

Public consultation on proposals to directly award contracts from December 2014 for public bus services to Dublin Bus within the Dublin area and to Bus Éireann outside Dublin

List of submissions (organisations)

Reference	Name	Organisations
8	David McConn (see also submission No. 28)	Dualway
12	Paddy Kavanagh	Eirebus
15-2	Gerard Bartley	City Direct
18-2	Willie Noone	SIPTU
19	Edward Crean	National Disability Authority
21	Dessie Ellis	Sinn Fein
25	Brendan Finn	ETTS Limited
26	ClIr William Lavelle	South Dublin County Council (elected member)
27	Conor Hand	Forfás
28	David McConn (see also submission No. 8)	Dualway
29	Bob Laird	Laird Aviation Consultancy
30-1	Vincent Sheehan	Bus Eireann
31-1	Han Nie	Competition Authority
31-2	Han Nie	Competition Authority
32-1	Tim Hayes	Chartered Institute of Transport and Logistics
33-1	Allen Parker	Aircoach / First
34	Paddy Matthews	Matthews Coach Hire
35-1	Michael Flannery	CIE
36	Barry Peak	Chambers Ireland
37	Jim Higgins MEP	Fine Gael Member European Parliament
40-1	Martin Dean	Go Ahead
40-2	Martin Dean	Go Ahead
41-2	Pat Massey	Compecon
42	John Ryan	Dublin Bus
43	Kevin Traynor	Coach Tourism and Transport Council of Ireland
44	Margo Hayes	South Tipperary County Council
45	Dermot O'Leary	NRBU
46	Liam Berney	Irish Congress of Trade Unions
47	Piers Marlow	Arriva plc

List of submissions (private individuals)

Reference	Name
1	John
2	Ian Kempself
3	Jonathan O Riordain
4	David Marlborough
5	Tom Corcoran
6	Roy Harford
7	Pat Smith
9	Jonathan Kavanagh
10	Jim Travers
11	Nicole Kavanagh
13	Anthony
14-2	David Bacon
16	Paul Tighe
17	Ciaran Casey
20	John Doyle
22	Warren Whitney
23	Oliver Connolly
24	Frank Kealey
38-1	John O'Flannery
39	Eamon Walsh

Compecon – Competition Economics

**Submission in Response to Consultation Regarding National Transport
Authority Proposal to Directly Award Public Bus Service Contracts to Dublin
Bus and Bus Eireann in 2014.**

11th October 2013

EXECUTIVE SUMMARY.

The National Transport Authority (NTA) has announced that it proposes:

- (i) to enter into new direct award contracts with Dublin Bus and Bus Eireann in respect of their existing route networks in 2014;¹
- (ii) to amend that contract in 2016 to reduce the services within that contract by approximately 10%; and
- (iii) to provide the removed services through a separate contract following an open tender process.

The NTA has issued separate consultation papers regarding the Dublin Bus and Bus Eireann direct award contracts, along with other supporting documentation, and has invited submissions from interested parties in respect of its proposals. This submission sets out Compecon's views on the NTA proposal. The submission has not been prepared on behalf of any client and Compecon has received no payment from any source in connection with its preparation.

Compecon welcomes the opportunity to comment on the NTA's proposals. The main points in our submission are as follows:

- The Public Transport Act, 2009, provides that the NTA can only enter into further direct award contracts with Dublin Bus and Bus Eireann if “it is satisfied that the continued adequacy of the public bus services to which the contracts relate *can only be guaranteed* in the general economic interest by entering into such direct award contracts.” (Emphasis added).
- The NTA consultation papers and associated documents provide no economic evidence to support a conclusion that the continued adequacy of public bus services can only be guaranteed by entering into new direct award contracts with Dublin Bus and Bus Eireann.
- No competitive tenders for bus routes can be issued before late 2014 because the NTA is required to publish 12 months advance notice of such tenders in the EU Official Journal and it has not published any such notice even though the existing direct award contracts will expire at the end of November 2014.

¹ A direct award contract is one entered into with a bus operator without any competitive tendering process.

- There appears to be no good reason to delay the introduction of competitive tendering until late 2016. Compecon believes that the objective should be to issue a tender for services by late 2014 with a view to having services provided on foot of such a tender by late 2015, i.e. one year earlier than proposed by the NTA.
- Any new direct award contracts should provide that services operated by Dublin Bus and Bus Eireann will be reduced by approximately 10% *per annum* commencing in late 2015.
- 10% of both Dublin Bus and Bus Eireann route networks should be competitively tendered on annual basis with the first request for tender to be issued in late 2014 and services operated under such contracts to be running before end 2015 at the latest.
- The aim should be to ensure that 40% of the route networks of both Dublin Bus and Bus Eireann should have been put out to competitive tender by November 2019 when the direct award contracts will expire.
- The existence of possible incumbent advantages does not justify limiting competitive tendering to a small segment of the market.
- The level of subsidies paid to Dublin Bus have been reduced since 2010 mainly by reducing supply and increasing fares rather than improvements in operating efficiency. This reinforces the case for a more ambitious competitive tendering programme than is being proposed by the NTA.
- In the case of Dublin Bus the routes proposed for competitive tendering by the NTA appear to comprise less attractive routes. Compecon believes that no valid reasons have been advanced for not including more attractive cross city routes in the proposed tender. The dispersed nature of the routes that are proposed for tendering mean that it is likely to be difficult for operators other than Dublin bus to operate them efficiently.
- In the case of Bus Eireann the proposed routes appear to be more attractive to operators.
- State intervention in the bus market may be justified by the existence of market failures but these do not require that the State assume direct responsibility for the operation of bus services.
- The NTA's monitoring of Dublin Bus and Bus Eireann performance gives rise to perverse incentives and a more independent monitoring regime should be introduced.

1: INTRODUCTION.

The National Transport Authority (NTA) has announced that it proposes:

- (i) to enter into new direct award contracts with Dublin Bus and Bus Eireann in respect of their existing route networks in 2014;
- (ii) to amend that contract in 2016 to reduce the services within that contract by approximately 10%; and
- (iii) to provide the removed services through a separate contract following an open tender process.

Compecon welcomes the opportunity to comment on the NTA's proposals. The submission has not been prepared on behalf of any client and Compecon has received no payment from any source in respect of its preparation.

The NTA has issued separate consultation papers regarding the Dublin Bus and Bus Eireann direct award contracts, along with other supporting documentation, and has invited submissions from interested parties in respect of its proposals. There is considerable overlap between the contents of the various documents. Section 2 of this submission sets out Compecon's our overall comments in respect of the NTA proposals in respect of Dublin Bus and Bus Eireann. Issues that are specific to Dublin Bus and Bus Eireann are addressed in sections 3 and 4 respectively. Some additional points are considered in section 5 of this submission. Some conclusions are outlined in section 6.

2: PROPOSAL TO DIRECTLY AWARD CONTRACTS.

2.1: Legislative Framework.

The Road Transport Act, 1932, and the restrictive licensing regime pursued under that legislation means that the bus industry in the State is largely dominated by the State owned Dublin Bus and Bus Eireann. The majority of scheduled bus services in the Greater Dublin Area are operated by Dublin Bus which enjoys a virtual monopoly on bus services in the Greater Dublin Area. Bus Eireann is the main provider of bus services throughout the rest of the State. Apart from long distance inter-city services, Bus Eireann has largely been protected against competition from private bus operators.

The Public Transport Act, 2009, required the NTA to directly award contracts to Dublin Bus and Bus Eireann in respect of all of their existing public service obligation (PSO) routes for a period of five years. The NTA subsequently signed Direct Award Contracts with Bus Eireann and Dublin Bus on 1st December 2009. Those contracts are due to expire at the end of November 2014.

Section 52(6)(c) of the 2009 Act provides that the NTA may enter into subsequent Direct Award Contracts with the two State bus operators on the expiry of the current contract. Crucially, however, it provides that:

“Where the Authority proposes to enter into direct award contracts subsequent to those referred to in subsection (3)(a), it may only do so where it is satisfied that the continued adequacy of the public bus services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts.”

This appears to set a high threshold which must be satisfied before the NTA can enter into further direct award contracts on the expiry of the existing contracts in 2014. Arguably the intention of the legislature was that services should be put out to competitive tender unless direct awards represented the only means by which continuation of services could be guaranteed. Continuity of service provision was clearly seen as being in the general economic interest.

EU Regulation 1370/07 places an additional obligation on the NTA to ensure that “...at least one year before the launch of the invitation to tender procedure or one year before the direct award” that a notice is placed in the Official Journal describing the type of award envisaged and the services and areas potentially covered by the award.² The effect of this requirement would appear to be that the NTA is required to place a notice in the EU Official Journal by the end of November 2013 if it intends to enter into new direct award contracts upon the expiry of the existing contracts. It is also effectively appears to be required to give notice 12 months in advance of any proposed tender of bus routes that are subsequently covered by the Dublin Bus/ Bus Eireann contracts.

2.2: No Economic Case for NTA Proposal.

The 2009 Act clearly states that the NTA can only enter into further direct award contracts with Dublin Bus and Bus Eireann if “it is satisfied that the continued adequacy of the public bus services to which the contracts relate *can only be guaranteed* in the general economic interest by entering into such direct award contracts.” (Emphasis added). The NTA concede that there is a high threshold to be met before it can enter new direct award contracts.

“The provisions in the Dublin Transport Authority Act 2008 create a high threshold of test for not opening up the bus market to competition.”³

Nowhere in the Consultation Paper or any of the accompanying reports does the NTA present any economic evidence to support a finding that the continued adequacy of bus services can only be guaranteed by entering into such direct award contracts.

Almost thirty years ago, the National Planning Board recommended the introduction of tendering in the case of loss making routes, in order to ensure that such services were provided at the lowest possible cost to the Exchequer.⁴ The NTA accepts that competitive tendering is likely to reduce costs and improve service quality.

“Experience from a range of countries supports the contention that competitive tendering of public bus services yields benefits. The results regarding an initial move to competitive tendering are encouraging, although with a cautionary finding that second and subsequent awards, while still offering cost benefits, can lead to increased unit

² NTA, *Proposal to Directly Award a Public Bus Services Contract to Dublin Bus in 2014 Consultation Paper*, p.11. (Hereinafter “Dublin Consultation Paper”).

³ Dublin Consultation Paper, p.5.

⁴ National Planning Board, (1984): *Proposals for a Plan*, Dublin: Stationery Office.

costs from the first tender. While some of the observed increases can be attributed to developments which would be evident in the scenario without tendering (such as fuel and other cost increases) at least some of the increases represent an erosion of the initial gains through market evolutions such as authorities becoming more specific in their requirements and bidders becoming more experienced. However, the clear finding of the literature is that enhanced value for money is available through a move to competitive tendering.

A further benefit put forward for moving to competitive tendering relates to the potential for enhanced customer service levels. There is evidence of service improvements and the Competition Authority has noted the potential benefits in this regard.”⁵

The Dublin Bus Consultation Paper goes on to state:

“The Authority’s research of international experience indicates that there is likely to be a cost saving associated with tendering of bus services.”⁶

The economic analysis prepared for the NTA by Ernst & Young Report also concludes that competitive tendering would provide better value for money for taxpayers and lead to improved quality of services. Ernst & Young also point out:

“Additionally, potentially increasing the number of service providers in the market could relieve the current dependency on a single operator, making the bus service more resilient, with consequent benefits for the Greater Dublin Area economy.”⁷

The NTA’s stated objectives include ensuring “the provision of high quality and accessible bus services at best value for money to the Exchequer.” This objective is far more likely to be achieved through introducing competitive tendering to the widest possible extent rather than by entering direct award contracts for 90% of services.

The NTA Dublin Bus Consultation Paper cautions:

⁵ Dublin Consultation Paper, p.9.

⁶ Dublin Consultation Paper, p.11.

⁷ Ernst & Young, *Economic Analysis of Direct Award Contract in the Dublin Bus Market*, September 2013, p.13. (Hereinafter “Dublin Economic Analysis”).

“The costs and risks arising from an ill-considered competition are substantial. Consequently, care must be taken in progressing even if the changes are well proven in other jurisdictions.”⁸

Competitive tendering regimes for bus services are operated in many countries throughout the world and have been in place for up to thirty years in some instances. There is therefore a wide range of international experience available in respect of competitive tendering of bus services to assist policymakers in putting together a robust competitive tendering process. The NTA has had almost four years to prepare such a scheme and the reference to “ill-considered” competition is somewhat puzzling to say the least. Clearly care is required in the design of any competitive tender programme but that does not provide a justification for entering into new direct award contracts rather than introducing competitive tendering.

The closest that the NTA comes to advancing a justification for its proposals is on page 5 of the Dublin Bus Consultation Paper.

“Tendering the entire market in one contract is not seen as prudent and would not accord with international practice for initial market competitions. Furthermore, Dublin Bus has undertaken major restructuring in recent years, has greatly improved its operational practices and has comprehensive knowledge of bus services in the city. The Authority considers it is in the public interest to leave Dublin Bus with a scale of operation which remains efficient for the company’s resources and overheads.

Consequently the Authority has determined that tendering about 10% of the market presents little, if any, risk to the core Dublin Bus market while giving the opportunity to test market pricing, offer opportunities to improve efficiency and customer service, as well as the possibility (which will depend on the outcome of the competition in which Dublin Bus can participate) of bringing new operators into the market, and enabling benchmarking. There is clear merit in a contained competitive tendering process for a segment of the Dublin market in order to test the process and understand the capacity to realise the potential benefits.”⁹

There is nothing in the above statement to support a conclusion that continuance of bus services can only be guaranteed by the proposed direct award of contracts to Dublin Bus (and Bus Eireann).

⁸ Dublin Consultation Paper, p.9.

⁹ Dublin Consultation Paper, p.5.

It is interesting to note that the NTA Technical Report includes among the advantages of competitive tendering the fact that it:

“Avoids potential industrial relations issues due to transfer of contracts to new operator.”¹⁰

This statement raises serious questions about the rationale behind the NTA decision to limit competitive tendering to just 10% of routes.

In our view, the NTA consultation papers and associated documents provide no economic evidence to support the decision to enter into new direct award contracts.

2.3: No Justification for Delaying Introduction of Competitive Tendering.

Both the Dublin Bus and Bus Eireann Consultation papers indicate that the NTA postponed taking a decision on new direct award contracts in 2012 due to the financial difficulties which both companies faced at that time.

“The Authority commenced the assessment of the Dublin Bus Direct Award contract early in 2012. At that time the Authority’s analysis was that a proportion of the Dublin Bus services should be competitively tendered to commence in December 2014 alongside a reduced Direct Award contract to Dublin Bus from 2014.

However, Ireland remained in a critical economic state in 2012 with a reliance on IMF and EU loans, and with the banking sector still relying heavily on state funding. The C.I.É. group of which Dublin Bus is a subsidiary was in very challenging financial circumstances and required refinancing.

Consequently, the Authority judged that it was not in the general economic interest of the state for the Authority to determine, at that time, that a significant Direct Award contract would be awarded to Dublin Bus given its financial circumstances – the nature of what they could discharge as a company was in question. Without clarity on their capacity, any decision of the Authority could have undermined the continued provision of public transport services in the state.

It was considered more prudent to allow the finances of the C.I.É. group to become more stable and to then consult publicly on a proposal to open part of the Dublin Bus market to competition. As a result the next Dublin Bus Direct Award contract will

¹⁰ NTA, Technical Report on Contract Options, p.9. (Hereinafter “Dublin Technical Report”).

contain a provision that a portion of their services will be removed by December 2016, at latest, and that portion will have been tendered with the effect that new contract/s for a portion of the Dublin market will be in place by target date of September 2016.”

This raises a number of questions. The original direct award contracts were entered into in December 2009 and by early 2012 would have operated for just over two years. Yet despite having only limited experience of their operation it appears that the NTA had decided to enter into new direct award contracts with both State bus operators. It then decided to postpone such a decision because of their financial difficulties.

As previously noted the NTA is required to give 12 months notice of any proposed tender of bus routes in the EU Official Journal. This means that it will not be possible to complete a competitive tender process and award contracts before the existing Dublin Bus and Bus Eireann contracts expire at the end of November 2014. In other words, because the NTA must give 12 months advance notice of any competitive tender, routes cannot be put out to tender until late in 2014. This raises the question of why the NTA has allowed a situation to develop where competitively tendered contracts cannot be introduced upon the expiry of the existing direct award contracts. The net result is that even the proposed limited opening of the market has been delayed and the NTA is proposing that Dublin Bus and Bus Eireann will be permitted to retain all of their existing routes for a further two years after the expiry of the original direct award contracts.

The Ernst & Young Report states:

“The transition to any new arrangement for public bus provision requires the necessary lead in time to consider the issues involved and to adequately plan for potential eventualities. The NTA undertook preliminary planning and discussions in 2011 and 2012 but these activities were overshadowed by the difficulties posed by the financial instability of the incumbent. As a result discussions and preparations did not evolve at a necessary pace to comply with EU notification periods. Therefore the transition to the new arrangement of awarding contracts for bus provision is being deferred until 2016.”¹¹

¹¹ Dublin Economic Analysis, p.10.

Even given the obligations imposed by Regulation 1370/07, it is not clear why even the very limited amount of competitive tendering being proposed is to be delayed until 2016. A request for tender could be issued in late 2014 in compliance with this obligation. This would give the NTA a full year to prepare any request for tender to be issued in November 2014 and it is difficult to see why it would require two years from the tender date for contracts to be awarded and new operators to be up and running. The Ernst & Young report states that market consultations undertaken by the NTA showed that for a 50-100 bus contract, operators' believed that a 6 month tender period was achievable. Operators also indicated that a period of 9 – 12 months would be required to mobilise if operators were required to source buses and depots, with a shorter period required if depots and buses were provided. The NTA is proposing that buses will be provided to successful bidders.¹²

The minimum objective should be to issue a tender for services by late 2014 with a view to having services provided on foot of such a tender by late 2015, i.e. one year earlier than proposed by the NTA.

2.4: More Ambitious Competitive Tendering Programme Necessary.

As stated in the previous sections of this submission, the NTA has failed to put forward any serious economic justification for its proposal to enter into new direct award contracts with Dublin Bus and Bus Eireann and conduct a competitive tender to award new contracts in respect of just 10% of Dublin Bus and Bus Eireann routes in 2016. Compecon believes that a far more ambitious programme of competitive tendering is required.

It is accepted that tendering the entire route networks of the two State bus operators in one go would be neither prudent nor practical and would not be in keeping with best international practice. There is, however, no justification in our view for limiting competitive tendering to

¹² Dublin Economic Analysis. The Dublin Technical Report notes that the NTA funded the purchase of 78 double deck buses by Dublin Bus in 2012 and states: "Through a contractual provision in the fleet funding agreement executed between the Authority and Dublin Bus, these buses can be moved to the ownership of the Authority and thereby be made available for use by any future contracted operator." (p.5). The proposed tender covers 80 buses indicating that the buses funded by the NTA during 2012 would almost be sufficient to meet the requirements of the tender. It is assumed that any further buses funded by the NTA would be subject to similar provisions so that a considerable number of buses would potentially be capable of being transferred to new operators by late 2015.

just 10% of both route networks up to the end of 2019 and for delaying the introduction of competitively tendered route contracts until 2016. Rather Compecon suggests that 10% of both Dublin Bus and Bus Eireann route networks should be competitively tendered each year. The first request for tenders should be issued in late 2014 with the aim being to have services under such contracts up and running by late 2015. The proposed direct award contracts should therefore provide that the services covered by these contracts would be reduced by approximately 10% per annum from late 2015 onwards rather than being limited to a once off reduction of 10% in 2016. Consequently by the time the new direct award contracts would expire in November 2019, 40% of the route networks of both Dublin Bus and Bus Eireann should have been put out to competitive tendering.

The disadvantages of competitive tendering cited in the NTA Technical Paper include:

“Limited time and staff resources available to the Authority to fully prepare for and undertake a large tendering process or a series of concurrent tender processes.”¹³

In other words the NTA claims that it does not have the resources to undertake a more ambitious competitive tendering programme and describes this as a disadvantage of competitive tendering. It is not acceptable that the introduction of competitive tendering of bus routes is being limited and delayed because the regulator claims it does not have the resources to carry out a more extensive competitive tendering exercise.

- **Services operated by Dublin Bus and Bus Eireann under any new direct award contracts should be reduced by approximately 10% per annum commencing in late 2015.**
- **10% of both Dublin Bus and Bus Eireann route networks should be competitively tendered each year with the first to be issued in late 2014 and services operated under such contracts to be running before end 2015 at the latest.**
- **40% of the route networks of both Dublin Bus and Bus Eireann should have been put out to competitive tendering by November 2019.**

2.5: Incumbent Advantages.

¹³ Dublin Technical Report, p.9.

The NTA Technical Report suggests that the incumbent State bus operators, particularly Dublin Bus, might have an advantage over potential market entrants because it owns important ancillary assets, including bus depot storage and maintenance facilities, bus ticket equipment, on board CCTV facilities, other on-bus data recording, storage and management equipment, a central bus operations centre and bus staff facilities. It also refers to Dublin Bus having suitably qualified and trained staff at its disposal to deliver the services. It goes on to state:

“The costs to a market entrant of providing these or similar facilities are likely to be considerable. If Dublin Bus were to retain ownership of these facilities and tender without having to take into account their value, it would give them a considerable advantage over new market entrants without access to these facilities.”¹⁴

The Technical Report identifies two solutions:

- (1) Determine the value of access to these facilities to Dublin Bus and potential value to a market entrant over the lifetime of the contract and take this into account in evaluating tenders; or
- (2) Make the relevant facilities available to the successful tenderer (should they wish or be required to use them).

The first option is dismissed on the grounds that it poses serious difficulties. The NTA then states that it no statutory powers to ensure depot facilities or those buses purchased pre 2012 would be available to new operator/s. It states that the NTA could provide new depot facilities for all tendering parties but this would increase the cost to the state of competition and concludes:

“It could be considered a reasonable cost if only part of the Dublin Bus services were opened for tender.”¹⁵

In effect possible incumbent advantages are being advanced as a justification for limiting the extent of competitive tendering.

The extent to which such factors would confer competitive advantages on the incumbents, particularly, Dublin Bus may be overstated. The importance of depots may be overstated. Following privatisation of many municipal bus companies in the UK, the new owners disposed of town centre bus depots and replaced them with out of town depots. Dublin Bus

¹⁴ Dublin Technical Report, p.11.

¹⁵ Dublin Technical Report, p.11.

accounts include provision for depreciation costs in respect of its existing depots. Entrants could rent premises for use as depots. Approximately 14% of commercial premises in Dublin were vacant in the third quarter of 2013. If the adjoining counties of Meath, Kildare and Wicklow are included the commercial vacancy rate in what might be described as the Greater Dublin Area was 13%. It is not clear that having to rent a depot would place entrants at a competitive disadvantage.

The benefits to incumbents of some of the other factors cited by the NTA may also be overstated. Any entrant would have to recruit suitably qualified and trained staff. Similarly entrants would have to invest in ticketing equipment and some of the other items cited by the NTA. It is difficult to believe that entrants should be considered to be disadvantaged by having to invest in necessary equipment and hiring staff.

In addition the Technical Report makes no mention of other factors which may well confer advantages on the incumbent State operators in the competitive tendering process. For example, the incumbent operators will have far more detailed information regarding the routes to be tendered than potential entrants because they are currently operating those routes. This will give them a clear advantage in any tender process and there is no mention anywhere in the NTA documents how this problem will be addressed. Equally there is no reference to the possibility that the State incumbents might cross subsidise routes that are open to competitive tendering from revenues from their other routes.

The existence of possible incumbent advantages does not justify limiting competitive tendering to a small segment of the market.

3: DUBLIN BUS.

3.1: Introduction.

According to the NTA the Dublin Bus network comprises 111 routes along with 18 Nitelink routes.¹⁶ These include 86 radial routes which all serve the city centre. In recent years a number of radial routes have been amalgamated to form 28 routes which operate on a cross-city basis. A further 16 routes were extended across the city centre to terminate at locations outside the core city centre (e.g. at Baggot Street or Merrion Square). 41 radial routes operate to and from termini in the city centre.

Most cross city routes operate on a frequent basis (7 days a week and throughout each day, with a services every 15 minutes or more often at peak times from Monday to Friday). Express type services operate on 11 routes, serving customers during peak hours only.

8 orbital routes operate generally on an alignment around the suburbs and do not serve the city centre. A further 15 Local routes form local networks around major centres of population other than the city centre.

The network is operated predominantly by double deck buses, the majority of which have capacity for about 90 passengers seated and standing. The Dublin Bus fleet includes 70 larger tri-axle vehicles buses with a capacity of approximately 120 passengers. There are a small number of single deck midi buses with a capacity of close to 50 passengers. The average age of the fleet at the end of 2012 was 7 years with a range in ages from 13 to 0 years.¹⁷

3.2: Dublin Bus Performance Indicators.

Table 3.1 provides information on Dublin Bus operations.

¹⁶ The Nitelink routes operate primarily on Friday and Saturday nights from Midnight to 4am. The following information on the route network comes from the Dublin Bus Technical Report.

¹⁷ Dublin Technical Report, p.4.

Table 3.1: Dublin Bus Performance Measures.

	Bus Km Million	Seat Km Million	Passengers (‘000)	Fare Revenue (€M)	Subvention (€M)
2010	56.5	3629	117049	171329	77.74
2011	53.9	3475	115051	167279	73.04
2012	52.1	3343	113282	180095	74.80
% Change	-7.8	-7.9	-3.2	5.1	-3.8

Source: Performance Report.

The supply of bus services is measured by bus and seat kilometres.¹⁸ Supply was reduced by around 8% between 2010 and 2012. Passenger numbers and subsidies declined by much less while fare revenue increased by 5% due to fare increases.

“More recently, data for 2012 show that increased revenue has helped to reduce the deficit, even in the context of a reduced subvention. In the main, fares increases rather than patronage increases account for the observed revenue uplift.”¹⁹

Declines in passenger numbers in recent years have generally been attributed to the economic downturn. While this undoubtedly has contributed to a decline in passenger numbers, reductions in supply combined with fare increases have probably also contributed. Nevertheless, a key message from the table is that supply has declined much more than amount of subsidies. This is illustrated more clearly in Table 3.2.

Table 3.2: Dublin Bus Subvention

	€ Per Bus Km	€ Per Seat Km	€ Per Passenger
2010	1.38	0.02	0.66
2011	1.36	0.02	0.63
2012	1.44	0.02	0.66
% Change	4.3	4.4	-0.6

Subsidies per bus and seat kilometre increased by more than 4% between 2010 and 2012. Subsidies per passenger were virtually unchanged. These results raise questions about

¹⁸ Differences between bus and seat kilometres can arise due to changes in the capacity of the vehicles used. For example, if a bus operator replaced double deck buses with mini-buses, total bus kilometres would remain unchanged but clearly passenger capacity would have been reduced. This has not happened to any significant extent in the case of Dublin Bus in recent years.

¹⁹ Dublin Economic Analysis, p.9.

references in the various NTA documents to Dublin Bus having improved its operating performance. Rather they indicate that subsidies have been reduced by reducing supply and increasing fares. This reinforces the case for a more ambitious competitive tendering programme than is being proposed by the NTA.

It has often been claimed that the level of subsidy paid to Dublin Bus is quite low by international standards and such claims have been advanced to support calls for increased State subvention. However, according to Ernst & Young:

“A comparative analysis of subvention levels across Europe indicated that levels of public transport subvention vary between 35 and 60 percent of revenue. When all State interventions are taken into account, the level of subvention to Dublin Bus is at the upper end of the range.”²⁰

3.3: NTA Dublin Bus Proposals

The NTA proposes to introduce competitive tendering in respect of 10% of Dublin Bus routes. The routes chosen are orbital and local market routes which are currently served by approximately 80 peak hour buses. In effect this seems to limit competitive tendering to less attractive routes. Ernst & Young stated:

“The specific bundles which are tendered should be selected so as to maximise the level of market interest and thereby increase the level of savings and enhanced customer service available.”²¹

The NTA proposal does not appear to satisfy this test.

Possible disruption and the need for changes on cross city routes due to work on upgrading the Luas network over the next few years is advanced by the NTA as a justification for not tendering such routes. Such arguments appear weak.

A bus operator can utilise buses more efficiently when it operates on contiguous routes. In London tenders normally involve a package of a number of contiguous routes are normally packaged together in any tender to allow operators to bid for a group of routes that would enable them to achieve such scale efficiencies. The Dublin routes which the NTA proposes to

²⁰ Dublin Economic Analysis, p.9.

²¹ Dublin Economic Analysis, p.15.

put out to tender would make it difficult for private operators to achieve such efficiencies, a point which was conceded in the Ernst & Young Report.

“The dispersed nature of the routes that could be included in the bundles may present some challenges for operators to serve efficiently.”²²

As Dublin Bus operates other routes, however, it might benefit from such efficiencies so that the proposal might provide it with a competitive advantage in tendering.

There is some suggestion that service levels in outer parts of Dublin are inadequate.

“The outer areas have experienced the highest level of development in recent decades and public transport has generally not kept pace. Moving to competitive tendering allows the market to be grown and the service offering to be improved.”²³

According to Ernst & Young the NTA have estimated that an improved local and orbital service for the city could require in the region of 120 peak hour buses. Consequently “the intention would be to grow the contract over time, subject to availability of subvention and passenger demand.”²⁴ A more ambitious programme of competitive tendering could facilitate a higher level of service provision as the resulting cost savings would allow a higher level of services to be obtained for a given level of subsidy.

²² Dublin Economic Analysis, p.15.

²³ Dublin Economic Analysis, p.13.

²⁴ Dublin Economic Analysis, p.11.

4: BUS EIREANN.

Many of the points made in the various NTA documents in relation to Bus Eireann repeat comments included in the corresponding reports on Dublin Bus.

The NTA documents contain frequent references to the experience of competitive tendering in London. The London network consists of 7,000 buses operating 700 routes and carrying more than 6 million passengers per annum. The Bus Eireann network is much smaller and it might have been useful to consider experience of competitive tendering of smaller route networks.

In contrast to the Dublin Bus proposals the Bus Eireann routes proposed for inclusion in any initial competitive tender appear more attractive to bidders.

5: OTHER COMMENTS.

5.1: Introduction.

This section of the submission comments on some additional points raised in the various consultation documents.

5.2: Market Failure in the Bus Market.

Both economic analysis reports make the case for Government intervention in respect of the provision of bus services because of the existence of market failures. The case for Government intervention is generally accepted and it is not disputed that the State should subsidise bus services. Competitive tendering of all services would provide better value for money for taxpayers.

Two further points should be noted with regard to the need for State intervention in the bus market. First, while Government intervention is required to address market failures in the bus market, this does not require State involvement in the operation of bus services. Second, externalities arising from private car use are a major source of market failure because private car users do not bear the cost of such externalities, e.g. in the form of congestion charges. Several authors have argued that the introduction of congestion charging was a major factor behind the substantial increase in bus passenger numbers achieved in London and have called for similar charges to be introduced in other UK cities. The Ernst & Young Report, however, states:

“If commercial bus operators were left to serve the market without any support, they would not provide sufficient services to fully deliver all of these social and economic benefits: there would be a ‘market failure’.”²⁵

This statement might be interpreted as indicating that commercial bus operators are the problem whereas in reality market failures are due to factors outside of their control.

5.3: Measuring Performance.

²⁵ Dublin Economic Analysis, p.5.

Both direct award contracts provide that subvention payments may be withheld if Dublin Bus and Bus Eireann fail to meet specified performance targets. However, the NTA analyses their performance on the basis of information provided by both companies rather than on the basis of independent monitoring. Clearly such arrangements give rise to perverse incentives. It is worth noting that ComReg's independent review of An Post's operating performance have consistently recorded lower levels of performance than An Post's own monitoring.

The NTA states that it has commissioned independent audits of Dublin Bus' and Bus Eireann financial systems, controls and processes to ensure that:

- They correctly allocate costs and revenue between PSO and commercial activities;
- Any reasonable profit claimed for delivering PSO services had been calculated on an appropriate basis and that the operating costs incurred are consistent with those of a 'well run' transport operator;
- Any financial flows between the CIE companies do not provide a cross-subsidy between the CIE companies.

The NTA states that the audits awarded a mark of "satisfactory" in relation to the conduct of the contracts in 2010 and 2011.²⁶ The NTA has provided no explanation of what a "satisfactory" market entails.

²⁶ The 2012 audit has not been completed as yet.

Lynn Mahony

From: Anne Graham
Sent: 11 October 2013 17:30
To: Jeremy Ryan
Subject: FW: Consultation on proposals to directly award contracts from December 2014
Attachments: NTA Market Opening Proposal -BAC Reply F.docx; ATT00001.txt

From: Ryan John (BAC) [<mailto:John.Ryan@dublinbus.ie>]
Sent: 11 October 2013 17:30
To: Anne Graham
Cc: Siobhan O'Mahoney
Subject: Consultation on proposals to directly award contracts from December 2014

Anne
Attached is the Dublin Bus response.

Regards

John

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An t-Údarás Náisiúnta Iompair ag tacú le Tóstal Éireann 2013. Téigh chuig www.thegatheringireland.com agus Bí Páirteach ann!

Tá eolas sa teachtaireacht leictreonach seo a d'fhéadfadh bheith príobháideach nó faoi rún agus b'fhéidir go mbeadh ábhar rúnda nó pribhléideach ann. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Tá cosc ar rochtain don teachtaireacht leictreonach seo do aon duine eile. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo agus b'fhéidir d'fhéadfadh bheith mídhleathach.

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NTA Consultation to Directly Award a Public Service Contract to Dublin

Dublin Bus Response 11th October 2014

Introduction

Dublin Bus welcomes the proposal by the NTA to award the Direct Award Contract to Dublin Bus from 2014, and for 90% of the contract to be awarded until 2019.

This document will demonstrate that Dublin Bus is an efficient, progressive, performing and delivering urban transport operator. The position that Dublin Bus outlines in Section 1 is that the case for awarding a direct award contract for 100% of the current PSO network to Dublin Bus is strong.

Publicly owned urban transport systems do operate successfully across Europe and can continue to do so within EU regulations. There is no legal requirement for the NTA to put a percentage of the network to tender given the strong performance of the direct award contract. Other points raised include the following:

- The proposal to tender using gross cost contracts carries risks to quality and flexibility.
- There is a history of below cost bids by large multi-national companies to clear out the markets of incumbents and small local operators
- The means by which Dublin Bus will 'downsize' must be dealt with
- It is well established that the PSO subvention required by Dublin Bus is low in international terms
- The redistribution of buses to tendered operators should not result in the average fleet age of Direct Award Contract buses being reduced
- Dublin Bus performed well in terms of contract performance since 2009.

Dublin Bus and NTA must agree a sound and financially robust direct award contract where reasonable profits are possible as permitted under EU regulations.

Section 1

Performance of Dublin Bus

1.1 Background and Context

Dublin Bus offers a comprehensive PSO service to Dublin and surrounding areas. Dublin Bus plans, in conjunction with NTA and other transport agencies, the strategic network decisions. Dublin Bus manages the resulting network across a range of functions: Marketing, Sales, Customer Relations, Ticketing, Bus Stops and Shelters and Information. Finally, Dublin Bus operates almost 900 buses out of 7 depots, under the supervision of a bus central control, which delivers the bus service to the capital city.

What Dublin Bus provides is a service that can adapt to changing economic circumstances. In the years 2000 to 2008, economic growth required Government policy to introduce additional buses and capacity into Dublin, while at the same time, being flexible for rail and Luas projects. Dublin Bus provided answered this requirement and in a short space of time, provided the necessary fleet and facilities required by Government. As the economic situation changes, so too did Government policy and scaling back of bus services was required. The public service contracts between Dublin Bus and the NTA permitted these changes which were carried out seamlessly.

Since December 2009, Dublin Bus has operated the public service obligation (PSO) services across the Dublin region under a Public Service Contract (PSC) with the NTA. The PSC requires the annual submission of a plan specifying levels of services to be operated and the production of four quarterly reports outlining the actual performance levels versus target. Performance targets have been increasing in line with increasing customer expectations and quality demands. Dublin Bus has complied with all the PSC requirements as requested by the NTA and produced the reports and quarterly reports within agreed timeframes with backup and support documentation as requested. Quarterly reports are available on the NTA website.

During most of the period of this PSC, a severe economic downturn has taken place in Ireland and extreme pressures on costs and revenues have been exerted. To offset the effects of this downturn, and to ensure that the best possible service is available to bus customers, Dublin Bus has implemented a range of significant cost saving measures and the Network Direct project which not only saves of the order of €60 million per annum in costs, but results in a more streamlined, customer orientated service providing a strong platform to grow services into the future. The amended bus routes have fully exploited the changed traffic environment, QBC's, the City Centre Bus Gate and reduced traffic levels generally.

As part of the efforts to reduce costs, Dublin Bus implemented a major cost reduction plan across the organisation which has impacts on premium rates of pay, work practices and rosters. While six out of seven grades have accepted the changes, a mediation process is currently taking place among the driver grade after a three day dispute in August 2013.

The Company is now close to financial breakeven after subvention, having dealt with revenue loss due to recession of €50M per annum and reduced subvention and increased taxes amounting to €35M per annum.

1.2 Customer Driven

Dublin Bus services carry over 115 million customers per annum and every facet of the organisation involves interaction, involvement and input from customers. A key interaction is the bus driver customer interaction and Dublin Bus expends considerable time and energy working to enhance this relationship. Drivers receive 2 days annual training to ensure the customer has a safe, comfortable journey and regular monitoring takes place by supervisors to ensure high standards are maintained.

While safety, customer service and value for money are all key requirements for customers, the two service aspects of service quality which customers repeatedly rate highest are reliability and punctuality. Reliability is a reference to the bus operating its stated timetable journey, while punctuality means the stated departure operated on time.

Dublin Bus has put considerable energy into increasing performance in these two areas. The Automatic Vehicle Location (AVL) system gives very obvious prompts to the route controller if/when a bus does not depart on time and unless regulated by the controller to do otherwise, immediate action is taken. Dublin Bus services achieve punctuality levels greater than 96%, which is high given the variable traffic environment under which the services operate.

Reliability, the other critical element of service provision for customers, requires both the driver and vehicle being available to operate the service. As will be outlined later, over 99% of buses are in service and the corresponding level of journey reliability is over 96.5%.

To assist with increasing reliability and punctuality, Dublin Bus reorganised the controlling of bus routes with the introduction of the new AVL system. AVL was a major project that was installed seamlessly by Dublin Bus in a short timescale, and is now central to almost every decision taken in regard to the operation of the bus service. All buses are satellite tracked and buses which are not at their correct position are regulated as necessary to provide the best possible service.

AVL allowed the introduction of Real Time Passenger Information (RTPI) for customers. RTPI informs customers when the bus is due at any particular bus stop. Dublin Bus is now one of

the first cities to have 100% of bus stops covered by RTPI on smartphone applications (iPhone and Android), on Website and by SMS texting. In addition, and with the assistance of the Local Authorities, almost 10% of our 5,000 bus stops have an RTPI unit at the stop. Dublin is ahead of major cities like London and New York in regard to RTPI. The accuracy levels of the RTPI system in Dublin, is independently measured and the May 2013 report showed accuracy to be 96% which the NTA deem to be exceptionally high in global terms.

Customers are increasingly turning to web based formats for bus route and time information and Dublin Bus provides a customer friendly website for all their key searches, which includes RTPI, timetables, bus route maps, bus stops and fares/ticketing. More recently, Dublin Bus has been an innovator among bus companies with regard to becoming active in social media with Twitter and Facebook.

To help us strive for continuous customer service improvements, Dublin Bus are now certified by NSAI for reporting public service contract requirements. An on-going and iterative process in to place to seek areas for improvements and avoid re-occurrences of where standards are deemed to be below that required.

Finally, Dublin Bus has a fully staffed Customer Comment Desk which has opening hours to suit customers and can deal with issues ranging from a simple timetable request, to requests about current location of their bus to reporting formal complaints. Dublin Bus opens the Customer Comment Desk at other periods when there is demand for information: for example the Customer Comment Desk opens when there are parades, races or other city events which results in disruption to bus customers while buses are diverted or delayed.

Dublin Bus is currently reviewing our whole customer experience with a view to identifying further actions and developments to improve our performance.

1.3 Network Direct - The Ability to Adapt

In late 2009, Dublin Bus took a far reaching decision to launch Network Direct, a programme of changes to bus services which would gradually reshape not alone the bus network in Dublin, but all the attributes associated with bus travel in the capital. Network Direct was overseen by a Steering Group made up of a Dublin Bus Board member, Dublin Bus CEO, Industry Experts and a Network Direct Project Manager.

Ticketing and CSO data was used to aid plotting 'origin-destination' profiles of commuters and this allowed the creation of a revised bus network that best suited travel patterns.

In parallel with the re-shaped bus network, Dublin Bus also re-examined what bus customers wanted from timetables and what transpired was that simple and easy to understand timetables best suited their requirements. With these in mind, and with the assistance of the NTA, the first phase of Network Direct was launched in September 2010.

Multi branched bus routes with many termini were replaced by single straight routes which now operated at clockface times; for example every 10 minutes until 19:00 and every 15 minutes until 23:30.

The results from Network Direct were encouraging and, despite the economic downturn, customer carryings remain strong in areas where Network Direct have taken place. Because routes are simpler, and timetables are easier to understand, the provision of a punctual and reliable service is facilitated.

The Network Direct project rolled in tandem with the provision of Real Time Passenger Information to customers. RTPI is now available at every bus stop using web, smartphones and SMS text and 500 of the busiest bus stops in the city have on-street RTPI signs. Where bus frequencies were reduced as a result of Network Direct, RTPI allowed customers to go to a bus stop knowing the arrival time of the bus; this reduces customers average wait time.

Network Direct resulted in cost savings to the Exchequer as a result of the introduction of major efficiencies. More importantly, Network Direct has also given the people of Dublin a bus service that better suits their travel requirements and the routings are now simpler to understand and timetabling is easier to read.

Dublin Bus has shown that it can adapt to increases in demand as the economy expands, and can equally contract in line with reduced economic activity.

When the economic recession took hold, Dublin Bus reacted positively and effectively by better matching supply to the changed customer demands through Network Direct. This not only brought levels of service to where they were required, but introduced improvements in the process. Network Direct was achieved with the full support of all employees within Dublin Bus and during the changeover process, all services continued to operate at all times.

1.4 Summary Achievements of Network Direct

The table below demonstrates the progress on the Network Direct project from 2010 to September 2013. Note that while there are less buses, drivers and routes, the level of kilometres per bus is now 10% higher than it was pre Network Direct, demonstrating major improvements in asset utilisation and efficiency. This was achieved in the context of reducing PSO payments.

Network Direct Service Changes				
	Pre Network Direct	September 2013	Change	Percentage
Peak Vehicle Requirement	994	778	-216	-22%
Total fleet	1117	870	-247	-22%
Route Numbers	171	111	-60	-35%
Staff Numbers	3891	3180	-711	-18%
Annual Kilometres (million)	66.8	57.0	-9.8	-15%
RATIOS				
Kilometer per bus ('000s)	59.8	65.5	5.7	10%
Staff per 100,000 Km	5.8	5.6	-0.2	-4%

1.5 Record in Achieving and Exceeding Contract Performance

The Public Service Contracts began in December 2009 and to date there have been 15 (the first report was only for the month of December 2009) separate quarterly reports submitted by Dublin Bus to the NTA.

Dublin Bus supplies all the agreed quarterly reports in a timely and accessible fashion. In addition, a presentation is made by Dublin Bus of the results in which any issues which require clarification or further explanation are discussed.

The Public Service Contract quarterly reports are subject to change as the needs of customers change. Since 2009, Dublin Bus and the NTA have agreed many changes to ensure the PSC is more appropriate to changing customer requirements. For example, since Quarter 1 2012, all performance levels are now shown in sub-categories of individual 'bus corridors' across Dublin and customers can see how their corridor performs.

New performance reports have also been added (for example, reporting on progress of Network Direct and Revenue Protection) and the report will continue to evolve to best reflect what is most important to our customers and the NTA. Discussions on further changes proposed from Q4 2013 are currently taking place.

Dublin Bus achieved all performance target set by the NTA for the delivery of weekday peak service level, scheduled kilometres operated, punctuality and reliability from 2009 to 2013. A number of Saturday targets were narrowly missed as a result of the phasing of the Network Direct project and these issues were of a short term nature.

There are also a range of NTA set service quality targets for timetable information, customer telephone information, bus destination scrolls, on street information, fares information,

notice of service changes and cleanliness and Dublin Bus's performance consistently 100% in all these categories.

The NTA has concluded that 'overall, Dublin Bus achieved a high level of compliance with the required performance obligations for the reporting period'. Dublin Bus will work to ensure that targets set by the NTA and customers are achieved and surpassed, to give the customer the highest level of service possible.

1.6 International Comparisons: Benchmarking

Dublin Bus has always believed in the importance of comparing and contrasting itself with other bus operators and over the last 20 years Dublin Bus have built up good relationships with other similarly sized bus companies; at varying times Dublin Bus meet delegations from Edinburgh, Glasgow, Belfast, Birmingham, Manchester, Paris, Barcelona, Copenhagen, Oslo, Dusseldorf, Berlin, Vienna and Zurich.

In 2003, Dublin Bus became an inaugural member of the International Bus Benchmarking Group, IBBG, which is overseen by Imperial College London. There are 13 cities in the benchmarking group which include Vancouver, Montreal, New York, London, Lisbon, Paris, Barcelona, Brussels, Singapore, Seattle and Istanbul. Berlin is considering membership. The IBBG group meet regularly to compare best practice, performance, innovations, improvement and value for money. Considerable attention is paid to ensuring that costs are comparable.

The IBBG has been invaluable to Dublin Bus over the years and a conclusion from Dublin Bus' involvement in IBBG is that Dublin Bus performs well in relation to cost efficiency and service effectiveness and Dublin Bus will continue to take an active part in IBBG to ensure every avenue is available for continuous learning and improvement. Data from IBBG, anonymised for confidentiality purposes, is supplied to the NTA on an annual basis.

1.7 Ability to Deliver

Dublin Bus has a proven track record in delivering projects in a timely and cost effective manner. The most recent Network Direct project commenced in September 2010 with the launch of the Stillorgan Road Corridor changes. The finalisation of the Swords/North county Dublin phase will be complete by winter 2013 and complete the Network Direct Project as planned. There was considerable change as a result of Network Direct ranging from customer related changes (routes, timetables, bus stops etc) to staff and bus changes (voluntary severances, changes to rosters, revised schedules, updates to AVL and RTPI, garage changes and fleet mix etc.). All changes were required to be carried out in the

context of cost saving with strict Dublin Bus budget limits. During this process, public reaction remained very favourable with only a small number of issues arising. Where revisions to plans were necessary, Dublin Bus identified the remedy and introduced any necessary alterations.

While Network Direct as a project is complete, urban bus networks are dynamic and must respond to changing customer requirements, varying travel patterns, commercial concerns and new or modified infrastructure. In this regard, the network will continue to evolve and Dublin Bus will ensure that the key principles of Network Direct will continue to be applied to all future bus route and timetable changes.

Dublin Bus has delivered on numerous other major projects, which include those listed below

- AVL. Dublin Bus introduced a state of the art AVL system to control buses. AVL tracks all buses continuously and plots their actual position relative to the scheduled, expected position. To coincide with AVL, a new Central Control Centre was successfully set up where all bus control supervisors were centralised and coordination of all services became possible. This resulted not only in major efficiencies, but the service available to customers also improved.
- RTPI. When the specification for the AVL system was being made, Dublin Bus ensured that AVL could be expanded to allow a Real Time Passenger Information to follow. In 2011, Dublin City Council led the first phase of RTPI launch with a rollout to on-street locations. RTPI on web, smartphone and texting followed within 6 months. RTPI accuracy levels have been measured independently on behalf of the NTA and RTPI accuracy is now 96%, one of the highest levels of any urban bus operation worldwide.
- AVL Innovation. Dublin Bus has not created a means to increase RTPI accuracy further using what is termed 'dynamic profiling'. In essence, this uses last week's bus speed data to feed into this week's bus scheduling system which gives better predictions of arrival times at bus stops.
- Procurement of buses and premises. Over the years, Dublin Bus has procured buses of the highest specification which comply with all relevant vehicle, accessibility and safety regulations and built a new depot in 2004 within the budget and timeframe planned.
- All the new Dublin Bus ticketing equipment was designed so that any future rollout of an Integrated Ticketing Scheme (the Leap Card) is possible.

In summary, Dublin Bus has a proven track record in delivering major hardware, software or infrastructural projects which are fit for purpose and delivered cost effectively and within budget.

1.8 Reliable and Punctual

When customers are asked what their key service requirements are from Dublin Bus, reliability and punctuality are consistently to the fore. This is of no surprise and reflects customer service requirements similar to other bus operators across the globe.

Reliability and punctuality are measured as part of the public service contract. The target figure for Dublin Bus is to achieve no less than 95% in both cases. Quarterly independent auditors' (Interactions) surveys of bus reliability and punctuality are forwarded directly to the NTA four times a year. Since 2009, Dublin Bus has achieved the target score of 95% or higher on every occasion with the average reliability score being 97.4% and the average punctuality score 97.2%.

The simplified bus route timetables and alignments in Network Direct will further facilitate improvements in both reliability and punctuality.

1.9 Dublin Bus's ability to deal with major emergencies

Operating bus services under a contract can often provide comforts to the contracting authorities, to the contractors and to customers. However situations can arise in urban transport systems when major emergencies occur which require unique arrangements to be put in place, often in challenging climatic or security situations, to deal with the situations as it develops. Dublin Bus has a proven ability to deal with any situation of this nature. The following examples demonstrate how Dublin Bus went above and beyond the terms of the contract to respond to major emergencies and how Dublin Bus acted quickly to deal with the emergency in a flexible manner with all the key stakeholders.

1.9.a Severe Weather January and December 2009

Two separate prolonged falls of snow at the start and the end of 2009 resulted in major travel disruption across Dublin. With many other transport modes struggling to deal with the weather, Dublin Bus formulated revisions to timetables and alignments and operated where and when possible under extreme circumstances with the direct assistance of the Local Authorities. The committed drivers, engineering and supervisory staff went to every possible extent to keep buses rolling, often requiring decision making based on a volatile situation on the ground. Supervisors and management revised timetables and ensured websites were kept updated every 30 minutes all day. Dublin Bus also exploited social media channels to keep the public informed. The media and communications department made daily announcements on news bulletins concerning bus operations. Dublin Bus worked

closely with other transport agencies including the NTA, DoTTS, Met Eireann, An Garda Siochána and the Local Authorities to ensure customer journeys could be completed insofar as this was possible.

Previous experience shows that while the public will have some understanding for emergency situations, their tolerance for a lack of service does not last indefinitely. No matter how bad an emergency is, the public need to travel, be it to work, hospital, appointments or other matters. Shutting down the bus operation in Dublin was not an option, and Dublin Bus demonstrated that it could respond is the best possible way to meet customer needs no matter what situation arose.

Dublin Bus, and especially its bus drivers, received untold praises from the public for keeping the city moving during these times. An assistant secretary general in the Department of Transport wrote personally to the CEO of Dublin Bus stating

'On behalf of the Department, I wish to say thank you, particularly to frontline staff, for the excellent work that was done to keep bus services operating during the recent prolonged period of severe weather and in often difficult conditions. The quality of the service information provided on your website was also of a very high standard and regularly updated. The work of your media spokespersons is also very much appreciated. I am also grateful for the company's ready response to the Department's requests for information, often at short notice.'

It is not possible to build into a contract what to do when emergencies occur. However, Dublin Bus, as a state owned company, will regard the transport of customers to their destinations as its first priority and have demonstrated its ability to plan, manage and operate the transport solutions in difficult situations.

1.9.b Visits of Heads of State

The visit to Dublin by Queen Elizabeth II and President Obama in May 2011 is an example of another event which presented challenges to the efficient delivery of public transport. These differed from weather disruption in that they were pre-planned events. Dublin Bus was to the fore in planning discussions with the NTA, An Garda Siochána and road authorities as well as being a party to a revised and flexible network structure which saw buses removed from central Dublin for almost an entire week.

Dublin Bus kept the public fully informed of both the plan, and the rolling changes as security requirements shifted, and again, Dublin Bus was praised by customers and An Garda Siochána for the effort it made to keep the city moving and bring commuters to work, students to exams, schoolchildren to schools and maintain transport link as well as possible.

1.10 Working with Transport Agencies

Dublin Bus interacts across many aspects of the Dublin business, education and commercial community and have regular dealings with Local Authorities and An Garda Síochána. However, Dublin Bus personnel also play a part in more strategic public bodies, and play key roles in local and communities groups.

- Dublin Bus is part of the Business Community and takes an active part with Chambers of Commerce, IBEC and DCBA. Dublin Bus has taken part in joint marketing initiatives to promote the city centre as a shopping destination and is active with BIDS (Business Improvements Districts) in Dublin city centre.
- Dublin Bus officials work with local community groups on bus services and safety and security and maintaining bus services to communities.
- Dublin Bus launched its 'Community Spirit' awards almost 10 years ago to support and build the relationship between Dublin Bus and its core customer base. The awards benefit the community through local project funding and support. From the perspective of Dublin Bus, it gives Dublin Bus access to community leaders when local issues arise and this mutual understanding assists all parties.
- Dublin Bus regularly makes presentations to the Oireachtas Transport Committee, to local authority traffic committees and to transport agencies.
- Dublin Bus regularly updates County Council meetings to outline or explain transport decision making behind aspects of the bus network on topics ranging from route alignment changes to bus stop placements.
- Dublin Bus is often invited to take part in Bord Pleanála hearings on major infrastructural projects, and has participated in oral hearings including Dublin Airport Terminal 2, M50 upgrade and Metro and Luas projects.

Regular links to community and interest transport groups are essential to maintaining an in-depth knowledge of what the communities want from their bus service. Dublin Bus has built up many years of community involvement and trust which it seeks to maintain through engagement and connection.

1.11 Dublin Bus: Plans, Manages and Operates Bus Services

Dublin Bus currently provides a full transport service for the city of Dublin and surrounding counties. The nature of the operation can be subdivided into three distinct categories as explained below

1. Strategic Planning

Dublin Bus deals at a high level with the Department of Transport Tourism and Sport, the NTA and Local Authorities, as well as other transport agencies to devise strategic

requirements and long term planning for future needs for transport by bus within the region. This ensures upgraded infrastructure and changing demographic movements are catered for from a transport perspective.

2. Management of the Network

Dublin Bus also provides the medium term management of the bus network. In conjunction with the NTA, it purchases and replenishes the bus fleet, plans services and arranges all information and marketing. Included in the management of the service are ticket agents for the off-bus sale of tickets, provision of a central sales office, management and maintenance of bus stops and shelters, selection of RTPI on-street units, marketing and branding the bus service, interacting with local planners for traffic management schemes and dealing with queries from media, politicians or official committees.

3. Operation of the bus network

In addition to the strategic planning and management, Dublin Bus operates a fleet of almost 900 buses out of 7 depots across the city. The operation is controlled from a centralised 'Central Control' in Broadstone and a total of 2,300 drivers and 500 engineering staff are employed to operate the service.

1.12 Accessibility and Equality

Dublin Bus prides itself on the service it provides to those more disadvantaged in the community. Dublin Bus holds regular Accessible User Group meetings with representative accessibility support groups. A case in point is the attention put into accessibility projects over the years.

Since 2000, Dublin Bus has been one of the few bus companies who purchased only low floor vehicles to assist those who are wheelchair bound, or have severe mobility impairments to travel on its buses. The fleet of buses in Dublin is now 100% low floor accessible. Low floor buses not only provide accessibility for wheelchairs, but have the added attributes of kneeling suspension. No step along the main aisle of the bus improves access to those with other mobility issues: this includes the elderly and parents with buggies and small children, those with luggage etc.

In conjunction with the purchase of low floor buses, Dublin Bus also sought to improve accessibility of footpath infrastructure and devised the 'accessible kerb' at bus stops. This specially prepared kerbing, shaped to allow the bus to pull up close and at a standard height, minimises the height between the bus stop kerb and the bus, ensuring that passengers can board and disembark the bus safely. To date, almost 3000 accessible kerbs have been installed across the city and the project is on-going.

Dublin Bus also introduced the 'Travel Assist' programme, where a member of the Travel Assist team will call to anyone who asks for the service. The Travel Assist Member will travel with the user and show them how to use any form of public transport in Dublin, including buses. The Travel Assist service usually involves returning home with the user and on occasion, can involve trips between destinations on multiple days.

The purpose of the Travel Assist Scheme is to give a user, who lacks the confidence to travel on public transport alone, a chance to travel with someone else, which may with time, allow them to become more mobile themselves.

Since the Travel Assist Scheme was launched, more than 2,800 separate travel assist journeys have taken place and the programme continues.

Dublin Bus is currently introducing on-bus audio and visual announcements of next bus stop. The facility will give both a verbal and visual indication of the next approaching bus stop and will assist many of those represented on the accessibility user group.

Dublin Bus has been commended on many occasions for the work put into accessibility and equality and awards received in 2012 included the Diversity Ireland Award for Cultural Diversity and in 2011 an award from the Equality Authority for Equality Initiatives across the Company. In addition, the Company won a Chartered Institute of Transport and Logistics Awards for Driving Skills Competence Development in 2012.

1.13 A Responsible Company - comply with all national and EU laws

Dublin Bus complies with all national and European laws and directions and our bus fleet operates to the highest standards of safety.

Dublin Bus is fully tax compliant and adheres to EU procurement rules.

Dublin Bus complies with Irish Government policies and regulations, including for example the Irish Language Act and accessibility guidelines.

Section 2

Dublin Bus Commentary on the 4 NTA Consultations Papers dated September 2013

2.1 Publicly owned urban bus systems across Europe

There are many examples of very successful publicly owned urban bus operations across Europe. For example Berlin, Paris, Brussels, Rome, Madrid, Zurich, Vienna and Amsterdam are publicly operated bus systems and have excellent bus networks and this regulatory approach is fully permissible under EU regulations. There are no serious moves to alternative regulatory models like tendering.

The proposal to tender 10% of Dublin Bus' current bus routes will result in segmenting the Dublin PSO market into packages and carries a risk of increasing overall costs due to reducing economies of scale and requiring duplicate administrative structures to oversee the tendering, monitoring and performance of multiple operators. Failure to provide this costly monitoring structure will result in compromising quality and customer service.

While the consultation documents make references to tendering in Scandinavia and London, the references are dated and should be considered with caution, especially in light of the global economic downturn. The economic downturns resulted in requirements to downsize urban bus networks and as demonstrated in earlier sections, Dublin Bus could and did adapt as was necessary for changed travel needs. Tendered services are more difficult and costly to alter without recourse to contract buyouts. In London, the cost of the provision of the tendered services was close to €1 billion per annum and was a growing concern for the city.

The technical document has a paragraph on page 8 titled 'Competitive tendering in Europe'. It states that there is tendering in 'London, Sweden and Denmark' and that tendering exists in 'most of the Netherlands (except .. Amsterdam, Rotterdam and the Hague)'. The technical report did not report the reasoning behind the Netherlands not tendering their bus operation in their major cities. The comments that 'cost savings eroding after the initial tender rounds', 'the underlying efficiency determines the scale of savings' and 'service quality generally improves, but not in all cases' raises a number of question concerning the tendering approach.

2.2 Gross cost contracts

The proposal for market opening is to use gross cost contracts. Gross cost contracts give little or no incentive to the operator to either grow the market, or provide a quality service other than what is contained in the contract. For the most part, the contractor gets paid for operating the kilometres stated. Gross cost contracts require considerable control and monitoring of the operator by the authority to ensure quality compliance which is costly and increases administration.

More recent gross cost contracts in bus operations now build in quality clauses to build up standards, with financial rewards for quality performance and deductions for failures to operate to standard. Measuring quality performance of urban transport systems must be carried out carefully and financial penalties for lack of performance is often the subject of dispute.

2.3 Dublin Bus' Authority type functions

Dublin Bus operates a fleet of close to 900 buses, but in addition, performs many authority type functions as part of a wider transport remit which goes with providing a major urban bus operation. Dublin Bus provide the following functions

- Marketing and Information
- Route and timetable design
- Community support
- Branding and Promotion
- Infrastructure development and maintenance
- Strategic Planning
- System development

Dublin Bus has been to the fore in recent years in projects which would radically improve the transport system and two particular examples of this are the Automatic Vehicle Location (AVL) system and Smart Card development. In both cases, many years of developing software and testing and refining hardware, unique to Dublin requirements, has gone into getting these systems in place.

Many of the major advances in recent years have incurred costs which tender applicants will expect to walk into and begin using. Dublin Bus needs resources to keep such systems updated and the costs Dublin Bus incurs will negatively impact on the ability of Dublin Bus to bid on a level playing field. Costs which Dublin Bus carries as part of the requirements for wider public transport provision must be excluded from tender pricing.

2.4 Tendering below market rates

There have been many international examples where tender submitted to transport authorities are below market rates. The major multinationals have the financial muscle to carry loss leaders to cleanse the market for ultimate takeover. The NTA reference this issue of low initial bids followed by increases in tender prices in the consultation papers. The NTA suggest that the subsequent cost increases are due in some cases to 'stricter service specifications' (technical document page 9). Below cost tendering raise a clear warning flag to authorities.

The NTA should not allow below cost tenders as they are not sustainable, create artificial markets and distorts the longer term market.

2.5 The London tendered bus service

London has tendered its bus services for many years. There are aspects of the tendered bus services which are unique to London and are not likely to be replicable in Dublin.

- The London economy remained strong and did not suffer the economic crises of other cities
- The financial support to operate buses in London rose to €1 billion in recent years. A more recent fares increase helped to reduce the financial burden on the Authority.
- Congestion charging drives people to buses and trains in the central area
- The London Olympics expanded the market
- Children under 18 travel free on buses
- London is eight times the size of Dublin and seven companies who operate services for Transport for London are each similar in size to Dublin Bus
- There is little competition in London for tender packages and the incumbents usually retain their contracts. This is also a characteristic which occurs in Scandinavian cities.

2.6 Downsizing Dublin Bus

The consultation documents 1 and 2 make references to 'manageable downsizing' by Dublin Bus in the event of losing bus routes. The document goes further to state that Dublin Bus has 'experience in successfully downsizing .. by 40-50 buses per annum since 2009'. Ernst & Young, the authors of the Technical Report make a direct link between the Network Direct downsizing and the market opening downsizing. Dublin Bus dispute this point: Network Direct did result in the reduction of 700 staff over 4 years, however, there was an on-going change process involved with 450 staff leaving the company through a voluntary severance scheme. The plan could not have been implemented without the VS scheme.

The market opening proposal is likely to be instantaneous with an overnight handover of operation. The NTA should outline proposals to deal with staff that will be surplus to Dublin Bus requirements after tendering and the position on transfer of undertaking for all affected staff. Detailed discussions will be needed among all the participants to deal with these issues should they arise.

2.7 Fleet re-allocation

The transfer of up to 80 new buses from the Dublin Bus fleet to any possible new tendered operation would increase the average fleet age for the remaining Dublin Bus fleet. This would increase costs for the direct award contract services and negatively impact on efficiencies of Dublin Bus. In addition, any future comparisons between Dublin Bus and tendered operations would be distorted and show Dublin Bus in an artificially poor light.

2.8 Dublin Bus Subvention Levels

The subvention requirements of Dublin Bus are low by international standards and this has been well documented.

However, The Technical Report states that the PSO requirements of Dublin Bus is 'at the upper end of the range' compared to subvention levels across Europe. This statement is not correct. The amount of subvention to Dublin Bus has reduced each year since 2008 and by 2014 will stand at 24% of total expenditure. This is low by international standards where subvention levels vary from 30% to 60%. Reference is drawn to the 2009 Deloitte Report, commissioned by the Department of Transport Tourism and Sport, that stated that the levels of operational subvention (as a % of revenue) 'are generally higher in Europe compared to Dublin Bus'.

Dublin Bus' own International Bus Benchmarking Group exercise supports the case that Dublin Bus subvention needs are low relative to a cross section of European and global operators.

The Technical Report includes a footnote which outlines all the financial 'state interventions' paid to Dublin Bus. Included as state interventions are PSO, Free Travel Scheme, tax foregone due to Tax saver tickets, emergency funding and new bus purchases. Definitions of subvention in European public transport operations never include these categories as subvention and this results in the Technical Report not comparing like with like. As a result it wrongly depicts Dublin Bus to have a higher reliance on public funding than is actually the case.

- The subvention to Dublin Bus in 2013 will be €64.5M and this year Dublin Bus expect to pay €7.9 M in VAT and €46.1 M in PAYE and PRSI payments to the Revenue Commissioners. This analysis is not contained in the Technical Report.
- The Technical Report should demonstrate that it included all such comparable 'state interventions' of the European operators.
- The Technical Report suggests that Dublin Bus carry the costs associated with carrying 'free travel pass' customers and a comparison as to how other Irish utility companies deal with the free provision of service (free electricity or TV licences) may be worthwhile. The Technical Report should indicate that such interventions are also included in their comparable European operations.
- Publicly available data from Transport for London shows that free travel is listed outside the 'gross public transport support'.
- The Technical Report did not considered other costs which Dublin Bus incur which are not incurred elsewhere. For example, many European operators (including London) get a fuel duty rebate, which was not available to Dublin Bus in the comparison. Dublin Bus also pay VAT which is again not the norm. Different cities and regions fund transport in many alternative way including taxation, infrastructure and fleet.
- The Technical Report refers to emergency funding as being part of the subvention. This payment was a once off payment for €5m in 2012 and it is unreasonable to bring this payment into a subvention context.
- The Technical Report also refers to the purchase of new buses. The NTA funded the purchase of 80 buses in 2012, but buses are depreciated over their 12 year cycle. Furthermore, and elsewhere in the report, it is outlined that these buses are owned by NTA and may be reclaimed for the 2016 market opening. In these circumstances, the full cost of buses in any one year cannot be used to justify a high reliance on subvention by Dublin Bus.

Taking the above into account, the subvention paid to Dublin Bus is low by international standards.

Conclusion

As required under the Public Service Contract, Dublin Bus supplies a detailed performance report to the NTA every quarter which outlines Dublin Bus performance to agreed targets on service delivery, reliability and punctuality and other areas relating to information and quality. Dublin Bus exceeded every quarterly reliability and punctuality target since 2009 and most of the other bus and customer service targets.

Dublin Bus has been subject to intensive scrutiny by external review and audit companies over the years. The most recent external review was by Deloitte in 2009 which validated previous reports that Dublin Bus was efficient and that the PSO 'subsidy' which is required to operate social and loss making services was well spent.

Every year, the NTA arranges an independent audit of the PSO payments. The purpose of the audit is to provide an independent professional opinion on the adequacy and effectiveness of controls over PSO payments made by the NTA to Dublin Bus. The most recent audit, conducted by McClure Waters was for 2011 and finalised in July 2013. It found four of the five areas reviewed scored the maximum assurance level, and the remaining area was satisfactory with three minor recommendations. This followed from the previous audit which was equally confident that controls over the PSO payments were adequate.

Dublin Bus benchmarks itself to a cross section of companies across the globe and the project is overseen by Imperial College, London to ensure results are validated and comparable. Dublin Bus is an above average performer in the key parameters.

Dublin Bus has outlined that there is a strong case to award the full PSO network in Dublin to Dublin Bus under a direct award contract and this will ensure a continuation of a high quality, reliable service to customers and best value for money to the exchequer.

Dublin Bus, October 2013

Lynn Mahony

From: Info
Sent: 14 October 2013 11:42
To: Jeremy Ryan
Subject: FW: Consultation on proposals to directly award contracts from December 2014 for public bus services
Attachments: NTA Submission 11.10.2013.pdf

Hi Jeremy,

Please refer to the email below.

Kind regards,

Ciara

From: Pat Massey [<mailto:pmassey@compecon.ie>]
Sent: 13 October 2013 18:05
To: Info
Subject: Consultation on proposals to directly award contracts from December 2014 for public bus services

Compecon made a submission in respect of the above consultation which was submitted before the deadline of 5pm on Friday 11th. The submission included a small number of typographical errors. A corrected version of our submission is now enclosed.

Patrick Massey
Director
Compecon – Competition Economics
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Mobile (353) 086 8155629

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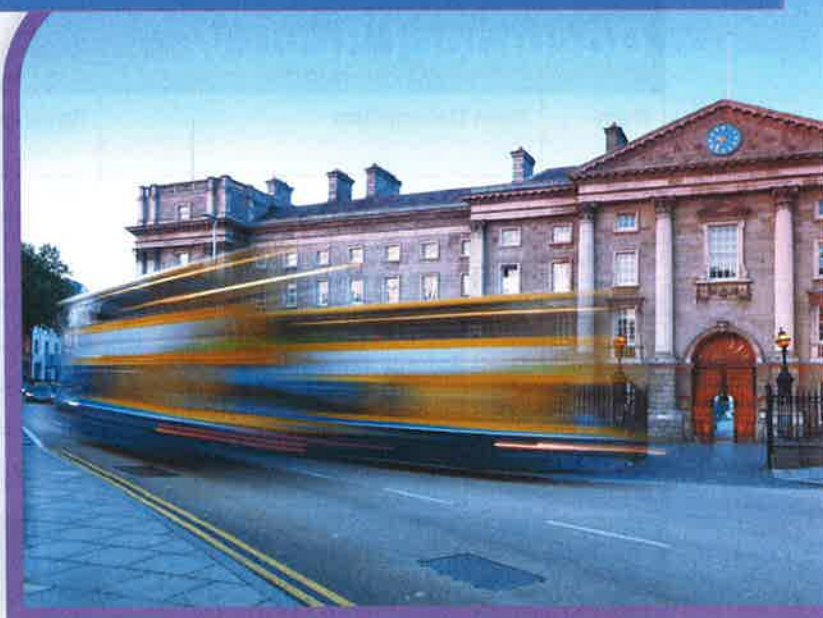
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Tá eolas sa teachtaireacht leictreonach seo a d'fhéadfadh bheith priobháideach nó faoi rún agus b'fhéidir go mbeadh ábhar rúnda nó pribhléideach ann. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Tá cosc ar rochtain don teachtaireacht leictreonach seo do aon duine eile. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo agus b'fhéidir d'fhéadfadh bheith mídhleathach.

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NTA Bus Services Consultation

Final Report
For Coach Tourism and Transport Council of Ireland (CTTC)
October 2013



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October 2013

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2	Chapter 6	AB	04/10/2013
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4	Draft Submission v2.0	AB	08/10/2013
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3	Draft Final Submission v4.1	CMcK	10/10/2013
4	Final Submission v4.2	CMcK	11/10/2013

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Appendices

A NTA Approach Mapped to Best Practice

B Competitive Tendering – Implementation Elsewhere

Executive Summary

- This submission responds to National Transport Authority's (NTA's) recently announced Bus Services Consultation, which proposes to directly award 90%-93% of existing Dublin Bus and Bus Éireann PSO markets to each company at end-2014, and to award the remainder by competitive tender at end-2016.
- The CTTC is the representative body for Ireland's coach touring companies, and Ireland's private bus operators. CTTC members believe that:
 - The current proposals are a step forward; however the proposal to limit competitive tendering to such a small proportion of the market until end-2019 at the earliest is not sufficiently far reaching.
 - A staged approach to opening the market to competitive tendering, as recommended by the Competition Authority, is the most effective way of delivering NTA objectives, particularly to *"ensure the provision of high quality and accessible bus services at best value for money for the exchequer"*.
 - This could be achieved, for example, by competitively tendering approximately 10% of bus services in both bus markets each year, as has been done successfully elsewhere.
 - Initial consideration of the risks to the fairness of a future tendering process has identified financial transparency, depot ownership and bus fleet suitability. Handling of these and other risks need to be examined in more detail by the Authority if the fairness of any tendering process is to be assured.
 - Allowing incumbent operators to competitively tender, while there is a lack of transparency over cost allocation across their portfolio, risks undermining the fairness of any tendering process due to opportunities for cross subsidy.
- Ernst & Young cite international research that has *"found unit cost savings of up to 50 percent, with many estimates clustered in the 20-30 percent range....."* High-level analysis by Transport Insights, on behalf of CTTC, of Bus Éireann unit operating costs relative to those of private domestic operators supports the realisation of unit cost savings of approximately 30% in the Irish context (although up to 8% higher if Bus Éireann's associated credit of grant amortization is taken into account).
- Applying these unit cost savings of 30% (i.e. excluding credit of grant amortization) to Dublin Bus and Bus Éireann operations has the potential to reduce the annual combined subvention of €106 million (in 2012, excluding emergency funding of €5.33 million paid to Dublin Bus) to €23 million, i.e. a benefit of over €83 million per annum.

- While factors such as TUPE may limit the extent to which these savings are realised during the transition to a competitive tendering regime, based on international evidence and cost comparisons in the domestic operator base, these savings are deemed achievable in the medium-long term. Furthermore, analysis by Transport Insights demonstrates that were more modest unit cost savings achieved during this transition, the reductions in state subvention remain highly significant.
- The Authority's proposals lack supporting cost benefit analysis and value for money assessment. Additionally, from the evidence presented in the consultation documents, risk is cited as a major factor in arriving at the Authority's draft proposals, however specific risks do not appear to have been identified or assessed. As such, NTA has not shown how its proposals satisfy its stated bus services contracts objectives.
- More crucially, it has presented insufficient economic analysis in support of a determination that, in accordance with Section 52(6)(c) of the Dublin Transport Authority Act 2008, the *"continued adequacy of the public bus passenger services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts."*
- The Authority acknowledges that *"a decision to directly award a contract may be open to challenge"*. Based on the current draft proposals, third party challenge is deemed a significant risk.
- CTTC members would welcome this consultation as the start of an ongoing dialogue with NTA on this, and any future competitive tendering exercises.

1. Introduction

1.1. Scope

Transport Insights has been commissioned by the Coach Tourism and Transport Council of Ireland (CTTC) to prepare a submission on its behalf in relation to the National Transport Authority's (NTA's) recently announced Bus Services Consultation. This submission relates to the Authority's draft proposals for bus markets both within Dublin and outside Dublin, operated by Dublin Bus and Bus Éireann respectively.



1.2. Importance

The subject of this current consultation exercise – the proposed *“direct award of contracts in 2014 to Dublin Bus and Bus Éireann with later tendering of 10% of services for 2016 operations”* – is of critical importance not only to the interests of CTTC members, but to the taxpayer and the general public who are reliant on public transport for a range of economic and social activities.

1.3. Concerns

While members welcome any move to a competitive tendering regime, based on analysis and advice from Transport Insights, CTTC members have a range of concerns in relation to the current proposals. Amongst the most acute concerns are the:

- process pursued by NTA in arriving at the current proposals;
- nature and extent of future direct award contracts, as currently proposed;
- evidence underpinning the proposals and, in particular, the Ernst & Young analysis supporting the Authority's determination that the proposals are in the *“general economic interest”*; and
- uncertainty regarding the openness, fairness and transparency of any competitive tendering process which may ensue from a decision by the Authority.

Related to the above concerns, members also have reservations regarding the meaningfulness of the current consultation exercise arising from:

- the limited time provided by the Authority for review of an extensive set of consultation documents and preparation of submissions; and
- the time currently proposed for consideration of responses between the submission deadline (11 October), and a decision by the Authority (currently assumed by the Authority to be November 2013).

1.4. Member Views

Based on member's own experience, and the analysis we have carried out, CTTC members believe that there is a strong economic case for expediting the introduction of competitive tendering across the Dublin Bus and Bus Éireann PSO portfolio.

1.5. Approach

In light of the constrained time available to Transport Insights in preparing this submission on behalf of CTTC, our work has focussed primarily on a review of consultation documentation issued by NTA in relation to the draft proposals. More specifically, we have undertaken a critique of:

- the process pursued by NTA in arriving at the draft proposals; and
- the economic analysis underpinning the proposed direct award contract to Bus Éireann and Dublin Bus.

This submission has been further informed by a high-level comparative analysis of potential cost savings using data within the consultation documents, and supplemental information provided by a representative sample of CTTC members.

2. Submission Structure

The remainder of this submission is structured as follows:

- ***Coach Tourism and Transport Council (CTTC)*** (Section 3):- overview of CTTC, and its membership base.
- ***About Transport Insights*** (Section 4):- introduction to Transport Insights, and members of our project team.
- ***Background*** (Section 5):- brief summary of the background to NTA's current proposals, and accompanying consultation documents for bus markets both within and outside of Dublin.
- ***NTA's Decision Process*** (Section 6):- review of approach pursued, cross referenced with statutory requirements and best practice.
- ***Ernst & Young's Economic Analysis of Direct Award Contracts*** (Section 7):- review of reports for markets both within, and outside Dublin, benchmarked against best practice.
- ***Public and Private Operator Cost Analysis*** (Section 8):- a review of unit operating costs for Bus Éireann versus a range of domestic operators.
- ***Further Observations - Fairness in a Competitive Tendering Process*** (Section 9):- Initial observations on risks to the fairness of a subsequent competitive tendering process.
- ***Conclusion and Way Forward*** (Section 10):- Summary of our review of draft proposals and a suggested way forward.

3. Coach Tourism and Transport Council

The CTTC is the representative body for Ireland's coach touring companies, and Ireland's private bus operators. It promotes Ireland's top independent coach hire operators.

The CTTC's members are experts in all types of coach hire and transport solutions including: airport transfers, day tours, extended touring, incentive travel, golf tours, school transport and provision of scheduled services. In addition to long distance scheduled services, many of CTTC's member organisations also operate licensed bus services in towns and cities throughout Ireland.

All CTTC members are family-owned companies with a combined fleet of over 1,000 coaches, employing over 2,000 people directly. The CTTC comments and makes representation regularly on matters of concern to its members such as public transport, school transport, the coach tourism sector and the tourism industry generally.

4. About Transport Insights

4.1. Transport Insights Overview

Transport Insights is a recently established Irish based transport planning consultancy. We provide innovative, effective and deliverable transport related advice and cost effective, sustainable solutions. Our team has senior level client side and consultancy experience – essential in understanding and identifying client outcomes; and delivering them. Director level input to all commissions demonstrates our commitment to continually exceed client expectations on both quality and value for money.

We offer a wide range of services to clients in the public and private sectors including capital investment planning; development and accessibility planning; option appraisal and prioritisation; parking and traffic management; public transport service and network planning; sustainable transport; transport policy; and transport strategy development.

4.2. Our Team

Relevant experience within our team includes:

- UK High Speed Rail Network – Demand Forecasting and Economic Appraisal in support of August 2012 Economic Case Update, and January 2013 Phase 2 route alignment announcement, HS2 Ltd. (2011-2012)
- Nottingham Express Transit Network Extension – European Investment Bank (EIB) Finance Application - Economic Review, Nottingham City Council (2011)
- Croke Park - Draft Parking Bye-Laws Advice/ Submission to Dublin City Council (2009)
- Cork Public Transport Feasibility Study, Cork City Council (2008-2009)
- Galway Public Transport Feasibility Study, Galway City Council (2008-2009).

Project Director, Andy Braithwaite

Andy is currently a Director with Transport Insights. Previously, he has held the positions of Divisional Director of National Network Planning at UK Department for Transport and Chief Executive of the UK Government's Commission for Integrated Transport.

Project Manager, Ciaran McKeon

Ciaran is Transport Insights' Managing Director, having previously held positions as Managing Consultant in MVA Consultancy's Business Consulting Division and Senior Staff Secondment to UK Department for Transport's National Networks Planning Division.

Project Researcher, Dr. Lorraine D’Arcy

Lorraine is a Senior Consultant with Transport Insights. She is a specialist in multidisciplinary mixed-methods research. Her diverse professional background includes transport and development planning, health promotion and community development in voluntary, semi-state and private sectors. She was recently awarded a PhD in Behaviour Science from Dublin City University.

5. Background

5.1. Legislative Background

The *Consultation Paper* includes an overview of the legislative background to the current draft proposals. The current directly awarded contracts for services both within and outside Dublin, signed on 01 December 2009, and running for a five year period, are due to expire on 30 November 2014. On expiry, the Authority must have regard to the provision of Section 52(6)(c) of the Dublin Transport Authority Act 2008 in determining whether it can enter into a subsequent direct award with Dublin Bus, which provides:

- *“(i) Subject to subparagraph (ii), the Authority may enter into direct award contracts subsequent to those which the subsection (3) applies.*
- *(ii) Where the Authority proposes to enter into direct award contracts subsequent to those referred to in subsection (3)(a), it may only do so where it is satisfied that the continued adequacy of the public bus services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts.”*

5.2. NTA Objectives

The consultation document sets out the Authority’s objectives in entering into any public service contract as follows:

- “i. Ensure the provision of high quality and accessible bus services at best value for money to the Exchequer;*
- ii. Enable strong monitoring of, and enforcement of compliance by, the contracted operators with the terms of their contracts;*
- iii. Improve the customer experience of public transport;*
- iv. Ensure public transport integration is not compromised; and*
- v. Be compliant with the Dublin Transport Authority Act 2008, the Public Transport Regulation Act 2009, EC Regulation 1370/2007 and EU procurement requirements.”*

5.3. Draft Proposals – General

For bus services both within and outside Dublin, key features of the draft proposals, as set out in the *Consultation Paper* are:

- *“A proposal to directly award the contract to Dublin Bus/ Bus Éireann for the operation of all Public Service Obligation bus services in Dublin/ outside Dublin from December 2014, along with*
- *A proposal to commence competitively tendering a 10% portion of the Dublin/ outside Dublin public bus service market in 2014/2015 with the target of a contract for those services being in place from Autumn 2016 onward.”*

5.4. Draft Proposals – Dublin Market

For the Dublin market, the Authority proposes to restrict competitive tendering to orbital and local routes - these routes represent approximately 10% of the market by fleet. Furthermore, it proposes that Dublin Bus retain operation of all radial and cross-city routes until 30 November 2019. These routes represent approximately 90% of the Dublin Bus fleet, however arising from their role in connecting key residential centres around the capital to its commercial core (the City Centre), they are likely to account for proportionally much higher percentage of overall bus passenger numbers.

5.5. Draft Proposals – Market outside Dublin

Proposals for the market outside Dublin are less specific; however information within the *Consultation Paper* indicates the Authority’s proposal for competitive tendering of *“approximately 7% to 10% of the services”*. Possible combinations included in the Consultation Paper are as follows:

- *“Tender the Waterford City and portion of Cork city services together*
- *Tender either the Cork city portion or Waterford City services together with a portion of the Dublin coastal commuter services presented above*
- *Tender the Waterford city and South East stage carriage services.”*

5.6. Consultation Period

The Authority, in recognition of its obligation to carry out a statutory consultation exercise in relation to the proposed nature and extent of another proposed direct award contract, has provided a one month window for consideration of proposals, and preparation of submissions, with an 11 October close date.

5.7. Next Steps

Based on information within the *Consultation Paper*, it appears that the Authority proposes to proceed as follows: *“.....assuming a final decision of the Authority this coming November 2013, the earliest date when competitively tendering can occur will be in November 2014. This means that the*

realistic target date for the conclusion of contract award/s and the mobilisation of services by operator/s is Autumn 2016.”

6. NTA's Decision Process

6.1. NTA Assessment

Assessment Stages

The approach pursued by the Authority in arriving at the current draft proposals for bus markets in and outside Dublin is set out in Section 2, Assessment Stages of the *Consultation Paper*. For the purposes of clarity, these are included in the bullets below for the Dublin market, although the same approach appears to have been pursued for the market outside Dublin:

- *"Identification of the key requirements of any future bus services contract;*
- *Examination of how best to ensure continued public transport integration;*
- *Examination of strategic options for contracting bus services in Dublin, including options for segmentation;*
- *Consideration of any potential impacts in relation to the incumbent operators and market entrants;*
- *Review of legal issues;*
- *A market sounding exercise, including with incumbent operators;*
- *An informal public consultation to seek the views of other stakeholders and the general public in relation to potential bus market opening;*
- *Review of operation of the current direct award contract; and*
- *Development of proposals in relation to the scope of tendered and/ or direct awarded contracts in December 2014."*

6.2. Key NTA Decision Factors

NTA, within its *Consultation Papers* for markets both in Dublin and outside Dublin, has acknowledged the clear cost and quality benefits of competitive tendering as follows:- *"By putting a service out to tender, market forces are brought to bear to reveal the most economically efficient provider, thereby leading to lower costs. An enhanced level of customer service quality can also feature as an element of the contract award criteria."*

Furthermore, the *Consultation Paper* states:- *".....the clear finding of the literature is that enhanced value for money is available through a move to competitive tendering."*

The Authority also acknowledges that:- *"The provisions in the Dublin Transport Authority Act 2008 create a high threshold of test for not opening up the bus market to competition."*

The Authority's decision for bus markets within and outside Dublin appear, from the consultation documents, to be based on a series of considerations summarised below:

General – Bus Markets both Within and Outside Dublin

- **Costs and risks:-**

- *“The costs and risks arising from an ill-considered competition are substantial.”*
- *“.....the Authority has determined that tendering about 10% of the market presents little, if any, risk to the core Dublin Bus market/ Bus Éireann's overall operations.....”*

- **Public interest:-**

- *“The Authority considers it is in the public interest to leave Dublin Bus/ Bus Éireann with a scale of operation which remains efficient for the company's resources and overheads.”*

Dublin Bus Market

Key factors specific to the Authority's proposals for the Dublin market include:

- **Cost and risks:-**

- *“These (i.e. cross-city and radial) routes are key components for the efficient functioning of the Dublin economy, due to the large numbers transported at morning and evening peak times. In terms of risk management, the Authority considers that the first market competition should not include these routes.”*
- *“Their (i.e. orbital and local routes) dispersed nature means that large city centre located depots are not needed thereby minimising the cost of associated depot provision.”*
- *“.....the bus network will require an element of reconfiguration to complement the new Luas Cross City light rail route..... It would be easier for the Authority to manage such change under a direct award contract with the incumbent compared with a new market entrant and a new contracting regime. If radial and cross city bus services were included in a competitive tender package, the risks around the process would increase substantially”*

- **Improved Dublin Bus efficiency:-** *“Dublin Bus has undertaken major restructuring in recent years, has greatly improved its operational practices and has comprehensive knowledge of bus services in the city.”*

Bus Market outside Dublin

As noted earlier, the Authority's proposals for market outside Dublin represent options at this stage, and key considerations in arriving at these options include:

- **Rural services:-** *"A significant amount of service reconfiguration is likely to be required over the coming years for rural stage carriage services in particular..... To date the re-organisation of rural transport and PSO stage carriage services has only been undertaken in the South East region."*
- **City services:-** *"Opening of Bus Éireann PSO city bus services to competition would pose fewer challenges than the rural services..... Galway and Limerick are sufficiently large to attract interest from potential market entrants, but also sufficiently small that bus and depot transfer from Bus Éireann may not be essential to secure an economically advantageous tender price. Waterford is the smallest city operation and could be grouped with services in other cities thereby creating a geographical spread of tendering opportunities."*
- **Town services:-** *"Dundalk, Tralee, Athlone and other town services are considered too small in terms of likely value to be gained by tendering, although they are realistic possibilities."*
- **Dublin Commuter:-** *"There is potential for some outer Dublin commuter PSO services currently operated by Bus Éireann to be tendered. Services on certain corridors are likely to be less depot-dependent and may be suitable for tendering."*

6.3. Transport Insights' Observations

While each of the above points may be valid, they do not, in themselves, represent arguments for or against a decision in principle to commercialise bus provision. Rather they are risk factors to be managed in implementing such a decision; and only if mitigation or management is not possible, or the cost of doing so prohibitive, should the "in principle" decision be re-visited. As such, we believe the process lacks sufficient robustness, objectivity and transparency. Furthermore, the proposals are not based on clearly articulated economic analysis. We expand upon these points below:

Sequential Nature of Process

The process appears sequential in nature, and lacks the required level of iteration to achieve an optimal outcome. This is further explained by reference to key step in the iterative process, i.e. assessment against the Authority's objectives, challenge identification/ addressing, risk control, cost benefit analysis etc., and in the suggested alternative approach outlined in Figure 6.2.

Assessment against the Authority's Objectives

No evidence is presented within the consultation documents of the draft proposals (and other options considered) being appraised against the Authority's stated bus service contracts objectives - repeated in Section 5.2 of this report. As a result, the extent to which the proposals satisfy the Authority's objectives is unclear.

Challenges Identification

A series of considerations have been cited as reasons to limit competitive tendering to not more than 10% of the market until end-2019 at the earliest. These include depot ownership, Luas BXD implementation and a need to reconfigure Bus Éireann's rural bus services. Measures to overcome these challenges do not appear, from the evidence presented, to have been identified or assessed. Instead these are cited as reasons for deferring a decision on competitive tendering for more than 90% of the market for at least another seven years. We expand on these below under the heading of 'Other Observations'.

Costs

While a vital consideration, e.g. the affordability of implementing a policy initiative or transport scheme, they cannot, however be considered in isolation from the benefits to be derived. The Authority has presented neither an estimated value of benefits of options considered in arriving at the current proposals, or the proposals themselves. Having estimated the benefits and costs, best international practice, when considering a policy option or options, is to undertake a Cost Benefit Analysis (CBA). CBA is defined by the Department of Finance in *Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector* as follows:

"The general principle of cost-benefit analysis (CBA) is to assess whether or not the social and economic benefits associated with a project are greater than its social and economic costs."

Risks

In its consideration of options for bus markets in Dublin and elsewhere, risk is repeatedly asserted as a key factor underpinning the Authority's proposals, with little exposition of the nature of risks, or to the best of our knowledge an assessment of their significance, and options to mitigate/ manage them. Competitive tendering has been introduced in a range of jurisdictions throughout Europe and elsewhere. Evidence from these bus markets can and should be used by the Authority in identifying specific risks, determining their probability of occurrence and consequences, and in developing appropriate mitigation measures. Such a process accords with best practice in risk management, e.g.

The Risk Management Process, Association of Project Management, 2004 endorses a five stage iterative process (see Figure 6.1) – initiate, identify, assess, plan response and implement response. A broadly similar approach is recommended within the National Transport Authority’s *Project Management Guidelines for Projects Funded by the National Transport Authority (up to €20 million in value)*.

In the absence of an assessment of benefits, costs and risks as set out above, it is not possible to assess whether or not the proposals are likely to deliver the NTA’s objectives.

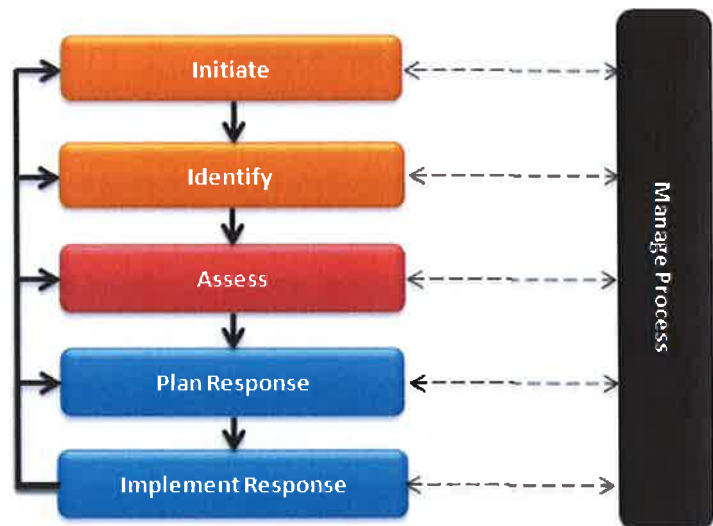


Figure 6.1 The Risk Management Process (APM, 2004)

Other Observations

- **Public interest:-** From the evidence presented, including insufficient analysis of costs, benefits and risks underpinning the proposals, it is unclear how leaving “*Dublin Bus/ Bus Éireann with a scale of operation which remains efficient for the company’s resources and overheads*” can be judged to be in the public interest.
- **Dublin Bus efficiency:-** as further expanded in Section 8.1, a 12.7% reduction in subsidy has been achieved between 2008 and 2012 as a result of reconfiguration of network, with a corresponding a 15% reduction in peak vehicles operated and a 19.7% reduction in passengers – no evidence is presented that this has led to unit cost reductions by Dublin Bus.
- **Route and service re-organisation:-** In competitively tendering Dublin’s orbital and local bus services, it appears to be the Authority’s intention to reconfigure the bus network, with a view to achieving efficiency savings:- “*The network in the outer areas was not addressed by Network Direct and has consequently not been reconfigured, so there is greater potential to gain efficiencies through opening the market.*” (*Economic Analysis of A Direct Award Contract in the Dublin Market*, Ernst & Young). For Bus Éireann’s rural PSO market, very similar reasons are cited in relation to not considering competitive tendering an appropriate option outside the

South East region. This is both internally inconsistent and misses the point. Savings from re-configuration are different form, and to a large extent cumulative with, savings from commercialisation. The argument that re-configuration “*would be easier for the Authority*” with the incumbent, does not appear to be underpinned by robust analysis, and, while it might indeed be easier, it would almost certainly result in significant saving being foregone.

- **Depot ownership issues:-** As noted earlier, these costs are highlighted by NTA as a factor underpinning the proposal to limit competitive tendering to orbital and local services. Given that Dublin Bus is within state ownership, while it may not be within NTA’s control, depot ownership and depot sharing/ access could be resolved through, e.g. negotiations between NTA and Dublin Bus/ Bus Éireann on the extent of Direct Award contracts and associated subvention levels, or, if necessary, Ministerial intervention. Furthermore, were depot ownership to be transferred to NTA, this would likely result in risk minimisation at little, if any, cost to the exchequer.
- **Luas BXD delivery:-** While it is acknowledged that Luas BXD needs to be considered in the context of a competitive tender process, we do not believe it is a valid reason to defer such a competition for all radial and cross-city routes until end-2019 at the earliest:
 - Only a small proportion of these routes will be materially affected by Luas BXD introduction, and with the assistance of analytical tools (e.g. NTA’s Greater Dublin Area Transport Model), it is possible to identify those routes;
 - For those routes that aren’t materially affected, Luas BXD does not appear to represent an impediment to competitive tendering; and
 - For those routes that are materially affected, deferring the completion of a competitive tendering process until end-2017 or 2018 is one possible solution, but again analysis is required of the costs, benefits and risks of other options.

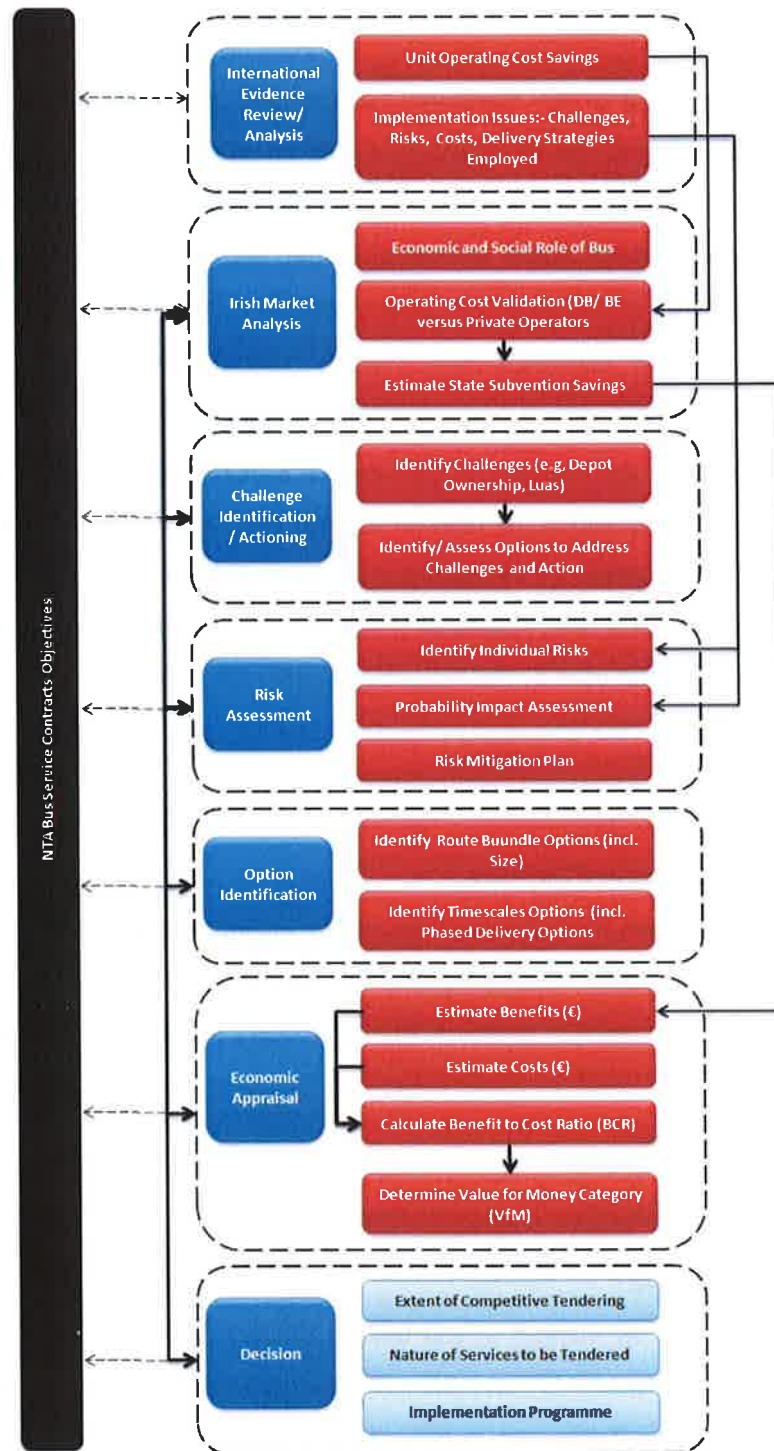
6.4. Best Practice Assessment Process

In the figure overleaf (Figure 6.2), we present an outline of an alternative approach, which accords with international best practice for evidence based planning, appraisal and decision making. Furthermore, as the approach is guided at each step by NTA’s stated objectives, one of which relates to compliance with the relevant act, this approach is therefore consistent with the Authority’s statutory requirements.

In the absence of the evidence and analysis underpinning the process, we are not in a position to determine the end result; however we feel it would most likely result in a different outcome to that currently proposed by the Authority.

Within Appendix A, we elaborate on this proposed approach, including a comparison of the extent to which NTA's approach to date appears, from the evidence presented in the consultation documents, to have included the key activities.

Figure 6.2 Suggested Alternative Approach – Process Flow Chart



7. Ernst & Young's Economic Analysis of Direct Award Contracts

7.1. Background

The legislative background to the Authority's current proposals is set out in Section 5.1 of this Submission, with specific reference to Subparagraph 52(6)(c)(ii). This subparagraph, and in particular the wording "... *can only be guaranteed...*", sets a rigorous standard on the Authority in arriving at a decision to enter into direct award contracts beyond the current contract period. Failure to demonstrate that the proposals are in the "*general economic interest*" leaves such a decision by the Authority open to potential challenge. Accordingly, NTA commissioned Ernst & Young to undertake an *economic analysis of direct award bus contract in the Dublin market/ outside the Dublin market*.

Ernst & Young's reports are intended to provide the analytical and evidence base underpinning compliance with provisions within the relevant Act and the most fundamental aspects of the draft proposals for both bus markets, i.e. the nature and extent of future direct award contracts. As such, Ernst & Young's reports have been subject to critique by Transport Insights, with a view to assessing their robustness as evidence used by the Authority to justify the proposals.

7.2. Economic Analysis Report Structure

Ernst & Young's reports are structured as follows:

- Section 1, Introduction and Overview
- Section 2, Background:- Public Service Transport in Dublin/ outside of Dublin
- Section 3, Proposals put forward by the NTA
- Section 4, Analysis of the NTA proposals (Dublin market)/ Assessment of NTA proposals (market outside Dublin)
- Section 5, Conclusions.

7.3. E & Y Section 1, Introduction and Overview

Economic Analysis Scope

Ernst & Young's reports for markets in and outside Dublin intend to set out "*the findings of an economic analysis of a proposal to move from the existing arrangement of directly awarding public service bus contracts in the Dublin area/ outside of the Dublin area to a more competitive basis.*"

7.4. E & Y Section 2, Background:- Public Service Transport in Dublin/ outside of Dublin

Government Involvement in Public Transport

The reports set out the rationale for Government involvement in public transport:- *“Governments are involved in the provision of public transport – including bus transport – because it brings a range of economic, social and environmental benefits. A number of these are outlined below.....”*

In the report for the Dublin market, Ernst & Young cite evidence from the UK (where government neither own nor operated buses), as follows:- *“Recent research focusing on bus services in the UK has quantified the economic and social value of bus transport and found that bus networks warrant a greater focus from policy makers as a source of growth than other transport infrastructure projects.”*

Transport Demand Patterns

In its transport demand analysis for Dublin the report states *“bus use is down 9%, in line with the total across all modes.”* While this may be true across the canal cordon, we note evidence from relevant Dublin Bus reports (2007 and 2012) of much more significant decreases in passenger numbers across the overall Dublin Bus network:

- 2007:- *“Passenger numbers for 2007 were almost 148 million.....”¹*
- 2012:- *“Total passenger journeys for 2012 amounted to 115.2 million.....”²*

The above figures indicate a reduction in 22% in bus passenger number over the period from 2007 to 2012, substantially greater than the 9% crossing the canal cordon.

In the Dublin context, *“Bus transport is the second most common mode of travel into the City Centre, accounting for 28 percent of all travel. It is second only to car transport which makes up 37 percent of travel into the City Centre. This data further highlights the key role of bus transport in the Dublin economy.”*

For the market outside Dublin, Ernst & Young state:-

- *“Use of public transport, where it is available, is lower outside the Dublin region where only 12 percent of those with a local public transport service use it at least once a week, compared with 40 percent of those in the Dublin region. Furthermore, 54 percent of those outside the Dublin*

¹ Dublin Bus Annual Report 2007:- <http://www.dublinbus.ie/PageFiles/2430/2007EnglishReport.pdf>

² Dublin Bus Annual Report, 2012:- <http://www.dublinbus.ie/PageFiles/2430/2012EnglishReport.pdf>

region with a public transport service reported that they would never use it, whereas the corresponding figure for the Dublin region was 18 percent.....”

- *“.....Census 2011 shows that by comparison with the Dublin City and suburbs area, where 20% of travel to work is by public transport, fewer people commute by public transport in the Bus Éireann area.....”*

Funding Public Service Bus Provision

The Dublin report includes a comparison of subvention levels in 2008 and 2012:- *“The subvention peaked at a level of €85 million in 2008 and most recent available data shows it was €75 million in 2012. The figure for 2012 includes a once-off emergency subvention of €5.3 million.”*

Gross deficit, state subvention, and new deficit are set out in Figure 4 of the Report. In the paragraphs, the role of recent fare increases in reducing the deficit is highlighted:-

“....More recently, data for 2012 show that increased revenue has helped to reduce the deficit, even in the context of a reduced subvention. In the main, fares increases rather than patronage increases account for the observed revenue uplift.” No reference is made within the report to the operator’s unit costs, or how these have changed in recent years.

Ernst & Young attempt to place Dublin Bus subvention levels in an international context:- *“A comparative analysis of subvention levels across Europe indicated that levels of public transport subvention vary between 35 and 60 percent of revenue. When all State interventions are taken into account, the level of subvention to Dublin Bus is at the upper end of the range.”*

The report for the market outside Dublin states:- *“The subvention peaked at a level of €49.4 million in 2009 and it was €36.9 million in 2012.”* Data in Figure 2, which follows, indicates that Bus Éireann’s subvention, as a proportion of transport current expenditure, was broadly the same in 2012 as in 2007.

7.5. E & Y Section 3, Proposals put forward by the NTA

The Move from Direct Award to Competitive Tendering

Ernst & Young state:- *“According to analysis by NTA, there is value in introducing competition in the Dublin bus services market/ in the bus services market outside Dublin while maintaining a smaller Direct Award Contract to Dublin Bus/ Bus Éireann.”* Such analysis has not, however, been presented in the public domain for consideration as part of the consultation process, and does not appear to have been considered by Ernst & Young within the scope of their economic analysis. Presumably this

significantly reduced Ernst & Young's capability to robustly assess the alignment between the proposals and statutory requirements (with respect to the "general economic interest").

Scale of Contracts

The rationale behind the Authority's contract size proposals for the Dublin market appear to be underpinned by an attempt to maximise competition:- *"To provide for a competition of interest to local as well as international operators, routes could be split into two lots distributed broadly equally on the north and south fringes of the city, each of about 40 peak hour buses with the option to increase each to 60."*

For the market outside Dublin, the scale of contract appears less clear – this is likely related to the Authority's proposals at present representing options:- *"The proposed options involve tendering routes involving something in the region of 7 to 10 percent of the Bus Éireann PSO fleet, or 30 to 40 buses."*

Other Arrangements

- **Bus fleet:-** *"In order to support the most competitive tender from the market, the NTA will be in a position to provide the winning tender with the fleet to operate the services."*
- **Bus depots:-** *"NTA will identify suitable depot space options and may seek to secure options on their leasing for the contract period."*

7.6. E & Y Section 4, Analysis of the NTA proposals (Dublin market)/ Assessment of NTA proposals (market outside Dublin)

Enhancing Value for Money and Customer Service

Ernst & Young research clearly demonstrates the strength of international evidence in support of value for money and service quality enhancements arising from competitive tendering:-

- *"Reviewing experience of 20 cities across 10 developed countries, the work found unit cost savings of up to 50 percent, with many estimates clustered in the 20-30 percent range....."*
- *".....a cautionary finding of this analysis is that second and subsequent awards can lead to increased unit costs from the first tender (but can still offer benefits)."*
- *".....Nonetheless, the finding of the literature is that enhanced value for money is available through a move to competitive tendering."*
- *".....The meta-analyses cited above also found evidence of service improvements in the studies reviewed and the Competition Authority has noted the potential benefits in this regard."*

Ernst & Young state that *“the underlying level of efficiency is a determinant of the scale of savings which can be achieved. Intuitively, the more efficient operations are at present, the more minimal the impact of competitive pressures and the lower the cost savings achievable”*; and that the reduction in the Dublin Bus subsidy between 2008 and 2012 *“has implications for the magnitude of additional savings achievable from a move to competitive tendering.”*

For the market outside Dublin, no attempt is made to relate international cost saving evidence to Bus Éireann’s PSO services.

Appropriate Size of Bundles

Ernst & Young summarise the findings of market consultation activities by NTA as follows:-

“The market consultation undertaken by NTA in 2012 showed that Irish operators wanted less than 50 buses in a contract, and preferably of the order of 20 buses, while international operators wanted at least 50 buses and either strongly or absolutely preferred a contract for more than 100 buses. On this basis, Irish operators may be interested in the Dublin Commuter routes with a 15-20 PVR that may be tendered, and some of the 19-20 orbital and local routes with a current PVR of 80 buses.”

Executing the Competition

Ernst & Young highlight key anti-competitive practices as:- *“Collusive tendering and the emergence of cartels is a risk to the process. Under such circumstances, the winning bid will be higher than it would otherwise have been had unadulterated market forces prevailed, leading to deadweight loss of taxpayer resources.”*

7.7. E & Y Section 5, Conclusions

For the Dublin market (and with the same broad conclusion for the market outside Dublin), Ernst & Young conclude:- *“there is clear merit in a contained competitive tendering process for a segment of the Dublin market in order to test the process and understand the capacity to realise the potential benefits on offer.”*

7.8. Transport Insights Observations

Overview of Ernst & Young Analysis

Ernst & Young research and analysis:

- Presents evidence of significant unit cost savings achieved across 10 different countries:- *“the work found unit cost savings of up to 50 percent, with many estimates clustered in the 20-30 percent range.”*
- Compares Dublin Bus subvention levels with international cities, and concludes that:- *“.....When all State interventions are taken into account, the level of subvention to Dublin Bus is at the upper end of the range.”*
- Presents no comparable analysis between Bus Éireann subvention levels, and international peers.
- Presents cumulative reductions in Dublin Bus subvention between 2008 and 2012, and concludes that *“This has implications for the magnitude of additional savings achievable from a move to competitive tendering.”* For reasons set out in Section 8.1 of this report, and based on the evidence to hand, we see no evidence to support the contention that Dublin Bus has achieved any unit cost savings over this period, in fact the evidence, prima facie, could suggest the opposite.
- Does not attempt to validate unit cost savings reductions, as identified in research covering a range of international jurisdictions to the bus markets both within Dublin and outside Dublin. This could have been undertaken through analysis of unit operating cost in comparable private bus operators in Ireland. We present the results of analysis undertaken by Transport Insights in Section 8.2 of this report.
- Presents no analysis of likely benefits and costs, and does not include an economic appraisal:
 - earlier in this submission, we question arguments presented in relation to the costs of depot acquisition. Other key cost headings are not clearly specified or quantified.
 - within the following section of this submission, we outline the potential benefits of competitive tendering – these have the potential to be very significant.
- Crucially Ernst & Young do not conclude that the proposals are in the *“general economic interest”*. We outline below the level of analysis necessary in support of such a conclusion.

Economic Appraisal

As noted earlier, best international practice, when considering the economic and social merits of a policy option/ options is to undertake a Cost Benefit Analysis (CBA). CBA represents a critical appraisal tool, and one that need not be restricted to capital investment. In fact it has applications

across all facets of government policy. For example, the UK Department for Transport uses CBA in assessing the value for money of rail franchises.

A key output of CBA is the Benefit to Cost Ratio (BCR), although other measures such as Net Present Value (NPV) can be derived. The BCR is calculated by determining benefits and cost streams over the appraisal period (the period over which streams of costs and benefits should be estimated³), then discounting both back to present values (PVs). The BCR is then calculated as the ratio of present net value of benefits (PVB) to the net present value of costs (NPC). In assessing the value for money (vfm) of a potential transport intervention, the following thresholds apply⁴:-

- *“BCR of less than 1 = poor value for money*
- *BCR between 1 and 1.5 = low value for money*
- *BCR between 1.5 and 2 = medium value for money*
- *BCR between 2 and 4 = high value for money*
- *BCR above 4 = very high value for money.”*

The BCR for a potential intervention (including bus services contracts) is therefore essential in determining whether a proposal, or which of a set of options, is likely to represent value for money. A reason sometime cited for not undertaking CBA is the difficulty in estimating costs and benefits. While this is often challenging, we note that this can be done:

- through consideration and clear articulation of key assumptions underpinning both benefits and costs, and presenting these for critical review and challenge; and
- by reflecting uncertainty through application of low-central-high ranges for benefits and costs, one can have much greater confidence in the outputs, and their interpretation.

In essence, if NTA’s proposals are to be demonstrated to have a strong economic case, a CBA and value for money assessment is essential. This is particularly relevant given the scale of potential savings that could be achieved (see Section 8.3).

³ UK DfT WebTAG Unit 3.5.4, Cost Benefit Analysis:-
http://www.dft.gov.uk/webtag/documents/expert/pdf/u3_5_4-cost-benefit-analysis-020723.pdf

⁴ <http://assets.dft.gov.uk/publications/value-for-money-assessments-guidance/vfmguidance.pdf>

Considering NTA's requirement, under the Dublin Transport Authority Act 2008, to satisfy itself that a decision to directly award 90% of the bus market to the incumbent state operators is in the "*general economic interest*":

- the annual benefits (of Dublin Bus and Bus Éireann retaining 90% of their operations) are unclear but assumed to be small relative to the competitively tendering more/ all of the bus market; however
- the annual costs (of continued subvention) are deemed to be significant (See Section 8.3 of this Report).

Based on the evidence to hand, it is difficult to see a value for money argument in favour of the Authority's proposals.

7.9. Summary

Based on the information presented in Ernst & Young's economic analysis report, or in the Authority's other consultation documents, no CBA/ value for money assessment has been undertaken in support of the Authority's proposals. While it is acknowledged that factors such as risk will need to be considered by the Authority in arriving at its judgement (and as noted earlier these do not appear to have been adequately considered), a stated objective of the Authority in relation to bus service contracts is to "*ensure the provision of high quality and accessible bus services at best value for money for the exchequer*". The absence of a CBA within Ernst & Young's economic analysis calls into question the extent to which the Authority's objectives are satisfied by the current proposals.

Furthermore, the analysis presented within Ernst & Young's report for both bus markets falls well short of addressing the Authority's requirements under Subparagraph 52(6)(c)(ii) of the Dublin Transport Authority Act 2008. Specifically, it provides neither sufficient economic analysis nor evidence in support the Authority's determination that the "*continued adequacy of the public bus passenger services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts.*"

8. Public and Private Operator Cost Analysis

8.1. Dublin Market

Analysis presented in Ernst & Young's Economic Analysis of Direct Award Bus Service Contract in the Dublin Market includes clear evidence of cost savings based on evidence from a range of international jurisdictions:- *"Further analysis, specifically on moving to competitive tendering, shows substantial initial cost impacts. Reviewing experience of 20 cities across 10 developed countries, the work found unit cost savings of up to 50 percent, with many estimates clustered in the 20-30 percent range."*

Ernst & Young attempt to contextualise this for the Dublin Bus market, stating:- *"The underlying level of efficiency is a determinant of the scale of savings which can be achieved. Intuitively, the more efficient operations are at present, the more minimal the impact of competitive pressures and the lower the cost savings achievable."*

The table that follows in their report (Table 2) includes details of the subvention reduction achieved between 2008 and 2012. The data is repeated in the table below, alongside percentage reductions in peak hour vehicles (from the preceding paragraph of the Ernst & Young report) and passengers (relevant Dublin Bus Annual Reports).

Table 8.1 Cumulative Reductions in Subvention, Peak Vehicles and Passengers (2008-2012)

Item	% Reduction, 2008-2012
Cumulative % Reduction in Subvention	12.7%
Cumulative Reduction in Peak Vehicles	15%
Cumulative Reduction in Passenger Numbers	19.7% ⁵

As noted earlier, Ernst & Young state that the reduction in subsidy *"has implications for the magnitude of additional savings achievable from a move to competitive tendering."*

⁵ Based on comparison of passenger number carried in 2008 (143.5 million) and 2012 (115.2 million). Source Dublin Bus Annual Reports, 2008 and 2012

The above reductions in state subvention have been secured primarily through passenger fare increases, and efficiency gains arising from the Network Direct Project. Efficiency improvements arising from network/ service modifications are largely 'operator independent' and should not be confused with unit operating cost savings. The table above provides no indication that unit costs relative to fleet operation have declined over this period. On the face of it, and when considered in the context of fare increases over the same period, Table 1 indicates that the operator could have become less efficient over this period (although it is acknowledged that the relationships between passengers, revenue, subsidy, PVR, and units costs are complex). One reason may be that the company's overheads are already in excess of its needs, for example depot capacity (strengthening arguments for considering shared depot access). International evidence of savings unit cost savings in the region of 20-30% are therefore most likely to remain entirely valid for the Dublin market.

8.2. Market outside Dublin

Information presented within the Authority's consultation documents has been used as a basis for determining unit operating costs for Bus Éireann's PSO operations. The following information has been used:

- Table 1, Overview of Bus Service Operations of the *Performance Report on Current Bus Éireann Direct Award Contract*; and
- Figure 4, Dublin Bus Subvention and Deficit Information of Ernst & Young's *Economic Analysis of Direct Award Contract outside the Dublin Market*.

Having addressed anomalies in Table 1 of the Authority's *Performance Report*, and combined data with the net deficit in Figure 4 of the Ernst & Young Report, we derived a limited number of key operating cost parameters for the three year period from 2010 to 2012. Unit operating cost data over the three year period was broadly stable (cumulative decline of less than 1%), although we note concurrent implementation of a Cost Recovery Plan within Bus Éireann. For 2012:

- operating cost per vehicle km was €2.88; and
- operating cost per seat km was €0.05.

Similar data (total vehicle kms operated, total seat kms operated, and overall operating costs) was sought in confidence from a number of CTTC member organisations. Data from five organisations was received, from companies operating a mix of town, city, commuter and rural services. Where operations were known to include longer distance coach operations, such data was excluded from our analysis.

In total, organisations from which data was received operated 7.8 million vehicle kilometres in 2012 (by comparison, Bus Éireann's PSO services operated 37.3 million vehicle kilometres). Using the data provided, average unit operating costs were derived.

Although two different measures of unit costs have been derived - cost per vehicle km and cost per seat km, the former is deemed a more appropriate comparison between Bus Éireann's PSO operations and private operators, as key cost items such as labour and fuel are more closely related to vehicle kms operated (and it is a more commonly used international measure of industry operating costs).

The table below (Table 8.2) presents a comparison of key operating cost data for Bus Éireann and the sample of private operators.

Table 8.2 Operating Cost Comparison - Bus Éireann and Private Operators

Operator	Total Vehicle Kms operated (millions)	Total Seat Kms operated (millions)	Operating cost (€ millions)	Operating cost per vehicle km (€)	Operating cost per seat km (€)
Bus Éireann	37.34	2,255	€108	€2.88	€0.05
Private Operators	7.79	Not available for all operators	€15.61	€2.00	€0.04 ⁶
% Change Bus Éireann versus Private Operators =				-30.5%	-18.9%

Given the constrained timescales in which we have had available to us in preparing this submission, the above analysis comes with caveats including:

- No two operators are the same, and it is unlikely that the mix of services operated by the range of private operators for which data was supplied will have exactly the same mix of services as Bus Éireann. Although attempts were made to exclude data for longer distance coach operations from our analysis, we cannot guarantee that data for all such services was excluded.
- From information provided by CTTC members, it is understood that, in 2012, Bus Éireann's depreciation charge for 2012 was reduced from €22.7 million to €8.6 million through credit of

⁶ Note: based on data from four bus companies

grant amortization of €14 million. Were this not the case, this would have the effect of increasing operating costs by the same amount, and increasing operating cost/ vehicle km by a further €0.38, to €3.26. Note – this is not reflected in the unit cost savings in the table above, or used as a basis for subsequent analysis.

- Analysis does not account for legislative provisions such as TUPE (Transfer of Undertakings Protection of Employment Regulations), if workers were to transfer from Bus Éireann to a private operator. Should TUPE apply, it could impact on the scale of savings achievable, in particular during a transition to a more extensive competitive tendering regime.

Our analysis does, however, clearly supports the findings of international research into the extent of cost savings achievable from a move to competitive tendering, with potential unit cost savings of approximately 30% per vehicle km achievable in the market outside Dublin in the longer term.

8.3. Potential State Subvention Implications

NTA has not presented an analysis of potential reductions in state subventions achievable following a move to competitive tendering. Analysis by The Competition Authority in its submission to NTA in 2012⁷ states:

“Introducing competitive tendering to the Greater Dublin Area alone, could save the Exchequer a considerable amount of money. For example, the Exchequer provided a total of €631 million of subvention to Dublin Bus between 2002 and 2010. If we apply a 20% saving (which is at the lower end of the spectrum of estimated cost savings), introducing competition in the Greater Dublin Area alone could have saved the Exchequer €126 million over the period between 2002 and 2010.”

We believe this estimate to significantly underestimate the savings, as the percentage reduction in unit costs appears to have been applied only to the subvention, and not the overall cost base.

Separate analysis by Transport Insights has attempted to quantify potential savings, and is based on the following assumptions:

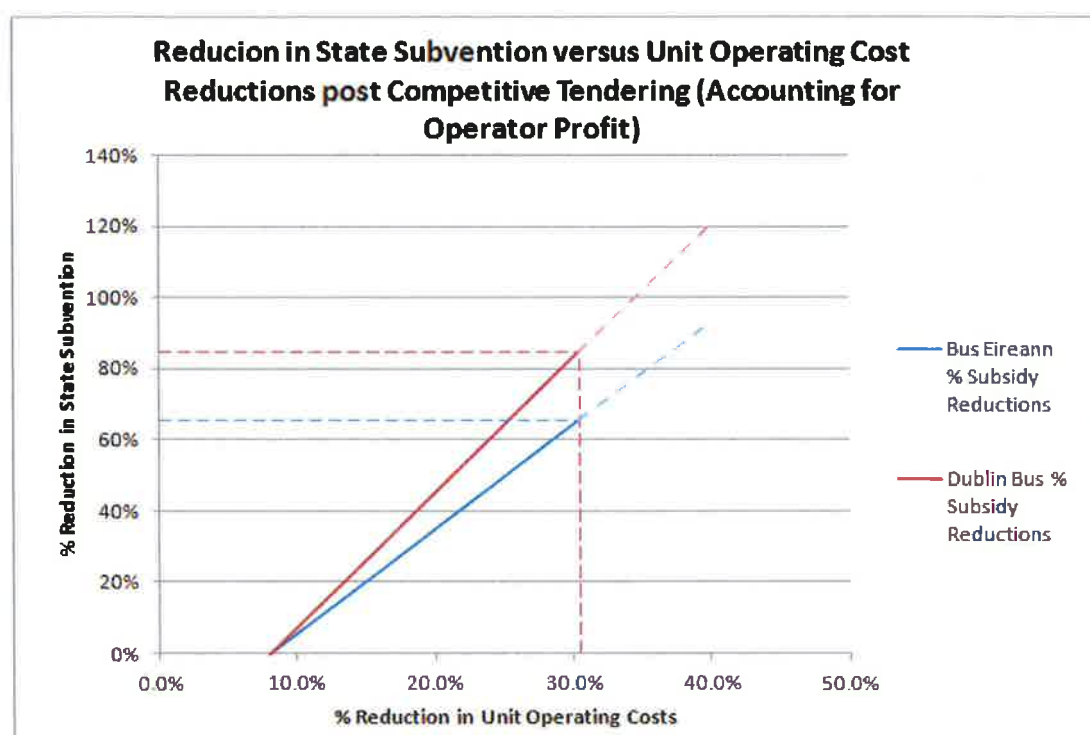
7

<http://www.tca.ie/images/uploaded/documents/S-12-004%20submission%20to%20the%20National%20Transport%20Authority.pdf>

- The exchequer benefiting fully from overall operating cost savings, however it is possible that these could be passed onto passengers through reduced fares, or delaying fare increases, or enhanced quality bus service provision.
- As noted earlier, factors such as TUPE could impact on the savings achievable, in particular during the transition to a competitive tendering regime.
- Private operator's need to deliver their services at a profit - 8% assumed.

The results of this analysis are set out in Figure 8.1, below.

Figure 8.1 Relationship Between Unit Cost Reductions and State Subvention Savings



The figure above demonstrates, that even with relatively modest reductions in unit costs, the state subvention savings remain highly significant. As a result, were more modest unit cost savings achieved in the transition to a competitive tendering regime, the reductions in state subvention are clearly substantial.

Based on the assumed 30% unit cost savings (as per comparison of Bus Éireann and private operators cost base), were all Bus Éireann and Dublin Bus services competitively tendered:

- for Bus Éireann, the 2012 subvention of €36.90 million could reduce, in the medium-long term, by 65% to approximately €13 million; and

- applying similar unit cost savings achieved to the Dublin Bus market, the 2012 subvention of €69.47 million (excluding emergency funding of €5.33 million) could reduce, in the medium-long term, by 85% to approximately €11 million.

9. Further Observations - Fairness in a Competitive Tendering Process

9.1. Identified Competition Risks

In its Technical Report on Contract Options, the Authority states *“Any tender competition has to take place on a fair and equitable basis, Dublin Bus/ Bus Éireann will be legally entitled to take part in any tender competition for some or all PSO bus services in Dublin/ outside Dublin.”*

Additionally, Ernst & Young highlight *“collusive tendering and the emergence of cartels”* as risks to the tendering process. It is unclear, however, if consideration of competition risks specific to the current proposals for bus markets in Dublin and elsewhere has been undertaken. In light of opportunities for Dublin Bus and Bus Éireann to participate in any competitive tendering process, initial consideration by Transport Insights, supplemented by observations from CTTC member organisations, has identified failure, at present, to adequately address financial transparency within the incumbent organisations, and bus network assets. We elaborate upon both points below.

9.2. Financial Transparency

Based on the current proposals, Dublin Bus and Bus Éireann would retain 90% and 90-93% respectively of their existing services under a direct award contract with NTA. The Competition Authority in their submission to NTA’s 2012 bus service consultation noted that *“a well designed competitive tendering process limits the monopoly rent that operators can charge, prevents the emergence of a dominant national operator and ensures a minimum level of service on tendered routes.”* The current proposals do little to address the existence, at present of *“a dominant national operator”*, and are likely to result in a continued *“monopoly rent”* across the respective Dublin Bus and Bus Éireann markets.

Within the same submission, the Competition Authority also note *“Although the current public bus service contracts were issued by means of direct award to Dublin Bus and Bus Éireann, it is not actually clear which Dublin Bus and Bus Éireann routes are loss-making and which are profitable. The Transport Act 1964 did not require a link between the subsidy to the CIÉ and the unprofitable routes. This situation has not really been changed by the introduction of the Dublin Transport Act 2008 and the Transport Regulation Act 2009. The current Public Contracts are still awarded as a single grant for the provision of a large network of services, so a specific amount of subsidy is not attributed to a specific route or a specific time of day.”*

This risk is further exemplified by NTA’s recent performance audit of Dublin Bus, which *“thus far have awarded a mark of “satisfactory” in relation to the conduct of the contract in 2010 and 2011.”* For

Bus Éireann *“The 2010 audit was “satisfactory” in relation to the conduct of the contract. The results of the 2011 and 2012 audit are, at the time of writing, currently close to completion.”*

As noted by the Competition Authority, above, in the case of Dublin, it is unclear which routes are profitable. We believe that the proposals for Dublin Bus to retain operation of all cross-city and radial services will include the most profitable of services (or at least the ones which have the greatest opportunity to become profitable). Given the dominant status of Dublin Bus and Bus Éireann within their respective markets, lack of ‘service by service’ financial and operational data in relation to both companies presents significant risks to the fairness of any competition as it would not be possible to ensure an incumbent bid was free of cross subsidy. Allowing incumbent operators to competitively tender while there is a lack of transparency over cost allocation across their portfolio risks undermining the fairness of any tendering process.

9.3. Operational Flexibility

Depot Ownership

In their submission to the Authority’s 2012 public consultation, the Competition Authority noted:-

“International experiences differ in the ownership of those assets, however, it is normal practice to grant non-discriminatory access to the winning bidders..... The costs of using those facilities should be fair, reasonable, transparent and non-discriminatory.”

The current proposals for bus markets in Dublin and nationally do not address the clear advice of the Competition Authority. Specifically, the Ernst & Young’s economic analysis reports state that the Authority *“may seek to secure options on their leasing”*, and recommend that *“.....steps should be taken to address broader property.....”* The current proposals therefore appear to be noncommittal, however even if a depot or depots are secured, there is no guarantee that such provision would be *“fair”* or *“non-discriminatory”*, insofar as the incumbents have significant operational cost flexibility arising from their multiple depot ownership throughout the state (for example Dublin Bus has seven depots). This will place potential new market entrants at a competitive disadvantage in any competitive tender process.

Bus Fleet

The Authority proposes *“to provide the winning tender with the fleet to operate the services.”* While this appears sensible, in principle, we note that only those buses purchased since 2012 will be made available. Additionally, we understand that in the case of Dublin many/ all of these buses are high

capacity GT Models⁸. Upon launch of these buses, Dublin Bus intended to operate them on the following routes (based on the order in which they would enter service):

- 7 – Mountjoy to Loughlinstown/ Cherrywood
- 151 – Harristown to Monkstown Avenue
- 4 – Harristown to Monkstown Avenue
- 102 – Mountjoy Square to Louhlinstow/ Cherrywood
- 33 – Lower Abbey Street to Balbriggan
- 29a – Lower Abbey Street to Baldoyle (Coast Road)
- 104 – Clontarf Road (Conquer Hill) to Santry (Shanard Road)
- 1 - Santry (Shanard Rd.) Towards Sandymount (St. John's Church).

Based on the Authority's proposals to competitively tender orbital and local services – in general, lower capacity vehicles will be more suited to these service types. As such, the Authority's current proposals could place new market entrants at a competitive disadvantage relative to Dublin Bus. While comparable consideration of Bus Éireann's recent bus purchases has not been completed, it seems likely that new market entrants could be at a similar operational cost disadvantage.

Considering the impact of both depot ownership and bus fleet, there is a significant risk that any competition will discriminate against potential new market entrants. With further consideration by CTTC and its members and/ or deliberation by the Competition Authority, it is likely that other risks to the fairness of any competition will emerge.

As noted elsewhere in this report in relation to the Authority's approach to date in arriving at the current draft proposals, it is essential that these risks be identified, assessed and managed.

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<http://www.dublinbus.ie/en/News-Centre/Media-Releases-Archive/Media-Releases/New-Buses-Launch/>

10. Conclusion and Way Forward

10.1. Draft Proposals

The Authority proposed to enter into a direct award contract with Dublin Bus for 90% of the existing Dublin Bus market, and with Bus Éireann for between 90 and 93% of their existing operations. In light of NTA's bus services contract objectives, and though requirements of the Dublin Transport Authority Act 2008, the Authority acknowledges that *"The provisions in the Dublin Transport Authority Act 2008 create a high threshold of test for not opening up the bus market to competition."*

10.2. Decision Process and Supporting Economic Analysis

For reasons set out in this report, based on the evidence presented in the consultation documents, we believe the process pursued by the Authority in arriving at the current proposals lacks sufficient robustness, objectivity and transparency to stand scrutiny. The Authority has not shown how its current proposals for both bus markets satisfy statutory requirements and its stated bus services contract objectives, including to *"ensure the provision of high quality and accessible bus services at best value for money for the exchequer"*. Furthermore, economic analysis presented within Ernst & Young's reports for both bus markets falls well short of addressing the Authority's requirements under Subparagraph 52(6)(c)(ii) of the Dublin Transport Authority Act 2008. Specifically, it lacks:-

- an assessment of the estimated benefits and costs of the Authority's proposals, and other options considered; and
- a cost benefit analysis, and related value for money assessment.

As such, it provides neither sufficient economic analysis nor evidence in support the Authority's determination that the *"continued adequacy of the public bus passenger services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts."*

Within the consultation documents, the Authority acknowledges that *"a decision to directly award a contract may be open to challenge."* Were the current draft proposals to form the basis of a decision to the Authority, third part challenge represents a significant risk.

10.3. The Benefits

Research cited by Ernst & Young clearly demonstrates the strength of international evidence in support of value for money and service quality enhancements arising from competitive tendering:- *"Reviewing experience of 20 cities across 10 developed countries, the work found unit cost savings of*

up to 50 percent, with many estimates clustered in the 20-30 percent range.....” In the Irish context, “A comparative analysis of subvention levels across Europe indicated that levels of public transport subvention vary between 35 and 60 percent of revenue. When all State interventions are taken into account, the level of subvention to Dublin Bus is at the upper end of the range.”

In the absence of a quantification of the benefits to be derived from a competitive tendering process, high-level analysis of Bus Éireann and private operator unit operating costs by Transport Insights indicates that:

- unit operating cost savings of approximately 30% support the findings of international research on savings achievable following a transition to competitive tendering;
- translating unit cost savings through to current Dublin Bus and Bus Éireann operations, reducing the overall subvention of €106 million in 2012 to €23 million in the medium-longer term; and
- were more modest unit cost savings achieved in the transition to a competitive tendering regime, the reductions in state subvention remain significant.

To put potential overall benefit of approximately €83 million per annum in context, NTA’s Integrated Implementation Plan 2013-2018 outlines average investment of €41 million per annum in bus related infrastructure within the Greater Dublin Area. Furthermore, it is also important to consider these savings in the context of the broader economic context, including the on-going fiscal adjustment underway in Ireland at present.

10.4. Suggested Way Forward

CTTC and its member organisations view the current proposals as a step forward from current arrangements whereby all of Dublin Bus and Bus Éireann historic services are operated by both companies under direct award contracts with the Authority. The general consensus, however, is that the proposals to limit any competitive tendering to a 10% proportion of the existing Dublin Bus market, and between 7% and 10% of the Bus Éireann market until end-2019 at the earliest are not sufficiently expedient or far reaching to satisfy vfm and wider requirements.

The Competition Authority has recommended a staged approach to the transition to competitive tendering:- *“This graduated approach may serve as a useful model for the NTA when introducing competitive tendering for Public Contracts.”* Additional research by Transport Insights (contained in

Appendix B) indicates that competitive tendering in the London bus market was gradually introduced over a ten year period between 1985 and 1994 (Parker, 2004⁹; van de Velde & Preston, 2013¹⁰).

Research contained within the Authority's *Technical Report on Contract Options* states that "Today, London Buses has a continuous programme of tendering with Invitations to Tender being issued throughout the year. The rate of tendering is about 15% to 20% of London's bus network each year....." CTTC members endorse a similar approach for the Irish market, which could be achieved, for example by competitively tendering approximately 10% of bus services in both bus markets each year.

Compared to the currently proposed stop-start-stop approach, whereby 10% would be offered in 2016 followed by a three year hiatus before any further competitive tendering, this would offer the following additional advantages:

- better alignment with industry capacity to respond to tenders;
- better aligned with NTA's capacity to administer the tendering process (including in-house retention of skills); and
- provide opportunities for the most intractable of challenges or risks to be addressed, and for the market to be tested.

This could represent a potential win-win situation for NTA, CTTC members, public transport users and the tax payer, however only if the current proposals are revisited. The time prior to reaching a decision by the Authority (including consideration of a short delay), would represent an opportunity for constructive engagement between NTA and CTTC, and others, to reach a better balance of risk and reward for both NTA and bus operators.

Finally, we envisage any upcoming engagement as an ideal opportunity to establish more formal lines of communication on an on-going basis between CTTC and the Authority to assist in identification of

⁹ Parker, D. (2004) The UK's Privatisation Experiment: The Passage of Time Permits a Sober Assessment CESIFO Working Paper Category 9: Industrial Organisation No. 1126

¹⁰ Van de Velde, D., & Preston, J. (2013). Workshop 3B: Governance, ownership and competition issues in deregulated (free market) public transport: Lessons that can be learnt from developed and developing economies. *Research in Transportation Economics*, 39(1), 202–207. doi:10.1016/j.retrec.2012.06.014

challenges and risks to any future competitively awarded contracts, and identifying opportunities to share and manage these more effectively.

Appendix A NTA Approach Mapped to Best Practice

Task Name	Outcomes Sought	Task Description	Completed by NTA?	Notes/ Comments
International Evidence Base Review	Determine, from evidence of introduction of competitive tendering elsewhere, the likely range of benefits (cost savings, quality enhancements), implementation costs and delivery risks.	Review and analysis of:		
		Unit cost savings	Yes	20-30% savings typical
		Service quality and other benefits	Yes	Service quality improvements
		- Implementation costs - Delivery risks (identification, probability- impact assessment)	No No	N/A N/A
Irish Market Analysis	- Determine the economic and social significance of bus services in Irish context - Confirm (or otherwise) relevance of international cost saving benefits to the Irish context - Estimate the monetised benefits of competitive tendering in Irish context - Determine value in proceeding (in time) to competitively tender all bus	Determine the role of bus:- economic and social analysis of bus markets within and outside Dublin	Yes	Determined to have economic and social significance. Economic significance to Dublin City notes.
		Review of operating cost base of Dublin Bus/ Bus Éireann	Partial	Data available, but not presented in unit cost terms
		Review of operating cost base of private bus and coach operators	No	Not undertaken – See Section X,X of this Report for an indication of potential savings
		Estimate reductions in state subvention arising from unit cost savings (assuming all savings translate through to reductions in state subvention and not, e.g. service quality enhancements, or fare reductions)	No	Not undertaken – See Section X,X of this report for an indication of potential reductions

Task Name	Outcomes Sought	Task Description	Completed by NTA?	Notes/ Comments
	services.			
Challenge Identification and Addressing	Identify key challenges associated with competitive tendering, and most effective/ deliverable measures to overcome each item, and assign responsibilities.	Challenge identification/ addressing, e.g. • depot ownership (secure shared access or transfer ownership to NTA through, e.g. Ministerial intervention) • future network/ service reconfiguration (align competitive tendering to staged completion of such activities) • Luas development (identify materially affected routes, competitively tender remainder).	Partially	Identified, however these form the basis for the Authority determining not to competitively tendering >10% of the bus markets in Dublin and outside. Options, and associated risks and benefits, to overcome the challenges have not been meaningfully identified, and reflected in current proposals.
Risk Assessment	Determine, via international evidence review, and identified challenges above, all risks associated with a competitive tendering, identify mitigation measures and implement etc.	• Identify individual risks • Determine probability of occurrence • Determine impact of occurrence • Determine and implement risk mitigation measures	No	As with challenges above, and forming the basis for the Authority's decision. Only mitigation option considered is proposal to limit competitive tendering to 10% of the market in Dublin and outside Dublin.
Option Identification	From the above analysis and against stated NTA objectives, identify a small number of options most likely to meet the assessment criteria	• Identify route bundle options for competitive tendering • Identify timescales options for introducing commercialisation	Partial	As above re challenge identification/ risk assessment, and reasons underpinning the Authority's proposals. Timescale options too simplistic.
Economic Appraisal	Using established appraisal guidance,	• Assess estimated value of benefits derived	No	This allows NTA to ensure that the

Task Name	Outcomes Sought	Task Description	Completed by NTA?	Notes/ Comments
	assess the relative costs and benefits of the options identified.	- Assess estimated value of costs - Calculate the Benefit to Cost ratio (BCR) - Determine Value for Money (VfM)		correct bundle of services are tendered at the right time to optimise performance against NTA objectives, particularly best value for money for the Exchequer.
Decision	Informed by all preceding tasks, determine the optimal means of achieving the Authority's objectives	Determine, through analysis of the outputs of all preceding tasks, key dimensions of the Authority's decision, in particular: - extent of competitive tendering - nature of services to be tendered - implementation programme.	No No No	No evidence it has been informed by relevant evidence and analysis. No evidence it has been informed by relevant evidence and analysis 10% only at end-2016. No proposals to extend competitive tendering beyond that time proposed.

Appendix B Competitive Tendering – Implementation Elsewhere

UK, outside London

The 1980 UK Transport Act deregulated bus services throughout the UK with the exception of London. The National Bus Company was privatised in 1987-88 and London Buses was privatised in 1994-95 (Her Majesty's Treasury & London Stock Exchange, 1999¹).

London

In London, bus services were privatised but not deregulated as occurred in the rest of the UK. The Tendered Bus Division was set up within London Transport to manage competitive tendering for individual routes as gross cost contracts. About 40% of the original contracts were awarded to private companies (Transport for London, 2009²). Comprehensive competitive tendering was introduced gradually over a ten year period between 1985 and 1994 (Parker, 2004³; van de Velde & Preston, 2013⁴). Tenders were awarded on the basis of costs required to provide the services but since 2001 tender awards have been based on Quality Incentive contracts. These contracts include incentive provisions including the option of a two year contract extension.

Routes are initially tendered for a five year period with a fixed minimum performance standard and a contract price which is adjusted each year to reflect inflation. The reported rate of tendering in 2009 was about 15 to 20% of London's bus network each year. Invitations for tender were issued every 2-4 weeks. Route types vary greatly in their specific requirements (Transport for London, 2009⁵), and services which are deemed socially necessary are subsidised by local authorities. London Buses Limited (LBL), the existing service provider, was divided into 13 locally based subsidiaries to compete with private companies for opportunities to serve specific routes. This was

¹ Her Majesty's Treasury, & London Stock Exchange. (1999). *Implementing Privatisation: The UK Experience*. London, Great Britain

² Transport for London. (2009). *London's Bus Contracting and Tendering Process*. London, Great Britain. Retrieved from <http://www.tfl.gov.uk/tfl/businessandpartners/buses/tenderresults/>

³ Parker, D. (2004). The UK's Privatisation Experiment: The Passage of Time Permits a Sober Assessment CESIFO Working Paper Category 9: Industrial Organisation No. 1126

⁴ Van de Velde, D., & Preston, J. (2013). Workshop 3B: Governance, ownership and competition issues in deregulated (free market) public transport: Lessons that can be learnt from developed and developing economies. *Research in Transportation Economics*, 39(1), 202–207. doi:10.1016/j.retrec.2012.06.014

⁵ Transport for London. (2009). *London's Bus Contracting and Tendering Process*. London, Great Britain. Retrieved from <http://www.tfl.gov.uk/tfl/businessandpartners/buses/tenderresults/>

necessary as LBL initially had difficulties managing and reducing its overheads which made it difficult to compete for tenders. These subsidiary companies were fully privatised in 1994 (TRB, 2001⁶).

Elsewhere

The national approach to deregulation of the bus market in the UK outside London in the 1980's has been described as 'dogmatic' (van de Velde & Preston, 2013, p.203⁷) and was considered as a bad example of how to approach to deregulation (van de Velde & Beck, 2010⁸). The UK experiences, and the similar challenges faced by New Zealand who deregulated in 1991, greatly informed how other countries approached bus privatisation (van de Velde & Preston, 2013⁹). Some examples of other approaches are:

- German local authorities are block granted for the provision of local services; some use private bus operators and contracts are generally on a route by route basis and generally not for more than eight years when the route is retendered (TRB, 2001¹⁰).
- In Sweden long distance coach privatisation (across county borders) occurred in two steps in 1993 and 1999. The service is now unsubsidised and completely deregulated (van de Velde, 2009¹¹). This has been criticised for a lack of sufficient focus on passenger needs (van de Velde & Preston, 2013¹²). Most local and county services are covered within municipal budgets and competitive bids are sought on a route-by-route basis for periods of three to five years (TRB, 2001¹³).
- In Denmark, outside of Copenhagen regional transport authorities issue regional licences to individual operators for specific areas. Services are regulated by the transport authority and legislation was introduced which required that all bus services in Copenhagen be provided by private companies after 2002. This was implemented in a phased basis. After 1989 Copenhagen Transport were required to seek competitive tenders, on a route-by-route basis, for two-thirds

⁶ Transportation Research Board (TRB) Committee for a Study of Contracting Out Transit Services, & National Research Council. (2001). Contracting for Bus and Demand-Responsive Transit Services: A Survey of U.S. Practice and Experience-- Special Report 258. In *Transportation Research Board Special Report 258* (1st ed.). Washington, D.C., USA: National Academy Press. Retrieved from http://www.nap.edu/openbook.php?record_id=10141&page=R1

⁷ See footnote 4

⁸ Van de Velde, D., & Beck, A. (2010). Workshop report – Beyond competitive tendering. *Research in Transportation Economics*, 29(1), 145–151. doi:10.1016/j.retrec.2010.07.019

⁹ See footnote 4

¹⁰ See footnote 6

¹¹ Van de Velde, D. (2009). *Long-Distance Bus Services in Europe: Concessions or Free Market? OCED & International Transport Forum Discussion Paper 2009-21*.

¹² See footnote 4

¹³ See footnote 6

of the bus services in the region (TRB, 2001¹⁴). In 2004 about 80% of bus services in Denmark had been privatised with the intention of selling more (Christoffersen & Paldam, 2004¹⁵).

¹⁴ See footnote 6

¹⁵ Christoffersen, H., & Paldam, M. (2004). *Privatization in Denmark, 1980-2002. CEFifo Working Paper No. 1127 Category 9: Industrial Organisation*. Retrieved from <http://cdi.mecon.gov.ar/biblio/doc/ifo/wp/1127.pdf>

Jeremy Ryan

From: Info
Sent: 14 October 2013 15:19
To: Jeremy Ryan
Subject: FW: Consultation on proposals to directly award contracts for public bus services from December 2014.
Attachments: 2013 submission to NTA re proposal to award a public bus services contract.docx

fyi

-----Original Message-----

From: Hayes, Margo [<mailto:margo.hayes@southtippcoco.ie>]

Sent: 14 October 2013 15:15

To: Info

Subject: FW: Consultation on proposals to directly award contracts for public bus services from December 2014.

Dear NTA,

I am putting this submission in the post today, apologies for the late submission.

Kind Regards,

Margo Hayes

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Tá eolas sa teachtaireacht leictreonach seo a d'fhéadfadh bheith príobháideach nó faoi rún agus b'fhéidir go mbeadh ábhar rúnda nó pribhléideach ann. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Tá cosc ar rochtain don teachtaireacht leictreonach seo

do aon duine eile. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo agus b'fhéidir d'fhéadfadh bheith mídhleathach.

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South Tipperary County Council submission to NTA regarding the Proposals to directly award a Public Bus Services Contract to Bus Eireann in 2014

- The N24 route is strategically important for South Tipperary as it is the main road transport artery that runs in an east to west direction through the county and connects Clonmel with Limerick and Waterford. Maintaining an effective service from Tipperary to Waterford and Tipperary to Limerick is crucial in light of the absence of a good quality train service
- Levels and quality of service should be improved through this process but as a minimum services should not drop below those presently provided. In addition , the timeliness of the service to be provided must meet customers needs (in the context of work, college etc)
- There are rural areas of the county that are poorly serviced by public transport; these include Dundrum/Hollyford area, Ballingarry/Mullinahone area and the Glen of Aherlow area (Sustainable Transport Strategy for South Tipperary 2012-2022). This should be addressed in any such consideration of the service
- Integration of the services with the Rural Transport Service (currently undergoing a restructuring process) is critical and should be a core requirement of the tendering process. Timetabling between the two service providers should be clear, transparent and easily accessible to all potential customers
- Research on Customer need should be carried out before the tendering process is put in place
- A mixture of express services and commuter type services that stop at all significant settlement should be included in the tender package
- Significant penalties or loss of incentives should be included for unsatisfactory performance
- Controls on the price of tickets should be included with provision being made for the more disadvantaged
- If there is a concern that demand is too low to warrant large buses then the provision of smaller scale transport should allow for that
- During the preparation of this South Tipperary Sustainable Transport Strategy 2012 it was found that it is difficult to find information for bus services due to the lack of co-ordination between the different operators, it was notable that the operators work independently of each other with separate websites, bus stops etc. which creates difficulty for the customer at route planning stage. This is an

area that could be must addressed through the awarding of the Public bus services contracts.

Jeremy Ryan

From: Anne Graham
Sent: 14 October 2013 16:55
To: Jeremy Ryan
Subject: FW: NBRU Submission with regard to Proposal to Directly Award 10% of Dublin Bus, Bus Eireann Routes through Competitive Tendering
Attachments: NBRU Submission to NTA Regarding Tendering of 10% of Bus Eireann Dublin Bus Routes 2016 a.pdf

Jeremy, Another late submission for consideration. Regards, Anne

From: dermot o leary [<mailto:oleary.dermot@gmail.com>]
Sent: 14 October 2013 14:36
To: Anne Graham
Subject: NBRU Submission with regard to Proposal to Directly Award 10% of Dublin Bus, Bus Eireann Routes through Competitive Tendering

Anne,
 I have been endeavouring to contact you through your mobile, I was on to the NTA today with regard to the attached submission, I sent it to the address (info@nta.ie) given to me by one of your staff last Friday, sent at 15.30, I got a "message delayed" advice back on Saturday afternoon, I've tried resending it earlier but have not recieved any response with regard to its arrival. Can you ring me please? Or perhaps acknowledge that the submission has been accepted.

--
 Regards,
 Dermot O'Leary
 General Secretary
 NBRU

Supporting The Gathering Ireland 2013. Go to www.thegatheringireland.com and Be Part of it!

An t-Údarás Náisiúnta Iompair ag tacú le Tóstal Éireann 2013. Téigh chuig www.thegatheringireland.com agus Bí Páirteach ann!
 Tá eolas sa teachtaireacht leictreonach seo a d'fhéadfadh bheith príobháideach nó faoi rún agus b'fhéidir go mbeadh ábhar rúnda nó pribhléideach ann. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Tá cosc ar rochtain don teachtaireacht leictreonach seo do aon duine eile. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo agus b'fhéidir d'fhéadfadh bheith mídhleathach.
 The information in this email is confidential and may be legally privileged. It is intended solely for the addressee. Access to this email by anyone else is unauthorised. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it is prohibited and may be unlawful.

**DIRECT AWARD of CONTRACTS to DUBLIN BUS and BUS EIREANN in
2014 with later TENDERING of 10% of SERVICES for 2016
OPERATIONS**

The NBRU wishes to advance the following submission in response to the request from the NTA with regard to the public consultation process.

At the outset it should be noted that the National Bus and Rail Union represents approximately three thousand members across the three CIE Companies.

The success story that is the highly regarded and highly valued public bus transport service provided by both Dublin Bus and Bus Eireann is a testament to the dedication and service of our members and their colleagues.

Competitive Tendering

Serving the Citizen or Ideology?

The programme for Government refers to a more diverse market. We would argue that the market for Commercial Public Bus Transport has already become more diversified in terms of the plethora of services now available on main urban corridors such as Cork to Dublin, Dublin Galway, and Wexford/Wicklow to Dublin Airport etc.

The dominance of the Competition Authority submission on the “Consultation on Proposals to directly award contracts for the public bus services from 2014” as a reference point, or a basis to somehow conjure up some type of justification, to privatise portions of Public Bus service provision is one which is laced with irony.

The monopolisation of a debate on potential competition (Competitive Tendering) by a body charged with promoting competition is surely contrary to the notion of a balanced and non-partisan consultative process.

The NTA has set itself as a remit the “provision of high quality and accessible bus services at best value for money to the Exchequer, to improve the customer experience of public transport and to ensure public transport integration is not compromised.”

However it is our contention that the NTA’s proposal to award 10% of Bus Eireann and Dublin Bus PSO routes to private operators is in fact facilitating an ideology-based proposition.

Imposing an ideology-based competition policy which includes fragmenting the PSO network and awarding public money to (subsidising) private companies surely runs contrary to providing a true integrated public bus transport service.

Outsourcing is coming increasingly under scrutiny in other jurisdictions:

The Financial Times has suggested that “local authorities have grown sceptical about the savings outsourcing can deliver, as well as fearing a backlash against private companies making large profits from the taxpayer.”¹

The Leipzig University commissioned a study in 2011 of over 100 German municipalities which concluded that “the trend is towards greater provision by the public sector.”²

In the UK many local councils have brought services back in-house which had previously been contracted out. A survey by APSE in 2011³ found that 80 out of 140 councils had brought back services including refuse collection, recycling, street cleaning, housing management, cleaning, catering, grounds maintenance, IT, accountancy. In nearly all cases this happened at the expiry of the previous private contracts.

¹ Savings from outsourcing doubted by the state, Financial Times, 23rd January 2012

² Renaissance der Kommunalwirts-Rekommunalisierung Öffentlicher dienstleistungen by T.Lenk et al, University of Leipzig, 2011

³ APSE 2011 UNISON insourcing update: The value of returning local authority services in-house in an era of budget constraints.

The poster boy of privatisation, London, is a model that has only recently come under scrutiny when two major PPPs were terminated, using break clauses in the contracts, and replaced by direct municipal provision. This has been driven by economic failure and value for money calculations, with cross-party support. Transport for London, the public authority for the UK's capital city, has now terminated four PPP contracts in all.⁴

According to the KPMG Independent report on London Bus services the subsidy for bus services in London under competitive tendering has increased from £41m in 2000 to £653m in 2009.⁵

The same report refers to market domination in that the market is concentrated around some seven larger players.

The experience of privatisation and outsourcing is that it routinely reduces service quality while failing to deliver promised savings. And where it does make early savings, it typically does so at the expense of low-paid workers' wages, jobs and conditions.⁶

In October 2012 at the Joint Oireachtas Committee on Transport the CEO of the CTTC said he was not able to say what level of savings could be achieved from tendering.

The NTA themselves at the same forum acknowledged that the savings to the state from tendering could be as low as 5% and those savings could potentially be wiped out by the need to hire additional staff to supervise the tendering and operation of services.⁷

⁴ Source: Re-municipalising municipal services in Europe, report commissioned by EPSU to Public Services International Research Unit

⁵ KPMG Independent Review of the Provision of Bus Services in London, July 2009

⁶ Source: The Guardian, Seumas Milne, Tuesday 17th July 2012

⁷ Joint Oireachtas Committee on Transport, October 2012

NBRU position on NTA Proposals

- **Retention of present Dublin Bus and Bus Eireann activities (PSO)**
- **Retention of the employment of our members in both Companies**

The NBRU were previously engaged in discussions (2006) with the Department of Transport prior to the establishment of the then DTA.

Those discussions contained assurances that the “existing activities” of Dublin Bus would not be affected by the DTA and that any new entrant to the market would be strictly on new routes.

The Dublin Bus fleet at that juncture was approximately 1160 buses, it is now 800.

Our position on Bus Eireann current activities was articulated at those discussions to the point that we expected that similar assurances would apply if and when the DTA (NTA) became the National body tasked with overseeing public transport.

Dublin Bus has since been through two cost-reduction programmes which included a full review of the service network (Network Review) and a total review of all bus routes in Dublin.

This review included a 650 reduction in staffing levels.

The Company is presently engaged in discussions with staff with regard to further savings of €11.1m which will result in staff having their pay significantly reduced.⁸

The foregoing measures (2009 to 2013) will result in the workforce being reduced by 16%, along with a fleet reduction of 20%.

Bus Eireann has been engaged in similar cost-cutting programmes since 2009 which derived cumulative savings of circa €30m of which €15.2m was from the payroll.

⁸ Dublin Bus Cost Reduction Plan, Labour Court Recommendation NO. LCR 20544 and Modification/Clarification

Staff at Bus Eireann have suffered significant take-home pay reductions as part of the recent Business Recovery Plan.⁹

Bus Eireann has been further engaged with the NTA in redesigning the PSO network.

The Bus Eireann subvention was reduced by 25% between 2009 and 2012.

The Dublin Bus subvention was reduced from €86m in 2008 to €69m in 2012.

Bus Eireann returned €58.3m in PAYE, PRSI and other taxes in 2011. The subvention for the same period was €43.4m.

Dublin Bus returned € 60m in taxes for the same period for which they received €73m in subvention.¹⁰

⁹ Labour Court Recommendation NO. LCR 20463/Labour Relations Commission Proposals, 16th May 2013

¹⁰ CIE Annual Report 2011

CONCLUSION

- **It is our contention that the Direct Award by a competent authority (NTA) to Dublin Bus and Bus Eireann in relation to their current activities is entirely compatible with EU Regulation 1370/2007**
- **Fragmentation of the PSO networks would destabilise the structure of the public service obligation and undermine the security of both the service and the jobs associated with service provision**
- **Privatisation dictates that profit is King, while workers' conditions and service are secondary**
- **Staff at Bus Eireann and Dublin Bus have suffered considerable and significant reductions in their take-home pay**
- **Tendering rarely achieves the promised savings, early savings are usually achieved on the backs of jobs, conditions and service**
- **There is a growing tide of opposition towards privatisation across Europe**
- **Increased costs to deliver the services will ultimately be borne by the taxpayer**
- **The London model on Competitive tendering has resulted in a tenfold increase in subvention**

DERMOT O'LEARY

General Secretary

11th October 2013



Submission to the National Transport Authority

Proposal to Directly Award a Public Bus Services Contract to Dublin Bus and Bus Eireann in 2014.

October 2013.

1. Introduction

- 1.1 The National Transport Authority (NTA) has proposed to directly award Dublin Bus and Bus Eireann contracts to operate public bus services from 2014 until 2019.
- 1.2 This will be the second direct award contract to both companies since the transposition into Irish law of the provisions of European Union regulation 1370/2007.
- 1.3 However on this occasion the NTA has proposed a radically different type of contract. They propose to award from 2014 until 2016 a contract to both companies for the services they currently operate. However from 2016 at the latest they are to seek tenders for the operation of 10% of these services.
- 1.4 The NTA has commenced two separate public consultations, seeking the views of interested parties on their proposals.
- 1.5 While there are some differences in the NTA proposals as they relate to Dublin Bus on the one hand and Bus Eireann on the other, there are also a good deal of similarities. We therefore propose to respond to the NTA proposal in a single submission.
- 1.6 In section two of this submission we will outline the approach that the NTA takes to the granting of direct award contracts for public bus services and the objectives

that it sets itself in entering into such contracts. In section three we will critically evaluate the NTA proposal against these objectives. In section four we will examine the performance of Dublin Bus and Bus Eireann in the period of the first direct award contract and in section five we will argue that the NTA proposal is ill-conceived and is designed to achieve objectives other than those stated.

2. The Granting of Direct Award Contracts for Public Bus Services – The Approach of the NTA.

- 2.1 The NTA claim that its approach to the granting of direct award contracts is rooted in the protection of the public interest and in recognition of the important role played by public bus services.
- 2.2 In their public consultation documents they point out that “buses provide access to workplaces, commercial and retail centres, and are particularly important to those without access to a car”¹
- 2.2 As well as having a vital role in the economy, bus services also have a crucial social function. As the NTA point out bus services “link communities to each other and to the services they require”.²

¹ Proposal to Directly Award a Public Bus Services Contract to Dublin Bus in 2014. Page 3.

² Ibid.

2.3 It is also widely recognised that high quality public bus services contribute to the requirement to move to a more sustainable environment: "A good quality bus service should encourage more people to travel by bus in preference to the car, reducing the environmental impact associated with car travel".³

2.4 The NTA has also set objectives which they are seeking to achieve in entering into direct award contracts for public bus service. These are listed in the bullets below:

- Ensure the provision of high quality and accessible bus services at best value for money to the exchequer;
- Enable strong monitoring of, and enforcement of compliance by, the contracted operators with the terms of the contracts;
- Improve the customer experience of public transport;
- Ensure public transport integration is not compromised; and
- Be compliant with the Dublin Transport Authority Act 2008, the Public Transport Regulation Act 2009, EC Regulation 1370/2007 and EU procurement requirements."⁴

2.5 Congress agrees that these are important objectives and we agree that they should form part of the decision making process leading to the granting of direct award contracts for public bus services. We also believe that the NTA should have regard to the protection of employment and employment standards in the transport sector in the granting of direct award contracts.

3. Will the NTA Proposal Achieve Their Stated Objectives?

3.1 In paragraph 4.2 above we have listed the objectives set by the NTA that they are seeking to achieve by entering into direct award contracts for public bus services. In this section we will examine each of these objectives and evaluate if the NTA proposal can contribute to the achievement of these objectives.

3.2 The first objective is the provision of high quality and accessible bus services at best value for money for the exchequer. Congress would maintain that the services currently provided by both Dublin Bus and Bus Eireann achieve this objective. We would further argue that the proposal to tender 10 % of the services currently operated by both companies could set back significantly the quality and

³ Ibid.

⁴ Proposal to Directly Award a Public Bus Services Contract to Dublin Bus in 2014. Page 5.

accessibility of public bus services. For example would any new operator continue to make all services accessible for people with disabilities?

3.3 Dublin Bus and Bus Eireann continue to provide excellent value for money. They have radically reformed the services they provide to be more efficient and have continued to provide the same services with greatly reduced resources. A possible consequence of the NTA proposal would be that the potential of Dublin Bus and Bus Eireann will to continue to operate will be undermined by the tendering out of 10% of their services.

3.4 The second objective set by the NTA is its capacity to monitor and enforce compliance by the contracted operators with the terms of the contracts. Over the period of the first direct award contracts both Dublin Bus and Bus Eireann have established a strong culture of reporting on their performance with the terms of their contracts with the NTA. They have also built a good working relationship with the Authority and have established effective means of reporting performance. It will take a considerable period of time for any new operator of public bus services to create systems of reporting equal to that developed by Dublin Bus and Bus Eireann. In the view of Congress the decision

to tender 10% of public bus services has the potential to undermine its capacity to ensure compliance with contracts for public bus services.

3.5 The third objective of the NTA is to improve the customer experience of public transport. In the period of the first direct award contract Dublin Bus and Bus Eireann have radically reformed the quality of their services, considerably improving the experience of passengers. They have altered their networks to respond to changed demand. They have introduced fare collection systems that make it easier for passenger to switch from one mode to another and have modernised their fleets to makes them fully accessible. Both companies have also made WIFI freely available on their fleet of buses. Congress would be concerned that introducing new operators as proposed by the NTA has the potential to undermine the positive experience that passengers have had under the terms of the first direct award contracts.

3.6 A mark of a high quality system of public transport is the extent to which the various modes (bus, train and tram) are integrated and the extent to which passengers can switch from mode to mode using a single ticket or ticketing system. Over the period of the first

direct award contract both Dublin Bus and Bus Eireann have put in place systems to allow passengers to use a single ticket that can also be used on other modes of public transport. Dublin Bus and Bus Eireann have modified their networks to provide that passengers can easily switch to LUAS and rail as required. There is a danger that public transport integration could be damaged by the introduction of private operators.

- 3.7 The final objective set by the NTA in entering into direct award contracts for public bus services is to ensure compliance with EU Regulation 1370/2007 and EU procurement regulations. While it can be argued that the NTA proposal does meet the terms of this legislation it is equally true that a renewed direct award contract on the same terms as the current contract would also meet the requirements of the legislative provisions.

- 3.8 While it is not an objective that the NTA sets for itself, Congress is strongly of the view that in considering the organisation of public transport services the NTA should have regard to the maintenance of employment standards in the sector. The NTA should note that the Irish labour market is very lightly regulated and recent decisions of the Courts have meant that the only legally

enforceable rate of pay is the minimum wage. There is no statutory requirement on employers to provide sick pay or contribute to the pensions of their employees. There is little doubt that any employer tendering for the public bus services identified in the NTA proposal will do so on the basis of paying employees the minimum wage and nothing more. This further undermines the position of Dublin Bus and Bus Eireann, damages the economy by weakening the spending power of workers but worst of all the state, through the tendering process, is encouraging exploitation and social dumping.

- 3.9 It is clear to Congress that the NTA can meet the objectives it has set itself without the need for the type of tendering proposed. A renewal of the direct award contracts currently in place will ensure high quality and accessible public transport with excellent value to tax payers, will ensure the continuation of high standards of compliance with the contract conditions through well-developed monitoring mechanisms, will ensure high levels of integration and will ensure compliance with the relevant national and EU legislation. By proposing the type of tendering envisaged the NTA risks promoting exploitation and social dumping and continuing the race to the bottom.

4. The Performance of Dublin Bus and Bus Eireann under the Direct Award Contracts 2009 2014.

- 4.1 It is important to consider the performance of both companies as measured against criteria set by the NTA as part of the direct award contracts currently in place.
- 4.2 In the case of Dublin Bus, as the consultation paper points out, undertook a radical re-organisation of its network during 2010. "The re-organisation entitled the Network Direct project was the outcome of a review of the Dublin Bus network which was the widest ranging in the history of the company and involved an intensive process of route examination, consultation and research of all routes and services in the Dublin Bus network."⁵ This revised network was implemented with the total co-operation of staff at all levels in the company and has resulted in a very efficient service".
- 4.3 The performance report published by the NTA on Dublin Bus as part of the consultation process states "that overall Dublin Bus achieved a high level of compliance with the

required performance obligations for the reporting period."⁶

- 4.4 Specifically the report goes on to say that in the case of Dublin Bus "approximately ninety-five per cent of the results reported complied with the specified performance obligations."⁷
- 4.5 Equally the performance report issued by the NTA in respect of Bus Eireann showed a level of compliance that in some cases may have exceeded what was required.
- 4.6 The performance report shows that in the case of Bus Eireann "approximately 99 per cent of the results reported complied with the specified performance obligations. Bus Eireann demonstrated particularly high compliance levels within the punctuality and Reliability category, with 1 non-compliance out of 457 results reported, and which was attributed to adverse weather conditions in Q4/2010. The current running averages 6 of the results to date (with the exception of the performance obligation "Customer Telephone") exceed those targets specified within the performance obligations, indicating that the required service levels have been met or exceeded

⁵ Proposal to Directly Award a Public Bus Services Contract to Dublin Bus in 2014. P9

⁶ Proposal to Directly Award a Public Bus Services Contract to Dublin Bus in 2014. Performance Report on Current Dublin Bus Direct Award Contract. P2

⁷ *ibid*

under the Contract for this period.”⁸

- 4.7 It is clear to Congress that the targets set by the NTA as part of the direct award contracts have been met and in some cases exceeded by both companies.

5. The Case for an Alternative Approach.

- 5.1 Congress is strongly of the view that the proposal to tender out 10% of the bus services currently operated by Dublin Bus and Bus Eireann as part of a new direct award contract to be issued in 2014 is ill-conceived.
- 5.2 As we have demonstrated in the earlier parts of this submission, the objectives set by NTA can be achieved without the requirement for tendering. Furthermore we would argue that some of the improvements made in terms of quality of service and integration could be undone by the proposed tendering.
- 5.3 We have also demonstrated that the proposed tendering could result in the exploitation of workers, a lowering of standards of employment in the sector and social dumping.

- 5.4 Furthermore as demonstrated by the documentation provided by the NTA as part of the public consultation process it is clear that Dublin Bus and Bus Eireann has met and exceeded the performance targets set by the NTA.

- 5.5 It is also clear that the public consultation documents fail to give consideration to a number of vital questions that will arise if the NTA decide to proceed with tendering as proposed. We have listed some of these in the points that follow.

- 5.6 Will Dublin Bus and Bus Eireann be required to hand over buses to a private sector operator in the event that a private sector operator is successful in any tendering competition?

- 5.7 Will Dublin Bus And Bus Eireann be required to share garage space or hand over garages to a private sector operator in the event that a private sector operator is successful in any tendering competition?

- 5.8 No consideration has been given to the position of the employees of Dublin Bus and Bus Eireann. For example, what is to happen to the employees of Dublin Bus and Bus Eireann in the event that a private sector operator is successful in any tendering competition? Some will argue that such employees are protected by the TUPE regulations. However the TUPE are wholly

⁸ Proposal to Directly Award a Public Bus Services Contract to Bus Eireann in 2014. Performance Report on Current Bus Eireann Direct Award Contract. P2

inadequate as they provide only limited protection to employees and make no provision for the transfer of pension obligations to any new employer. It is clear therefore that the proposal to tender services could result in some very serious industrial relations difficulties.

- 5.9 There are also some very specific issues that arise in the context of the proposal to tender 10% of Bus Eireann Services. In all of the proposed options under consideration it is suggested that bus services for an entire city be tendered. This could result in the creation of private sector monopoly for the cities in question.

6. Conclusion

- 6.1 Congress believes that the case for tendering 10% of the bus services operated by Dublin Bus and Bus Eireann has not been proven.
- 6.2 It is the unnecessary privatisation of vital public services that are critical to the proper functioning of our society and economy.
- 6.3 No evidence has been presented to demonstrate that tendering will result in a better outcome for citizens and users of these important public services. In fact there is a good chance that significant damage could be done

to quality of services as a result of this proposal.

- 6.4 In the absence of clear evidence that tendering will result in a better outcome for service users we can only conclude that the proposal is ideologically driven and designed to hand ruthless employers the opportunity to exploit workers, drive down standards of employment and continue the race to the bottom. We further believe that it is the start of a process that over time will lead to the entire privatisation of public transport services.
- 6.5 Congress is therefore opposed to the NTA proposal. We believe that a further direct award contract should be made to Dublin Bus and Bus Eireann for the services they currently operate.
- 6.6 We would be happy to meet with the Authority to discuss the issues raised in this submission.

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BL 14629



11 October 2013

Dear Sir or Madam

Consultation on proposals to directly award contracts from December 2014 for public bus services

I am writing to you to convey our comments on the Public Consultation Documents you have issued as part of the Statutory Public Consultation process.

Arriva is responding as an interested and internationally experienced public transport operator, we have previously responded to the market sounding exercise carried out by the NTA in 2012.

We have carefully examined the consultation documents relating to the proposals to tender public bus services both within Dublin and outside of Dublin, we believe we understand the approach described in those documents and in overall terms support the steps being taken. We have some specific concerns and suggestions which we outline below and we hope will be of interest to you.

Access to Bus Depots

We understand that access to bus depots is not practically possible in this first stage of tendering. However if the two incumbent operators are allowed to bid then they have a significant cost advantage over other bidders. This would not provide a 'level playing' field in the tender competition. Whilst you recognise this and suggest you might take lease options on suitable locations for other operators to operate from, you do not address the cost imbalance issue.

One solution would be to exclude the existing operators from this first round of tendering to assist in the establishment of the tender market. Another alternative would be to request bidders to identify depot costs in their tenders and to award the tenders based on the most advantageous prices excluding this element, this would operate to encourage clearest identification of depot costs by the incumbents.

In view of the scale of reduction in the Dublin Bus fleet we would suggest that there is scope to close and mothball at least one of the existing seven garages to offer with the next round of tenders in the city.

Vehicles under NTA control

Whilst we follow the logic which identified the orbital and local routes packages identified in Dublin as being the first step in tendering we are concerned that the vehicles you offer may not be best suited to

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those routes. The 78 latest Volvo two door double-deckers are probably best suited to radial routes. In the Technical Report on Contract Options for Dublin, Section 5 page 21 you identify one of the key advantages of tendering the local routes as being "vehicle size could be potentially better matched to passenger demand".

For the size of packages you offer and in the timescales you propose we do not see a difficulty in the operator buying the vehicles best suited to the route specifications you devise. Due to the nature of the routes there will be different types of bus involved. Our assessment of the residual value risk on the 5 year contract life proposed will be conditioned by our substantial UK operations.

A similar issue may arise in respect of the 60 vehicles under NTA control presently used by Bus Eireann.

Transfer of Staff

The position outlined where TUPE applies is familiar to us. Clarity is needed for the existing operator, the new operator and the individual members of staff as to who is transferring to the new operator. There are two risks, one that the existing operator holds on to too many staff and creates a cost risk for the authority in subvention payments, the second risk is that the new operator finds that staff expected to transfer do not at the last minute, creating a vacancy gap.

There is no perfect solution to this issue except clear communication, uncertainty will cause additional risk reflected in tender prices. The smaller packages in the initial round of tenders will allow these processes to be tested and templated.

Packaging outside of Dublin

We understand the options that have been outlined. We wonder if a greater part of Cork City services might not be a better option.

If Waterford and the South East package are taken together does this not mean that all of Bus Eireann's operation in this region is involved? Might the depot then not transfer to the new operator and the school buses and express coaches be out-stationed with the new operator and be maintained at other Bus Eireann premises.

In conclusion Arriva is encouraged by the measures that are consulted upon in the documents issued by the NTA. We recognise the wish to be cautious in the economic circumstances and we are sure that the tendering approach will deliver the financial and service quality benefits which we have seen, and been part of delivering, in major capital cities and regions across Europe including some of the examples identified by Ernst and Young in their Economic Analysis.

Yours sincerely

Piers Marlow

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