the surrounding area. In particular the OFT understands that competition between the parties took place mainly over contracts for routes ending/originating in Inverness. Of 27 tendered routes to and from Inverness, Stagecoach and Highland competed exclusively for six of them. In addition, the parties won three of the four contracts in Inverness for Sunday- and evening-only contracts. The parties were the sole bidders for these contracts. However, of the 27 tendered routes ending/originating in Inverness, Highland holds eight contracts, Stagecoach and W Ross hold four contracts each and D&E and Scotbus hold three contracts respectively. In addition, based on the bidding data, a number of contracts previously held by Highland were awarded to D&E.
35. Highland Council has confirmed that its view was that there was not likely to be a material reduction of competition post-merger. In particular, the Council stated that in many parts of the area it was easy to switch supplier. In addition, pre-merger, according to the evidence provided, the parties were not competing with each other particularly strongly. Of the 123 contracts put out to tender in August 2006 (both awarded and not awarded) Stagecoach and Highland competed directly for only ten of them. Having said that, in nine of these cases the parties submitted the preferred and second most preferred bids.
36. Smaller third party operators indicated that Stagecoach may not be able to supply tendered services at as low a cost as Rapsons did pre-merger, and that as a result of this, some tendered contracts that Rapsons holds may become unattractive to Stagecoach post-merger. If the number of contracts for which Stagecoach was known to be interested in bidding decreased,

smaller operators will be able to submit competitive bids for these tendered services and be awarded a larger number of contracts than pre-merger.

Conclusion

37. Given the evidence submitted to the OFT and the views expressed by third parties, the OFT believes that the merger does not result in a realistic prospect of a substantial lessening of competition regarding tendered bus services in and around Inverness. In particular, the large number of bus operators currently holding contracts for tendered bus services, and the limited pre-merger competition between the parties, point towards the merger not substantially lessening competition for tendered bus services in the area.

Potential competition

38. The OFT also considered whether the merger may result in the loss of a significant competitive constraint on the activities of either or both of Stagecoach and Rapsons more widely than on the overlap flows. In this section the OFT considers the scope for the merger to raise competition concerns in relation to (the loss of) potential for head-to-head competition that in itself acts as a significant competitive constraint, as opposed to actual head-to-head competition that was assessed in the flow-by-flow analysis above. Although this potential for head-to-head competition might be viewed as supply-side substitution in some circumstances (that is, if a wider market definition is adopted), the OFT considers it more appropriate in this case to refer to it as 'potential competition' for clarity.
39. A loss of potential competition could arise through the removal of actual entry that would, or could, absent the merger, increase competition above pre-merger levels ('actual potential competition') and/or the removal of the constraint on the incumbent imposed by the mere threat of entry ('perceived potential competition'). Unlike the constraint from actual entry, which by definition has not arisen under pre-merger conditions, a constraint from perceived potential entry that gives incentive to the incumbent to respond to this threat does exist in the pre-merger environment. Both theories of potential competition may apply in an individual case: in other words, a merger could in principle eliminate both the existing constraint posed by the threat of entry (perceived potential entry) and the potential for increased actual competition post-entry (actual

potential entry). In this case, because there is no reason to consider that each party would not be aware of the actual prospects for entry by the other, evidence relating to the loss or otherwise of actual potential competition applies also to perceived potential competition.⁵

40. Stagecoach argues that Rapsons did not provide a significant competitive constraint on Stagecoach's activities (and vice versa), in particular because there had not been any episodes of entry by either of the merging parties into each other's routes in the last two decades.
41. The OFT does not consider that the fact that there had not been episodes of entry by the merging parties in competition with each other to be conclusive of the lack of potential competition between them. In particular, in some industries (bus services likely to be among them) potential competition materialises only sporadically, when 'bursts' of actual competition occur. However, this does not mean that the removal of 'latent' potential competition is necessarily insufficient to create competition concerns. Therefore, it does not necessarily follow that each was not acting as a constraint on the other.
42. Stagecoach argues that there will remain a number of other bus operators in the area who are potential entrants on the merged entity's routes should its frequencies or fares make entry more attractive. Therefore, the OFT examined whether, pre-merger, entry by Stagecoach onto Highland's routes (and vice versa) was more likely than entry onto those routes by other bus operators such that the merger could create competition concerns. In so doing, the OFT examined whether the merger removes a significant competitive constraint on the activities of the parties which, absent mitigating factors, may result in consumer detriment in terms of higher prices or reduce service levels in and around Inverness.
43. According to the evidence submitted, the parties are the only operators of fully commercial and BRDG funded local bus services in and around Inverness and are far larger in terms of employees and vehicles owned than other local bus operators. With regard to fully commercial local bus services, Stagecoach has a share of supply of 96 per cent (based on miles per week driven in provision of these services). If fully commercial and

⁵ See further OFT *Completed acquisition by Air France finance S.A.S / City Jet Ltd of VLM Airlines N.V.* 9 May 2008 for a fuller discussion of potential competition and the evidentiary standards applicable to it.

BRDG funded routes are aggregated together, Stagecoach's share of supply becomes 79 per cent (again based on miles per week driven). However, although the parties are the only commercial bus operators, the OFT believes that there was no realistic prospect of Highland imposing a constraint on Stagecoach (or vice versa) on routes on which only one party was active based on the following reasons.

44. In terms of factors applicable to both parties, the OFT notes that parties did not strongly compete with each other in the area. Stagecoach mainly operating commercial routes with Highland focusing on tendered services. Highland only operated two commercial routes in Inverness,⁶ one of which was previously a tendered service, and therefore was an insignificant commercial operator compared to Stagecoach, whose revenue mainly comes from commercial services. The OFT believes that the fact that the parties had wholly different business models reduces the extent to which they could be regarded as credible constraints on each other's activities in and around Inverness. In particular, the OFT believes that there was no realistic prospect of Highland entering on Stagecoach's commercial routes, as Highland had concentrated on tendered services and had only exceptionally been active on commercial routes.⁷
45. In terms of specific constraint that Highland might impose on Stagecoach, the OFT believes that Stagecoach did not consider Highland to be a potential constraint on their activities in the Inverness area. In particular, Stagecoach argued that it did not consider that the market for local bus services in Inverness was suited to sustain competition on commercial services and indeed that such competition was not likely to be viable in the long term⁸. In particular, a large number of routes in and around Inverness are operated on a tendered or part-tendered basis which indicated that they are unlikely to be commercially viable in any event. Furthermore, Inverness is a small city where the population is around 65,000.

⁶ In fact, Highland operates only three commercial services in and around Inverness (out of a total of over 80 routes), the third of which is its Ullapool-Inverness route (discussed earlier).

⁷ As explained previously, one of Highland's commercial routes was previously a tendered service. Highland has been active on the Ullapool-Inverness route for a considerable period. There is therefore no evidence of Highland actively entering new commercial routes.

⁸ The OFT examined the possibility whether the low profitability in and around Inverness regarding commercial services was a result of potential competition in the area. However the OFT did not have evidence showing that the threat of a bus operator developing a commercial route in and around Inverness imposed a competitive constraint to the parties and therefore the prices remained low.

46. Second, the OFT considers that it is necessary to take account of reputational considerations in assessing the prospect of potential entry. Based on the evidence submitted, on several occasions when a smaller operator entered on a route operated by Stagecoach, the latter responded by reducing prices and retiming services. A number of bus operators fear retaliation from the larger incumbents, including Stagecoach. The OFT notes that the most recent effort by a third party operator to establish a commercial service in Inverness (by Scotbus in 2005) led to the immediate registration of a Stagecoach service that ran five minutes in front of that of Scotbus, with the result that Scotbus withdrew its commercial service after three months. Therefore, although Stagecoach was able to give a limited number of examples where smaller operators had entered against it on certain routes in the UK, the OFT believes that it is unlikely that Highland and other small operators imposed a material constraint on Stagecoach's activities in and around Inverness, as Stagecoach's behaviour would have tended to dissuade operators from entering in competition with it on the basis that that it would not be profitable, or even realistic, to enter in commercial routes.
47. Third, evidence before the OFT is that Highland has not been planning any expansion of its services in the Inverness area. The OFT does not consider Highland's recent entry into BRDG activities, which in their initial phase resemble tendered services with a guaranteed revenue flow and no prospect of multi-operator competition, as good evidence that Highland will expand into commercial services on Stagecoach's routes absent the merger. In contrast to an operator contemplating expansion, Highland's fleet in Inverness has declined by 19 per cent over the past five years. When a number of spare vehicles became available as a result of a number of contracts for tendered services being awarded to other bus operators, Highland chose to sell those vehicles rather than seeking to use them to expand on other routes. In addition, Highland's depot facilities were sold in 2006 (and the 2-year licence to Rapsons to occupy the premises was coming to an end).
48. Fourth, according to the evidence submitted, there are a number of bus operators in and around Inverness with depot capacity. In particular, the OFT concluded that there was sufficient spare depot capacity in Inverness or in the surrounding area, such that existing bus operators would have the ability to expand by entering on a specific route should the

opportunity arise. In addition, based on the evidence submitted, there is nothing to prevent a small operator who formulates a well-considered proposal to the Council to get BRDG funding and enter a potentially viable commercial route in and around Inverness.

49. Therefore the OFT does not believe that Highland is in any way placed in a unique position as a strongest potential competitor.
50. Overall, then, the OFT believes that Highland is not a realistic entrant onto Stagecoach' commercial services and, furthermore, that Highland is not in a unique position to impose a competitive constraint on Stagecoach compared to other bus operators. It is therefore the case that this merger does not remove the most likely and credible entrant onto Stagecoach routes/flows should Stagecoach reduce frequencies/raise fares in the future.
51. In terms of the possible constraint that Stagecoach, the largest local bus operator in the area, imposed through potential competition on Highland, the OFT considers that Stagecoach was not the most likely and credible entrant onto Highland's routes flows should Highland have reduced frequencies/raised fares in the future. In particular, as analysed above, Highland mainly operates tendered services whereas, according to Stagecoach's business model, Stagecoach tends to target the more profitable urban commercial routes. Further, there was no evidence that Stagecoach was considering entering into competition with Highland on the commercial routes that it operated pre-merger.
52. In terms of the routes on which Stagecoach could (even hypothetically) be said to be constraining Highland pre-merger, the OFT notes that Stagecoach is already competing directly with Highland on the Inverness-Ullapool route (discussed above). That leaves only two commercial routes on which Stagecoach could possibly be said to constrain Highland pre-merger through potential competition, one of which was previously a tendered route. The OFT considers that, in the absence of any evidence that Highland was being constrained by Stagecoach pre-merger on these routes, the loss of any constraint that might have existed post-merger could only lead to a non-substantial lessening of competition considering that Highland operates only two purely commercial routes in and around Inverness.

53. The OFT notes that the CC, in the Arriva / Sovereign report⁹, also considered whether that acquisition would give rise to a significant loss of competition by eliminating possible acquisition opportunities for entry by operators from outside the overlapping area or expansion by existing operators in the overlapping area. In this case, the OFT does not consider that Highland is a unique 'stepping stone' into the Inverness area as Highland has no depot facility in the area and there are a number of other bus operators, who can be potential acquisition targets.
54. Finally, the OFT notes that no competition concerns in relation to potential competition have been articulated by third parties.

Conclusion

55. Given the evidence submitted to the OFT and the views expressed by third parties, the OFT does not believe that the merger will result in the loss of a significant competitive constraint on the activities of either or both of Stagecoach and Rapsons more widely than on the overlap flows. In particular, the parties are not each other's closest competitors. Although the parties might superficially appear to be, based on their size and depot location, the strongest potential competitors in the Inverness area, they operate different types of bus services and the prospect of either party entering into each other's routes is small as there is no evidence of entry in previous years or of plans to do so in the future. Finally, there are a number of other bus operators in the area, who are capable of expanding and imposing a similar constraint to the parties.

THIRD PARTY VIEWS

56. The OFT has conducted an extensive consultation with third parties in the investigation of this merger. Specific third party comments were dealt with throughout the text of the decision.
57. Most third parties (including other bus operators) were unconcerned about the merger. In particular, Highland Council stated that there was little effective competition between the parties pre-merger. In addition it stated that, even where the parties face no direct competition on routes, the

⁹ Competition Commission *A report on the acquisition by Arriva plc of Sovereign Bus and Coach Company Ltd* January 2005, paragraph 5.58.

possibility of fare increase and/or service reductions was small as Stagecoach has concentrated on achieving modal shift and passenger growth.

ASSESSMENT

58. The parties overlap in the supply of commercial bus services on one commercial flow (Inverness-Ullapool) and in the supply of tendered bus services. They are both present in the wider area of Inverness.
59. On the overlapping commercial flow, the OFT considered that the merger does not create competition concerns, in particular in view of the prospect of entry by other bus operators.
60. In the supply of tendered bus services, the OFT considered that the merger does not create competition concerns, in particular of the view of possible expansion and/or entry by other bus operators. In particular, there are bus operators who are in a similar position to Stagecoach pre-merger holding a significant number of contracts and who are capable post-merger of being successful bidders for contracts awarded by Highland Council.
61. On the wider area in and around Inverness, the OFT considered whether Highland (Rapsons) exerted a significant competitive constraint on Stagecoach, or vice-versa, even when not currently competing on a flow-by-flow basis, as a potential competitor for commercial services. However, the evidence before the OFT does not suggest that Highland should be regarded as a potential competitor to Stagecoach (or vice-versa) such that its removal generated competition concerns. In addition, the OFT considers that, even were such a constraint to exist, Rapsons is not in a unique position: there are other bus operators remaining as independent competitors post-merger, and they are in a similar position relative to Stagecoach as Rapsons was pre-merger.
62. Consequently, the OFT does not believe that it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

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