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*Dear Tony*

**BUS SERVICES BILL – enabling franchising authorities to request information in connection with their franchising functions.**

I would like to thank you for taking part in the debate on the Bus Services Bill at its committee stage on 4<sup>th</sup> July.

There were a number of amendments put forward which related to enabling franchising authorities to request information from local bus operators in connection with their franchising functions.

**Amendment 69** related to the timeframe in which responses to requests for information are provided.

Information on employees needs to be provided in a timely way so that informed decisions can be taken by the franchising authority.

Clause 4 Section 123X (7)(c) makes clear that the regulations may prescribe the time at which information is to be provided. This would set out the timescale within which information must be provided. Subsection (7) sets out the provisions that may be made by regulations made by the Secretary of State.

The policy scoping notes that were circulated on 16 June summarise our intentions for the use of the regulation-making powers in the Bill. Page 22 of that document confirms our intention that the regulations to which this amendment would apply, “will also set out the time periods within which operators must comply” with the requests made for employee information.

**Amendment 70**, to require bus operators to provide information to franchising authorities about the environmental impact of bus services and their safety records.

The Bill includes provision to allow franchising authorities to request information from bus operators about their services, to enable the authority to develop a robust assessment of their franchising scheme. The Bill lists types of information that can be requested, including information relating to revenue and patronage.

The Bill also enables further categories of information to be specified in regulations, and officials are working closely with local authorities and the bus industry to determine the nature of further categories of information that could be usefully specified.

I agree entirely that the environmental impact of bus services and the safety of the public are issues that the franchising authority is likely to consider, and may look to address through its franchising proposal.

However, some of the information such as the environmental impact of buses on the local area, will already be held by local authorities and I am concerned about additional burdens being placed on bus operators.

**Amendment 71** related to the purpose for which authorities may use information.

The powers given to franchising authorities are designed to ensure that they can obtain the information they need to take informed decisions about franchising schemes. We want the elected mayors and local transport authorities who take these decisions to have an appropriate understanding of the local bus market and robust information to inform their views of potential benefits, costs and risks.

Franchising authorities are able to request relevant information in connection with their functions only in relation to franchising schemes. They are not able to request the information for any other purpose under this section and would not be able to use this section to require information in the context of developing an enhanced or advanced partnership or an advanced ticketing scheme.

The Bill ensures that franchising authorities are not obliged to publish information if they could refuse to disclose such information under freedom of information or environmental information legislation.

There is nothing to prevent a bus operator informing a franchising authority of any concerns it may have about the impact of releasing certain information on its commercial interests.

**Amendment 72** would require franchising authorities to pay a fee to local bus service operators from which they have required information in connection with their franchising functions.

I understand the concerns about the commercially sensitive nature and value of the data. I sympathise with the concerns expressed by noble Lords on behalf of the bus industry, but I need to balance those concerns against a desire to see well-informed decisions being made.

I am very mindful of the issues and sensitivities raised by the requirement to provide information, however, the provisions in the Bill are designed to make the franchising decision-making process as robust as possible.

**Amendment 73** specifies a 30-day timescale within which a bus operator is expected to have taken all reasonable steps to provide the information requested.

I remain to be convinced that 30 days is an appropriate timescale to specify in the legislation. There may be some circumstances where a more rapid response may be necessary and others where a longer timescale is needed. However I do appreciate the purpose of this amendment and will consider further how the issues might best be addressed.

**Amendment 74**, to ensure that franchising authorities are not prevented from releasing information acquired from bus operators if that information is required for certain purposes, including for the purposes of criminal or civil proceedings. This is a probing amendment.

Once franchising is introduced in an area, there will be competition for contracts rather than competition on the road. Enhanced partnerships are a different scenario, with bus operators continuing to compete with each other on the road, albeit within the partnership framework. That is why different approaches are taken to the protection of information in the franchising and enhanced partnership sections of the Bill. Information acquired from operators in connection with enhanced partnerships must not be released if the authority could refuse to disclose it in response to a Freedom of Information Act request by relying on certain exemptions, particularly the exemption relating to commercial interests.

We want to protect bus operators' commercial interests, as they will be competing with each other on the road. It would therefore be unfair for such information to make its way into the public domain where it could be used by

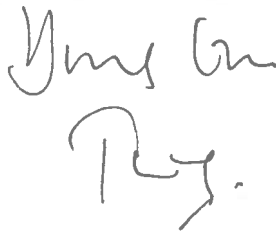
a competitor. However, the enhanced partnership provisions make it clear that authorities are not prevented from disclosing certain information—for example, for the purposes of civil or criminal proceedings.

The Bill simply makes it clear that the obligation to publish certain documents and information, such as the assessment of the franchising scheme, does not require franchising authorities to publish information that they could refuse to disclose in response to a request under the Freedom of Information Act.

As I said during committee on 4<sup>th</sup> July, I agree with the spirit of **Amendments 69A, 72A, 72B, 73 and 73A**. It is not in the interests of passengers or other stakeholders for the development of a franchising scheme to take any longer than necessary. Extended uncertainty is also likely to hold commercial operators back from innovating or making significant investments in their existing services.

I hope that I have addressed most of the concerns which yourself and other noble Lords have raised.

I am copying this letter to Lord Bradley, Lord Kennedy of Southwark, Earl Attlee, Baroness Randerson and Baroness Jones of Whitchurch and a copy will be placed in the Libraries of both Houses.

A handwritten signature in black ink, appearing to read 'Tariq Ahmad', written in a cursive style.

**LORD (TARIQ) AHMAD OF WIMBLEDON**