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21st May

JOHN HENKEL EXAMINATION IN CHIEF

Greg Jones introduces new docs FWY 117-120

Cameron: the test is: does it cause unfairness to any party? I don't see there is a problem here.

Qc – [introduces Henkel's job and role]

QC – you have submitted app 113 an orata sheet.

Qc – please read from 1.3 to the end of your summary proof

[reads out]

Competition commission ("CC")

Qc – 'existing conditions of public transport' 'current bus provision in leeds' – go to section 2 of your proof, page 6-7 – what do these tables show us?

Jh – these tables show our assessment of those current bus services that overlap/related to the ngt scheme. It's my belief that first west have a similar table.

Qc – we see the ngt route is currently served by these services. Can we turn to 2.16 and we'll see that there you refer to the TAS report which was submitted as part of First's statement of case. You say that the TAS report estimates that patronage is 5 million a year whilst potential is over 8 million a year. What conclusions do you draw?

Jh – relates to the north line – if the potential of trips is 8 million based on demographics – and buses are now 5 mill, then those services are some way underperforming...62.5% which is what I say is their utility now

Qc – you provide a summary of findings in your appendix 2 – table on page 3 – what does that tell us about the market share of operators in Leeds?

Jh – on page 3 the competition commission's report has figures – one of those is an urban area analysis – they utilised supply data to look at market share. page 3 is an analysis of supply – telling us that the largest operator is First 65.6% and second is Areva.

Qc – we will go to the source of these figures in a moment. In the rebuttal there is some questioning of the source. Go to page 2 – 'west Yorkshire adverse effect on competition findings' there is a % of routes by category. Explain broadly what this table on pg2 shows?

Jh – CC analyses of bus routes in 6 categories – which to simplify it, looked at the degree of overlap ...of alternative transport available such as rail/tram service. Category one -

Qc – we'll come on to those in a moment but explain to us what this table tells us in terms of competition in Leeds and WY?

Jh – it tells us what proportion of route in each council area fell into which category – e.g. for leeds 56% of routes were in category 1, and category 2 0.2% and so on.

Qc – is it thought to be good or bad if 56% of the roads are in category 1?

Jh – CC were looking at the extent of competition on the basis that provides customer benefits – this tells us that over half the route there is no effective competition – so bad I think

Qc – app 112 – relatively simple explanation as to what these categories are. Para 79 on pages 27-29 – does that provide an explanation as to these categories?

Jh – yes it does

Qc – so category 1 route, and a category 1 on page 28 do not place an overlap of 90% - not serviced by rail or tram so likely these routes face meaningful head to head competition. We see in the table you produce 56.5% of routes in leeds fall within this category

Jh – yes, these routes highly likely to be subject to an adverse effect on competition

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Qc – app 111 – appendix 11, CC report. If we go to appendix 11.4-1 – reclassification exercise. If you go on to page 11(3-5), there is a table. If you look at the Leeds urban area in the left hand side First share a supply of 65.6%, Areva 26.1% (which is the figure that appears in your table in your appendix 2) so we see where your figures come from –

Jh – yes that's where we've got it from

Qc - and if we read across there is one heading 'proportion of routes by category' and there is one 'frequency weighted proportion of routes by category' – we can see if we've got your appendix 2 to hand, page 2 of that is headed 'percentage of routes by category-frequency weighted' – so the 56.5% in category 1 – is that taken from this table which has got the same heading?

Jh – yes, that table is the source of info from my appendix

Qc – can we turn to g-4-84, we can see the First submission to the CC inquiry – in the top hand corner 'non confidential version for publication' – if you go to para 1.2 the UK bus industry – summary of First's views that the market is functioning well and success of deregulation etc...they say there is intense competition. Is that the case in Leeds on the basis of the CC's finding?

Jh – I don't think that's the case in Leeds

Qc – page 4 – 2.4.c1 First insists that the deregulation has brought benefits to bus customers e.g. innovation in buses (e.g. gas and hybrid fuel buses and our FTR service) – what was/is their FTR service in Leeds?

Jh – on the same page – pic of the interior of an **FTR vehicle** – promoted as having multiple doors and seating to standing ration with capacity of 125... far more standing than on conventional bus. FTR was bought forward and First approached us in late 2005 with intention to bring it into Leeds and York. The first deployment was on route 4 in York. We suggested that the vehicle could be best deployed on a guide way and that we'd already made sig investment on segregation and vehicles would be suited to the straight section. For some reason it was intro on route 4. We invested 2 mill in measures to assist that – to reduce the running time... we expressed concerns to First about two aspects – the ticket machines/revenue collection and there was difficulty there in York (they thought FTR stood for 'free' not 'future' – and secondly we felt the route wasn't straight enough. FTR was introduced in 2006 and it attracted a lot of complaint for performance. There was an agreement in place for 5 years. More recently First approached us to deploy it on the inter-urban route 72. I believe the FTR vehicles have been withdrawn from York. We felt it was a more suitable route given the road width in comparison to service for Leeds, a much straighter route. We worked closely with First to intro in 2012 when FTR deployed on that service.

Qc – we know it was put forward as an example of innovation in their submission to the CC. you deal with this at 8.17.4 in your proof page 32 – note that. Mr Alexander in his rebuttal, page 20 para 4.39, he is saying that equality partnership he refers to – he says that if the promoters had been able to deliver better infrastructure on route 4 then it would have been more successful – never embraced the FTR as they considered it a threat to tram proposals.

Jh – I don't agree – just felt route 4 was the wrong route.

Qc – when it says that metro never embraced route 4 FTR being introduced (in York)

Jh – that is wrong. I was personally very excited. [it was a coincidence that it was route 4 in both Leeds and York] – we were excited but we had concerns about all the sharp turns – not straight road. We deployed on a route more suitable for that type of vehicle.

Qc – going back to the CC – while you've got Alexander's rebuttal at 4.3 – 4.3 says that they've annexed the CC report – which doesn't contain any statement on the proportion of routes likely to affect adverse competition – instead contains only estimates of the supply of the largest three operators and these figures from Oct 2009. We've just looked at the CC papers and seen where your figures have come from and the categorisation of the routes and %s – do you understand what he's saying there

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Jh – I don't – I think my appendix sets out the routes in diff proportions of categories...

Qc – mr alexander's next point at 4.4 of his rebuttal is that it is based on info from 4.5 years ago.

Have metro taken steps to consider the more recent position

Jh – yes we have. We had commissioned some consultants to rerun the analysis using data from late 2013 and reported to me that there were only marginal changes.

Qc – can we look at that doc please – app [WSP report – who commissioned this report

Jh – I commissioned this work on behalf of metro and the purpose was really – at the time of the CC report in dec 2011 it was part of my job to advise the wy integrated transport authority of that report – and that report contained a set of remedies not widely effective in the wy context. I was interested to see what had changed and the implications so I commissioned it – to update the categorisation.

Qc – if we look at figure 4.1 summary of the AC calculations page 7 – these figures appear to me more closely related to the proportion of routes by category rather than frequency of figures

Jh – the purpose wasn't to re do every single bit of analysis- a light touch approach to see if whether things had changed or not

Qc – we look at original and revise classifications – we had the figures in appendix 11 and see the distinction between straight proportion of routes and the frequency weighted. Is this freq weighted or not?

Jh – I'm not certain would have to check with WSP who undertook it. I think the conclusions are still valid as we were looking at had there been a material change

Qc –what were they?

Jh – [reads out para 5.1] “does not appear to have material effect – no change]

Qc – so let's turn to a different point, if we go in your proof to para 2.21 –you say that competition remedies wouldn't be effective in the context of west Yorkshire. You refer to 4.3.3 of the appendix where somebody goes to the advice of the ITA executive board (para 2.5 of that app 433). “Metro's view is that these remedies are ineffective...operators would be unwilling to reduce the price of metro cards and ticketing products...” – Mr alexander's rebuttal comes back on that point and we see that at 4.46 of the rebuttal says that the ruling has not yet been implemented and this is a premature assumption made by the promoters – you've said in the report we looked at the remedies are already in place

Jh – I don't really know what Mr Alexander is looking at - the CC did propose remedies relating to the adoption and management of ticketing scheme and arrangements in place. There were rec on pricing which would not be adopted or self-fulfilling prophecies – there were remedies as to access to bus stations...

Qc – why don't we look at g-4-72 in your report section 15 (rather than relying on your memory) – I don't want you to go through each of them but section 15 is headed 'remedies' and boxes described as figures 15.3 – the ticketing remedy and 15.27 – operator behaviour and 15.51 – access to bus stations... 15.69/15.82 – remedy on competition enforcement compliance and one at 15.90 – partnerships and BSOG at 15.102.

Jh – correct

Qc – those are all the remedies and what was reported to the ITA board was that the remedies were already in place

Jh – substantially yes

Qc – and are they?

Jh – they are in the WY context. As we manage the vast majority of bus stations there aren't any differential differences there – we've made sig grant competition for that. This was only a commentary relating to WY only and we felt that these were already in place.

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Qc – ‘public transport enhancement’ – we’ve already dealt with FTR. Can I ask you about measures that have been taken in west Yorkshire to introduce segregation. Have you taken these measures to segregate buses and give them priority in particular areas of the combined authority?

Jh – combined authority have worked close with highway authorities and used our influence to encourage the provision of bus priority measures. You will see bus lane provision/three guided bus ways in wy – what you won’t see but does exist is extensive traffic light priority. I believe we’ve done a lot to provide bus priority in west Yorkshire.

Qc – FTR and that. You then in your proof 2.27 on page 10 come to the conclusion that despite this experience fTR and dedicated bus routes – “without other transformations the convention diesel hybrid bus will not...” why do you say that?

Jh – this conclusion is partly informed by introduction of FTR. It was an innovative vehicle, modern appearance and looked like a tram – first had made a play about the vehicle design. There was no clear evidence of sig impact on patronage on route 4- it became the most complained service in wy in terms of the complaints we see at metro. That’s why I drew the conclusion that without other transformation elements the vehicle itself would not be sufficient. I’ve also been in conversation with other bus companies on hybrid buses – they have related that some of the fuel savings that have not claimed any uplift on patronage different to what’s been experienced generally – that in conjunction with the ftr experience leads me to conclude you do need other transformation elements to increase patronage significantly.

Qc- going back to the beginning I’d like to ask you about the dft letter of nov 2005 – c-6-1 – second and third pages – right at the bottom it is ‘we cannot approve supertram but bus studies suggest a top of the range bus system has considerable potential and more value for money....more flexible and scope for further extensions etc...we recognise the uncertainties given that no system quite like this in the UK...so on” – your opinion as whether a bus based system like FTR with segregation such as provided in Scotthall road would meet the aspirations set out here?

Jh – so this talks about a BRT – I don’t believe that putting FTR on scotthall road in isolation would constitute a BRT – we have to look more at the service options there. Also it also looks at risk of delivery of BTR - one issue was the challenges posed by state aid which is also a factor in my proof and summary proof. It talks about a BRT which is more than just putting a conventional bus on a conventional road – has to be more transformational than that

Qc – so the case put forward by First (simply) is that ‘you don’t need a trolley vehicle system but a bus with bus priorities’ would that achieve your objectives?

Jh – in order to achieve the objectives e.g. enhancements to punctuality/journey time savings and reduced emissions to zero at point of use etc. when it comes back to mode choice Haskins explained at some length the process we went through to conclude that trolley is the correct vehicle for the system and I believe this conclusion remains valid.

Inspector – answer the question as to whether a bus with bus priority measures...? Did you answer that question?

Qc – [repeats the question] can the achievements you seek to achieve be done by what First has proposed

Jh – no it wouldn’t.

Qc – move to operation –

Inspector – have a break

11:13

BREAK

Qc – opportunities for integration with other public services – mr smith has already given evidence on this –distances between ngt and bus stops. Can I ask you for your view on the extent that integration can be achieved between ngt and other public transport?

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Jh – there is always an element of compromise in transport design – vehicle/capacity etc. a better solution is impossible. I believe we have 27 ngt stops and 41 stops within a 100m of ngt stops. Mr smith explained the difficulties in ensuring punctuality/journey time of ngt if stops were shared. Therefore consequence of that is that stops will have to be in proximity and not shared – I believe that that is the correct analysis for that. Integration can be conceived within the constraints that apply to the scheme.

Qc – vehicle capacity – mr turner’s rebuttal says that he doesn’t believe 160 is a feasible capacity for ngt vehicles 7.6 – can we turn to app 108 a note produced by SDG – your view in response to mr turner – he says you won’t achieve it – is he right?

Jh – mr haskins in his evidence talked about potential interest from manufacturers of trolley vehicles – I have seen in his evidence that 160 is achievable. Clearly there is here compromises/trade-off – fewer seats mean more capacity...mr Robertson explained the challenges of providing sufficient priority at junctions to achieve the schemes objectives – so I believe that 160 is possible. What chadwick has done in his note is to set out a range of options and in the business case review we talk about a range of 140-160 capacity and that is because as the project develops we will be engaging in market testing to evaluate the different consortia out there and finding the optimum solution. That is why his notes cover a range of 140-160 – and the impacts on standing and seated passengers.

Qc – another point on operation – perceived frequency of public transport on corridors – we need to take up mr cheek’s proof at 9.4D on page 9 – “frequency would be reduced as public will be forced to choose between 12-14 buses per hour and 10 ngts as opposed to an integrated service...” and so on. your view please as to whether or not the perceived frequency will be reduced and whether the quality of transport offering will be reduced

Jh – it would be reduce but there are a no. of mitigations to that. In the deregulated market place on the small no. of corridors that we have got competing services, operators would advocate strongly that ppl will make choices and if they have a first ticket or ngt ticket they bought that in the firm knowledge that their effective frequency is reduced as they won’t be able to board the other vehicle. The mitigation is two-fold – one is through traffic/junction management etc. which will make then punctual and ppl will have more confidence in arriving at those stops on time. Secondly there is an explosion in ... there was a time and you would arrive at the bus stop with a piece of paper telling you the arrival time but for 8 years now we’ve had real time arrival times, we have an sms service and also now explosion in app use. Now ppl are informed in advance – whilst there is some truth in mr cheek’s statement the mitigation has alleviated this.

Qc – what is the overall impact with mitigation

Jh – impact on customer satisfaction will be minimum

[inspector and QC – that wasn’t one of the questions, JH – sorry I misheard]

Inspector – the question was on perceived frequency of transport

Jh – minimal impact

Qc – in terms of the offering on ngt – an average wait time of 3 min as there is a trolley every 6 minutes – as opposed to frequency, your view as to the quality of the service following ngt?

Jh – it will be perceived as a higher quality – overall improved

Qc – and standards of punctuality and reliability?

Jh – in my view they will be improved.

QC - fare strategy your proof 4.12 page 16 – you have got a heading ‘ticketing’ and in particular you say that 4.16 ngt will have a two stage fare system with fares broadly eqv to bus.

Jh – correct

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Qc – the business case c-1 – 11-13 – there is a table 11.1 ‘fares and ticketing strategy’ – you can see that there is a ticketing 2 stage fare mechanism which you referred to. If you got to 12.8 fare assumptions that have been made –

Jh – is that in the business case review

Qc – yes – these are assumptions no more than that and in your proof you refer to it being ‘proposed’ what is the thinking behind the fare strategy

Jh – it is around simplicity and the desirability of moving payments off vehicle and the need to consider the relationship with bus services in the same corridor and the impact on the business case to make sure the scheme is viable and delivers the benefits intended in the objectives. These are assumptions for the purposes of the major business scheme submissions.

Qc – we can see in mr alexander’s rebuttal 2.9 – refers to the fare strategy and 4.14. He says that the promoters do not plan to replicate the shortest fare stage and bus scale

Jh – the fares are set out in my proof and the business case review

Qc – why is it that a two category fare approach been taken?

Jh – one reason is the desire for simplicity for the customer offer – I notice that there is recognition of the value of a simpler offer. First have been pursuing this strategy - Mr alexander wrote in response of the local transport plan – he also endorses a simpler fare offer.

Qc – impact on existing operators – if we go to your proof at 6.6 you explain the assumptions that have been made in the business case. You say that you make a long term view of likely changes in the bus network which has been assumed in the business case. We know that assumptions have been made for the purposes of the business case – [11:50] if you go to c-1, what I’d like you to explain is the assumptions you have made as to the reduction in services on route 1 and 6 and the basis of those?

Jh – the business case review sets out the source and amount of patronage. In my experience an enhancement to any public transport system will attract ppl – it is no surprise to me that some passengers who will use ngt will be bus passengers – there will be consequential impacts. We made an assessment of likely impacts – these assumptions are made for the purposes of the business case...and our assumptions on the south line overlap is fairly small and therefore services will continue as they are now but on the north corridor there will be changes and therefore will be reductions in frequency in service 1 and 6 – my proof mirrors what’s in the business case submissions.

Qc – the business case page 11.12 – para 11.21 – the south route, point you just made, and 11.22 north route...the points you have made about the assumptions.

At 6.7 you set out potential for a competition response to ngt taken by one or more bus operators – in this para are you predicting what will happen, stating it or explaining assumptions

Jh – in this I am explaining the assumptions that have been made for the purposes of the business case

Qc – what is the basis for your assumptions – you say it is pursued that operators will believe that in view of the sig investment ngt will not be withdrawn and operators will not respond in a manner that will lead them to revenue losses

Jh – strictly a financial loss...

Qc – what is the basis for your assumptions as to the likely operator behaviour? You’re not an operator.

Jh – I explained in my proof the advice we’ve received regarding competition law and state aid and the requirement of a public procurement exercise. What flowed from that is restrictions and liability to engage in dialogue with operators who are potential bidders to the extent that we would do in other circumstances. I know mr alexander will make some points on engagement but that’s reason to the approach we’ve taken. so the assumptions – these were set out in the business case of 2009 which was drawn to First’s attention and at that time they did not come back to challenge the assumptions – also noted the First evidence to the CC in terms of their likely responses to

competition which seemed to be pragmatic and not engage with financial loss – they said they'd withdraw from the market

Qc – look at the actual doc please. App 109 – a summary of a hearing with First held on June 2011 – para 28 of this doc...

Jh – I was aware of that submission and the experience we've had to services to Leeds-Bradford...

Qc – can we look at what it says and how it forms the basis to assumptions you've made.

Jh – first was saying it will take a strategic approach to competition and wouldn't engage in short term tactics – also it would be first group and not the entrant who would withdraw.

Qc - how did this inform the assumption that was made?

Jh – It was reasonable to conclude from that statement that they [first] would not engage with NGT in sustained competition with NGT.

Qc – this is 2011 and the assumption of bus services was made in 2009 – so was this basis of an initial or confirmatory assumption

Jh – confirmatory – I wasn't surprised to read this - it confirmed the behaviour we had observed

Qc – the Leeds-Bradford airport bus service story – please go on

Jh – we were looking at an operator to the airport – Centre Bus registered a service and First also did as well – at the time the airport had been sold to a Spanish co. who were very keen to only have one operator and use their ownership of the air land to restrict access to the airport. There was a beauty show on service quality and Centre Bus was selected. First advised us that they would operate in competition but they withdrew after about a month. What was advised as me as being a competitive response to the airport services operated by Centre Bus did not actually materialise.

Qc – let's go to Alexander's rebuttal – explain basis of assumptions – go to 4.11 he refers to para 6.7 of your evidence – he refers to stifling the willingness of operators to compete with NGT. Is there any intention to stifle competition or any assumption that there would be stifling

Jh – there is no intention to stifle the competition. They are assumptions for the purpose of the business case of a likely response.

Qc – 4.32 of Alexander's rebuttal – statement in your evidence 6.17 of revenue loss – he says that you are referring to financial loss

Jh – yes he is right

Qc – 4.47 – he responds to your 9.20 – also on potential operator response – and you say at 9.20 that you used well established mechanisms to design revised schedule...allowing consideration of new journey opportunities using released bus resources – he says you are being unrealistic. What is your assumption at 9.20?

Jh – over the last 2/3 years we have engaged in a no. of local consultations regarding a reconfiguration of bus services taking into account commercial services and those that Metro and Combined Authority supports – this process was initiated as part of an exercise to reduce some of our expenditure. It has been successful - in the first West Yorkshire we did joint work on routes 33, X33 serves on a pattern there where we worked collaboratively with First on – we need to look at these services in totality rather than in isolation – rather than seeking to impose a service pattern on a commercial operator it was a reference to a way of working we have done before that could be successful and work collectively to determine a service pattern in the future – it was a statement as to how we should work now [and into the future] I think Mr Alexander has perhaps misinterpreted it.

Qc – para 5.7 in NWLTF rebuttal (obj 1719) to you - what NWLTF is saying in summary is that they say what about Sheffield – public sector money in the tram system and bus operators competed with it and public ownership of the tram became unsustainable and the system sold to the commercial bus operators – any comparison to be drawn to this?

Jh – Sheffield was in a different circumstance in a different time and different bus market – I would reject that comparison. I don't believe the system has been sold to a private operator and hasn't been used in a no. of years.

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Qc – now 4.41 in mr alexander’s rebuttal, this is a response to your 8.22 – is the effect on bus operators and the reduction of service more than an assumption

Jh – at this stage it is nothing more than an assumption

Qc – bus operators service grant – 2.8 of your proof – you said that it was a mileage based payment but you’ve accepted now that that was an error

Jh – corrected that in my orata, accept mr alexander’s point

Qc – it’s based upon fuel used – partial reimbursement to fuel duty.

Qc – new bus for leeds – you deal with this at 8.15 and following. You explain you hadn’t featured in discussions. You say in 8.5 that first group alternative proposals are not in the public interest as a replacement for ngt as they don’t meet the objectives of the project. You’ve commented on that already. I’d like you to explain why you don’t think that this alternative would achieve the scheme objectives or indeed public transport objectives in general for this corridor

Jh – my comments in comparison to the ngt scheme. Mr Robertson explained the capacity constraints and limitation in the no. of vehicles afforded priority – that priority is essential to achieve punctuality and journey times. the vehicle has to be at sufficient capacity – the new bus for leeds similar to boris bus does not have sufficient capacity to do that so will need more vehicles to meet the capacity demands – and that greater no. will not be able to be afforded the priority that is needed. The secondary reason is the air quality zero emissions aspect – new bus is a hybrid bus it still emits pollution in densely populated area whilst in trolley vehicles they will be emitted but in a range or areas.

Qc – is there any objection from you if First was to introduce a new bus for leeds?

Jh – we would welcome some discussion with them, my only observation is that the west Yorkshire authority will have to consider whether this new bus would have a rolled out in leeds or could be deployed more widely. We would welcome those discussions.

[12:13]

COUNCILLOR ANDERSON

BA – page 3 of 4 para 2.5 of your proof (summary?) you make it clear that you are acting as the local transport authority. Can you confirm that metro being the brand name is the local transport authority

Jh – the west Yorkshire combined authority but metro is the brand name

Ba – 2.6 what is your view on the following scenario – Yorkshire tiger, part of areva, creates a new bus service from the 1st may 2015 – ten min frequency, takes 6 buses to operate, it operates from the lawnswood roundabout beside route 1, it’s called route no. 1A, it travels to the city centre – it sells tickets from kiosk, agents, internet, machines and validated on boarding bus- it’s got brand new buses and uniforms all looks exactly as it believes first bus is not doing a good job. Can you give your response as the local transport authority, not as the promoter?

(mr steel trying to point out that there is a different response as the promoters and the local authority) – in our view when you act for the local authority you have a responsibility to look after all transport in the city – but as the promoter you have a different set of criteria – I’m trying to prove.

jh – as the Local transport authority we have a sole duty in relation to the local transport plan – we would treat it like any other service. Provide info, administer travel reimbursements etc. it is an unlikely situation.

Cameron – as I understand it mr Anderson was putting a hypothetical question

Ba – it does not exist – it’s trying to test where the local transport authority responsibilities lie.

Jh – I didn't say that first is doing a bad job but the services are under-performing.

Ba- are you comfortable as being the applicant and the local authority here – is that a grey area

Jh – no its not

Ba – p6 of 43 – can you advise the inquiry what metro believes will happen to service route 28 – presently 3 buses per hour, if ngt goes ahead.

Jh – the assumption that is set out is that service 28 would continue as it is now

Ba – why – because you are taking away services from no. 1 and closing off a major access for this route to use – it will be more difficult to get the same no. of 28s operating down weetwood lane – my major concern to first bus is that they are quick to take a bus off if patronage is not great. I think that the no. 28 could die on its feet. Are you not concerned at all?

Jh – I'm concerned about all bus services but what we set out here is the assumptions we made for the business case. In my view service 28 is operated by first without any tender so it's a commercial decision. In general bus co will look at the revenues. There is a large length of route separate to the ngt route so in part is a part of the assumption I made here. Am I concerned, I am concerned about a lot of things.

Ba- 8 of 43, para 2.16 – “indicates that bus services only achieving 60% of potential” - do you think express bus services will have a positive effect in addressing that particular issue?

Jh – yes adds to the overall mix

Ba – more beneficial to the residents outside of the lawnswood roundabout than the ngt?

Jh – we have to look at that carefully - well ngt stops are more widely spaced so spacing is around 500m which would reduce journey times so it has the aspects of the express bus you referred to

Ba- but would you agree that the residents in the north of the city have said that that is one of the issues for not using bus services because they would like an express service...

Inspector – how would you go about introducing the express bus service?

Jh – in thee deregulated market place - we have a duty to consider needs that are not met in the commercial bus services – we also have the ability to enhance the frequency and quality. In this case an express bus service has been primarily a commercial decision e.g. We do have x84 in Yorkshire. I'm sure first are aware of the views of your constituents.

Inspector – are you saying that you could actually make sure there is an express bus? or are you just encouraging them?

Jh – we are fundamentally encouraging a commercial operator – we could introduce it where none exist but must be careful...to the best of my knowledge we have never introduced an express bus service. The rational for doing it is that it would be successful so it should be inherently a commercial decision

Ba – para 2.17 – again we come back to variability of bus journey times - part of the comparison with ngt and the buses is that they are quicker because they don't stop as often. That's why it can have quicker journey times?

Jh – not the only reason – mr Robertson explained the trade-offs in transport planning – the junction capacity and how many vehicles you can afford at high level priority ... clearly fewer stops is a benefit but the other aspect of ngt is removing the transaction between the passenger and driver which can occupy considerable time at bus stops...

Ba – but any bus operator could be asked to operate purely from a kiosk – a good example is the shops down from the lawnswood roundabout to the city centre that are going to sig lose business because of the ngt – they could be the operators and sell the tickets which would enhance their business and recompense some the damage that will be done to them. That could be done for bus services alone, could you not introduce that?

Jh – we can't require a bus co. to adopt a retail mechanism for their own products. We are in partnership with First and brought in a retail network – pay zone outlets to encourage off bus payments but I can't mandate them to retail in a particular way

Ba – but you can provide the facilities

Ba- one of the problems I've had is this conflict between quality bus contracts, quality partnerships, as to what you can offer me to resolve the issues in the city, where are we? I have been told that once you get a qbc we, metro, will be able to control this better. You're talking about reducing the services which is not what I want – so why is there a disparity/contradiction between the briefings I'm getting [e.g. first bus prefer qp]...I'm getting lost – are you not concerned that the public don't understand what is going on with qbc's etc. and this proposal through ngt?

Jh – yes, public are confused about bus operations. Many people believe metro run the buses. We conducted research last year and it showed confusion about who ran it. I am concerned that the decision between adopting a qpa with operators with quality contracts has not been resolved. It was appropriate and correct to enter into lengthy discussions with those companies about alternative means. Intention wasn't to seize control of buses but to address the underperformances mr cheek identified with first decline of patronage. that has been complicated by a transition to a new combined authority but we now have a date arranged [end of next month] where I and colleagues from highway authorities will be presenting with dave alexander and other bus operators what has been developed as an alternative partnership approach and that will lead to a decision by the wy combined authority. I am concerned about the delay but not the most simply thing to resolve

Ba -2.19 – do you concede that in the last year or so since mr alexander got involved, things have improved. There is no reason to suppose that things couldn't improve by building up a relationship with first bus and other companies

Jh – there has been a change in direction from first group. You talked about an improved relationship – I think our relationship is multi-faceted but I hope its robust. My job is to provide advice as to who we deliver local transport plans effectively

Ba – 2.20 – some ppl would contend that ngt is just a reaction to the non-movement of bus companies – e.g. discussions of alternatives etc. do you think ngt is a reaction or the only or best solution

Jh – it is the best/only solution, not a reaction. The letter from derrick twig in 2005 'top of the range BRT...developed and implemented in a similar way to a tram' – that was clear direction from gov at that time and has set a course we're pursuing – it's not a reaction to dissatisfaction to bus operators etc.

Ba – 2.26 – 'conversation with senior reps of bus companies – difficulty of attracting new patronage' – first have put alternatives to us – we thought it was a good idea (The councillors) – how much of a background has metro had to these alternative options.

Jh – I would normally have fairly frequent convos with senior managers in bus companies – I have never received a detail briefing of the new bus proposals. The response I've seen from the ITA has not been to rubbish the new bus proposal but an interest and desire to know more. It is seen as not a replacement to ngt but a complementary initiative we wish to explore further

Ba- 4.14 – ngt will be operated as an integral part of local transport system – how is ngt going to integrate with train services and other bus services and my residents in cookeridge/addle/holt park and the Ivissons etc. they will have to go further to get access. You said that the no. 6 will reduce down so that means the y will have to walk further.

Jh – integration is one of the lively topics of discussion with bus companies. The same word means different things to ppl at different times. it will be part of a comprehensive info service e.g. if you went on the journey planner you would find info on ngt as any other system, if you use a real time system you will find info on ngt. One of the key roles we play is putting together info from diff operators and providing that a single source of info which clearly no one else can do. The second aspect is allowing the ticketing system - metro card – becoming m-card is the name for the smart

elements - We don't have bus stops from rail station platforms....there have to be some physical separation. We are not London ...there is a limit to what you can do in terms of physical proximity...

Ba – when mr farrington said that a 15 min walk was reasonable and he accepts he is a fit male himself. But let's say 15 min – how do you accept people in my area, a hilly area, to walk up and down when they are elderly, disabled, with children and have equipment to get in and out of work. How is that integrated by having ppl walk further because of reduction of bus services due to ngt.

Jh – there are two or three different parts to that question. You have to deal with 'average value' in transport modelling. I accept 15 min is acceptable for some and not others, the assumptions we made in business case is not that services would be withdrawn but frequency reduced – the business case accepts that it is somewhat a dis-benefit. But what I would say is that I have yet to come across another transport intervention that doesn't create some losers.

You are aware that for ppl with impaired mobility we do continue to run the access bus system.

Ba – but people who have breathing issues etc... let's get on. in terms of para 4.16 when you talk about fares one of my criticisms of current network is the cost of it. We want value for money... we argue that the current fares doesn't – why won't you reduce the prices to encourage ppl to get out of a car.

Jh – I would agree that fares are an issue to people. The consultation showed that over time fares became a more sig issues for ppl – but in direct answer we have to appreciate that ngt will be operated in a deregulated market – the advice I've received is that there would be a no. of issues arising if we were to subsidise the fares and we would have to be cautious about the approach. I would anticipate taking legal advice in the setting of fares for the reasons I've alluded to.

Inspector- a no. of ppl have suggested reducing fares on buses as an alternative. Would you be able to subsidise it

Jh - there is a mechanism for doing it - exercising well-being powers. But we have no other ability to influence bus fares. It is a commercial decision of independent operators – in general we would be subject to challenge if we were to undercut those fares... in practical terms no we can't subsidise bus fares. We have a duty to do it for the concession scheme which has defined categories and we exercise power for providing concessions for young ppl.

Ba – 23 of 43 para 6.7 – the last sentence – why do we need the north route – you've conceded there are a no. of duplicate services on it. The bus services are serving it. But I would argue that the no. 1 bus route is one of the most profitable routes operated in the city. In order to make ngt financially viable you have to get a good share of that and that is the reason the northern route is because of that

Js – you are totally wrong. Mr haskins explained a process of continued business case justification. We asked if these were the right routes and mr haskins talked about diff interventions in the corridors, and the choice of technology. in a sense it's not surprising that the routes we're looking at are busy routes.

Ba – para 6.9 – if the bus services reduce or ultimately withdrawn – would you use your powers to reintroduce bus services for the parts of my communities that have dis-benefit. would you force buses to be run in the areas of my ward that would be losing out so they get at least a min level of service

Jh – that is hypothetical question – haskins set out clearly how ngt is part of a wide approach. I believe a successful intro of ngt and working with bus companies will make bus travel a more viable option. Hopefully we will create a virtuous circle. I'm more positive than you are about these services. Wy combined authority will have a budget and criteria and consider how to exercise its powers in the light of its resources.

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Inspector – you were saying that in the past you have intro bus services yourself where there's not been a bus service provided? If a bus service was completely withdrawn...what would be the case?
Jh – we have a legal duty to consider the social need for bus services – we have a part to procure such services. We have used that power – e.g. on some services we buy temporary extensions e.g. first/last trips in the evening and some Sunday trips when service is low... where services are withdrawn our first reaction is not to step in... often we will see if another operator will be prepared to run that service... another thing is that we have used our power to fund services which we think will meet a social need or prospect of commercial success. We have intro new services to hospitals and services in at Boxing Day and city buses you see operating leeds-bradford-huddersfield-wakefield we introduced in conjunction with the local authority – a 50/50 partnership arrangement. Leeds withdrew their funding but first has sustained it using on-going support.

Ba - Bullet six on page 33 – in your role as transport authority (not as promoter) do you not think your duty is to ensure all public transport services benefit the same and no preference given to any one mode – if it was possible to reconfigure highways – you should be trying to ensure that all public transport operators should get some benefit from it

Jh – that's not how I interpret the role and local transport plan – I see my role as to achieve the transport plan objectives. There is always a trade-off between different initiatives – clearly when you build a new railway station some patronage comes from bus services. No one has ever told me that is a bad thing to do though.

[12:53]

LUNCH

MALCOLM BELL

Mb – deceleration of trolleybus?

Jh – Different cars have diff deceleration capabilities. A rubber tired vehicle will decelerate faster than that of steel wheels like a tram – and we're not overall concerned about that in the UK

Mb – were you involved in the bodington modelling?

Jh – not in detail of modelling and predictions

Mb – I'm rather struck by the small no. of vehicles coming out in the peak time

Mb – do you agree there isn't a traffic plan but strategy aspirations?

Jh – no

Mb – you think there is a plan somewhere that you can put into someone's hand –

Jh – there is a local transport plan for west Yorkshire...

Mb – my view is it is an aspirational doc

Jh – the west Yorkshire transport plan covers period from 2011 to 2026 – the info plans are in more detail. We had just started the second implementation plan period.

Mb – do you agree with me and farrington that the fundamental problem is the ring road. Farrington said that they are not going to proceed as they don't have the funds available.

Jh – I wasn't here when mr farrington said this

Mb – it's in his submissions...I'll find it. I'll come back to you

Jh – there is a difference between a fundamental and THE fundamental problem. The ring road is a problem but it isn't the only problem which is why the local transport plan looks to improve it.

Mb – I take the distinction and we can argue the relative weight of it... we have agreed in principle there is a major problem in the ring road. For clarity it isn't the only one.

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Mb – and that is why ppl like me spent the last 15 years driving down the a660 – solve the ring road and a660 will get better

Jh – in transport planning there is a concept of suppressed demand (choose not to make trips because of congestion) – a study was conducted which found that a sig proportion of ppl in leeds were altering their travel plans because of congestion. If you just relieve congestion at one means, road space freed up will be filled with other vehicles

Mb – 2.3 of your proof – you say vehicle safety is controlled by the vehicle and operator services agency. Have you reviewed your plan with them

Jh – no, not necessary

Mb – bearing in mind they're the overseeing body

Jh – the kind of things they are involved with is maintenance regimes.

Mb – what legislative requirements are there for an electric trolley bus vehicle in the UK

Jh – I need to look into that.

Mb – my research says the last one was at 1920

Jh – this is not a point that concerns me

Mb- it could take 45 years to get a set of leg in place

Jh – I believe that it has complied with the construction and use reg...

Mb – but there aren't any on it

Mb - you said you relocated the FTR – but part of the reasons were that the road wasn't straight enough

Jh – my recollection of my comments this morning – my view was that the initial route was the wrong route. in hindsight all parties came to recognise that that would have been better

Mb – yes you were wrong about the bus on the route

Jh –I was right but collectively we were wrong

Mb – confidence level that you've got it right this time?

Jh – v v high

Mb – 2.17 on page 8 – it says that the 'variability of the bus journey times is one reason for under-performance...I also believe traffic congestion leads to bunching etc.' – I don't understand why your bypass won't not encourage bunching? What is different?

Jh – the approach to design and traffic signalling has been explained in great length

Mb – no he didn't talk about it.

Inspector – some ppl have raised the q of bunching in specific locations.

Mb – bottom of page 9 section 2.22 – you say there is an image problem with conventional bus which mitigates mode shift between car and bus. mr haskins started to agree with me – where I said the only way you will get c1s etc out and it a bus is to have a v. upmarket bus. you say there is an image problem

Jh – yes

Mb – so you have to make a mode change from cars to buses...

Jh – if there is an image problem then it is a sensible strategy to perform mode switches to provide a system that has transformational elements so ppl think about it differently. I did make ref to the letter from derrick twig which talks about the top of line BTR system – I do believe it is the whole system that should have the 'aura' you refer to

Mb – I've been handed the letter, it says: 'top of the range bus system' not BRT.

Jh – let's go back to the letter itself. (C-6-1)

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Inspector... - it is mr jones' area

Mb – in the end what we're standing with in this context here is that the object of this system is to get c1s and above out of their cars. That's the area you've taken your trolleybus to...

Jh – the objectives of the scheme are defined in the business case. Attracting new customers is in the objectives. There are different issues in the north and south line.

Mb – these are proposed to have high levels of standing.

Jh – in relation to overall capacity in relation to conventional vehicles.

Mb – you are talking about something approaching 160 ppl

Jh – yes

Mb – of which 40-50 will be seated...more than half standing

Jh – yes – may I refer you to the SDG note that we provided this morning – it is a complicated issue

Mb – you said that you need a vehicle that big to get the capacity you need – my inference it will be very full. Occasionally it would get full

Jh – occasionally

Mb – one argument is that high levels of standing is acceptable because that's the sort of order of standing in mass transit systems like London- but the ppl who live in the parts of Leeds is because they are trying to get away from that

Jh – I would observe there are ppl in WY that travel by train experience more high level of crowding than the London underground – maybe not everyone has escaped this crush you refer to

Mb – so these ppl living on the route may well not be going on a train

Jh – but they'll be going to work

Mb – exactly...you want them to leave their cars in the car park...

Jh – there are households which have more than one license holder but only one car...I don't accept your assertion that everybody wishes to drive to work in a car

Mb – ok let's say that most people... you say you want the other 40% of the people who buses have not got –

Jh – the transport studies survey work in 2008 – is the most extensive that I'm aware of. It acquired a lot of info on ppl's travel habits – also modelled and appraisal flowing through the transport model. One key concept is that ppl make rational decisions and will look to minimise costs. E.g. I have two cars in my house but I travel to work by trains because that's how I minimise generalised costs. It is situation specific. Rather than deal with statements you make I would prefer to go back to the data that we have – sophisticated transport models as best prediction of future behaviour

Inspector – are you saying ngt will be more economic to use than car?

Jh – there is this concept of generalised costs – **mr hanson to expand on this** –

Inspector – they will go into that sort of thing? because ppl have suggested that car parking is around £2.5

Jh – I do think there are witnesses who are more expert who can address this

Mb – just fyi I pay £8 a day to park here

Mb – most people get a free car and permit – why would they get on a bus

Jh – we don't rely on statements like 'most' people but we actually have evidence as to behaviour

Mb – I'm telling you most ppl around me have company cars and won't get on a bus least of all if I have to stand – I prepare to bet you don't have the data and you haven't looked at the data

Jh – I would like to repeat that the data collection exercise was the most expensive I'm aware of and the LTM is the most sophisticated I'm aware of

Mb – 2.28 – what is it that is in that list is not reflected in a hybrid – other than the zero emissions use

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Jh – if you catch a hybrid bus you may well find the engine is not operating as the bus is stationary – the engine will quickly cut in and take over from battery power. It does not have the characteristic of an electrically powered vehicle – much of the time it is operating very much as a diesel bus – it feels like one. The hybrid tech – it's not an electric vehicle

Mb – traction system in a hybrid bus is an electric generator – the diesel motor is just a motor.

Jh – I'm just relaying my personal experience of riding in hybrids

Mb – you were talking about the characteristics of an electric motor

Jh – I have ridden on hybrids and trolleys –there is a difference.

Mb – a lot of definitions of quality partnerships – quality contract schemes etc are used. You say in 3.3 that the provision of ngt infrastructure will either constitute impermissible state aid...or otherwise be unlawful by virtue of it materially distorting competition in the leeds bus market and so on... I am not aware, nor are you – so we can't discuss the rigorous legalities – but all this suggests to me that this entire scheme is sliding down the edge of legality – it is questionable whether this thing is legal. To make it legal you have to be meticulous about definitions e.g. BRT or express bus etc. Should we not make sure we have extremely high quality legal guidance on this system before we proceed any further?

Jh – as the promoters we have already received it and we are content with where we are. I have appended a summary of the advice that we have received and how it related to competition/state aid.

Inspector – direct me

Jh – **doc app 4-3-1 legal analysis of procurement options** – that is provided because I am not a lawyer. I am aware that questions on legality will occur and they will be dealt with through legal submission.

Mb – I wasn't quite sure what the sources were – it doesn't say who gave that advice and what the quality of it was

Jh – DLA piper – our legal advisers. I am confident in the quality of the advice.

Mb – what physical comparative work is being undertaken before it's approved

Jh – what do you mean?

Mb –digging holes etc.

Jh – work programme is set out in the business case review – I do not for a moment envisage we would undertake work we have no powers to do nor any works at risk unless essential.

Mb – what are the chances that there will be somebody saying the trees are a health and safety issue and cutting it down...

Inspector- this is not really going to give a particular answer that will be any help.

Mb – you make several statements ... you then go on to say in 4.1 bullet 3 that a key part of this is to minimise the retained risk of the project.

Jh – yes

Mb – but you have said the council will take on the risk of this thing making a loss

Jh – yes

Mb – is that minimising

Jh – context on this is achieving value for money and objectives. There has been previous ref to the Atkins report – ref to national audit report of light rail systems of 2004 – one conclusion is that the cost of transferring revenue risk was too high – similar problem with supertram. There are some risks ... which we have to look at in its totality of the scheme. There are four bullets here that have to be read in totality. If the cost of transferring the risks is too high that would impact on another of those principles

Mb – if the cost of transferring the risk is too high – please explain what this means?

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Jh – in a procurement exercise the general principle is the put risks where its best managed – there is often a cost of transferring this – bidders will price in reference to this totality. The business case review refers to market testing – revenue risk will be part of that market testing.

Mb – the cost of transferring the risk to make a working margin – does that mean the risk of the scheme is too high...first bus hasn't – they've taken on that risk themselves.

Jh – I don't recall first ever making a loss - as we pick up some of that risk through our interventions. With supertram, one of the reasons why ppl were nervous about revenue risk was that they didn't have control of a lot of things e.g. priority.

Mb – but first doesn't have control of priority given to them either – so it's a level playing field

Jh – it's the promoters who have the ability to control signals – that was one of the factors that impacted on the revenue risk of super-tram.

Inspector – so because the risk is not going to be transferred to third party procurements – is it too high a risk to take on?

Jh – I don't believe so

Mb – under heading of 'minimised risk' there is v little evidence as to 'what ifs – what will you do when things go wrong. There is a high level of commitment to the belief that this scheme will work.

Jh – I don't accept that – in the work that will be done is a range of sensitivity tests- exactly the 'what if' question. E.g. the impacts of different journey time and diff levels of competition. They have confirmed that the business case remains robust and above the criteria for value for money. We have looked at a range of 'what ifs'

Mb – so what if you don't get the revenue you want?

Jh – the work that's been done demonstrates that the business case is robust. If the revenue doesn't materialise then there are a no. of policy levers that we can use but could be used depending on what happens.

Mb – like what

Jh – parking control. That is one thing that will be considered. That is one thing under the control of the local authority.

Mb – what other levers could you pull if it doesn't work? You are putting two –level s into it and the traffic starts seriously grid locked...

Jh – a question to mr Robertson

Inspector – I'm not sure how mr Henkel will answer that question.

Mb – what will you do if traffic control system doesn't work...

Inspector – on the operational side

Jh – the proposals are underpinned by extensive data collection and modelling and a no. of scenarios have been tested. In the absence of ngt the mode switch would not occur and there traffic grid lock will be more likely without ngt. Traffic in leeds has been near capacity at some time – to go back to my earlier answer about behaviour... leeds residents may modify their behaviour if there is more congestion.

Mb – what are they modifying to?

Jh – they use buses instead of cars, travelling at diff time of day etc.

Mb – so why not let it continue to happen

Jh – that behaviour is impacting on the economics of the city

Mb – page 13 – flexibility – how does this compare with the warranted permanence of the scheme which implied a lack of flexibility – ppl were saying it can't respond to changes in the demographic. You are saying it is flexible but haskins/farrington is saying its permanent.

Jh – there has been a paper submitted to the inquiry which deals with the concept of permanence – that paper is consistent with my previous advice which has pros and cons to permanence. This really

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refers to the potential for expansion – you will have heard about the way transport fund and you will be aware of extension proposals etc. in Manchester they've had difficulty in extending their link and now they are on their third operator. But we have made it easier to expand the system should we have the funding to do so – rather than a new operator for the operation of new territory.

Mb – you were suggesting that flexibility might mean changing of operators and flexibility is changing the hardware?

Jh – no. suppose we entered into a contract for lines 1 and 2 and subsequently we developed a business case for a third line. If we then go to an operator and say can you operate a third line we are then in a weak position as there is only one operator – this is to future proof further extensions.

Mb – you said that this thing should be a single operator – a delivery vehicle as a single operator. If you extended the system would there be another operator – separating the system.

Jh – the ref here is around future proofing – in the market testing it's been referred to in the business case review. One is having a pre-fixed price option or the other to terminate the contract – like Manchester where there has been 3 different operators.

Mb – so if you want to extend the system and one delivery man doesn't want to do it... you'll fire them

Jh – well it's about value for money. In procurement where you get stuffed is on variation orders – you want to capture the value in the initial procurement.

Mb – what you are saying is that you've got control and ppl won't extend then you are in a position to stuff them

Jh – 'demonstrate value for money'

Mb – right now LCC is designing the thing...

Jh – it's a preliminary design – not a detailed design. There is not a set of contract documentation that you can issue right now.

Mb – either it goes to someone else to design or you are doing it and doing it to your liking

Jh – it is appropriate for a project of this nature

Mb – have you got any idea who these people will be? You said earlier that you can't talk to them... but do you have any idea of these procurements?

Jh – business case refers to future market testing – we have talked to our advisors that they have given promises not to participate in a consortium – their advice is there is significant market interest and a range of different companies to form consortia to bid and maintain the system.

Inspector – so it may be a consortia – e.g. a bus operator + engineering contractor + anything else needed...

Jh – yes

Mb – 250 million paid from own resources – as these people build and maintain it then you will pay them in stages

Jh – yes

Mb – who will be on that road that is built across e.g. Woodhouse Moor

Jh – LCC

Mb – who will own the infrastructure?

Jh – owned by the promoters

Inspector – what about where is it segregated? That bit of new area being built who would be responsible for maintenance of that

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Jh – subject to market testing – the consortium would be responsible for maintaining not owning it.
Ins - other areas that aren't just ... there will be some stretches of just ngt and some of public transport etc... so how iwl that split on the maintenance side

Jh – a consortia will design, build, maintain system. There are clearly issues so current proposition is that the consortia will be responsible for maintaining that section of the track. That is something we would explore first... right now there is a proposition that a consortia will be responsible for all this.

Mb – so the answer is that you'll work it out later

Jh – there is an assumption of what that will be in the business case- will be market testing and there will be variations to the assumption as a result of the testing.

Mb – who's job to decommission it in 60 year's time

Jh – we would not let an initial contract for 60 years- a decision will be taken at an appropriate point in time whether to include decommissioning in a contract or include an option... there is no intention to decommission yet. That is a risk that the promoters cannot ultimately transfer as they will be here at the end.

Mb – I've drawn attention to new traffic tech – are you aware

Jh – yes – I'm not an expert in traffic platoon

Mb – you haven't risk assessed it. You have a close packed platoon of vehicles in traffic at much higher densities that traffic is currently running and you can manage it more effectively.

Jh – so you would achieve more capacity e.g.... the vehicles are connected electronically to run more efficient...? I'm not an expert on this – but it doesn't change the other dimensions around the spaces dedicated around car parking etc. we have talked about car parking – some of the car parking as Farrington said there was an intention to withdraw the car parking at some point in the city centre.

Mb – so you haven't looked at this traffic platooning...

Mb – the overhead system – you have talked about having a no. of relay stations (10). Are you going to put a standby generator on this system?

Jh – no

Mb – do you think you should?

Jh – no need

Mb – because

Jh – the electrical supply in my view – failure is not common occurrence

Mb- the generating systems are all building standby systems around the country as they are expecting power cuts in the next five/ten years

Jh – we'll have many other problems if that happens

Mb – 4.11 – FTR – these things will have three or four entrances/exits – why aren't you worried it will be 'free' as well

Jh – we will have personnel checking they have tickets

Mb – so you have 160 people on each bus etc.

Jh – the ftr buses were initially employed with a on board ticket system but not satisfactory. Right now they employ a customer service post whose job is to revenue protect etc. which is similar to the system we will be employing.

Mb – there are quite a no. of ppl getting on and off each stop ...

Jh – there is a system that operates v. well in other parts of the world and there is an example in leeds right now (the FTR vehicle now has a capacity of 100 or so ppl and the customer service host is deployed to undertake protection duties).

Mb – you've got a second man on those buses.

Jh – yes

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Mb – they've got 2 entry points

Jh – yes and staff undertaking those duties.

Mb – on the list of features under 4.11 – apart from zero emissions what is there that you can't do on a hybrid?

Jh – we could debate the characteristics of accelerations and deceleration...

Mb- you can't accelerate any harder you'll knock it down

Jh – we've covered that point already – the key thing is zero emission

Mb – the only thing is the emissions

Jh – I'd agree with that

Mb – how much will you be paying for the overhead system

Jh –around 10-20 million depending on whether it includes the sub stations infrastructure... clearly is a cost for providing these.

Mb – what is the additional cost it takes to make a trolley work

Jh – I don't know the exact figure

Mb- that is the cost of zero emissions

Jh – we've not claimed its zero emissions absolutely – would take electricity from the national grids... may be offshore

Mb – you will be able to set the fares

Jh – yes that's the assumption

Mb – in order to do that you take the risk if the fare isn't high enough and ngt makes a loss

Jh – yes

Mb – and that's not a subsidy?

Jh – in relation to fares, we have set out fares assumption and any decision taken in the future will be taken in the light of legal advice in relation to the competition aspects.

Mb – treading on thin ice then isn't it

Jh – no we are being transparent we'd put ourselves in if we decided to set fares in the future.

Mb – 4.22 – ngt services will have key links to uni/infirmarary/rail way line etc. not many significant employers in that list – private industry.

Jh – the key employers in proximity are set out in the business case review.

Mb – why didn't you refer to that in your proof

Jh – I do think this it is set out in 4.22

Mb – you ignore the employers when you did the summary

Jh – we'll be repeating ourselves

Mb – they don't include any of the big employers ... none of those are supporting the list in Farrington's either – are you being a bit blind to them?

Jh - no

Mb – you say that you don't need a qps – whether this is a RTS or express bus etc. – you say it would be nice if we met the standards but not treated as an obligation (5.6) –

Jh – what I'm saying in 5.6 is that for the reasons in appendix 4.3.1 qps's are not a suitable delivery vehicle for ngt itself. We recognise and welcome there will be other bus services on the corridor and option remains as to whether a qps will be desirable from the other operators...

Mb – 6.7 when you've got this thing set up one of the things is that first could start a price war – but it would expose them to revenue loss

Jh – I said it was financial loss

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Mb – there are many other ways that these guys can come back and attack you – e.g. high court
Jh – in my view first will take their own decision as to which action they proceed with. We'll have to see what happens and they have a right to object.

Mb – what will you do if they do? You won't tell us here will you...

Mb – I didn't quite understand 6.17.2 – “if qcs is introduced it's likely that existing bus services will be subject to some operator response – you give 56 days' notice and take their operation over...that's my interpretation – you'll impose your own control

Jh – a qcs included in the ltp 2000 and modified in 2008 ltp would include deregulation for a period of 10 years – if we were to introduce such a scheme up an ngt corridor it would likely cover all services on that corridor, it's not proposed but it's just an option of all the eventualities.

Mb – it's a hypothetical threat

Jh – no, statement of fact

Mb – so it's message to them to behave themselves or else

Jh – I think they fully understand and have opportunity to discuss with us

Mb – it's my view that this is a very high risk experiment which is underlined by v few risk analysis – if it doesn't work you can't put it right – is that a fair thing to do to the citizens of leeds and leave them with a great bill. You talk about future proofing but no one has examined platooning.

Inspector – question is...

Mb - is it appropriate that the applicants should take this risk?

Jh – I believe the promoters have the duty to consider the future of leeds and those plans that best suit the city. We should put it to the dft as a business case – the promoters have a right to bring the proposal to a public inquiry under TWO in order to construct the scheme.

[15:12]

BREAK

[15:25]

Cameron - How trolley vehicles are regulated – I have a note which we will put in that addresses that issue. You raised the question about how the off road public highway sections – they are also dealt with that (app 118)

App 117 is a note from mr robertson which he said he would produce in cross-examination.

GREG JONES

Gj – I want to understand the scope of your evidence and expertise – you've elaborated on your engineering background. You're the acting director general/transport of wy combined authority – you're still acting, is it anticipated that either you or someone else will become the director.

Jh – not yet been concluded

Gj – some of my questions relate to testing your assumptions for the future – are you at least intending to apply for the job of director general or are you anticipating a peaceful departure?

Jh – it's common knowledge that I have applied for the job of executive transport director...

Gj – that's helpful. You set out in your proof the matters as grounds 8.2.2 – you set out there and elsewhere where you principally rely on the expertise of others...

Jh – you've lost me now - 8.22 of my proof relates to the first statement of this ground.

Gj - E.g. ground f) dealt with by mr haskins, ground H) dealt with by mr chadwick etc... you set out where it is in terms of expertise where you are relying on other witnesses

Jh – yes

Gj – I want to focus on where it is, either those witnesses have indicated that you're the man or else where you've made your own independent comment or where you offer your evidence on matters such as your understanding on competition/procurement matters.

Jh – I do understand what you're saying

Gj – in respect of mr haskins evidence or anyone else, have you been present whilst your team has been giving evidence

Jh – in part.

Gj – what about mr haskins cross-examination by me

Jh – substantial parts...

Gj – at the beginning

Jh – yes

Gj – from what you heard in respect of haskins evidence is there anything you disagree with what he said in answering the cross-examination by me

Jh – I didn't take copious notes so can't refer to that in complete confidence.

Gj – nothing struck a note such that you would raise it in your evidence of chief

Jh – I don't know...

Gj – important thing is that where you rely on others evidence – important to know if they disagree with the evidence given...

Jh – the only thing that struck me – I recall – was on cost estimates. I didn't disagree with his answer but clearly one needs to be cautious about costs.

Gj – you would be a bit more cautious than haskins on costs

Jh – I would be cautious about costs.

Gj – can you take your appendices – you're not a lawyer are you? You've relied on the advice you've been given

Jh – yes

Gj – to understand appendix 4-3-1 – legal analysis of procurement options which you clarified by dla piper – it's described as an analysis and not signed – you referred to it as a summary. Is it their legal opinion that's been disclosed or simply the analysis as part of the case? There is a distinction – an opinion is where a lawyer is under a duty to set out pros and cons and their view. It's not said to be a legal opinion or simply an analysis/submission?

Jh – I have taken it as a legal analysis

Gj – so you are saying it is dla's opinion

Jh – I have taken it as advice

Gj – no, advice/opinion is one and an analysis/submission is something else

Jh – please rely on the title

Gj – the title is ambiguous – you've referred to it as a summary, is there a non-summary version you've seen?

Jh – no I am not aware of one existing

Gj – you can't say whether this is a legal analysis or in fact their opinion. I just want to know what you know.

Jh – I don't know... you are referring to the status of legal opinion.

Gj – I'm a bit concerned...it's a basic thing to understand... there is a distinction between legal submissions/analysis in support of a case (part of advocacy – arguing about the law) and something that is a legal opinion (which doesn't matter who your client is – it sets out all the pros and cons and genuine view of the advocate) – now do you know what this is?

Jh – it is not an opinion as you describe that – but I am not a lawyer and don't know well.

Gj – one issue that arose was the absence of consultation – matter arranged with mr haskins. He dealt with the consultation aspect – but you dealt with it too – with the bus operators in the formulation of the assumptions for your business case and on the impact on the timetabling of the buses. I won't ask you about the assumptions yourself. You have said in your evidence – one of the reasons (the only reason) for not consulting was because of legal advice because of the procurement process and one not favouring one operator from another.

Jh – I do remember that – but 3.4 of my proof – the advice that I understand is that a public procurement exercise is required and that has implications as to how we liaise with operators. I would hope that mr alexander can confirm we had extensive discussions.

Gj – please take me to the advice that says it would be a risk of being unlawful for consulting with the bus companies as to the impacts of ngt as to the existing bus routes

Jh – it follows from the advice in my appendices

Gj – advice by whom?

Cameron – mr jones has to be careful

Gj – any privilege has been waived as you have used it ...

Inspector – the applicant can say whether the doc is privileged or not

Cameron – he shouldn't be asked questions about the advice that has been received.

Gj – we've established that that advice is not in the legal analysis but you say it follows from that legal analysis. Are you saying that dla has given you advice on whether or not you should speak to the bus companies when formulating your assumptions for the impact of the ngt for your business case on the existing and bus operations.

Jh- there has been conversations with various people

Gj – with who?

Jh – with our lawyers and procurement people

Gj – are you prepared to make that advice available to the inquiry?

Jh – I have put to you that that is plainly wrong and I'd like to see that advice – and no advice has been set out anywhere that supports it would be a breach of law to discuss with the bus operators the implications from your modelling. You're quite sure that there has been legal advice on it?

Jh – I'm quite sure...

Gj – is the real truth that you and your non-lawyer team are basing it on the legal analysis and you took the view that you wouldn't consult?

Jh – it's my clear understanding that we should not engage with conversation with bus companies.

Gj – answer my question. I'm not asking what you think – I'm asking whether you were given direct legal advice. Not what your understanding was.

Jh – we have had meetings with our legal advisers about our conduct in terms of consultation

Gj – I am at the moment doubtful as to whether such legal advice was given – and if it was evidence of that advice should be given.

Gj – you then say echoing mr haskins that you had published your business case scenario so the bus operators could have come back to you if they took issue - you said it orally today. And what would you have done then? Discussed it?

Jh – I would have sought further advice

Gj – if you were right you would never had entered into any discussion with them because you said it would have been unlawful

Jh – I would have sought further advice...

Gj – how would it then become lawful?

Jh – we are talking about a hypothetical situation

Gj – we are not – we are testing the integrity of the business case. You said you couldn't talk to the operators as you were advised it would be unlawful

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Jh – at that time I had advised first west (no. of conversations with mr alexander) and they did not come back to challenge that

Gj – and you told them they couldn't discuss it?

Jh – I advised them of the constraints of the situation – there is no secret, this position has been told to first

Gj – you say first of all you couldn't ask the operators as to whether your assumptions had any validity about them – you say you were advised it was unlawful. You then say that when you published the business case you could have come back to us to take issues – and there were meetings but you told first that you couldn't discuss these issues with them

Jh – I advised there were constraints as to the extent of our discussions

Gj – you couldn't discuss the assumptions as to the impacts in your modelling and reaction to the bus services

Jh – there were constraints

Gj –so you haven't

Jh – we couldn't

Gj – the constraints meant that you couldn't discuss the assumptions with them

Jh – there were constraints – we had meetings with all operators.

Gj – the constraints meant that you couldn't discuss with first or indeed any of the operators. The answer that haskins and you gave 'actually what are they complaining about all they had to do was that they had to call us to discuss' – that was a misleading answer wasn't it

Jh – I don't think it was misleading – one of things that surprised me was that when we consulted on the transport plan first didn't raise issues

Gj – we are not talking about the plan

Gj – your evidence now before the inquiry is that as a matter of law you couldn't discuss those in front of the bus operators

Jh – we didn't as we had constraints

Gj – the second argument put forward by haskins and you in oral was that they had an opportunity to discuss them with you but they didn't.

Jh – it was open to operators to come back and seek discussions – they didn't do it...we would have sought further legal advice

Gj – you said you couldn't discuss these issues due to legal constraints

Gj – so that being said, it wasn't surprising therefore that the operators having been told in the meetings that you couldn't discuss it – didn't then discuss it with you. That's not unreasonable is it?

Jh – which meeting we're referring to here – I wasn't present in this meeting, it was mr haskin's evidence. I was aware of it.

Gj – you say someone it's still the bus operators who still should have somehow come back to you

Jh – I didn't say it was their fault.

Gj – what we do know is that for the purposes of those assumptions there were no discussions with any bus operators?

Jh – no – not with any bus operators

Gj – you've introduced a lot of evidence about competition commission's analysis of the bus industry.

Jh – yes

Gj – analysis of the national bus industry in England & wales excluding London –wasn't an investigation into wy or leeds?

Jh – included in England but not specifically

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Gj – so far as the report is concerned, the report was looking at indicators of whether there was likely to be head to head competition and if there was an absence of that that suggested absence of competition in the market.

Jh- about where adverse effect on competition was likely to occur

Gj – there was no finding that there was in fact anti-competitive behaviour carrying on

Jh – they said there was adverse effect on competition and gave a global estimate –

Gj – so the commission did not find in particular my client being guilty of anti-competitive behaviour

Jh – no

Gj – they didn't find my client guilty or make a finding that there was anti-comp behaviour in wy or leeds

Jh – no

Gj – if they had there are various enforcements

Jh – yes

Gj – we can draw a distinction with the results and findings found with the north east bus industry in this report and steps that were then taken

Jh – there was a separate report on the north east arising out of the work done

Gj – it's important to note those factors – its no part of your case that the inspector should note that there was a finding of any actual anti-comp behaviour by first or others

Jh – yes we didn't suggest that

Gj – its no part of the promoters case or self-defined objectives of ngt that ngt is intended to as a reaction to alledged risk of anti-comp behaviour in west Yorkshire

Is it part of your case that ngt one of its objectives is to have a role in impacting in some positive way upon concerns of anti-comp behaviour in the bus market in wy or leeds

Jh – no

Gj – if we go to your proof – the section that begins 2.14 – 2.21 – do we find that evidence set out or relied upon by the promoters in any of its representations to the sec of state in respect of funding

Jh – no

Gj – what relevance does it have to this inquiry?

Jh – it may be of relevance in relation to first's objections

Gj – in what way

Jh – I personally... it's my evidence... first were part of a team bidding for supertram – at that time first west had not objected to leeds supertram and therefore I deduced they were content with the proposals which would have similar impacts on local bus services – there were subsequent opportunities for first to object to ngt – there was the local transport planning consultation. I refer to them being part of a consortia bidding – perhaps I could refer to the appendices to mr alexander's proof (appendix F) – 'ngt was an important component of the wy transport plan' – yet I do not see an objection to ngt from first as part of the consultations on the local trasnprot plan and for those reasons I was surprised by the objection and the nature of the objection.

Gj – can you answer my question

Jh – I was then led to speculate as to why this objection arose so late in the dday – and it seemed it could be related to first's position int eh bus market

Gj – I still don't understand how that relates to your evidence from 2.14 to 2.21 of investigation into the existing bus market and competition within the bus industry and how that's relevant to ngt. Ngt is outside that regulatory system. How is that relevant to what the inspector has to say other than something that is irrelevant and improperly prejudicial? How is this relevant to any material issue the inspector has to decide rather than being an improper attempt to play the man but not the ball?

Jh – I would expect the inspector to form a view as to the reason of first's objection

Gj – your evidence then is: the evidence given by the witnesses by first about the adverse effects of the scheme– is in fact untruthful and motivated instead by some improper motive? What issue that the inspector has before him?

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Jh – he needs to understand the west Yorkshire bus market and the CC was an independent analysis of that market

Gj – why is it relevant?

Jh – to understand the bus market and how ngt will operate in that and what would motivate operators to respond in the way they have

Gj – the impact of ngt is not considered at all by the CC is it?

Jh – no it wasn't – but the background info is relevant. Also I was very surprised as to the lateness and the nature of the objection

Gj – in essence, are you suggesting that the reasons advanced by mr alexander, turner and independent experts are not the true reasons and in some way dishonest.

Jh – I didn't say that

Gj – in what way is this relevant to the reasons why my clients are objecting – they aren't objecting to the findings of the CC

Jh – I believe it was important for the inquiry to understand the history of the bus market

Gj – in order to understand the reasons why my clients are objecting? – can you point to anywhere where my client is objecting to the CC

Jh –not in their evidence

Gj – so you are suggesting there is an ulterior purpose behind their objections

Jh – I was just surprised by the late objection.

Gj – that's a separate issue. Do you now accept that as so far as the inspector's consideration is concerned, para 2.14 to 2.21 are irrelevant considerations

Jh – I don't

Gj – because the inspector needs to examine the motivations of my clients objections

Jh – I believe it was relevant to understand their background...

Gj – for what purpose

Jh – the see the context

Gj – “

Jh – to consider the validity of the transport plan

Gj – is it relevant to your case? We agreed that it was no part of the promoters' case as to concerns about competition in the leeds/wy market?

Jh – we've agreed that

Gj – so you then say it is then relevant to the inquiry – if it's not relevant to your case then why is it relevant at all?

Jh – it is relevant as background/other elements of the case

Gj – other than my client's motives

Js – it provides the context

Gj – for what purpose – take me to some aspect to my client's case that shows this

Js- there is no example that I can recall

Gj – this evidence is yours

Jh – yes

Gj – they are not relevant to the promoter's case– is it not an attempt to blacken first's reputation in front of the public inquiry

Jh – [no]

Gj – you appreciate that mr henkel's evidence was a matter of surprise and disappointment to my client. I am trying to establish what is material for you. In respect of competition the only aspect we can agree is relevant for the sec of state in respect of competition law is the compliance or otherwise of your client's proposal (ngt) with competition law?

Jh - ... the only... I would accept that, yes

Gj – the issue of the competition commissions' findings as to the bus market as no materiality either on your case or any aspect raised by my client in their objection to your proposal

Jh – it provides context

Gj – I'm concerned the context should be in respect of a legitimate issue. It's a very important point and don't want confusion in re-examination. We have established there is no relevance to your case.

Jh – this was written prior to the proofs receipt of your client's evidence.

Gj – if you're happy the inspector can put a physical and mental line through 2.14 -2.21 dealing with competition in the Leeds bus market then we can agree. I don't want to go over whether it was justified at the time or not. I don't want to add to his work load. Can we agree now that it is not relevant.

Jh – we can agree but hope you can acknowledge that it was written in advance of your client's proof of evidence.

Cameron – those paras deal with other matters as well.

Inspector – might be something relevant in it too...but in relation to the competition of bus market...

Cameron – 2.15 and 2.20 deals with some relevant points

Gj – we've agreed in so far as the competition of bus market...again let's look at some other aspects in the paras. You go to 2.18 – matters have been updated in cross-examination of Anderson. You say that first has acknowledged that business plans are flawed and only focussed on short terms aspects...etc. you agree in cross-examine by Mr Anderson that first's position has significantly change – since arrival of Mr Alexander

Jh – yes I agreed that

Gj – in so far as making assumptions for whether the inspector should be committing Leeds to a trolleybus for 60 years – one's got to look at matters dispassionately and objectively rather than in respect to personal issues with past personalities in any company over the years that's right

Jh – yes

Gj – can we agree this, in so far as the assumptions that were made in respect of the business case which you rely on – certain assumptions have been made in respect of what the bus co.s response will be – we know for whatever reason that was done without consultation with bus operators and also we know by looking at the evidence both in the business case and Chadwick's evidence – we don't see any empirical objective evidence as to how those assumptions were arrived at do we?

Jh – we don't

Gj – as far as we can see one might as well have said a particular service will be reduced to 3 or 1 bus an hour or what? There's no basis is there?

Jh – there is one – there was consideration of the degree of overlap and likely movement of bus passengers from existing to NGT services. I believe they are reasonable assumptions

Gj – no way anyone can test those assumptions? Normally there is a reason justifying them

Jh – there is a wide range of possible responses but in my view the assumptions are reasonable for the purposes of the business case.

Gj – let's look at how reasonable they are – if we go to your proof of evidence, not a prediction but an assumption, yes, you talk about the competitive response at 6.7 – we need to realise that in terms of the corridor this is an area that is well served by buses isn't it – not one that is underserved? There are very possible routes...let's start with the north corridor

Jh – yes

Gj – so far as your business case assumptions are made, there is no sensitivity analysis based upon competition based on fares, is there? Bus operators responding by cutting fares?

Jh – I know there were a no. of sensitivity tests taken but I have to go back to the report.

Gj – we've looked through it and there is no test based on a response cutting fares. That accords with your understanding as you seek to respond this in 6.7 – you say that fare war would be likely to effect NGT revenue.

Jh – there is a sensitivity test around maintaining frequency.

Gj – but none as to enhancing frequency to make it more attractive Or by cutting fares

Jh – there are sensitivity tests but neither of those. But from my collection there is one around maintaining services on comparable fares.

Gj – lets test that – you say that the only reason given to justify not carrying out that analysis is in 6.7 – this has been where you say because of the sig investment in infrastructure – operators will assume ngt will not be withdrawn...you give two other reasons as well – confirmatory reasons that came after but confirmed why you thought that was right. E.g. confirmation about first in the CC report and secondly, the leeds-bradford airport also confirmation as that post-dated 2009.

Jh – yes

Gj – you said that anyone taking ngt on in competition wouldn't want to do it because they would know you aren't going away – that's the essence at 6.7

Jh – yes that's right

Gj – let's see how robust/responsible that is? First of all the infrastructure costs paid by LCC and fund and also scheme is not without some high degree of local and political controversy. Actually take the 'high' out. Lots of people opposed to it.

Jh – yes

Gj – now, there is a bus operator. Mr haskins confirmed there is no money set aside for operations dealing with the costs that would be incurred if it had to go into a fare war? No contingency fund?

Jh – question of a fare battle is more complex than that.

Gj – although these are the most profitable routes and run without subsidy

Jh – no tender service payment for 1,6,28 but indirect subsidies – not the concessionary scheme but we provide infrastructure and info services etc. there is subsidy but not tender service on payment basis.

Gj – but for the ngt – if all the assumptions are proved valid it looks to break even at year 8.

Jh – yes around that

Gj – on those assumptions – none of them allow for any impact on the patronage forecast of an operator responding by either decreasing fare and or increasing frequency to compete?

Jh – there have been sensitivity tests done on the business case and they were variations on the core assumptions – also within the business case there is a level of risk attached to revenue – there is provision made already that the revenue has not been fully obtained. So by proxy there is a risk attached to the revenue.

Gj – but where do we see that as identified as a separate risk. There is a normal risk put in – even the assumptions you've made have risks but there has been no analysis of the risks that bus operators will respond as I've set out.

Jh – as I said in the core scenario there is a risk allowance on revenue as well as cost.

Gj – I appreciate in that risk assumption – that you have taken account of the bus operators maintaining their services BUT not if they start decreasing the fare or increasing frequencies of services.

Jh – the business case is based on assumptions set out in my evidence etc. there is already some element of risk allowed for. On top of that there have been sensitivity tests taken – but you said there may be other responses. But I would say that these assumptions – the principal funder is the dft who are giving a sig level of contribution. The sensitivity tests have been shared with them and in the moment in time they have not asked for further tests.

Gj – there are other risks and assumptions in relation to the procurement of the infrastructure and kit – what I'm talking about it that you've got your kit, it's up and running and what happens when matters which you have not tested arise. There are two responses to that – one – you say that you've done that work, inspector, we've looked at all those analysis and you can say that you can deal with it. Secondly – you said that this is crazy and no one will do that (you suggest in your evidence?), and thirdly – we have a pot of money stashed and we can deal with it. But mr haskins said that there is no chest of money- it's a political decision...

It's common ground that the liability for any short fall is borne by ultimately LCC, not the operators (whoever wins the franchise) – correct?

Jh – yes, but I made previous ref to the market testing exercise – it is possible that a diff approach –

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Gj – we've got to deal with this inquiry on the basis of the promoter's case – the sec of state has to treat this case as it's been presented.

Jh – the point I was making was that the programme set out in the business case doesn't have market testing.

Gj – the real point is that we have to test the robustness of the assumptions made – the liability will be on LCC and the people of leeds. Mr haskins made clear that if there is any shortfall there is no plan B at the moment –

Jh – if that was to arise we would have to cross that bridge when we come to it

Gj – that would require a political decision – those elected

Jh – yes

Gj – if we go back to 6.7 – a bus operator faced with the situation that it knows – the assumptions made did not involve any assumptions (fare war etc.) and they would also know that they are competing with someone who at the moment has no money set aside for dealing with the impacts of a fares war or a frequency war – that's right isn't it

Jh – yes but they would also be aware that the revenue budget of LCC is fairly substantial

Gj they would know that unlike fighting a commercial rival – metro are not in that decision and they ave to go back to their political masters and as big as that budget is – you're not suggesting that they will spend it like this when there are other pressing issues

Jh

Gj – so ngt is actually very vulnerable to a bus operator who decides to take an aggressive stance

Jh – I don't accept that

Gj – so these operators know all these things and you suggest you are in a strong position

Jh – I have advised that the forecast in the business case do include assumptions of risk

Gj – the assumptions that have been made are 'weak' and not based on empirical evidence

Jh – I don't accept that

Gj –so the response of the bus operators is not based upon any empirical evidence to any operators – even those that don't operate in leeds...

Jh – I've explained the basis of our actions - yes

Gj – in 6.7 you say you are in a robust situation because of all the money you've spent – only robust if you say to the inspector – our political masters will give us the money to write off any losses we make that we haven't assumed.

Jh – we are speculating here on future scenarios. Part of the reason I believe this is a reasonable response is that there are other systems e.g. Manchester where the LA take substantial risk.

Gj - Are you familiar as to what's happened in Nottingham – the impact on the revenues of Nottingham

Jh – you seem to be suggesting this is outrageous but it is one adopted elsewhere

Gj - you can show me but I'm saying it's not a robust assumption

Jh – I would take us back to the fact the business case includes allowance to risks. There is recognition that there is risk attached to revenue.

Gj – if no sensitivity analysis has been undertaken how do you quantify risk?

Jh – risk allowances are attached to those elements. It may be another witness can advise to more details on this – but the guidance to allowance to risk has evolved considerably in the last ten years. Also I would repeat the dft have received the business case and do not require sensitivity tests at this time.

Gj – what's the point of carrying out sensitivity analysis?

Jh – the point is that it is v. difficult to forecast the future with absolute certainty so prudent to take into account a no. of likely variations

Gj – can the inspector dismiss as unlikely a response from bus operators other than simply maintaining services at the same cost?

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Jh – there are variations around that – but the scenarios you paint is not likely.

Gj – you are saying unlikely and therefore unnecessary to have a sensitivity analysis.

Jh -That is likely the reason why dft haven't required it

Gj – if ngt made an operating loss – how much would the dft have to pay in order to prop up ngt.

Jh –there contribution is the capital cost

Gj – we have to bear in mind that in terms of any forecast – whether or not patronage levels will be reached at year 8 – whilst they have an interest they won't have the same direct interest as if there would be a call on the treasury to put in extra funds

Jh – yes they would – they have to look at the benefit cost ratio to decide the scheme and the ensure it constitutes value for money

Gj – let's go back to supertram – and see if I'm being too simplistic. Or you are being simplistic saying that you've got first stage funding and so all you did was correct. Why did supertram not go ahead?

Jh – let's go back, because the –

Gj – one of the factors you've relied on is because dft have given you first stage approval

Jh – yes but we have here a process /stages to gain for approval. That is set out in the business case review – we have a certain level of approval at the moment – and part of that is the process I described of continued business case justifications. There will be further business case justifications as the scheme evolves. We are looking at a snapshot of time

Gj – it's got nothing to do with proposals to extend the scheme. You don't have full approval for this bit of the scheme. And what we know cannot be an answer before this inspector when one raises an issue as to why sensitivity analysis has not been carried out – a complete answer can't be 'well the treasury are satisfied with the analysis so you can assume there is no need for any other analysis'

Jh – you are putting words in the mouth -

Gj – no your response has been – 'dft are satisfied with the level of sensitivity that's been done' – I'm putting it to you the fact that you get first stage approval doesn't mean the business case you put forward will ultimately be accepted by the treasury.

The inspector cannot rely upon first stage funding as a complete answer to a criticism that the business case fails to do sensitivity analysis in respect of the market response?

Jh –it's a long question

Gj – no sensitivity analysis on cutting of fares

Jh – correct

Gj – the fact that the sec of the dft has not required further sensitivity assessment is not a complete answer – it doesn't mean it won't be required

Jh – not complete correct

Gj – and no sensitivity test has been undertaken in terms of increased frequency and decreased fares.

Jh – no

[17:02]

END OF DAY

Start at 10 am tomorrow

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