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We have the tools, now let's use them

It's time to get serious about using the powerful array of new tools contained in the Bus Services Act - including franchising

► After years of struggle and strife we now have a Bus Services Act. An Act that gives a workable route to introducing franchising whilst expanding the legal parameters of what you can do to steer the existing deregulated market to the outer limits of what could still be described as an open market. With the caveat that we don't have the secondary regulations and guidance that will give the legislation full definition, we are now at the stage where it's time to get serious about using the powerful new tools the legislation contains. Particularly important at a time when the future of the mode itself looks a little shaky given transformative technological and social change, the rise of TNCs and new business models as well as in some areas, traffic congestion.

In my view, the 2017 legislation is a world away from the booby-trapped, cynical and time-wasting 2000 Act or 2008 Act. Now we have legislation which means business. If an authority and operators think they can get the outcomes that passengers want within the deregulated framework, then there will (bar the aforementioned caveats on the secondary legislation and guidance) be few legislative excuses left for not demonstrating this. If an authority says it wants to do franchising then (subject to the gateway issue set out below) this is probably as good as it will ever get in terms of a workable legal process for doing so.

Examining in more detail what the Act does, let's start first with what it does for those that want to stick with deregulation.

Here the Act provides not one but three tools. Tools that can be used either separately or in combination. These are Enhanced Partnerships, Advanced Quality Partnerships (AQPs) and ticketing agreements. On top of that you can agree a lot of things without recourse to any of these statutory options.

With the Enhanced Partnerships option in particular, it would be possible to achieve a lot (but not all) that could be achieved from a franchise - including branding and route planning. However, what you can't have is full, simple and integrated ticketing. Why? Because in a deregulated market you can't have all operators charging the same. If that's what you want then you need to move from a deregulated to a regulated market through franchising.

The key word in describing what an Enhanced

Partnerships could achieve is 'possible'. As, just because the Enhanced Partnerships provisions makes something legally possible, it still requires a level of agreement between the parties and still gives operators a veto (to a greater or lesser extent). No transport authority is likely to pursue a plan which they know in advance is going to be vetoed. This in turn gives operators a very good negotiating hand, and it means that although Enhanced Partnerships could achieve a great many of the outcomes that a franchise could, in practice it is equally the case that they could achieve not much more than might already be delivered on the basis of an informal handshake. On the other hand, if all parties are up for it then you can push what can be achieved on coordination as far as it will go until you hit the perimeter wall of what could still be described as a deregulated market. It's up to all the parties involved.

On the franchising side of the equation, the Bus Services Act does two things - it provides a far simpler and more usable process for introducing franchising and it also introduces a gateway mechanism to access those powers. For mayoral city regions the gate is always open. For other areas, the gate only opens at the secretary of state's say so. Once through the gate it doesn't mean that moving from a deregulated market to a regulated market isn't a considerable undertaking, or that you can't be legally challenged (transport authorities can be legally challenged on anything anyway if it abuses process or if it takes wholly unreasonable decisions). However, the process combines greater simplicity with fewer ambiguities and hurdles in a way that cuts down the options for a likely successful legal challenge.

Having played a key role in getting the superstructure of the legislation in place in the form of the primary legislation, the next task for the Urban Transport Group is for us to help ensure it gets used effectively. On the deregulated side of the equation, following on from the 2008 Act (working with the Confederation of Passenger Transport and Association of Transport Co-ordinating Officers), we initiated the www.buspartnership.com website. Among other things, this brings together existing voluntary partnership written agreements so that other areas could take what had been agreed in one place and use it as a potential starting point in their areas. The site was

Franchising is working on Jersey, a prosperous island with high car ownership



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useful at the time for preventing wheel reinvention, but the content now needs a complete overhaul. This is something we are starting work on now.

One of the challenges for transport authorities seeking to introduce bus franchising in the UK is that there are no working examples (apart from London) to learn from. However, around the globe there are plenty of them. So, working with industry partners Tower Transit, Keolis, HCT and Abellio, we arranged a franchising ‘masterclass’ session on June 8 so that transport authorities in the UK could meet their counterparts from transport authorities in the Netherlands, Jersey and Australia who had successfully introduced it.

We tried something different with the format for this event so rather than the usual array of 15-minute corporate presentations that most ho hum transport conferences rely on, we gave much more time for a small number of speakers to really get into the detail of the topic through a series of masterclass sessions (in a way that over the course of the day everyone could attend all them). The day’s success rested heavily on the great job that our speakers did in clearly explaining the context and the lessons learned. Everyone went away from the event with their own takeaways but here’s the four key things the event crystalised for me:

1. It can work anywhere

Franchising can deliver better services with more innovation and at lower cost in a wide range of diverse circumstances. From a city that loves its cars and low density housing (like Perth in Australia) to a prosperous island with high car ownership like Jersey as well as the bicycle capital of the western world, Groningen, in the Netherlands. The idea that’s sometimes put about in the UK that franchising is only for the largest cities is nonsense - it can work anywhere.

2. Learn from others

Planning and procuring bus services is not putting an astronaut on Mars. Buses run between obvious places and you determine the fares structure that people pay to use those services. Get it wrong and you can tweak it relatively quickly and easily (not so easy to move a rapid transit rail service if you put it in the wrong place). However, you still need



Our bus franchising ‘masterclass’ on June 8 offered an opportunity to share experience

to apply intelligence and common sense on both the principles and the details. From depots to staffing and from IT systems to how you assess tender bids. It all requires careful thought and you would also be well advised to learn from those who have done it. There is really no substitute for talking to people who have thought all this through in their own part of the world, learnt the hard way what to do and what not to do and have got a thriving bus service at the end of it. Which is what the event was all about of course.

3. Cheapest is not always best

Have the guts not to go for the lowest bid if the numbers and the quality don’t stack up. The maxim ‘if it looks too good to be true it is too good to be true’ applies to franchising, just like anything else. It’s not always easy for the public sector to reject the cheapest bid, but there are many instances around the world of authorities feeling good in the short term for driving a hard bargain and then repenting at leisure over a much longer period of time as the cheap bid unravels in the form of poor service and an operator demanding more money to keep the show on the road.

4. Find operators who care

It helps a lot to have an operator who, for whatever reason, really wants the franchise to work. It could be because they are hungry for it and building a reputation, it could be because they have the track record. Whatever the reason, it’s best to be confident that the people on the other side of the table care as much about a reputation building outcome as you do.

Having spent more years than I ever imagined on fighting for what always seemed to me to be common sense reforms, it’s now down to each transport authority to decide how it wants to use the new legislation. But these are serious times for the bus sector and it’s time to get serious about using these hard won powers to best effect. ■

ABOUT THE AUTHOR

▶ Jonathan Bray is the director of the Urban Transport Group. Throughout his career in policy and lobbying roles he has been at the frontline in bringing about more effective, sustainable and equitable transport policies.