

Compecon – Competition Economics

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

11<sup>th</sup> October 2013

## EXECUTIVE SUMMARY.

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

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

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

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

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

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

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

1: INTRODUCTION.

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

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

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

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

## 2: PROPOSAL TO DIRECTLY AWARD CONTRACTS.

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### 2.1: Legislative Framework.

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

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

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

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

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

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

## **2.2: No Economic Case for NTA Proposal.**

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

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

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

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

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

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

<sup>3</sup> Dublin Consultation Paper, p.5.

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

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

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

The Dublin Bus Consultation Paper goes on to state:

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

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

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

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

The NTA Dublin Bus Consultation Paper cautions:

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<sup>5</sup> Dublin Consultation Paper, p.9.

<sup>6</sup> Dublin Consultation Paper, p.11.

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

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

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

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

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

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

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

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<sup>8</sup> Dublin Consultation Paper, p.9.

<sup>9</sup> Dublin Consultation Paper, p.5.

It is interesting to note that the NTA Technical Report includes among the advantages of directly awarding contracts the fact that it:

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

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

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

### **2.3: No Justification for Delaying Introduction of Competitive Tendering.**

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

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

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

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

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

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

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

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

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

The Ernst & Young Report states:

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

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<sup>11</sup> Dublin Economic Analysis, p.10.

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

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

#### **2.4: More Ambitious Competitive Tendering Programme Necessary.**

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

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

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

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

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

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

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

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

## **2.5: Incumbent Advantages.**

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<sup>13</sup> Dublin Technical Report, p.9.

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

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

The Technical Report identifies two solutions:

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

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

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

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

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

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<sup>14</sup> Dublin Technical Report, p.11.

<sup>15</sup> Dublin Technical Report, p.11.

Dublin Bus accounts include provision for depreciation costs in respect of its existing depots. Entrants could rent premises for use as depots. Approximately 14% of commercial premises in Dublin were vacant in the third quarter of 2013. If the adjoining counties of Meath, Kildare and Wicklow are included the commercial vacancy rate in what might be described as the Greater Dublin Area was 13%.<sup>16</sup> It is not clear that having to rent a depot would place entrants at a competitive disadvantage.

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

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

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

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<sup>16</sup> An Post GeoDirectory, *GeoView*, q3 2013.

### 3: DUBLIN BUS.

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#### **3.1: Introduction.**

According to the NTA the Dublin Bus network comprises 111 routes along with 18 Nitelink routes.<sup>17</sup> These include 86 radial routes which all serve the city centre. In recent years a number of radial routes have been amalgamated to form 28 routes which operate on a cross-city basis. A further 16 routes were extended across the city centre to terminate at locations outside the core city centre (e.g. at Baggot Street or Merrion Square). 41 radial routes operate to and from termini in the city centre.

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

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

The network is operated predominantly by double deck buses, the majority of which have capacity for about 90 passengers seated and standing. The Dublin Bus fleet includes 70 larger tri-axle vehicles buses with a capacity of approximately 120 passengers. There are a small number of single deck midi buses with a capacity of close to 50 passengers. The average age of the fleet at the end of 2012 was 7 years with a range in ages from 13 to 0 years.<sup>18</sup>

#### **3.2: Dublin Bus Performance Indicators.**

Table 3.1 provides information on Dublin Bus operations.

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<sup>17</sup> The Nitelink routes operate primarily on Friday and Saturday nights from Midnight to 4am. The following information on the route network comes from the Dublin Bus Technical Report.

<sup>18</sup> Dublin Technical Report, p.4.

**Table 3.1: Dublin Bus Performance Measures.**

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

Source: Performance Report.

The supply of bus services is measured by bus and seat kilometres.<sup>19</sup> Supply was reduced by around 8% between 2010 and 2012. Passenger numbers and subsidies declined by much less while fare revenue increased by 5% due to fare increases.

“More recently, data for 2012 show that increased revenue has helped to reduce the deficit, even in the context of a reduced subvention. In the main, fares increases rather than patronage increases account for the observed revenue uplift.”<sup>20</sup>

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

**Table 3.2: Dublin Bus Subvention**

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

Subsidies per bus and seat kilometre increased by more than 4% between 2010 and 2012. Subsidies per passenger were virtually unchanged. These results raise questions about references in the various NTA documents to Dublin Bus having improved its operating

<sup>19</sup> Differences between bus and seat kilometres can arise due to changes in the capacity of the vehicles used. For example, if a bus operator replaced double deck buses with mini-buses, total bus kilometres would remain unchanged but clearly passenger capacity would have been reduced. This has not happened to any significant extent in the case of Dublin Bus in recent years.

<sup>20</sup> Dublin Economic Analysis, p.9.

performance. Rather they indicate that subsidies have been reduced by reducing supply and increasing fares. This reinforces the case for a more ambitious competitive tendering programme than is being proposed by the NTA.

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

“A comparative analysis of subvention levels across Europe indicated that levels of public transport subvention vary between 35 and 60 percent of revenue. When all State interventions are taken into account, the level of subvention to Dublin Bus is at the upper end of the range.”<sup>21</sup>

### **3.3: NTA Dublin Bus Proposals**

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

“The specific bundles which are tendered should be selected so as to maximise the level of market interest and thereby increase the level of savings and enhanced customer service available.”<sup>22</sup>

The NTA proposal does not appear to satisfy this test.

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

A bus operator can utilise buses more efficiently when it operates on contiguous routes. In London a number of contiguous routes are normally tendered simultaneously in order to enable operators to bid for a group of routes that would enable them to achieve scale efficiencies. The Dublin routes which the NTA proposes to put out to tender would make it

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<sup>21</sup> Dublin Economic Analysis, p.9.

<sup>22</sup> Dublin Economic Analysis, p.15.

difficult for private operators to achieve such efficiencies, a point which was conceded in the Ernst & Young Report.

“The dispersed nature of the routes that could be included in the bundles may present some challenges for operators to serve efficiently.”<sup>23</sup>

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

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

“The outer areas have experienced the highest level of development in recent decades and public transport has generally not kept pace. Moving to competitive tendering allows the market to be grown and the service offering to be improved.”<sup>24</sup>

According to Ernst & Young the NTA have estimated that an improved local and orbital service for the city could require in the region of 120 peak hour buses. Consequently “the intention would be to grow the contract over time, subject to availability of subvention and passenger demand.”<sup>25</sup> A more ambitious programme of competitive tendering could facilitate a higher level of service provision as the resulting cost savings would allow a higher level of services to be obtained for a given level of subsidy.

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<sup>23</sup> Dublin Economic Analysis, p.15.

<sup>24</sup> Dublin Economic Analysis, p.13.

<sup>25</sup> Dublin Economic Analysis, p.11.

4: BUS EIREANN.

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

The NTA documents contain frequent references to the experience of competitive tendering in London. The London network consists of 7,000 buses operating 700 routes and carrying more than 6 million passengers per day<sup>26</sup>. The Bus Eireann network is much smaller and it might have been useful to consider experience of competitive tendering of smaller route networks.

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

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<sup>26</sup> Transport for London, *London's Bus Contracting and Tendering Process*. Passenger numbers have increased further since this document was published and latest figures show total London bus passenger numbers for 2012/3 at 2,315 million.

## 5: OTHER COMMENTS.

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### **5.1: Introduction.**

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

### **5.2: Market Failure in the Bus Market.**

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

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

“If commercial bus operators were left to serve the market without any support, they would not provide sufficient services to fully deliver all of these social and economic benefits: there would be a ‘market failure’.”<sup>27</sup>

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

### **5.3: Measuring Performance.**

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<sup>27</sup> Dublin Economic Analysis, p.5.

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

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

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

The NTA states that the audits awarded a mark of “satisfactory” in relation to the conduct of the contracts in 2010 and 2011.<sup>28</sup> The NTA has provided no explanation of what a “satisfactory” mark entails.

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<sup>28</sup> The 2012 audit has not been completed as yet.