BUS COMPETITION IN IRELAND – THE CASE FOR MARKET FORCES

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1. Introduction

The dominant monopolistic tradition of regulating the bus sector in Ireland long predates contestability theory.[1] The difficulties in reforming the monopoly system established in 1932 are seen in the successful obstruction of even minor change by the incumbent beneficiaries of protectionist policies. Modest proposals to change from national to local monopoly have been successfully delayed because of regulatory capture of the Department of Transport by the dominant monopolistic producer, the *Coras Iompair Eireann* (CIE) group comprising of *Bus Eireann* (Irish Bus) and *Bus Atha Cliath* (Dublin Bus). Despite highly successful transport deregulations such as Ireland/Britain air services in 1986, road freight in 1988 and taxis in 2000, the obstacles to competition in the bus sector are greater now than at any time since 1932. New obstacles to contestability in recent years include the allocation of all the National Development Plan (NDP) public transport funds to the CIE group and the rapid increase in public transport subsidies are allocated only to the same group.

The Department of Transport's long-standing opposition to bus competition, is indicated in the 1985 *Green Paper on Transport Policy* (Government of Ireland, 1985) the Department's commissioned research on *Regulation of Bus Services Outside the Greater Dublin Area* (Steer Davies Gleave, 2002).

This paper addresses the costs to consumers, taxpayers and excluded market entrants of allowing the monopolistic transport sector to opt out of general competition policy in Ireland. In November 2002 when publishing the Steer Davies Gleave Report, (SDG) the Minister stated that…*neither he not the Government had taken any view on its content* but that…*he would evaluate the outcome of the public consultation process and would then bring forward proposals for the regulation of bus services outside the Greater Dublin Area." (*Department of Transport,

[1] This is the theory that a monopolist firm will behave like a competitive firm if the market is contestable in the sense that if they restrict output and charge higher prices new entrants can enter the market to restore competitive pressures, see Baumol (1982).

2003). The import of this paper is that the anticompetitive policy stance of the Department lacks a foundation both in economics and in the market for bus services. The Department of Transport should deregulate the bus market.

Section 2 of this paper analyses the arguments against bus competition made by the Department in 1985 and by its consultants, SDG, in 2002. Section 3 presents case studies of bus competition in Ireland showing substantial fare reductions, frequency increases and service improvements. Section 4 presents the responses of independent bus operators to criticisms of bus competition by the Department and SDG. Section 5 deals with obstacles to the independent bus sector such as regulatory capture, and subsidy and investment grant bias. Section 6 presents some conclusions and policy recommendations.

The SDG estimate that the private sector bus fleet in 2002 had 4,890 vehicles that is 2.6 times the CIE fleet of 740 vehicles in Bus Eireann and 1,120 in Dublin Bus. The persistence of the large private bus fleet in a hostile licensing, operating and investment environment raises the issue of whether it might benefit bus users, the national finances and overall economic efficiency if governments were to abandon the policy of discrimination against the private bus sector.

2. The Department's Case Against Bus Competition

Tables 1 and 2 show the arguments against bus competition made by the Department of Transport in 1985 and largely repeated by SDG in 2002. The anticompetitive policy of the Department in 1985 was surprising given that throughout the 1970s it had on occasion published information on the lower unsubsidised fares charged by private bus companies. In 1972 the National Prices Commission (NPC) reported that the remaining independent bus companies, many operating in remote areas, charged lower fares, in some cases significantly lower fares, than CIE, the successor of the companies protected by the 1932 legislation. The fares information was provided to the NPC by the Department but has yet to influence public policy towards the sector. In 1979 the Minister stated in the Dail that …*while I do not have full up-to-date particulars in relation to fares charged by private operators of licensed road passenger services, the information available to me suggests that these fares are in most, but not all, cases lower than CIE's fares mainly because of lower administrative and staff costs."* (Parliamentary Debates, 1979)

Information on lower costs of private bus companies known to the Department might be expected to influence policy in favour of more market entry but this has not been the case however up to and including 2004. The Department remains opposed to bus competition and secured the withdrawal of the Citylink Galway-Shannon Airport service notwithstanding the proven record of the company on the Galway-Dublin route.

Table 1: The Department's Arguments for and Against Bus Deregulation, 1985

The Case for Competition:

(a) Customers would benefit from competition in fare levels and quality of service.

(b) Market supply would adjust to passenger demand, thereby producing more effective and economical use of transport resources.

(c) Would challenge CIE and its staff, giving them an opportunity to respond to competition in the market.

(d) A licensing system would provide a means for controlling the very considerable transport operations that are at present legally doubtful.

(e) Would encourage experiments with minibuses and small buses, particularly on routes where the use of large buses is uneconomic due to low levels of demand.

(f) Success of private operators would help to convince CIE to withdraw from certain areas (or services), thereby leading to improved CIE financial performance; also increased competition might help the railways to be more cost-effective.

The Case against Competition:

(a) Risk that unrestricted competition would adversely affect the quality of service, with safety implications.

(b) Full liberalisation might lead to gaps in service rather than an integrated network.

(c) Operators would concentrate on routes with high demand, leaving CIE to serve the low-demand routes.

(d) Benefit of cross-subsidisation within CIE would be eroded, as CIE reduced fares on well-supported routes in order to retain traffic.

(e) Possibility of reduction in CIE staff on foot of a fall in demand for CIE services, with redundancy and other cost implications.

(f) Competition would reduce CIE's share of bus traffic, in the short term at least, and possibly cause a further fall in rail passenger levels. This would adversely affect CIE's financial position, and could lead to its having to reduce costs (by eliminating and/or reducing uneconomic services).

Source: *Green Paper on Transport Policy* (1985), p. 23.

The Table 1 case for bus competition has been vindicated by experience where transport markets have been deregulated. Fares have fallen, costs have been reduced and productivity has increased. Section 3 below presents six case studies of bus competition in Ireland illustrating significant fare savings and efficiency gains. Argument (d) in the Department's case for competition, that it would give the Department more control over the Irish bus sector, is somewhat eccentric since the normal case for deregulation is that there should be less rather than more government intervention. Similarly, the Department's argument (f) against deregulation that it would lead to CIE having to reduce its costs, would normally be included in the case for deregulation.

The Department's arguments against deregulation, in the second half of Table 1 still determine policy but lack conviction. On the point (a), consumers trade-off price and quality in deregulated markets across a wide range of goods and services. Safety regulation can be retained when market entry is deregulated and the abolition of the Garda and vehicle testing functions was not proposed. United Kingdom safety data indicated a significant improvement in bus safety performance during deregulation with a decline in the bus accident rate index from 100 in 1980 to 74 in 1988 compared to 79 for all vehicles. (Barrett, 1991).

The value of integration to passengers depends on the division of journeys between point-to-point trips and interchange trips.[2] For a passenger on the Galway-Dublin route, for example, it may be a matter of indifference whether CIE or a private operator is used by passengers on the Waterford-Dublin route. The National Development Plan provides €63 million at 1999 prices for public transport integration in the Dublin area alone, (Indecon, 2003), but does not apply either cost-benefit analysis or market tests to the project. In air transport, for instance, the high administration and clearing house costs of integrated services for interchange trips have been a major cost disadvantage for traditional airlines in competition with low cost new entrants providing point-to-point service only.

In point (c) against bus deregulation the Department states that the new entrants would concentrate on routes with high demand. Many small local bus operators exist in remote areas because CIE and its predecessors chose not to buy them out under the 1932 legislation. They perform about half the school bus service as agents of CIE, presumably because CIE finds this more economical than running the service in-house. There are small bus operators in most small towns and villages despite public policy not to give them public service licences.

The argument at point (d) against bus competition that the "benefit of cross subsidisation would be eroded" requires analysis. The theory behind cross-subsidisation is that, through exemption from competition on profitable routes, the monopolistic operator will accumulate a fund by charging above the market price and that the fund will be used to bear part of the cost of loss-making routes. The supernormal price charged on busy routes includes a tax element in addition to the cost of the service and this is used to partly fund other routes and this decision is transferred to a transport operator from government. Cross-subsidisation is thus a substitute for taxation and direct funding from the Exchequer of loss-making bus services. The problem with cross subsidisation, however, is that costs on the protected routes may rise to absorb the supernormal revenues and that in effect no cross-subsidisation takes

[2] The value of integration within urban areas may have more appeal than on the intercity routes. For instance, there are administrative costs involved in operating the clearing house and settlement system and reduced yields for transfer passengers compared to point-to-point passengers.

place other than the transfer of supernormal revenues to producers from passengers on busy routes. The finding by the NPC that fares charged by small independent bus operators in remote areas, based on information held by the Department, should have alerted it to the excess costs of the cross-subsidisation model and the need for its reappraisal rather than uncritical endorsement at point (d).

Arguments (e) and (f) against deregulation reflect the Department's concerns about the impact of deregulation on CIE rather than on the wider national economy. With protection from normal market competition, regulatory capture of a Department supposed to regulate it in the national interest, and weak taxpayer/ shareholder control through parliamentary committees, the present policy and practice give CIE little incentive to reduce costs. Competition may, therefore, be the way to reduce the costs of protected organisations as indicated in the response of Aer Lingus to deregulation that has strengthened the company. The higher fares charged by CIE than by the small bus operators and the high costs and high fares charged by Aer Lingus when protected by the Department, should have alerted it to the gains from cost reductions as a benefit from competition rather than their paradoxical inclusion as part of the case against competition.

Despite the weakness of the Department's case against bus competition in 1985 no change in policy followed. The successes of airline deregulation in 1986, truck deregulation in 1988 and taxi deregulation in 2000 had no impact on anticompetitive bus regulation. No White Paper nor legislation followed the 1985 Green Paper.

In 2000 the Government proposed, in *A New Regulatory Framework for Public Transport*, a small amount of competition from the private sector through …*franchise competitions for private operators in respect of routes not in the existing Bus Atha Cliath or Bus Eireann core network* (Government of Ireland, 2000). The document cites …*recent Senior Counsel's advice that public service contracts may only be granted to the CIE companies without a competition on the basis of an exclusive right which they enjoy in law and that this exclusive right is not de facto eroded by the existence of private operators in the markets served by the companies. It is assumed that the proposed Bill will be able to provide for exclusive rights in respect of the existing core networks of Bus Atha Cliath and Bus Eireann as necessary*. The Department then retained SDG to advise on competition and the consultants' arguments for and against bus competition are shown in Table 2.

In examining the 2002 case for bus competition it can be seen that points (b) and (c) significantly understate the case. Section 3 below indicates that fares do indeed fall, rather than "may" fall. The fare reductions are not confined to times with spare capacity but based on the lower costs due to competition and new market entrants. The case that service frequency is "likely to increase" with deregulation is similarly understated. Section 3 shows large increases in frequency in contested bus markets in Ireland.

Table 2: Department's Consultants' Arguments For and Against Bus Competition, 2002

The Case for Competition:

(a) Market driven approach to service planning and promotion, stimulating innovation in services and ticketing products.

(b) Fares may fall on routes with competition at times with spare capacity.

(c) Service frequencies likely to increase on corridors between Dublin and main centres of population or tourist activity.

The Case against Competition:

(a) Commercial focus means that free sale of tickets may be abandoned at times of peak demand to maximise potential profits.

(b) May be restricted opportunities for integration across network unless certain operators establish a dominant position, or a franchise-type system is established.

(c) Fares may rise where there is limited or no competition.

(d) Standards may be variable and relate to the level of competition/opportunity.

(e) Low risk strategy is to focus on high demand corridors between major centres – tending to reinforce existing patterns of development and reduce service levels from intermediate towns and more remote areas.

Source: Steer Davies Gleave (2002).

The contrast between the Department's case against bus competition in 1985 and the case made by the SDG in 2002 shows that the 1985 arguments that bus deregulation would lead to a decline in safety standards, adversely impact on CIE, cause redundancies, and the loss of service on cross-subsidised routes, are not repeated in 2002. The 1985 arguments that under competition there would be a loss of integrated networks, that quality would fall, and that the new entrants would focus on high demand routes are repeated in 2002. In addition, two new arguments against bus competition are made in 2002, the reduction of output at peak times and increased fares on routes with limited or no competition.

In dealing with the retained arguments against competition in 2002 the points made above still apply. The case that transport services should be integrated rather than be provided on a competitive low-cost point-to-point basis has been weakened by the market success of the growth of low cost operators compared to the high cost of integration. Requiring competing transport operators to participate in integrated transport runs the risks of promoting collusion rather than competition among producers, adding to their cost base, reducing their freedom to increase output, and deterring new market entry. The case that loss of integration is a disadvantage of deregulation is significantly weaker now than in 1985.

The 2002 argument against deregulation that "standards may be variable" also appears weaker than when made in 1985. Consumers trade off price against quality over a wide range of products and "variable" standards may be higher under competition than under monopoly. In aviation deregulation has improved some standards such as punctuality, frequency, loss of baggage, ease of booking and direct services from local airports rather then through crowded hubs.

The 2002 argument that new entrants would concentrate on hub routes only is at variance also with the experience of airline deregulation. The new entrants have not concentrated on the trunk Dublin-London route but developed many new services to Britain from Kerry, Knock, Galway, Waterford, and Derry and from Dublin to UK provincial destinations.

Arguments (a) and (c) in Table 2 hypothesise that in a free market output will be reduced and that prices may rise after deregulation. The mainstream economics case, dating back to Adam Smith in 1776, is that monopolists produce too little and charge too much thereby increasing their costs at the expense of the wider public. The renewed interest of economists in competition is reflected in the large increase in the economics literature on competition policy, deregulation, open markets and free trade in recent decades. Tables 1 and 2 fail to reflect this and lack an empirical foundation in the market economy. Sections 3 and 4 present some empirical evidence on bus competition in Ireland.

3. Bus Competition in Ireland-Some Examples

Two major intercity routes have strong private sector competition. The examination of these routes should have been part of the 2002 study and the market experience contrasted with the anticompetitive conclusions of Table 2 above.

THE DUBLIN-GALWAY AND DUBLIN-WATERFORD ROUTES

Table 3 compares the May 2004 Bus Eireann fares and market frequencies on these contested routes and the uncontested Dublin-Cork and Dublin-Belfast routes.

Table 3: Bus Eireann Fares and Market Frequencies on Uncontested and Contested Intercity Bus Routes, May 2004. (Routes ex Dublin)

	Miles	Fares (€)		Fare Per Mile(c)		Frequency per day
		Single	Return	Single	Return	
(a) Uncontested Routes						
Belfast	103	19	26	18.4	12.6	7
Cork	166	20.5	33	12.7	9.9	6
(b) Contested Routes						
Galway	136	13	16	9.5	5.9	34
Waterford	99	10	15	10.1	7.6	20

Sources: Bus Eireann Timetable 2003/4; and Travel Information leaflet, April 2004; independent bus company timetables and websites.

The gains from contestable markets comprise both the impact on the previously monopolistic incumbents and the impact of new market entrants. Since the emphasis in Irish bus policy since 1932 has been on the protection of monopoly the impact of competition on the conduct of the incumbent monopolist is an important aspect of introducing competition.

The Dublin-Cork route is a Bus Eireann monopoly. The Dublin-Belfast route is operated jointly by Bus Eireann and Ulsterbus. The competing bus operators are Citylink and Bus Nestor between Dublin and Galway and J.J. Kavanagh between Dublin and Waterford, via Carlow. The frequencies between Dublin and Galway are Bus Eireann, 15 per day; Citylink, 13 per day; and Bus Nestor, 6 per day. The frequencies between Dublin and Waterford are, Bus Eireann and J.J. Kavanagh, each 10 per day.

Table 4 summarises the Bus Eireann fares on contested and uncontested routes from Table 3. Taking contested route fares as an index of 100 the uncontested single fares are 158 for a single trip and 166 for a return trip.

The impact of contestability on fare can be seen also in fares charged from the same Bus Eireann depot. The Waterford-Cork monopoly fares of €12 single and €16 return for 79 miles are 50 per cent and 33 per cent respectively higher per mile than the Bus Eireann fares on the contested Waterford-Dublin route. Fares on the Galway-Limerick monopoly route of €10.8 single and €14.8 return are respectively 74 per cent and 93 per cent per mile higher than on the contested Galway-Dublin route.

Table 4: Index of Bus Eireann Fares on Contested and Uncontested Intercity Bus Routes, May 2004

	Cents per Mile	
	Single	**Return**
Contested Bus Eireann route fares	9.8	6.8
Uncontested Bus Eireann route fares	15.5	11.3
Uncontested route fare Index*	158	166
*Contested Bus Eireann fare =100		

Source: Table 3 above.

Table 4 indicates that the absence of actual route competition results in Bus Eireann fares being 58 per cent higher for single trips and 66 per cent higher for return trips by Bus Eireann than on contested routes. The restraining impact of new market entry on monopolists is only part of the benefit of new market entry however. Other gains include the lower cost base of new market entrants compared to protected incumbents leading to further price reductions and service and frequency improvements. On the Dublin-Galway route the Bus Nestor fares of €10 single and the Bus Nestor/Citylink fares of €14 return yield further consumer savings over Bus Eireann contested route fares. Table 5 assembles a composite index of bus fares covering new market entrants, Bus Eireann contested routes and Bus Eireann uncontested routes. The fares on the latter services are more than twice those charged by Bus Nestor and Citylink between Dublin and Galway. Tables 3, 4 and 5 show considerable fare reductions and frequency improvements from contestability in bus services.

The results in Tables 3, 4, and 5 are not unprecedented in Irish transport regulation. In 1986, for example, the uncontested Dublin-London air fare of £208 contrasted with a contested fare after the

May deregulation of the route, of £94.99, an index figure of 219 for the uncontested fare. This would indicate that the potential percentage consumer gains from contestable intercity bus services in Ireland could be of the same magnitude as the percentage savings from the Dublin-London airline deregulation.

Table 5: Composite Bus Fares Index, May 2004 (Cents per Mile)

	Single	Index	Return	Index
Bus Nestor/Citylink	7.4	100	5.1	100
Bus Eireann contested	9.8	132	6.8	133
Bus Eireann uncontested	15.5	209	11.3	222

Source: Bus Nestor/Citylink websites and brochures. Tables 3 and 4 above.

In addition to large fare savings for passengers on the new bus companies and somewhat less but significant savings for those who travel with Bus Eireann on contested routes, bus deregulation has brought significant service improvements. For example, the contested bus routes in Table 3, despite serving considerably smaller cities than those on the uncontested routes, have an average frequency of 27 services a day compared to 6.5 on the uncontested routes, a frequency index of 421 compared to the uncontested routes. Since waiting time is a major disutility in "value of time" studies in transport the high frequency of the contested routes is an important consumer benefit. The considerable fare and service benefits from bus competition in Ireland confirm economic theory rather than the anticompetitive sections of Table 2 above. Prices are lower and output higher in competitive markets. The monopolist, not the competitive producer, produces too little and charges too much. (Smith, 1776).

OTHER ROUTE EXAMPLES

THE AIRCOACH SERVICE FROM DUBLIN CITY TO DUBLIN AIRPORT

This service started in October 1999 and carries an estimated annual 1.1 million passengers on two routes. It does not require subsidisation or investment grant aid in contrast with its competing bus company, Dublin Bus. It operates a twenty-four hour high frequency service at a higher vehicle standard than its competitor with a peak frequency of 5 minutes. Quality and convenience are the main market advantages claimed. Whereas the previous monopoly bus service was based on an inconvenient city centre terminus at Busarus the Aircoach connects the southeastern part of the city directly with the airport. The new Aircoach services in Autumn 2004 are heavily restricted under the licensing. Its Portlaoise-Dublin Airport service is not permitted to arrive before 10a.m. Its Belfast-Dublin Airport service is not permitted to serve points south of the border while its Dublin-Cork service south of Portlaoise is allowed to bring passengers to Cork from intermediate points but not to Dublin.

THE SOUTH MIDLANDS

The J.J. Kavanagh company, in addition to competing with Bus Eireann between Dublin and Waterford, also operates an extensive range of services in the south midlands serving Limerick, Nenagh, Thurles, Dungarvan, Tramore, Kilkenny, Carlow, Portlaoise, Newbridge and Naas. The fleet size is 87 buses and no subvention or investment grants are received from government despite the inclusion in the network of many thin rural routes and city/town services in Waterford, Carlow, and Naas/Newbridge/Sallins. Thin rural routes and town services qualify for subsidisation and investment grants when operated by the CIE group.

WEST DUBLIN/NORTH KILDARE

The Morton/Circle Line bus service operates seven routes in the Lucan/Celbridge/Citywest area with connections to the city centre and south Dublin. It operates without subsidy or investment grants.

DUBLIN CITY TOURS

Three companies, Dublin Bus, Gray Line, and Citysightseeing operate this high frequency "hop-on hop-off" service linking the main tourist attractions of the city. The peak season frequencies are 12, 10-12, and 10 minutes respectively. The three companies compete in serving some 20 tourist points in a 1 hour 15 minute circuit between Merrion Square and Phoenix Park. Tickets are valid for multiple journeys over a twenty-four hour period and are interchangeable between the two independent operators.

THE ULSTER COUNTIES AND THE NORTH MIDLANDS

Railway services ceased almost fifty years ago in Donegal, Cavan and Monaghan thus removing the original justification for preventing bus competition – that it would undermine the finances of the railways. Services to Dublin from these counties include Carrickmacross (Collins); Shercock and Cootehill (Sillan); Monaghan (McConnon); Cavan (Streamline); Finntown and Ardara (McGeehan); and Ramelton, Inishowen, and Annagry (McGinley). The Donegal-Dublin routes also serve Letterkenny and Donegal town. There are also independent bus services from Anagry to Sligo, Galway, Belfast airport and Glasgow (O'Donnell) and from Cavan to Longford and Granard (Donnelly).

4. The Response of Independent Bus Companies to Criticisms of Competition by the Department and SDG

In interviews, conducted by the author, with a selection of bus companies involved in the services described in Section 3 above there was a strong reaction to the criticisms of bus competition in Tables 1 and 2 above. The replies covered the following issues:

(i) Quality and Safety Standards

The quality and safety arguments were rejected on the grounds that the private bus fleet is of the highest technical standards and has therefore the more modern safety devices than other vehicles. The independent bus sector has a quality assurance scheme started under Bord Fáilte. One of the companies in Section 3 was selected as the official bus company to the Irish EU presidency.

Several interviewees stated that Government concern about bus vehicle standards should focus on the condition of the state-owned school bus fleet and not use it as an argument against the independent bus sector. For instance, the SDG reports that the average age of the Bus Eireann school bus fleet is 16.4 years.

(ii) Gaps in the Network

On the issue of gaps in the network, the operators maintained that their lower costs allowed them to operate intercity services, rural routes in thinly populated areas, and city and town services without subsidy. Experience on the intercity routes indicates that service will increase. Lower cost operators will be able to serve areas previously not served or served only with subsidies.

(iii) Abandonment of Free Sale of Tickets at Times of Peak Demand

This SDG criticism of deregulation provoked strong adverse reactions from those interviewed. No operator interviewed had ever withdrawn capacity from the market at times of peak demand. The independent bus operators interviewed were emphatic that the complaints made against them about not serving the peak were wrong.

The private sector response to SDG is that they meet the peak demand and seat their passengers. The private bus operators further point out that it is the CIE companies which withdraw social welfare transport from the market at the morning peaks in Dublin, Cork and Limerick at the daily morning and evening peaks and within a twenty mile radius of Dublin, Cork and Limerick at the Friday evening peak. (Bus Eireann, Expressway and Local Bus Timetable 2003-2004, p. 41.)

(iv) Fares May Rise

The SDG view that fares would rise in a competitive market is also hotly disputed by the private bus operators interviewed. They pointed out their much superior value for money on contested routes such as Dublin-Galway and Dublin-Waterford and that CIE is the operator which charges higher fares on routes where there is no competition.

(v) Restricted Opportunities For Integration

The interviewees saw no contradiction between competition and integration. Modern technology has increased the speed and reduced the transaction costs involved in integration. For example, daily settlements are possible in the Seoul, Korea system involving 142 independent operators.

Several operators doubted the value of integration because most journeys are point-to-point and integration is an added expense. They cited Booz Allen Hamilton's analysis that in US aviation point-to-point traffic is 1.6 to 2 times more profitable than connecting traffic. (*The Economist*, March 27, 2004). They noted the success of the Ryanair model based on point-to-point travel rather than integration and would prefer to deal directly with the public rather than an integration agency.

The independent bus operators' participation in integration is likely to depend on the yields from this traffic. In a restricted market such as in Ireland currently the integration agency should be independent of the dominant company, CIE.

5. Market Prevention in Irish Bus Services

The market failure arguments of the Department of Transport and its consultants are weak both in economic theory and in the marketplace. This section examines the evidence that the main problem in the bus sector is market prevention by the Department of Transport and not the market failure model in Tables 1 and 2.

The independent bus sector has not participated in the subsidy-seeking seen widely in Irish agriculture and industry but has faced heavily subsidised state competition and policy bias unparalleled elsewhere in the Irish economy. The success of the independent bus sector in the face of such State obstruction is remarkable and further policy change by the State, based on the examples cited above, would yield better price and service provision.

The elements of market prevention policy in the bus sector can be listed as:

(i) Regulatory capture.
(ii) Policy making exclusion.
(iii) Subsidy exclusion.
(iv) NDP funds exclusion.
(v) EU funds and policy making exclusion.
(vi) Government sanctioned price discrimination.

(i) Regulatory capture

The 1932 Act preventing bus competition was a classic example of regulatory capture and rent-seeking by the incumbent railway companies against bus competitors. Daly (1982) points out that …*one major legacy of the thirties was the institutionalisation of an Irish dependence on the state, and on politicians, for economic benefits*. Unlike in other sectors, however, the policies of market prevention in Irish transport policy has intensified in recent years.

The Department is the owner of the largest public transport service provider, it frames and implements transport legislation, regulates the transport market, and dispenses both the transport subsidies and investment grants. Each of these functions has been exercised in the interest of CIE rather in the wider public interest.

The Department of Public Enterprise (2001) document states that …*the policy adopted in implementing the licensing provisions of the 1932 Act up to 1990 was extremely restrictive and designed to ensure that the position of CIE as the major State transport provider was not eroded. Applications from private bus operators were refused where there was a comparable existing CIE bus or rail service or a service by another licensed private operator unless it could be shown that these services did not meet the clearly defined transport needs of the public. CIE were consulted on all applications received from private bus operators for services, as were licensed private operators in some cases. If the proposed service was likely to affect the revenue of a similar CIE service the application was refused. As a result of this restrictive policy licences were only issued in exceptional circumstances.*

Indeed the Section 11, subsection 3 of the Road Transport Act, 1933 specifies the criteria on which a bus passenger licence application is assessed as:

(a) *Whether the service in respect of which such application is made is required in the public interest having regard to the passenger road services and other forms of passenger transport available to the public on or in the neighbourhood of the proposed service.*
(b) *Whether the proposed service is sufficient in regard to frequency of service, daily duration of service, and other respects to meet the requirements of the public.*
(c) W*hether the organisation and equipment at the disposal of the person making the application enable him to carry on the proposed service in accordance with the conditions which the Minister considers should be inserted in the passenger licence to which such application relates.*

The Department of Public Enterprise (2001) document admits that no public interest test is made in assessing bus licence applications despite the requirements in the 1932 Act. It states that …*we do not have any means of assessing actual or potential passenger numbers, public demand or the reliability of the operator concerned. Consequently we are not concerned with whether the service is actually needed or of use to the travelling public but whether someone else has/had a historical interest in acquiring a licence for a similar service.*

By relying on the views of incumbents on the issue of new market entrants and not conducting its own research on public demand for new or expanded bus services the Department has obstructed the growth of bus travel. For example, in 1980, after protection since 1932, there was one bus a day between Dublin and Galway, travelling by way of Mullingar, not the direct route. However the Department declined to allow the Nestor Bus company to serve the direct route, advising instead that Nestor should join together with CIE to provide a feeder service rather than compete. When CIE had four buses a day on the Galway route in 1989 it successfully persuaded the Department that …*the present pattern is considered adequate to meet the demands of existing or intended passengers.* CIE/Bus Eireann increased its frequency to 13 a day in 1998.

When CIE has both prevented new market entry and underestimated market demand it has subcontracted services to auxiliaries, private sector operators who in return undertake not to compete with CIE.

In addition to denying market access to independent operators the Department has also taken court cases against market entry by independent bus operators. The Competition Authority (2001) stated that since the High Court decision in favour of taxi deregulation …*it may actually be questionable whether quantitative restrictions on licensing such as those provided for by the practice of the Minister under the 1932 Act are constitutional or/compatible with EC Treaty Rules.*

(ii) Policy-making exclusion

The independent bus sector is excluded from the Public Transport Partnership Forum, established in 2000 to provide a mechanism for consultation with the social partners on public transport matters. Membership of the Public Transport Partnership Forum is restricted to CIE alone among public sector transport providers and includes also the CIE trade unions plus social and religious groups (Department of Transport, 2003.) The exclusion of private bus operators from the forum indicates both the low policy influence of these producers with the Department of Transport and the Government, and a similar low status within IBEC, which is the representative body for the private sector in social partnership. The Department also excludes the independent bus companies from its Quality Customer Service Committee, notwithstanding the higher vehicle standards of several operators. The Quality Customer Service Committee …*is made up of representatives of the three CIE operating companies and the Department.* (Department of Transport, 2003).

The transport "insider-outsider" model of policy formulation also applied in the Dublin Taxi Forum from which new entrants and hackneys were excluded and which recommended confining the expansion of taxi numbers to insiders. This was rejected by the High Court decision to deregulate the sector.

(iii) Subsidy exclusion

Two major transport subsidy payments are made yearly in Irish inland transport policy. These are a large payment, greater than its customer revenues, to the railway and payments to the two State bus companies, Dublin Bus and Bus Eireann. The independent bus sector is excluded from these payments.

The CIE annual report for 1995 states that *CIE provides national transport services which are funded in two ways on commercially viable train and bus routes it provides services at competitive prices; on non-commercial routes it provides a social service for the people of Ireland which is supplemented by an annual payment by the State.*

In the Dail on 3 June 1998, the Minister for Public Enterprise in a written reply to a parliamentary question stated …*Coras Iompair Eireann receives an annual subvention from the Exchequer for the provision of socially necessary services which cannot be provided on a fully commercial basis.*

The allocation of the subvention to the individual companies within the CIE group is currently a matter for the board of CIE.

The policy lacks precision, transparency, and a mechanism for identifying what services "cannot be provided on a fully commercial basis". It has no mechanism to ensure efficiency in production and no means of relating the CIE subsidy to any measure of social benefit in a cost-benefit framework.

The deficit payments were designed to meet CIE losses after it had received considerable protection from the Department of Transport in preventing competing bus companies. In situations in which subsidised bodies charge higher prices than those without subsidies the subsidy is a rent paid to the monopoly recipient rather than a payment for social benefits. The Department has yet in 2004 to obtain the list of loss-making routes from CIE despite supporting these routes directly and indirectly for some 72 years.

In the Dail on 5 December 1996 the Minister with responsibility for transport stated, …*with effect from 1997 it is proposed to replace the existing State subvention for socially necessary, non-commercial services with public service contracts which will be transparent, objective and performance-based.* (Parliamentary Debates).

This reform, recommended by the NPC thirty years ago, has yet to be implemented. The Department is unaware of what routes it is subsidising and prevents market entry by alternative service providers.

The Department has powers under Section 48 of the Transport Act, 1944 to designate public service transport and under Section 19 of the Transport Act, 1958, to relieve CIE of obligations to serve any route. Neither power has been exercised.

The 1944 legislation states that …*the Minister may, whenever and as often as he thinks fit, by order, made on his own initiative or on the application of any persons representative of trade or a locality, require the Company (CIE) to establish and maintain such services for the conveyance of traffic by rail, road or water as he thinks fit and may attach conditions as to frequency of services, facilities to be provided and other matters.*

The 1958 Act, Section 19, provides an exit mechanism for CIE to withdraw services.

It provides at Sections 5 and 6 for the provision of alternative road services for passengers and for the supply of passenger data for traffic carried by the railway service, which it is proposed to terminate and for the display of this information at the railway stations affected.

The CIE global subsidy obscures the information, which the above legislation would provide in order to improve resource allocation by having the Minister publish a list of socially desirable transport services and having CIE publish a list of services which it wishes to exit. The global CIE subsidy without details of loss-making and social service routes may be absorbed by CIE in monopoly producer rent, excess cost operations or in a war chest with which to fend off private sector competitors by measures such as selective fare cutting and flooding routes with its subsidised and grant-aided fleets.

A further problem in recent years of lack of transparency in the CIE subsidy is that the subsidy to Bus Eireann has been considerably greater than the company's deficit. In the decade between 1990 and 1999 the cumulative deficit of the company was £28.3 million while the State grants were 53 per cent greater at £43.3 million. The margin widened over the decade. SDG (2002) note that in 2000 Bus Eireann had an overall operating loss of €10.4 million before a subvention of €15.8 million. The subvention in 2002 was thus 52 per cent more than the deficit as it was throughout the 1990s.

While in previously meeting the CIE deficit the Department assumed that the deficit is caused by running social services on a monopoly basis. For over a decade the Department has assumed that the Bus Eireann subsidy should be some 152 per cent of the deficit. This expanded subsidy has no economic basis and is a further obstacle to competition in the sector. It rests on an unsound economic foundation. There is no policy statement on why the Department subsidises the company by amounts greater than the deficit.

In addition to the recent more generous subsidisation of Bus Eireann the independent bus sector has been excluded from the €3,100 million public transport investment programme under the National Development Plan. Since the NDP is co-financed by the EU regional development fund, ERDF, the policy bias against the independent bus sector in this decade operates both at national and EU levels.

(iv) NDP funding exclusion

The NDP Economic and Social Infrastructure Operational Programme (ESIOP) 2000-2006 involves total investment of €26 billion of which €3.1 billion is in public transport. The Indecon Report (2003) notes that the NDP …*specified that investment would be concentrated on developing and increasing the capacity of the bus network* but does not comment on the policy of excluding the private bus sector.

The €3.1 billion investment programme in the NDP thus undermines commercial investment by independent bus companies such as those examined in Section 3 above and on future investments by these companies. This investment bias is shown in Table 6 to cost €520 million between 2000 and 2006.

The economic case for excluding the independent bus sector from this investment programme is not stated but it represents a serious escalation of a long-standing policy bias.

Table 6: Additional Investment Bias Against the Independent Bus

Sector in the National Development Plan, 2000-2006	**(€m)**
Dublin area	
Dublin Bus network development	152
Ongoing fleet replacement-Dublin Bus	127
Public transport integration	63
Outside Dublin area	
Upgrading of urban bus services	63
Bus Eireann ongoing fleet replacement etc.	95
Regional bus investment	15
Accessibility improvements in existing infrastructure	13
Total	520

Source: Indecon (2003) Tables 7.1 and 7.2.
Note: These amounts are additional since 2000 to the long-standing subsidies to railways in their competition with independent bus companies on routes such as Dublin-Galway and Dublin-Waterford and their city/town services, *inter alia*, in Waterford, Dundalk, Galway and Letterkenny,

(v) EU funding and policy-making exclusion

The Indecon (2003) report presents two effectiveness indicators of the National Transport Measure of the NDP ESIOP. These are for CIE, the number of passengers using mainline rail and Bus Eireann combined and for Bus Eireann, the number of passengers using the Bus Eireann fleet national and provincial cities (contained in Tables 7.29 and 7.30 of Indecon (2003)).

The indicators are obviously defective in failing to distinguish between passengers transferring from private car transport to the CIE companies and from transfers to CIE of passengers already using public transport provided by the independent bus companies. Rather then seeking a reduction in the independent bus sector the NDP should seek to increase all public transport use on equal terms for independent and State transport companies.

The Indecon (2003) report notes that the ERDF contribution to the ESIOP investment programme over the years 2000-2003 was €439.3 million. EU financial participation in an investment programme, which discriminates against Irish independent transport companies is questionable both in terms of the goals of the ERDF and EU competition policy.

The goal of ERDF funding is that …*financial assistance from the ERDF is mainly targeted at supporting small and medium enterprises, promoting productive investment, improving infrastructure and furthering local development.* (Railway Procurement Agency, 2004). In the Irish transport case the ERDF goal is not pursued. Monopoly is supported to the detriment of small and medium enterprises in the Irish bus sector and the productive investment of these companies is undermined rather than promoted.

The effectiveness indicator chosen to evaluate the NDP expenditure by CIE increases the more it uses subsidised investment to undermine market investments by independent bus companies.

The indicator is obviously defective and should be replaced by one based on transfers from cars to public transport as a whole.

The independent bus companies promote productive investment because they have to satisfy the requirements of their financial lenders. When these operators use buslanes and busways they are a highly cost-effective way of improving infrastructure efficiency. Since many of the independent bus operators operate in small towns and in the regions they are an important part of furthering local development in these areas. In Donegal, one of the most remote counties in Ireland, the 2003/2004 Bus Eireann timetable contains 14 routes comprising 11 local and 3 expressway. The development of these services is a goal of the ESIOP and ERDF funding. By contrast the Department of Social Welfare list of independent bus services participating in its travel schemes shows 34 routes operated by the independent bus companies in County Donegal. It is a paradox that the contraction rather than the expansion of these services is a goal of the transport section of the Irish NDP and that the ERDF is part- funding the Plan.

EU competition policy also appears to be infringed by the exclusive transfer of the Irish ESIOP finance to one company in public transport, CIE. EU policy in the Ryanair/Charleroi case ordered Ryanair to refund alleged subsidies because they were not available to other airlines. (Commission of the European Communities, 2003). Ryanair's defence, *inter alia*, is that it did not have an exclusive deal at the airport. In the Irish public transport case the evidence is uncontested that large subsidies and investment aids have been awarded to one company exclusively and that the exclusivity is condoned by both the Irish and EU authorities.

(vi) Government sanctioned price discrimination

CIE fares are subject to Ministerial approval. This power could be a restraining device on a monopoly in the public interest. In fact the price control powers of the Minister are used not to control monopoly but to increase CIE's monopolistic discretion to charge low fares where it faces competition and higher fares where it does not. In his price control policy the Minister accepted in June 1994 that …*a number of journeys over 25 miles have special fare scales which are below the present authorised maximum fares and which are subject to alteration from time to time. These fares will be selectively adjusted on an ongoing basis in line with market conditions, but they will not in any event exceed the maximum permissible fares.* Since route cost data are not supplied to the Department it is in effect condoning predatory pricing on contested routes by its own State operator which is not subject to a bankruptcy constraint. The acceptance by the Department of CIE's policy of holding down fares on contested routes while sanctioning overall fare rises is an added bias in the policy against independent bus operators.

6. Conclusion and Policy Implications

The SDG conclusions against bus deregulation are based on the consultants' assessments of bus competition in Scotland, England, Sweden, Finland, and Denmark. No Irish case studies were conducted. This is a critical flaw because there are highly successful examples of bus competition in Ireland between operators serving the same destinations and routes with examples of low fares, high frequency, and better service standards. The failure to examine the Irish independent bus sector is surprising given that SDG's data that the private sector has many more vehicles in its fleet than the CIE group and the hugely successful Irish transport deregulations in aviation, road haulage and taxis.

The Department of Transport's record of regulatory capture by CIE, obstructing independent bus company market access, and discriminatory allocation of public transport subsidies and investment grants, is a major cost, which must be included in any comprehensive analysis of public transport policy in Ireland. These costs have risen sharply in recent years.

There has been a failure to develop criteria for the allocation of either current funding in subsidies or capital funding in investment grants in the public transport sector. Efficiency audits of both are urgently required. The present policy of preventing competition and monopoly subsidisation lacks any economic rationale.

Market entry prevention and the allocation of the entire public transport subsidy and NDP public investment grants to one company are also questionable on legal grounds since the taxi deregulation case, the Nestor case, the Competition Authority Report and the Cherleroi airport case. The High Court decision in the taxi deregulation case was based on the rights of persons to enter a sector for which they had the training and skills and the right of the public to purchase the services of such persons. These rights are denied in the bus sector. The Government should publish its legal advice on whether its policy is sustainable.

Deregulation involves a transfer of property rights from existing producers and policy insiders to consumers and new market entrants and is invariably opposed by incumbents.

Future studies of deregulation in any field in Ireland must cover far more ground both intellectually and in the field. Otherwise, protected companies and the bureaucrats who serve them will continue to deny the wider economy the benefits of deregulation.

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