



The supply of bus services in Mid and West Kent



MONOPOLIES AND MERGERS COMMISSION

The supply of bus services in Mid and West Kent

**Presented to Parliament by the Secretary of State for
Trade and Industry by Command of Her Majesty
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**Members of the Monopolies and Mergers Commission as at
14 June 1993**

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Mr B C Owens
Professor J F Pickering
Mr L Priestley¹
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Professor G Whittington

Mr S N Burbridge CB (*Secretary*)

¹These members formed the group which was responsible for this report under the chairmanship of Mr A Ferry.

Note by the Department of Trade and Industry

In accordance with section 83(3) and (3A) of the Fair Trading Act 1973, the Secretary of State has excluded from the copies of the report, as laid before Parliament and as published, certain matters, publication of which appears to the Secretary of State to be against the public interest, or which he considers would not be in the public interest to disclose and which, in his opinion, would seriously and prejudicially affect certain interests. The omission is indicated by a note in the text.

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1 Summary

1.1. In a reference made on 15 December 1992 (see Appendix 1.1) the Director General of Fair Trading asked us to investigate and report on whether a monopoly situation existed in the supply of bus services in Mid and West Kent. This reference area stretches from the Medway towns in the north through the rural High Weald to the East Sussex border and includes the Maidstone, Sevenoaks, Tonbridge and Tunbridge Wells areas.

1.2. Within this area the dominant supplier of bus services is The Maidstone & District Motor Services Ltd (M&D). We established that it provides about two-thirds of the local bus services in the area and thus that a scale monopoly situation exists. There are about 20 other operators, some of these very small businesses, offering commercial and tendered local bus services within the reference area. Of these operators, three, Bygone Buses, Turners of Maidstone and Mercury Passenger Services, were operating commercial services during the course of our inquiry in direct competition with M&D.

1.3. We received a number of complaints about M&D's response to competition in the area. These included complaints about the frequency, timing and operation of M&D's services on routes where competition was occurring and about fares charged. M&D's main response to the entry of a competitor on its routes has been to introduce extra journeys, usually timed to run immediately before the competitor's, and sometimes combined with selective fare cuts confined to these journeys. M&D argued that its responses were appropriate to protect the profitability of its network and that the costs of providing the additional journeys were small and covered by the revenue generated.

1.4. We do not accept these arguments. We do not consider that the immediate costs of a response are an adequate basis for assessing its acceptability in competition terms. We consider that the costs and revenue of such responses must be measured over a longer term, with a realistic assessment of the costs incurred, and that M&D's operation of additional journeys not covering such costs operates or may be expected to operate against the public interest.

1.5. Furthermore, we consider that, even where a competitive response meets the cost criteria above, it is not necessarily in the public interest. We accept that adjusting the timing and frequency of services is one of the ways in which operators can justifiably compete for passengers. However, we consider that the introduction by the dominant operator of additional journeys, timed immediately before a competitor's, was designed to target competitors without the resources to retaliate in kind, and to encourage their withdrawal from the routes. We conclude that this behaviour by M&D operates or may be expected to operate against the public interest.

1.6. We also found that M&D's registration of commercial services against a competitor's tendered service, operation of unregistered buses and use of selective fare reductions on journeys immediately in front of a competitor's journeys operate or may be expected to operate against the public interest.

1.7. We considered action to remedy these effects. Our main recommendation is that, where another operator registers on a route in competition with M&D, M&D should not then register journeys before the competitor's journeys, on this or substantially similar competitive routes, within a shorter interval than the competitor has itself registered in front of the M&D service. In framing this recommendation we have noted M&D's arguments about the practical difficulties any remedy of this kind would cause for it. We recognize that some difficulties may arise in implementing such a remedy across a network but we have not attempted to deal with these by laying down detailed rules. We think the intention of our remedy is clear and, if complaints arose, it would be for the Office of Fair Trading (OFT) to determine, in the particular circumstances, whether the M&D registration was justified. While we cannot be sure that this untried remedy will fully meet the detriments we have identified, we think it will significantly constrain M&D's future behaviour.

1.8. We also recommend that:

- (a) if a competitor withdraws from a route after M&D has registered additional journeys immediately before it, M&D should maintain its frequency of service and not increase fares on the route for at least one year;
- (b) M&D should not register commercial services against competitors' tendered services; and
- (c) it should not make selective fare reductions on services running immediately before a competitor's.

1.9. Finally, we examined the arrangements for access for other bus operators to the Pentagon Bus Station at Chatham, which is leased and operated by M&D, noting the Government's concern that after deregulation major bus stations should be operated in a way which allows equal opportunity of access for all operators. We consider that the terms and conditions under which M&D is currently offering access do not provide entrants with reasonable facilities or the security of enjoying them, and deny passengers the benefits and convenience of choice from a range of services at the bus station. We conclude that the failure by M&D to offer reasonable access operates or may be expected to operate against the public interest. We recommend that M&D should allow competitors' services equal access to the Pentagon Bus Station on reasonable terms, if necessary by surrendering a bay to competitors' commercial services and by rearranging or removing some of its own operations.

1.10. We recommend that the Director General of Fair Trading should seek undertakings on all these matters from M&D.

2 The companies: history and finance

The Maidstone & District Motor Services Ltd

2.1. M&D was incorporated on 22 March 1911. The first services ran between Maidstone and Chatham and between Maidstone and Gravesend. At that time the company owned four vehicles; by 1914 the fleet had risen to 21. The 1920s saw a period of rapid expansion and depots were opened in Hastings, in 1921, and Gillingham, in 1922. A bus station and a central workshop were opened in Maidstone in 1922. Bus services in the Maidstone, Gillingham and Hastings localities continued to grow and by 1924 operations had been extended to Dartford, Faversham and Eastbourne. By 1930 M&D operated from 14 depots in Mid and West Kent and East Sussex. Various acquisitions of other operators were made in the late 1920s, including Sheppey Motor Transport, Standen of Sittingbourne and Enterprise Motor Services of Sheerness, thus establishing M&D in what is now known as the Swale District. Following the 1930 Road Traffic Act further acquisitions were made, particularly in the western part of Kent.

2.2. By 1938 M&D carried 63 million passenger journeys per annum plus a further 36 million on its Chatham & District and Hastings tramway operations. Following further expansion after the Second World War, by 1951 a total of 900 vehicles were operated, including extensive coaching activities. In 1955 the Chatham & District subsidiary was absorbed into M&D. Passenger numbers have declined from the early 1950s onwards as the ownership of cars and other means of personal transport has increased. The company's operations have steadily declined accordingly.

2.3. In 1969 M&D became part of the National Bus Company (NBC) under the provisions of the 1968 Transport Act. The decline in passenger volumes accelerated in the 1970s and the company, like many other bus operators, began to encounter serious financial difficulties. From 1974 the company was progressively merged with the East Kent Road Car Company Limited (East Kent), although both companies retained their individual identities. All head office functions were transferred to East Kent's offices in Canterbury, the M&D head office and central works in Maidstone being closed. In 1976 the company's operations and depot in Gravesend were transferred to London & Country Ltd (London & Country). It was recognized that the merger had not produced the anticipated benefits, and in 1983 M&D and East Kent were demerged, involving the creation of Hastings & District Transport Ltd, which became entirely independent of M&D. M&D established its head office in Chatham.

2.4. The Transport Act 1985 required the return of the NBC to the private sector by the sale of its individual subsidiaries. M&D was sold to its five senior managers on 7 November 1986, the managers having formed a company called Einkorn Limited (Einkorn) in June 1986 to undertake the management buy-out; this became M&D's holding company. In the spring of 1987 all staff employed on 7 November 1986 were offered the opportunity to purchase ordinary shares in Einkorn at par, subject to the National Westminster Bank's requirement that at least 75.1 per cent of the ordinary share capital remained in the ownership of the original management buy-out team. In the event, just over 44 per cent of the shares offered were taken up by employees. In addition to the share offer in Einkorn, all staff employed by M&D on 7 November 1986 were given, free of charge, 155 £1 non-voting preference shares in M&D. Voluntary redemption at par was offered in 1990 and dividends on these shares have totalled £1.15 per £1 share to date. The shares are compulsorily redeemed at par on the holder leaving employment with M&D.

2.5. M&D's activities, organization and management structure have remained largely unchanged since privatization and deregulation in 1986. The provision of local bus services continues to be M&D's principal activity, representing some 96 per cent of the company's mileage, in which M&D includes Invictaway Ltd coach services to London. Schools and works contract hire activities represent 3 per cent of mileage operated, with private hire and 'daybreaks' accounting for the remaining 1 per cent. M&D has substantially reduced its involvement in these latter activities in recent years. There has been some growth in ancillary revenue, particularly from the supply of engineering services to other operators in the area. [

Details omitted. See note on page iv.

]

2.6. M&D operates comprehensive local bus services in the Medway towns of Rochester, Chatham, Gillingham, Strood and Rainham, and in Tunbridge Wells, Tonbridge, Maidstone, Sittingbourne and Sheerness. It provides inter-urban services connecting these towns and similar settlements, together with rural services, mainly under contract to Kent and East Sussex County Councils. Limited stop services to London are operated from the Medway towns and Maidstone marketed under the Invictaway name. The company's main depots are located in Gillingham, Chatham, Maidstone, Tunbridge Wells and Hawkhurst. M&D has converted many urban services to higher-frequency minibus operations since 1986, involving the employment of additional drivers. However, substantial losses of local authority tendered services to other operators have occurred during the same period.

2.7. Profit margins have been low since deregulation and at no time sufficient to replace the assets employed; in the year ended 12 May 1990 a loss of £17,000 before tax was incurred. In late 1989 a comprehensive rationalization programme was instituted. Significant reductions in managerial, supervisory, administrative, clerical and maintenance staff took place and commercial bus services and coaching activities were revised in line with falling passenger demand. This rationalization took place against the background of rising employment costs in the late 1980s, and the progressive losses of tendered bus services to competitors. Financial performance improved as a result of this action, staff numbers reaching a low point of 861 in September 1991.

2.8. In December 1991 M&D expanded its operations in the Maidstone area, purchased four buses from Shearings Coach & Bus (Shearings) and acquired certain tendered services previously operated by Shearings under contract to Kent County Council (KCC). The company expanded further in the Maidstone area by obtaining the Maidstone Borough Council (MBC)'s park-and-ride contracts by competitive tender when the Boro'line company (see paragraph 3.34) ceased trading on 29 May 1992. M&D obtained additional KCC tendered services at the same time on a short-term basis, but subsequently lost some of these contracts to other operators when the contracts were let on a permanent basis. M&D and its holding company, Einkorn, acquired the assets of Boro'line on 12 June 1992. The vehicles were resold but the depot and maintenance facilities at Armstrong Road, Maidstone, were retained and refurbished.

2.9. On 28 November 1992 M&D operated 337 vehicles and employed 934 staff, including some 30 taken over from Boro'line. In the four weeks ending on that date, the company ran 879,000 miles and carried 1,672,000 passenger journeys.

Financial framework

Einkorn Limited

2.10. M&D was acquired by Einkorn, the company formed in June 1986 by M&D's five senior managers for this purpose (see paragraph 2.4). Einkorn is the holding company of M&D, which is a wholly-owned subsidiary. Other subsidiaries of Einkorn are Maidstone & District Advertising Limited (M&D Advertising) and New Enterprise Coaches (Tonbridge) Limited. M&D is the largest of Einkorn's subsidiaries; in the year to 16 May 1992, M&D's turnover and other operating income of £17,394,000 amounted to some 96 per cent of Einkorn's group turnover and other operating income of £18,174,000.

2.11. Einkorn's group turnover and other operating income, operating profit, profit before tax and return on turnover for the three years to 16 May 1992 are shown in Table 2.1.

TABLE 2.1 Einkorn group turnover, operating profit, profit before tax and return on turnover for the three years to 16 May 1992

	<i>£ million</i>		
	<i>Years ended May</i>		
	<i>1990</i>	<i>1991</i>	<i>1992</i>
Turnover*	17.9	18.6	18.2
Operating profit (profit on ordinary activities before interest and taxation)	0.4	0.8	0.9
Profit before tax (profit on ordinary activities before taxation)	0.2	0.9	0.9
			<i>per cent</i>
<i>Return on turnover</i> †			
Operating profit as a percentage of turnover	2.1	4.5	5.1
Profit before tax as a percentage of turnover	1.3	4.6	5.1

Source: Einkorn.

*Turnover is revenue for road passenger transport and advertising services plus other operating income, primarily engineering sales.

†Percentage returns on turnover have been calculated on figures rounded to the nearest £'000.

2.12. Table 2.1 shows that Einkorn's turnover, after an increase in 1990/91, fell back in 1991/92. Profit before tax at £0.9 million in 1991/92 was at the same level as in 1990/91 and about four times that of £0.2 million in 1989/90. Profit before tax as a percentage of turnover increased over the period from 1.3 per cent in 1989/90 to 5.1 per cent in 1991/92.

2.13. Einkorn's called-up share capital consists of 110,000 ordinary shares of £1 each. Einkorn is controlled by its five directors who hold 20,000 shares each; the directors' total holding of 100,000 shares represents 91 per cent of Einkorn's called-up share capital. Four of the directors of Einkorn are also directors of M&D. The shares in Einkorn not owned by Einkorn's directors are held by employees or former employees.

The Maidstone and District Motor Services Ltd

2.14. M&D is financed mainly by share capital and reserves, but partly also by borrowings. Balance sheets of M&D are shown in Appendix 2.1, referred to further in paragraph 2.25. M&D's called-up share capital at 16 May 1992 consisted of £1,700,000 in ordinary shares and £24,000 in 10 per cent redeemable participating non-accumulating preference shares. The preference shares were issued without charge to employees of M&D upon privatization on 7 November 1986. The 10 per cent dividend on the preference shares is a minimum if a dividend is to be paid; a dividend of 50 per cent for 1991/92 was paid on the preference shares, amounting to £14,000, following improvement in M&D's trading results.

Trading results

2.15. Table 2.2 summarizes the profit and loss accounts of M&D for the five years to 16 May 1992.

TABLE 2.2 M&D: summarized profit and loss accounts for the five years to 16 May 1992

	Years ended May					£ million
	1988	1989	1990	1991	1992	1993 profit estimate
Turnover*	16.2	16.8	17.4	18.0	17.4	[
Operating profit	0.2	0.1	0.1	0.5	0.7	‡
Profit/(loss) before tax	0.1	0.1	(0)	0.5	0.7]
						per cent
<i>Return on turnover†</i>						
Operating profit as a percentage of turnover	1.3	0.8	0.6	2.5	4.3	⊞
Profit/(loss) before tax as a percentage of turnover	0.9	0.8	(0.1)	2.7	4.2	⊞

Source: M&D.

*Turnover above comprises separate figures in M&D's statutory accounts shown for turnover and other operating income. These figures are:

	£ million					
Turnover	15.9	16.5	16.9	17.4	16.8	[
Other operating income	<u>0.3</u>	<u>0.3</u>	<u>0.5</u>	<u>0.6</u>	<u>0.6</u>	‡
Turnover plus other operating income	<u>16.2</u>	<u>16.8</u>	<u>17.4</u>	<u>18.0</u>	<u>17.4</u>]

Turnover is defined in M&D's statutory accounts as the gross revenue from road passenger transport excluding value added tax and arises wholly in the UK. Other operating income consists of engineering sales, commission earned and sundry income, including charges to M&D Advertising for the use of advertising space on buses.

†Percentage returns on turnover to 1992 have been calculated on figures rounded to the nearest £'000.

2.16. The profit and loss accounts of M&D are shown in more detail in Appendix 2.2. M&D's turnover increased each year from 1987/88 to 1990/91, but fell back in 1991/92 to approximately the level of 1989/90. Operating profit was £0.2 million in 1987/88 and £0.1 million in each of the two following years, but increased to £0.5 million in 1990/91 and £0.7 million in 1991/92. Profit before tax as a percentage of turnover increased over the five years from 0.9 per cent in 1987/88 to 4.2 per cent in 1991/92. M&D stated that financial performance had improved as a result of a comprehensive rationalization programme instituted in late 1989, with significant reductions in staff and revision of commercial bus services and coaching activities in line with falling passenger demand.

2.17. M&D stated that the 1991/92 profit of £0.7 million, a profit before tax on turnover of 4.2 per cent, had been well short of the level required to replace assets. M&D's profit estimate, made in early June 1993, for the year to mid-May 1993 is a profit before tax of £[‡] million on revenue of £[‡] million, giving a profit before tax on turnover of [‡] per cent. [

Details omitted. See note on page iv.

]M&D stated that it calculated that a pre-tax return on turnover of about 12.5 per cent was required to replace assets.

2.18. M&D paid dividends in 1987/88, 1990/91 and 1991/92 totalling £2.7 million. Of this total, a dividend of £2.5 million was charged to M&D's 1990/91 accounts and paid to Einkorn in 1991/92. This dividend was used to reduce Einkorn's indebtedness on its inter-company account with M&D. The effect of this dividend was to transfer accumulated reserves held in M&D into Einkorn. The major cause of Einkorn's indebtedness to M&D related to freehold land and buildings transferred to Einkorn by M&D in 1988/89. The transfer of the book value of land and buildings was in line with group policy that properties should be held by the holding company. M&D stated that Einkorn charged a full commercial rent for all its properties.

‡Figures omitted. See note on page iv.

Capital employed, return on average capital employed and movements in tangible assets

2.19. M&D's capital employed, net assets and equity for the years ended May 1987 to 1992 are shown in Appendix 2.1. Table 2.3 shows capital employed and return on average capital employed of M&D for the five years to 16 May 1992.

TABLE 2.3 M&D: capital employed and return on average capital employed for the five years ended May 1992

	Years ended May					£ million
	1988	1989	1990	1991	1992	
Capital employed*	5.2	4.2	3.0	3.2	2.9	
Average capital employed	5.0	4.7	3.6	3.1	3.1	
Operating profit	0.2	0.1	0.1	0.5	0.7	
						<i>per cent</i>
Return on average capital employed (operating profit as a percentage of average capital employed)†	4.2	2.8	2.9	14.5	24.3	

Source: M&D.

*In calculating capital employed, inter-group balances which are not in the ordinary course of trading (eg re transfer of freehold property from M&D to Einkorn, referred to further in paragraph 2.21) are treated not as debtors or creditors, but as loans from or to M&D. These amounts are not included in capital employed for calculation of return on capital, but are treated as sources (creditors) and uses (debtors) of capital. Cash is excluded from capital employed and is treated as a reduction of borrowings.

†Percentage returns on average capital employed have been calculated on figures rounded to the nearest £'000.

2.20. Table 2.3 shows that M&D's capital employed has declined over the period from May 1988 to May 1992 and that this, together with the increase in profit in 1990/91 and 1991/92 noted in paragraph 2.16, resulted in substantially increased returns on capital in 1990/91 and 1991/92.

2.21. M&D's net assets were reduced as a result of the payment of the £2.5 million dividend to Einkorn. The decline in M&D's capital employed shown in Table 2.3 reflected both the transfer of the book value of land and buildings from M&D to Einkorn and a decline in the book value of tangible assets over the period from 1989 to 1992. Apart from land and buildings up to 1988, M&D's tangible assets consisted over the period from 1988 to 1992 of public service vehicles (PSVs) and plant and equipment. Movements in M&D's tangible assets, showing additions, disposals and depreciation, are summarized in Table 2.4.

TABLE 2.4 M&D: summary of movements in tangible assets in the five years to 16 May 1992

	Years ended May					£ million
	1988	1989	1990	1991	1992	
Net book value at start of year	5.9	6.1	4.8	5.1	4.1	
Additions	1.3	1.0	1.3	0.4	0.6	
Net book value of disposals	(0.2)	0.0	(0.1)	(0.5)	0.0	
Depreciation charged in period	(0.9)	(0.8)	(0.9)	(0.9)	(0.9)	
Net book value of transfers	<u>0.0</u>	<u>(1.5)</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
Net book value at end of year	6.1	4.8	5.1	4.1	3.8	
Net book value of PSVs included above	4.2	4.4	4.7	3.7	3.4	
Net book value of PSV leased assets	1.8	2.3	1.9	1.5	1.2	

Source: M&D.

2.22. Table 2.4 shows the transfer of M&D's freehold land and buildings to Einkorn in 1988/89. Table 2.4 also shows that depreciation remained broadly constant over the period at about £0.9 million each year; depreciation totalled £4.4 million over the five years. M&D calculates depreciation so as to write off the cost, by equal instalments over their estimated useful lives, of PSVs over 6 to 16 years and other plant and equipment between 3 and 10 years.

2.23. Table 2.4 also shows that additions to tangible assets, which totalled £4.6 million over the five years, were slightly more than the depreciation charge over the period of £4.4 million. In 1990/91 and 1991/92 additions declined to less than half the level of 1989/90 and were below the level of depreciation in those years; this, together with asset disposals, resulted in a decline in the net book value of M&D's tangible assets in 1990/91 and 1991/92.

2.24. Depreciation in M&D is based on historic cost, whereas additions to assets have to be made at current, higher, costs. To the extent that the replacement cost of vehicles and plant and equipment increases, expenditure would need to be higher than depreciation in order to replace assets. It appears that the expenditure on additions to tangible assets shown in Table 2.4, over the five years and in particular in 1990/91 and 1991/92, would be insufficient to maintain M&D's PSVs and plant and equipment at past levels. M&D stated that profit margins have been very low since deregulation and at no time sufficient to replace the assets employed. Some new buses are purchased by M&D through finance leases; the net book value of leased PSVs is shown in Table 2.4.

2.25. M&D's gearing (net borrowings as a percentage of equity) is shown in Appendix 2.1. This shows that M&D's net borrowings, after 1988, varied between nil and 22.9 per cent of equity at May 1992. Appendix 2.2 also shows capital employed at May 1992 of £2,889,000 financed mainly by share capital and reserves of £2,352,000 (81 per cent) but partly by net borrowings, less investments, of £537,000 (19 per cent).

2.26. In June 1992, in M&D's 1992/93 accounting year, Einkorn and M&D purchased from the administrative receivers of Maidstone Borough Transport (Holdings) Limited (Maidstone Borough Transport) certain assets of that company for a total consideration of £975,000. Einkorn purchased freehold land and buildings consisting of the bus depot and maintenance facilities at Armstrong Road, Maidstone, for £775,000. M&D purchased commercial vehicles for £185,000 and stock, plant and equipment and furniture and fittings for £15,000.

Turners of Maidstone; Bygone Tours & Bygone Buses; and Mercury Passenger and Airport Shuttle Services

2.27. Summarized below is the financial framework of M&D's main competitors in the reference area: Bygone Tours & Bygone Buses (Bygone), Turners of Maidstone (Turners) and Mercury Passenger and Airport Shuttle Services (Mercury). All three operators are very much smaller than M&D and are not limited companies.

Turners of Maidstone

2.28. Turners commenced business in the year to 30 April 1991. It is operated by its proprietors, Mr and Mrs Turner. Capital introduced was £[*]. Income and profits for the years ended 30 April 1991 and 1992 are shown in Table 2.5.

*Figure omitted. See note on page iv.

TABLE 2.5 [

*Details omitted.
See note
on page iv.*

]

[

*Details omitted.
See note on page iv.*

]

2.29. [

Details omitted. See note on page iv.

]

Bygone Tours & Bygone Buses

2.30. Bygone is operated as a partnership between Mr K J Morgan and Mrs A Aylott. The business is divided approximately 50 per cent bus work and 50 per cent private hire. The business was started in the year to 31 January 1991; partners' capital introduced was £[

Details omitted. See note on page iv.

]

TABLE 2.6 [

*Details omitted.
See note on page iv.*

]

[

Details omitted. See note on page iv.

]

2.31. [

Details omitted. See note on page iv.

]

TABLE 2.7 [

*Details omitted.
See note
on page iv.*

]

[*Details omitted. See note on page iv.*]

2.32. Bygone provided a summary of route revenues and costs for some routes for the calendar month of December 1992. These revenues and costs are shown in Table 2.8.

TABLE 2.8 [

*Details omitted.
See note
on page iv.*

]

[*Details omitted. See note on page iv.*]

Mercury Passenger and Airport Shuttle Services

2.33. Mercury is operated by Mr S Edgecombe. We have received from Mercury a receipts and payments account for the calendar year 1992 and projected for 1993, [*Details omitted. See note on page iv.*]. Table 2.9 shows a summary of Mercury's receipts and payments accounts.

*Details omitted.
See note
on page iv.*

]

[*Details omitted. See note on page iv.*]

Comparative financial results: M&D and other bus operators

2.34. The comparative financial results of M&D and other bus operators discussed below are derived from two industry reports: *En route to a better future?*, a report on the bus industry in the 1990s by Andrew Mellor (the Mellor report), and the 1992 ICC Business Ratios Limited report on Bus and Coach Operators (the ICC report).

2.35. The Mellor report lists comparative financial statistics for 1990 or latest available data in a 'Bus operator database' appendix. Figures extracted from this list are shown in Table 2.10. These are the most recent figures available in the report. Among the figures included for the bus operators listed are income, pre-tax profit, fleet size and number of staff. Table 2.10 summarizes these details for M&D and, for comparison, other operators listed in the report as, by fleet size, the two largest, the two smallest and the four other operators nearest in fleet size to M&D. Table 2.10 also shows, for comparison, pre-tax profit or loss as a percentage of income for each operator.

TABLE 2.10 M&D: comparison of income, pre-tax profit/(loss) and pre-tax profit/(loss) as a percentage of income for 1990 (or latest available data) of operators listed in the report *En route to a better future?* as the two largest, the two smallest and the four other operators nearest to M&D in fleet size

Operator	Category*	Fleet size†	Number of staff	Income £m	Pre-tax profit/ (loss) £m	Pre-tax profit/ (loss) as % of income %
GM Buses	P	1,972	6,057	112.8	0.6	0.5
West Midlands Travel	P	1,773	5,966	135.8	8.0	5.9
Midland Red West	G	342	1,000	16.9	0.8	4.8
Yorkshire Traction	G	339	1,861	27.7	0.6	2.0
M&D	B	327	959	17.4	(0)	(0.1)
North Western	G	324	872	17.5	0.4	2.2
PMT	B	312	927	17.2	2.0	11.9
Brighton BT	M	68	279	6.2	(0.2)	(3.2)
Northampton	M	63	181	3.8	0.7	18.3

Source: A report *En route to a better future?* by Andrew Mellor.

*The categories of operator noted above are: P: Passenger Transport Executive; G: company within a group; B: management buy-out; M: municipal.

†Based on double-decker buses; single-deckers and minibuses were counted on a proportional basis and assimilated into the totals.

Notes:

1. The report uses figures of total income received in preference to turnover because of differences in reporting practice. M&D's turnover in its year ended 12 May 1990 was £16.9 million.
2. M&D made a pre-tax loss of £17,000 in 1990 (shown as (0) to the nearest £0.1 of a million above).
3. Percentages in the table are calculated on unrounded figures.

2.36. Table 2.10 shows, that in its year ended 12 May 1990, M&D's income was at a similar level to that of a number of other operators with a similar size of bus fleet. However, M&D's near break-even result for 1990 was lower than that of other operators of similar size. M&D and Brighton BT were the only loss-makers among the operators shown in Table 2.10.

2.37. M&D has said that rationalization has been carried out since late 1989 and that its profitability improved after 1989/90; pre-tax profits of £491,000 and £739,000 were made in M&D's financial years 1990/91 and 1991/92 respectively, with returns on turnover (pre-tax profit as a percentage of turnover including other operating income) of 2.7 per cent and 4.2 per cent. M&D's return on turnover in 1990/91 and 1991/92 does not appear, from the figures of pre-tax profit as a percentage of income shown in Table 2.10 as being earned by other operators in 1990, to be excessive.

2.38. Table 2.11 shows figures extracted from the ICC report on the bus and coach industry. This provides an industry sector analysis for bus and coach operators. The most recent year for which this report provides information is for company account dates for periods between 8 April 1990 and 7 April 1991.

2.39. Table 2.11 shows an extract from the ICC report for company account dates for periods between 8 April 1990 and 7 April 1991. For M&D, the relevant year is that ending on 12 May 1990, which is the same year as that for which figures are shown in Table 2.10. Table 2.11 shows sales, profit/(loss) before tax, and profit margin (profit/(loss) before tax as a percentage of sales) for M&D and, for comparison, for the two largest operators by sales value, two of the smallest and the four others with sales value nearest in size to that of M&D.

TABLE 2.11 M&D and eight other operators' sales, profit/(loss) before tax and return on sales for company account dates between 8 April 1990 and 7 April 1991

Operator	Sales £m	Pre-tax profit/ (loss) £m	Pre-tax profit/ (loss) as % of sales %
London Buses Limited	375.3	0.5	0.1
West Midlands Travel Limited	139.5	6.1	4.4
Scottish Citylink Coaches	17.5	(2.4)	(13.4)
M&D*	16.9	0.7*	4.1*
Fife Scottish Omnibuses	16.6	1.3	7.6
South Wales Transport Co	16.4	(0.2)	(1.0)
East Kent Road Car Co	15.8	1.1	7.1
Lancaster City Transport Limited	2.5	(0)	(0.2)
Lincoln City Transport Limited	2.3	(0.1)	(6.3)

Source: ICC Business Ratio Report on Bus and Coach Operators, 1992 edition.

*M&D's Annual Report and Accounts for the year ended 12 May 1990 shows a loss on ordinary activities before taxation of £17,000. M&D's profit on sales shown in Table 2.11 would be negative had this figure been shown. The ICC report shows a profit before tax of £698,000 which includes a sum of £715,000 credited in M&D's profit and loss account in respect of 'surplus arising from fire insurance claim'.

Notes:

1. Percentages are calculated on unrounded figures.
2. A different range of operators is included in the ICC report from that in the Mellor report: some are common to both reports, but some are not.

Financial results of M&D's local bus services

2.40. M&D has an operational costing system which allocates the total revenues and costs to bus services. M&D divides its accounting year into 13 costing periods of four weeks each. M&D keeps accounts for each costing period for each depot, from which the route revenues, costs and profit or loss are calculated. These are analysed under the following headings:

Revenue;
 Driving—drivers' wages, national insurance contributions, pensions, uniforms etc;
 Bus operating costs—fuel and tyres;
 Service operating surplus—revenue minus driving and bus operating costs;
 Maintenance;
 Historic depreciation;
 Depot overhead charges;
 Company overhead charges; and
 Profit or loss.

2.41. A summary of M&D's general principles of accounting for revenues and costs and their allocation to individual bus routes is set out in Appendix 2.3. For the purposes of our own analysis, we have grouped costs and revenues as follows:

Variable costs: driving and bus operating costs;
 Semi-variable costs: maintenance and historic depreciation;
 Contribution: revenue minus variable and semi-variable costs; and
 Overhead costs: depot and company overheads.

2.42. Table 2.12 shows revenue and costs for M&D's local bus routes in total for 1991/92 and the first ten costing periods (out of 13) in 1992/93.

TABLE 2.12 M&D: summary of local bus routes: revenue and costs for 1991/92 and the first ten costing periods (CPs) of 1992/93

	£ million						
	Revenue	Variable costs	Operating surplus	Semi-variable costs	Contribution	Overhead costs	Profit/(loss)
1991/92	[]
			<i>Figures omitted. See note on page iv.</i>				
1992/93 (first 10 CPs)	[]
			<i>Figures omitted. See note on page iv.</i>				

Source: M&D.

2.43. M&D's revenue from road passenger transport for 1991/92 shown in the footnote to Table 2.2 was £16.8 million; the excess of this figure over local bus routes' revenue shown in Table 2.12 included limited stop services to London, marketed under the Invictaway name, and contract and private hire services.

2.44. Table 2.13 shows total revenue and profit/(loss) of local bus routes for the first ten costing periods of 1992/93 split between tendered and commercial services. This shows that, in the first ten costing periods of 1992/93:

[

Details omitted. See note on page iv.

]

TABLE 2.13 M&D: revenue and costs of local bus routes for the first ten costing periods of 1992/93 split between tendered and commercial services

	Revenue £m	Profit/ (loss) £m	Profit/(loss) as a percentage of revenue %
Tendered services	[
Commercial services			
Total]
		<i>Figures omitted. See note on page iv.</i>	

Source: M&D.

Note: Percentages have been calculated on figures rounded to the nearest £'000.

2.45. M&D provided us with route revenues and costs by individual services and by 'timetable groupings'. M&D records revenues and costs for individual services; it said that this was the lowest level of disaggregation and was a necessary prerequisite of the group information. M&D said that timetable groupings grouped routes together to reflect natural catchment areas, passenger flows and operating patterns, and that financial performance could only sensibly be considered in timetable groupings of routes which reflected the interdependency of services. However, the MMC have examined revenue, operational costings and profit/loss for individual routes as well as for timetable groupings. Route summaries for the first ten costing periods of 1992/93 showed 54 timetable groupings, which were broken out into 185 individual routes.

2.46. Figures for timetable groupings and for individual routes show that, within M&D's network, there are significant variations in route profitability:

[

Details omitted. See note on page iv.

]

[

Details omitted. See note on page iv.

]

2.47. Detailed figures for routes on which M&D is in competition with Bygone, Turners and Mercury, together with notes on the main movements in revenues and costs, are shown in Appendix 3.3.

2.48. M&D told us that, when it considered whether or not to change a service, decisions were taken on the basis of an analysis of incremental costs relative to the additional revenue likely to be generated. This involved consideration of the saving of costs against the estimated loss of revenue if a service was reduced, or the additional costs compared with estimated additional revenue if a service was increased. On routes where it faced competition, additional costs of an increased service were compared with the avoidance of potential revenue loss, or with revenue which could potentially be won from a competitor. For example, M&D told us that as a result of expanding its services on route 82/83 in October 1992 it had carried an estimated [*] passenger journeys more than it would have done had it done nothing. The overwhelming majority of these extra passengers had been won from Bygone. Incremental costs are considered by M&D to relate to the additional driving, fuel and mileage-related maintenance costs incurred by a change to a service. They do not include the full variable and semi-variable costs of additional journeys. Moreover, if the resources used to increase a service are standing idle at the time, they may be regarded as costless from the company's point of view. If the services are not fully occupied then any additional cost arising from the change is included in the analysis. M&D gave examples of its use of incremental analysis of revenues and costs in the operation of bus journeys on routes 82/83, 85, 89 and 191. These examples are summarized in paragraphs 2.50 and 2.51; more details are given in Appendix 2.6.

2.49. Deciding on which costs should be treated as incremental and which fixed must involve an element of judgment. In the very short term, a week or two for example, most costs other than those necessary to move the bus, such as fuel and tyres, can be treated as fixed. In the longer term all costs other than company overheads are variable since depots can be closed. For how long a particular resource can be regarded as a fixed cost will depend upon how quickly that resource can be released by the company or redeployed profitably on a fully allocated cost basis within the business. In the examples of M&D's incremental cost analysis below, the profitability of the additional services depends upon whether drivers are treated as fixed or variable costs.

2.50. For route 191, M&D produced an incremental analysis of the peak 07.13 journey showing that incremental revenue exceeded incremental cost. M&D said that this illustration was based on passenger volume surveys carried out in the autumn of 1991. This established the number of passengers travelling on the 07.35 journey. Using this information, M&D estimated passenger levels for the 07.13 journey. We asked M&D for incremental analyses of the other eight of its nine additional journeys on route 191. However, M&D said that it did not have available the information necessary to produce any further analyses as the survey carried out in the autumn of 1991 did not cover all of service 191.

2.51. For routes 82, 85 and 89 M&D prepared an analysis for us showing that additional revenues generated by the additional journeys were likely to cover additional costs. This analysis was prepared after the action was taken, but M&D took the view at the time that the additional costs incurred were likely to be less than the revenue that would have been lost by not responding. The costs included in the analysis are incremental costs only and do not include full variable and semi-variable costs. For

*Figure omitted. See note on page iv.

example (see Appendix 2.6), the incremental costs of nine of the drivers employed on the additional journeys do not include the costs of their basic wages. M&D said that these drivers were employed and paid by M&D but were surplus to requirements. M&D argued, therefore, that the incremental cost of using them to drive on the additional services was correctly measured by the extra £60 per week per driver which M&D had to pay because the drivers were now driving larger buses. The basic wage costs of between approximately £225 and £250 per week were not relevant to the incremental analysis.

2.52. In M&D's analysis of the 07.13 journey on route 191 (see paragraph 6 of Appendix 2.6) the incremental cost of £[*] consists of extra fuel, tyres and mileage-related maintenance costs only. M&D does not include further driver or vehicle-related costs because operational adjustments in the depot had freed staff and vehicle capacity for a journey in this particular time-slot. If additional driving costs had been included in incremental cost, the profitability of this extra journey would have been reduced but would still have been positive. In the other example above, on the other hand, the profitability of the additional services depends crucially on how drivers' costs are treated. For the routes 82, 85 and 89 the M&D analysis assumes that the drivers' costs are fixed, with their basic wages not included in the analysis. On the alternative assumption that drivers surplus to requirements can be released, at least after a number of weeks, then drivers' costs should be treated as variable costs and their basic wages included in the analysis. On this basis the incremental costs would have been considerably greater than the incremental revenues. M&D told us, however, that such an analysis would be invalid because if the drivers had not been surplus to requirements it would not have taken precisely the same action.

*Figure omitted. See note on page iv.

3 Local bus services in the reference area

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Introduction

3.1. This chapter describes the supply of local buses services in the area of Mid and West Kent defined as the districts of Maidstone, Rochester upon Medway, Gillingham, Swale, Tonbridge and Malling, Tunbridge Wells, Sevenoaks and Gravesham in the county of Kent. Before describing the reference area and the bus operators supplying local bus services, it is appropriate to summarize the regulations that govern bus operations and their application to the situation in this part of Kent.

Regulation of the industry

3.2. Between 1930 and 1981 anyone wishing to run a bus service needed a licence for each vehicle, a PSV licence for each driver and a road service licence (RSL) for each route. The grant of licences was, and continues to be, regulated by Traffic Commissioners, each Commissioner being responsible for a defined area.¹ Before issuing an RSL, Traffic Commissioners were required to consider the need for any proposed new service, taking account of existing services and the needs of the area as a whole. Local authorities and existing operators could object. There were also provisions for the Traffic Commissioners to specify fares. Local authorities provided financial support to local bus companies based on the expected shortfall in revenue in relation to costs. Revenue support grants were paid after taking account of any surplus made on profitable routes.

3.3. The Transport Act 1978 made limited changes to this licensing system, making it easier for minibuses using volunteer drivers to run local services (community buses) and facilitating car sharing. The Transport Act 1980 removed restrictions on the provision of long-distance express services and

¹Great Britain is divided into nine Traffic Areas, each of which has a Traffic Commissioner, a full-time salaried official appointed by the Secretary of State.

was intended to make it easier to operate a local service in competition with an existing licence-holder. It effectively removed fare controls and, with effect from April 1981, replaced individual vehicle licensing with PSV operator licensing.

3.4. In 1984 the Government published a White Paper¹ setting out proposals designed to free bus services from restrictions on competition. It envisaged that competition would lead to lower fares, new services and more passengers and that the obstacles to enterprise, initiative and efficiency inherent in the existing system of regulation would be removed.

3.5. The Transport Act 1985 (the 1985 Act) provided for the deregulation of the bus industry on the lines set out in the White Paper. The 1985 Act's main provisions were:

- (a) the abolition of road service licensing for local services outside London and the introduction of local service registration;
- (b) the restriction of subsidy to local services which were not commercially registered but required to meet social need, such subsidy to be awarded on the basis of competitive tendering; and
- (c) the NBC to be split up and privatized and local authority bus operations (ie those of municipal operators, including Scottish regional operators and Passenger Transport Executives) to be formed into separate passenger transport companies operating at arm's length from the local authorities.

3.6. Under the provisions of the 1985 Act there is, therefore, no longer any restriction on the quantity of local bus services supplied. Operators must now hold PSV operator licences and are simply required to register new services with the appropriate Traffic Commissioner, giving 42 days' notice of any intention to set up or to vary or withdraw a service. Information must be provided on the route, terminal points, timetable, stopping arrangements and type of vehicles to be used. The Traffic Commissioners retain their powers over the quality of service offered and over safety standards. They have powers to attach conditions to operator licences where operators fail to run local services in accordance with the registered details, intentionally interfere with the services of another operator, or operate services in a manner dangerous to the public. The conditions may prohibit the operator from providing services on certain routes, or even from providing local bus services of any description.

3.7. The Department of Transport (DOT) has recently published a consultation paper on the operation of local bus services outside London, seeking views on some aspects of bus deregulation, including provision of information to passengers, the appropriate length of the time period before service registrations come into effect and congestion problems. In so doing it drew attention to concerns which had been expressed about the bunching of services by competing operators on busy routes and the possible effect of this on road congestion.

3.8. The 1985 Act changed the basis on which local authorities could subsidize the provision of local bus services. Subsidies can now only be paid for socially necessary services not provided by the commercial network. All contracts for subsidized services (except for *de minimis* arrangements and post and community buses) must be let by competitive tender, and specific information on tenders received must be published by the local authority. There is an express duty on local authorities not to inhibit competition between operators and potential operators when exercising their subsidy powers.

3.9. Local authorities have powers which enable them to provide concessionary fares, for instance for elderly and disabled people. Before the 1985 Act this was often given in the form of a blanket subsidy. Payments in respect of concessionary fares must now reflect the actual loss of revenue to the operator, plus any additional costs of carrying extra passengers.

3.10. Prior to the 1985 Act agreements between bus operators were specifically exempt from the application of the Restrictive Trade Practices Act 1976. Since deregulation such agreements have had

¹Buses, Cmnd 9300, July 1984.

to be furnished to the Director General of Fair Trading and may come under the scrutiny of the Restrictive Practices Court if they contain significant restrictions on competition. The OFT has told us that fares agreements are registrable under the Restrictive Trade Practices Act. However, a timetable agreement could be construed as registrable only if it restricted an operator's freedom to run buses at times in addition to those agreed; travelcards and interchangeable tickets were not normally restrictive in themselves.

3.11. The importance of access to bus stations was recognized in the 1984 White Paper which stated that:

if competition is to flourish, no operator should be in sole control of a bus station of a size or strategic position which would allow him to gain an unfair advantage by excluding other operators. The Government believes that major bus stations should be operated whether in private or public ownership on a commercial basis under arrangements which will provide for all operators to have equal opportunity of gaining access to them. (Paragraph 5.16.)

The 1985 Act amended the relevant competition legislation so as to bring all bus stations, whether publicly or privately owned, within its scope. Section 116(1) of the Act did this by extending the definition of the services covered by the relevant competition legislation, including the Competition Act 1980, to include bus stations. Following the Transport Act, therefore, it became possible to examine the use of a privately-owned bus station under competition legislation in order to see whether the owner was acting anti-competitively by excluding other operators from its own premises.

The reference area

3.12. Our inquiry was concerned with the provision of local bus services in the reference area as shown in Appendix 3.1. The specified area falls broadly within the western half of Kent. To the south of the reference area is the county of East Sussex. The districts of Dartford and Thurrock are situated to the north of the reference area. Greater London lies beyond the north-western boundary of the specified area of our inquiry.

3.13. The reference area covers about 200,000 hectares amounting to some 0.8 per cent of the total area of the UK. The population of the area in 1991 was just over 880,000, 1.6 per cent of the total population of the UK.

3.14. The reference area is diverse. It includes the continuous urbanized area at one end of the Medway gap where the Medway towns of Rochester, Chatham and Gillingham stand on the tidal estuary. In both this part of Kent and at the other end of the Medway gap where Maidstone, the county town of Kent, lies, road traffic congestion is a major problem. However, south of Maidstone there is a wide scatter of rural settlements in the High Weald where bus operators generally encounter much less difficulty in maintaining services on schedule. Traffic congestion is, however, a problem in Tunbridge Wells. Table 3.1 shows the contrast in population density between the district of Gillingham and the seven other districts in the reference area.

TABLE 3.1 Population density and car availability

	Population	Area Hectares	Density Persons per hectare	Car availability Percentage of households with:		
				No car	One car	Two or more
Gillingham	93,691	3,245	29.4	27.2	46.4	26.4
Gravesham	90,606	9,903	9.3	28.3	43.7	28.0
Maidstone	133,741	39,333	3.5	21.8	43.3	34.9
Rochester upon Medway	142,474	15,895	9.1	27.0	45.6	27.4
Sevenoaks	106,705	36,843	3.0	17.8	42.1	40.1
Swale	114,148	37,017	3.1	27.1	45.7	27.2
Tonbridge & Malling	99,864	24,013	4.2	20.0	42.6	37.4
Tunbridge Wells	98,943	33,176	3.0	23.4	43.4	33.2
Reference area	880,172	199,425	8.0	24.1	44.1	31.8
Kent	1,493,891	372,832	4.0	26.7	44.7	28.6
UK	54,888,844	22,835,587	2.4	33.4	43.5	23.1

Source: 1991 Census.

The decline in the use of local bus services

3.15. A report on transport made by KCC (*Transport '92*) shows that between 1980 and 1991 the growth in total vehicle traffic in Kent was 66 per cent, considerably higher than the national average (49 per cent). This reflects the increased level of car ownership in the county compared with the national average. According to the 1991 Census, in each of the eight districts within the reference area over 40 per cent of households had access to one car and in the reference area as a whole almost one in three households had two or more cars available. This high level of car availability relative to the national average has obvious implications for the demand for local bus services in the reference area.

3.16. In the past decade there has been a continuation of the long-established downward trend in the use of local bus services throughout the UK. The demand for bus travel has fallen each year by about 2 per cent. M&D told us that, compared with 1985, it carried 31 per cent fewer passengers in 1992, and the number of miles operated by the company's buses was 25 per cent lower.

Competition from other modes of transport

3.17. Bus services in the reference area face competition, to some extent, from the private car, taxi, train and, for shorter distances, cycling and walking.

Car transport

3.18. We have already noted the relatively high level of car availability in the reference area compared with the UK as a whole (see Table 3.1). In the more rural parts of the reference area the high level of multiple car ownership further limits the demand for public transport. Whilst traffic congestion affects journeys by car, bus and taxi equally, passenger surveys in Kent show that a journey by car is the preferred mode of travel.

Rail transport

3.19. The main urban areas within the reference area are linked by the railway network. The area is served by both local rail services and main line services to London. The majority of rail journeys originating in the reference area (and indeed Kent as a whole) terminate in London. Whilst London is outside the reference area, travel to and from the capital dominates the character of passenger traffic flows within the reference area. Railway stations in the west of the county primarily serve the

needs of large numbers of London-bound commuters. For example, over 80 per cent of those using the railway stations of Sevenoaks, Tonbridge, Tunbridge Wells, Gravesend and Chatham on weekdays travel to London.

3.20. An exception to these high levels of rail passenger traffic to London is Maidstone. The three Maidstone railway stations provide an alternative for bus services for those seeking local movements and there is a high volume of passenger traffic between Maidstone and Bearsted. Tonbridge is the busiest station within the reference area for local services. M&D considered that the main competition from British Rail (BR) for local bus passenger movements occurred between:

- (a) Tunbridge Wells, High Brooms and Tonbridge;
- (b) Sittingbourne, Newington, Rainham, Gillingham and Chatham; and
- (c) Strood, Rochester and Chatham.

3.21. KCC told us that for some journeys it regarded the local rail network as providing an attractive alternative means of transport to that offered by local bus operators. M&D argued that the routes by rail provided bus operators with keen competition for short inter-urban journeys. The company told us that it had not been able to match fares charged by BR for off-peak return travel.

3.22. M&D's pricing policy is discussed in paragraphs 3.74 to 3.79. By comparison with rail fares for a single journey, M&D's standard scale bus fare is competitive with the rail fare, but much less so for off-peak return journeys. BR prices a return journey only marginally higher than a single journey. M&D, in contrast, bases its fares policy on single journeys and offers a much lower discount for return journeys. M&D's fares policy includes so-called Special Return Fares. These are specially reduced fares between major towns and are designed to compete with the competition from rail transport.

Taxis and hire cars

3.23. In recent years the use of taxis and hire cars has expanded to become a significant element of public transport. Within the reference area there are 1,440 licensed-for-hire vehicles. M&D calculated that where three people travelled together by taxi the cost was roughly the same as three single bus fares for short journeys. It pointed out that MBC operated a scheme whereby those on low incomes could use tokens for local transport journeys by taxi as well as by bus. M&D is the local agent for redemption of these tokens and recent figures show that more than 50 per cent of the tokens issued and redeemed through this agency have been used for taxi journeys.

Bus operators in the reference area

3.24. Seven years after deregulation there are over 20 bus operators within the reference area. Some of these are very small and run only a few commercial services. Coaching operations, school transport contracts and private hire provide significant sources of income for many small operators, some of which entered the market at the start of deregulation in 1986. The newer entrants include Bygone and Turners, which both began to operate in Maidstone in 1990. Mercury entered the local bus market in 1991 by securing tendered contracts from KCC. Several other small operators entered the local bus market following the award of tendered services by KCC. The proprietors of both Bygone and Mercury had already been involved in bus operations for a number of years.

3.25. The large bus operators within the reference area are not new entrants and have been in the bus industry for many years. Three of the companies are former subsidiaries of the NBC, namely M&D, East Kent and London & Country. A former municipal operator, Maidstone Borough Transport, owned by MBC, accounted for a significant number of bus services within Maidstone until May 1992.

3.26. The 1985 Act provided for the splitting up and privatization of the NBC. M&D was sold to its five senior managers on 7 November 1986. The managers had formed Einkorn (see paragraphs 2.4 and 2.10) to undertake the management buy-out. A number of employees subsequently obtained ordinary shares in Einkorn and all M&D employees were issued with preference shares in M&D free of charge (see paragraph 2.4).

3.27. In September 1986 the operations of London & Country were divided into six autonomous companies. London Country Bus (South East) came into being and in 1987 was renamed Kentish Bus & Coach Company Ltd (Kentish Bus). A year later the new company, based at Northfleet, was purchased by the Proudmutual Transport Group Ltd (Proudmutual) from the NBC. Proudmutual had been formed by an ex-NBC management team in order to acquire the Northumbria Motor Services Ltd bus company based in Newcastle-upon-Tyne.

3.28. As independent companies the three former NBC subsidiaries—M&D, Kentish Bus and East Kent—were now able to expand bus services within and beyond their traditional areas of operations.

Maidstone & District

3.29. At the time of its acquisition by Einkorn in 1986, M&D operated a large number of local bus services in mid-Kent. Its network of local bus services stretched across the whole area. Services operated along the arterial roads into Maidstone and town services on the London Road corridor, Bearsted, Grove Green and Vinters Park; inter-urban services connected the towns of Gillingham, Rochester, Chatham, Strood and Rainham; Sittingbourne and Sheerness; Tunbridge Wells and Tonbridge. A large part of this network has remained unchanged in terms of routes (if not frequencies of services) since its acquisition by Einkorn.

3.30. From 1980 M&D has also operated a number of limited-stop coach services to London from the Medway towns marketed under the 'Invictaway' name. These services extend well beyond the reference area and few passengers make use of these coach services for local journeys.

3.31. Just prior to its purchase by Einkorn in November 1986 M&D employed 974 staff and operated 362 vehicles comprising 250 full-size buses, 40 minibuses and 72 dual-purpose vehicles suitable for coaching and bus services.

3.32. On 31 December 1992 M&D employed 929 staff and the company operated 339 vehicles comprising 211 full-size buses, 93 minibuses and 35 dual-purpose vehicles. This reduction in staffing and number of vehicles in part reflected the continuing fall in passenger demand for commercial bus services over the previous six years.

3.33. The main change in the size of the company's commercial services occurred in 1991/92 as a result of an expansion of services in the Maidstone area. M&D told us that, in December 1991, to ensure continuity of service in what appeared to M&D to be the likely event of Boro'line ceasing operations, it began running services alongside and in competition with those of Boro'line. Following the appointment of a receiver for Boro'line in February 1992 M&D and Einkorn subsequently bought the assets of Boro'line in May 1992.

Boro'line

3.34. Maidstone Borough Transport was incorporated in 1986, following the implementation of the 1985 Act, as a company wholly owned by MBC. The new company was required, like all municipal operators, to operate at arm's length from the local authority as a self-supporting bus operator. The trading name Boro'line was adopted in 1986, the business previously having operated as Maidstone Borough Transport. MBC had been a member of a pooling arrangement with M&D and East Kent (both then as NBC subsidiaries) whereby all three undertakings agreed on routes, timetables and common fares with revenue being shared according to the mileage each operated. This agreement, known as the Maidstone Coordination Agreement, ended with the advent of deregulation of bus services in October 1986.

3.35. Boro'line decided in 1988 to expand its operations by securing contracts for bus services in London. Whatever the merit of this diversification it became evident in hindsight that the contracts had been obtained on terms which did not allow costs to be covered. MBC came to perceive its bus subsidiary as having deficiencies in its financial accounting systems and management. As a result of the very full public disclosure, including coverage in the local press, of the losses sustained by Boro'line in 1989/90, there were increasing doubts about the company's ability to continue in business. M&D enquired about the possibility of acquiring the company in both April 1990 and a year later and was informed that the council had no plans to sell the company.

3.36. In September 1990 Boro'line encountered a new problem when it faced competition from Bygone. Bygone's fares were much lower than those charged by Boro'line (and M&D). Bygone competed with the main urban operations of Boro'line.

3.37. On 2 October 1991 MBC decided that the losses sustained by its bus subsidiary were such that the council had no alternative other than to sell the business. An increased overdraft facility from the company's bank was made available only on condition that the company be sold within six months.

3.38. In the expectation that Boro'line would soon cease to trade, M&D submitted registrations on 14 October so as to be able to continue the services of Boro'line in Maidstone as from 2 December 1991. The effect of this decision was that M&D began to compete on most of Boro'line's routes. Boro'line retaliated by introducing services into the Medway towns at fares approximately 20 per cent lower than M&D's.

3.39. After Boro'line's London bus operations were sold in February 1992, the company's bank appointed a receiver. In March Boro'line cut fares on its new services to the Medway towns to 25p and 50p. M&D matched these reductions on some journeys only. Competition between Boro'line and M&D continued in the period prior to M&D purchasing certain vehicles, stock and plant of Boro'line from the receiver in late May 1992. At the same time M&D's holding company, Einkorn, purchased Boro'line's bus depot and maintenance facilities in Armstrong Road, Maidstone.

3.40. Boro'line ceased operations on 29 May 1992. Its tendered contracts were awarded on an emergency basis to M&D, which was thus able to provide continuity of service in Maidstone and elsewhere.

Kentish Bus

3.41. Kentish Bus originated as part of the NBC-owned London & Country which, in 1970, took over the Country Bus and Green Line services formerly operated by the London Transport Board. These services were well-established in east Surrey and west Kent. Within the reference area Kentish Bus operates mainly in the districts of Gravesham and Sevenoaks. The company does not compete with M&D in the districts of Swale and Maidstone nor, in any of the Medway towns. In February 1992 the parent company of Kentish Bus, Proudmutual, acquired the London tendered bus services of Maidstone Borough Transport and, in so doing, increased the proportion of its turnover arising from London bus contracts to over 70 per cent.

East Kent

3.42. East Kent is based in Canterbury and the main focus of its operations lies beyond the eastern margin of the reference area. East Kent operates two services within the reference area. One of these, service 10, runs between Maidstone and Ashford and the other, service 602/3, operates between Faversham and Canterbury. Thus these two services relate to the reference area only in respect of the district of Maidstone (service 10) and the district of Swale (service 602/3). M&D does not compete with East Kent on either of these two routes.

3.43. East Kent and M&D's parent company, Einkorn, are joint owners (with three other bus and coach holding companies operating in South-East England) of South Eastern Bus Investments Ltd (SEBIL). [*Details omitted. See note on page iv.*]

[*Details omitted. See note on page iv.*] The very limited arrangements that have been agreed by SEBIL members are said by M&D not to inhibit the competitive rivalry between any of its shareholders.

Other large bus operators

3.44. There are several other large bus companies with some bus operations within the reference area but with the substantial part of their operations outside Kent. Examples here are Grey-Green Coaches (Grey-Green) and London Coaches Limited (London Coaches). Grey-Green is part of T Cowie plc, which is based in Sunderland, and has operated commuter coaches into London from Rochester since 1982. It operates the No 130 service between Maidstone and Twydall, the No 400 school service between Halling and Tunbridge Wells and several tendered services for KCC. London Coaches was recently privatized in a management buy-out of a former London Transport subsidiary. It competes with Kentish Bus and Grey-Green on the London-bound commuter routes and is based at Northfleet. London Coaches operates some tendered services within the reference area. Other examples of large bus companies which operate a very limited range of services within the reference area are Brighton & Hove Bus & Coach Co Ltd, based in Brighton, and South Coast Buses Ltd, based in Lewes, which is part of the Stagecoach Holdings plc group and operates a few routes into the southern fringe of the reference area.

Small bus operators

3.45. A number of bus operators run a restricted number of routes in just one or two parts of the reference area. These operators thus contrast with M&D, which alone operates services throughout the reference area. Mercury does not operate beyond the Medway towns and Maidstone, while both Bygone and Turners operate solely within the district of Maidstone. Some of the small bus operators have developed as a result of providing tendered bus services to KCC for school, evening and Sunday services. Several of the small bus operators also engage in private hire and coaching activities. The development of some of the small bus operators since deregulation is now outlined.

Bygone

3.46. Bygone had existing bus interests based on school contracts for KCC and private hire operations prior to its entry into registered local bus services in Maidstone in September 1990. Its two partners, Mr Morgan and Mrs Aylott, believed they could offer a cheaper service than that offered by Boro'line, then the only other bus operator within the town centre. Bygone competed with some of the services of Boro'line as an expansion of its existing bus interests. Bygone started commercial services with just two vehicles and operated these between 09.00 and 17.30 in competition with Boro'line, which had over 40 vehicles. Only in a limited part of the Maidstone area did Bygone run over routes served by M&D in the period until December 1991. Bygone undercut fares charged by the incumbent.

3.47. With the departure of Boro'line, Bygone was left in competition with M&D. On 29 May 1992 Bygone registered a new service to compete on part of M&D's long-established service 12 between Maidstone and Headcorn at fares which undercut those of M&D. In September 1992 Bygone began to compete with M&D on a part of service 5 between Maidstone and Cranbrook. In both cases M&D met this new competition by matching fares and increasing the frequency of its services. Paragraphs 3.128 to 3.149 examine the nature of this rivalry between Bygone and M&D in detail.

3.48. Bygone has for much of the period since September 1990 offered the lowest fare available on the urban routes into Maidstone. Bygone expanded its local bus operations so that by late 1992 its bus fleet had grown to 11 vehicles. The keenness of competition between Bygone and M&D manifested itself in the complaints made by each company of the other concerning the blocking of bus stops in Maidstone town centre.

3.49. On 4 June 1993 Bygone notified the Traffic Commissioner that it intended to cease providing registered bus services. On 9 June Bygone gave formal notice that it would cease operating once the 42-day notice of deregistration of services had elapsed. On 10 June Bygone told us that it had reversed its decision of the previous day and cancelled the notice of withdrawal from running bus services.

Turners

3.50. Mr T C Turner, the proprietor of Turners, has long experience of the bus and coach industry having been a conductor, driver, manager of a coach company and a partner in Farleigh Coaches prior to beginning his own business. Turners entered the bus market in Maidstone in September 1990 on one route with two buses. Service 189 runs from Maidstone to Coxheath with an extension to Marden twice per day. The 189 service is Turners' numbering of the 89 service now operated by both Bygone and M&D.

3.51. Turners offered an alternative to the Boro'line service on this one route until December 1991. It then encountered competition from M&D on the Maidstone to Coxheath route following the decision by M&D to compete on Boro'line's routes. Like Bygone, Turners complained about the changed timing of M&D's new service during 1992, blocking by its buses, the operation of unregistered services, and a failure by M&D to operate the whole of route 89 to loop through Loose Village. In January 1993 Turners operated two buses.

Mercury

3.52. Mercury is based at Hoo St Werburgh on the Isle of Grain. It commenced bus operations in the reference area by securing tendered services numbers 113/114, 138 and 151 at the expense of M&D in 1991. It then began an hourly frequency on commercial service 191 between Hoo and Chatham at a fare which undercut M&D's. Mercury operated its tendered services from the Pentagon Bus Station in Chatham. However, as from 11 November 1991 it was denied access to the Pentagon by M&D. This dispute between the two companies is discussed in paragraphs 3.201 and 3.202.

3.53. One aspect of the competition between Mercury and M&D since 1992 was the decision by M&D to register commercial services against the tendered services already operated by Mercury. M&D told us that this was one of the few exceptions to its policy of not competing against KCC-awarded contracts. M&D judged the erosion of revenue from its commercial services arising from the contract awarded to Mercury as being too serious for it not to respond as it did. In January 1993 Mercury operated seven buses.

3.54. Appendix 3.2 identifies some of the small bus operators supplying registered local bus services within the reference area.

The supply of local bus services

3.55. It is not possible to determine market shares in the supply of local bus services in the market from published sources. There are no comprehensive figures on patronage, bus mileage and revenue that include all operators.

3.56. We sent a questionnaire to all known bus operators in the reference area seeking the following information:

- (a) registered vehicle miles for one week commencing 30 November 1992, both in total and by district;
- (b) annual revenue for the year commencing 1 December 1991 excluding fuel duty rebate;

- (c) number of passenger journeys for the year commencing 1 December 1991;
- (d) number of passenger miles for the year commencing 1 December 1991;
- (e) proportion of revenue accounted for by:
 - (i) registered local bus services in the reference area;
 - (ii) other bus services; and
 - (iii) other activities; and
- (f) number of vehicles used on registered local bus services.

3.57. Just over 20 operators gave us information on their supply of registered bus services. On the basis of registered vehicle miles we estimate that in 1992 M&D supplied some 62 per cent of bus services in the reference area. As measured by turnover, excluding fuel duty rebate, the market share of M&D in 1992 is estimated at 65 per cent.

3.58. These two measures indicate that a large number of small operators account for about one-third of the supply of bus services between them. Apart from M&D and Kentish Bus, no operator's market share exceeded 10 per cent. The market shares of Bygone and Mercury on the basis of their submitted registered vehicle miles are less than 3 per cent each. In the case of Turners the market share is less than 1 per cent.

3.59. Some bus operators were unable to supply information on the number of passenger journeys made on their buses during 1991. M&D, East Kent and Grey-Green were unable to supply data on the number of passenger miles travelled during 1991. The number of vehicles used on registered local bus services is an unsatisfactory basis of measuring market shares of bus operators since both the size of a bus and the frequency of its use vary widely.

Fares and ticketing

3.60. M&D's fare tables for each of its routes show how the adult single fare is dependent upon the fare stage where a passenger boards and the destination fare stage where a passenger alights. The structure of single fares, which is based on mileage, is discussed in paragraphs 3.74 to 3.80. The fare tables also determine the adult return fare and whether the latter are adjusted if routes are operated under contract for KCC (see paragraph 3.104).

3.61. M&D told us that cash fares on its commercial services accounted for about 60 per cent of M&D revenue in the financial year ended 16 May 1992.

3.62. In addition to single and return fares paid in cash, M&D offers a wide range of other types of tickets. The company participates in a number of schemes with other operators where, if one operator issues a ticket, it will be accepted without further charge on another operator's vehicle. In addition to its own commercial concessionary fares, M&D also participates in local authority concession schemes.

3.63. Children under 16 who commence their journey after 09.00 hours on weekdays (or at any time during weekends, public holidays and school holidays) are charged half the appropriate adult single fare. Children under the age of five years are carried free of charge at all times provided they accompany a fare-paying passenger.

3.64. Off-peak return tickets are available for all journeys where the outward passenger journey commences at or after 09.00 on Mondays to Fridays (and at any time on weekends or public holidays).

The discount on these off-peak return tickets compared with the cost of two single tickets is approximately 8 per cent. There are some Special Return Fares between the major towns designed to meet the competition from rail.

3.65. Adult season tickets are valid for any number of weeks. The cost is based on a single fare which is then discounted on a sliding scale depending on the number of weeks for which the season ticket is required. Scholars' season tickets are issued for making journeys to and from school and are not available for use in the evening or school holidays. Scholars' season tickets are available to individuals and are also purchased in bulk by KCC.

3.66. M&D offers tickets providing unlimited travel within five defined areas for periods of one or four weeks. The relevant areas are Maidstone, Medway, Tonbridge, Tunbridge Wells and a fifth area combining Tonbridge and Tunbridge Wells.

3.67. Scholars' season tickets accounted for 12 per cent of M&D's total revenue in the year ended 16 May 1992 (excluding tender payments from local authorities). Scholars' season tickets are the most significant element of revenues from the available multi-journey ticketing schemes.

Multi-operator ticketing schemes

3.68. M&D offers both one-day and seven-day Explorer tickets which are available for travel at all times of the day, not only on its own services but also those of some other operators in Kent, Sussex and Hampshire. M&D accepts the Gravesend Travelwide tickets issued by Kentish Bus for use on its local bus services in and around Gravesend. KCC introduced the Kent Sunday Ranger ticket for use on most Sunday and Bank Holiday Monday services.

Local authority concession schemes

3.69. The KCC Countywide Permit Scheme operates in association with the 14 district councils in Kent. This allows half-fare travel after 09.00 on weekdays and all day at weekends and public holidays for elderly and disabled residents. Bus operators are reimbursed quarterly by KCC through a pool-based system on the basis of estimates of net income forgone.

3.70. MBC operates a scheme giving free travel to blind and severely disabled persons after 09.00 on weekdays and all day at weekends and public holidays. In addition, the council issues National Transport Tokens for pensioners which may be used like ordinary coins on registered local bus services operating within the borough, as well as on local rail services and for local journeys by taxi and private hire car.

3.71. The East Sussex County Council Countycard permits the elderly, disabled and full-time students aged 16 to 18 years half-price off-peak fares for journeys after 09.00 on weekdays, weekends and public holidays. M&D accepts Countycards on five of its routes which start or terminate in East Sussex.

3.72. M&D told us that local authority concessionary schemes contributed about 5 per cent of all its revenue in the financial year ended 16 May 1992.

Promotional fares

3.73. In addition to the above concessionary fares, M&D has reduced prices on some or all of its services as a means of enhancing custom. Its 'Mad March Fares' promotion in 1992 offered a one-week Freedom ticket for just £1.50. On 14 September 1992 M&D introduced the Tunbridge Wells Shopper Hopper ticket to promote bus patronage in Tunbridge Wells. In April 1993 M&D made a 25 per cent reduction in the price of all Freedom tickets and a 33 per cent cut in the cost of an

Explorer ticket; in addition off-peak day return fares were reduced by 15 per cent in Sittingbourne and Sheerness. These were aimed at stimulating additional journeys, particularly during the Easter school holiday.

Fares structure

3.74. M&D has a fares structure based on a mileage scale with the basic principle that fares per mile are reduced the further the journey.

3.75. M&D has a 'rounded numbers' fares structure. With two exceptions, all fares are a multiple of 5p or 10p. M&D aims to reduce passenger boarding time by minimizing the time spent by drivers in giving change to passengers. This pricing policy does mean that the company faces a difficulty in maintaining a consistent fares structure whenever it proposes a fares increase because of the desire to keep fares as a multiple of 5p or 10p.

3.76. The mileage bands to which the fares apply are not rounded number distances but fractions of a mile. M&D told us that these mileage bands had been in use by the company prior to 1983 and that their rationale had not previously been questioned.

3.77. M&D stated that the standard fares structure was not rigidly applied. Two reasons were given for this. Firstly, the company aligns fares on an indirect route with that on a more direct route to a common destination. M&D said that, for example, passengers living on the outer edges of a housing estate were not penalized by joining a bus that took a circuitous route around the estate prior to going into a town centre. The second reason concerns areas within M&D's network of operations where local variations from the mileage scale have existed for some time.

3.78. There are three local areas in which M&D's fares do not follow the standard mileage scale. In the Sittingbourne area the structure of fares is more compressed, with higher minimum and lower maximum fares. This flat scale of fares has existed for many years. Adjusting these fares to the standard mileage scale would involve sharp increases in some fares. In the Gravesend area M&D matches the fares of Kentish Bus. Finally, in Maidstone current fares are some 25 per cent lower than those based on the standard mileage scale. M&D had matched the fares of Boro'line when it had expanded its operations in Maidstone.

3.79. M&D was not able to state what proportion of its current fares deviated from the standard mileage scale. The variations within the Sittingbourne, Gravesend and Maidstone areas suggest that the standard mileage scale is a misleading way of describing the company's approach to its pricing policy. M&D agreed that, were it to begin a pricing policy afresh, it might try to base fares not on distance travelled but on the time spent on a bus journey. The current mileage scale was a crude proxy for the time spent in bus travel due to the pressing problem of urban traffic congestion in Maidstone, the Medway towns and Tunbridge Wells.

Fare levels

3.80. M&D was unable to state how its average fare level in terms of pence per mile for short journeys compared with the national average as calculated by DOT. DOT calculates fare levels for three short lengths of bus journey between 1 mile and 9.9 miles for three different parts of the country—London, metropolitan areas and, thirdly, the rest of Great Britain—based on a sample of operators in each of those areas. M&D's standard fares in November 1991 were higher, in terms of pence per mile, than these three averages for these short lengths of bus journey. It told us that it regarded the national averages that portrayed a typical provincial bus company as being inapplicable for comparison with its own operations. M&D considered that, because its operations were affected by proximity to London, heavy traffic congestion and major towns as well as rural services into the High Weald, it was not easy to suggest an appropriate comparator.

Fares increases

3.81. M&D increased its fares in the first week of January in each of the years 1986 to 1990. In July 1990 some fares were increased but the majority remained unchanged. However, the sharp increase in diesel prices caused by the Gulf crisis led M&D to bring forward a fares increase to start three months earlier than intended. Some fares were raised three times during 1990. M&D has since taken October as the month for its annual fares increase.

3.82. M&D did not have information on the actual number of passengers who paid each of the 33 fares in its current fares structure. Thus it was unable to calculate a weighted average fare which could be compared with the average figure calculated by DOT. Nonetheless M&D calculated an unweighted index of fares which is shown in Table 3.2. On the assumption that it is representative of all the company's fares, this index suggests that the increases in M&D's fares have been in line with the national average.

TABLE 3.2 Index of fares increases by M&D since 1985/86

	M&D	England average
1985/86	100.0	100.0
1986/87	106.8	111.4
1987/88	113.0	118.0
1988/89	120.3	125.6
1989/90	131.8	136.3
1990/91	149.8	150.4
1991/92	166.6	164.0

Source: M&D and DOT *Bus and Coach Statistics 1991/92*.

Information provision and marketing

M&D

3.83. M&D has a number of travel shops and other information points throughout the reference area. All of these outlets stock the full range of free-of-charge timetable leaflets. Changes in services are made known in new leaflets and posters in the travel shops and are also advertised in the company's buses, in the form of window bills, and via press announcements.

3.84. The company has, since December 1989, operated a 'hotline' passenger enquiry telephone service which is open from Mondays to Saturdays. It also provides timetable cases at main bus stops and termini which contain details of its services on particular routes. M&D told us that in the financial years 1990/91 and 1991/92 the expenditure incurred on timetable leaflets, window bills and timetable cases, together with staffing its travel shops and 'Hotline' service, amounted to about £250,000.

3.85. M&D said that since 1986 the company had experienced difficulties regarding the provision of information concerning the services of other operators. Some bus users expected M&D, as the major bus operator, to be the source of timetable information on all services in the locality. M&D told us that, whilst it was not convinced that the majority of bus users expected the company to provide information on all local bus services, it was now willing to improve the information available to bus users.

3.86. M&D said that its current policy was to include information in its timetables on other operators' tendered and complementary services where these existed and where requested to do so by either the local authority or the relevant bus operator. However, M&D said that it was not prepared to display information relating to other operators' competitive commercial services. M&D told us that it had not received any approach for access to its timetable cases for competing commercial services. It would consider access for any complementary commercial services upon

payment of a reasonable fee and on the understanding that M&D had no responsibility for the accuracy of any information displayed. Similarly the company said that it would be prepared to allow access by other operators to its own bus-stop poles subject to agreement on the information presented and on payment of an agreed reasonable fee.

Kent County Council

3.87. Since deregulation, information provision and marketing of bus services within the reference area has been undertaken by bus operators, although KCC has also played a part. Problems have arisen because operators will not always display details of competing bus services. As a result, in towns where there is more than one operator there would have been no comprehensive timetable information unless KCC had taken action.

3.88. Soon after deregulation KCC identified the need for comprehensive local bus and rail timetables and has distributed 103,000 copies since 1990 on a house-to-house basis within the reference area. Its 1992 *Public Transport Guide* lists all bus operators within the county and identifies their services on a large-scale map of Kent. A booklet, *Kent 1992 Sunday Bus Guide*, gave details of all bus services operating on Sundays and many public holidays in 1992. Most of the services included in this booklet were operated as tendered contracts by local bus operators on behalf of KCC. KCC told us of a number of instances when a bus operator, on losing a tendered contract, had given misleading information on the continuation of the tendered service. For example, KCC drew our attention to a window bill for M&D's service 138 from Borstal to Warren Wood from 8 February 1993. This stated: 'Would customers please note that, due to lack of use, Bus 138 will no longer run'.

3.89. KCC told us that it had experienced more co-operation from East Kent and Kentish Bus, as major operators, in giving details about the complementary or competing services provided by other operators than it had from M&D.

3.90. No individual operator controls bus stops as they form part of the public highway. A large number of bus-stop poles are owned by M&D. KCC has complained that M&D has been unwilling to allow either KCC itself or individual operators to put company name flags or timetable cases on these poles. KCC referred us to a situation in 1988 when it had felt obliged to duplicate bus-stop poles and timetable cases on tendered services 206, 239 and 291 in Tunbridge Wells because M&D had refused access to its own poles following the loss of the contract.

3.91. Bygone claimed that it had experienced a number of difficulties in getting adequate information displayed about its services in the Maidstone area. It said that its timetables had not been accepted for display in the timetable cases owned by M&D. There had been instances where timetables had been removed or defaced when placed in MBC timetable cases in Maidstone. Bygone also said that it had found difficulties in 1992 in getting its name flag displayed on bus-stop poles in the Chequers Centre in Maidstone.

Quality of bus services

Aspects of quality

3.92. The quality of bus services is important to bus passengers since there are a number of attributes which can be crucial in the decision whether to use a particular bus service or to use an alternative mode of travel or even not to make a journey at all. Quality can be defined as including service frequency, service reliability, design of routes so as to minimize walking time to and from bus stops, and journey time. Bus operators have come to make greater use of minibuses in recent years and these vehicles highlight other aspects of service quality such as comfort, the extent of crowding of passengers, space available for luggage and shopping, cleanliness and the extent of driver friendliness to passengers who travel in small buses rather than double-deckers.

Minibuses

3.93. We were told that minibuses had advantages for both passengers and bus operators. By running a minibus frequently a bus operator makes it less necessary for passengers to know a precise time when a service is due. Minibuses present a modern image for an operator in contrast with double-decker buses that may be regarded as outmoded in some areas. Drivers of minibuses are in much closer proximity to passengers than drivers of double-deckers, allowing a better relationship with those who patronize a service.

3.94. For a bus operator minibuses have major advantages compared with big buses. Their capital costs are much less (about one-third of that of a double-decker bus), and they have lower fuel consumption and much reduced maintenance costs. Minibuses permit hail-and-ride services to operate in residential areas, thus avoiding the need to join a service at a bus stop.

3.95. M&D told us that since June 1986 it had progressively introduced 93 minibuses into its network of services.

Evening and weekend services

3.96. In July 1987 M&D withdrew many of its commercial evening and Sunday services. However, the majority of the routes continued with a service subsidized by KCC.

Frequency and traffic congestion

3.97. The entry of bus operators such as Bygone and Turners into the bus market in Maidstone in 1990 offered an increase in the number of local services operating to and from the town centre. However, the competition between these new entrants did not result in an even frequency of bus departures. Competition has often taken the form of a small operator introducing an additional service on some routes operated by M&D. M&D has responded by adjusting its timings and/or registering additional journeys. Bus operators act in the belief that the first one to the bus stop will take most of the available custom.

3.98. M&D's decision in October 1991 to register services into Maidstone to compete with Boro'line (and coincidentally with Bygone) inevitably had implications for the use of bus stops in Maidstone town centre. M&D had anticipated this and initiated a meeting with the County Constabulary prior to the commencement of its Maidstone service in December 1991. In the light of M&D's decision, the Public Transport Officer of MBC, in conjunction with the Public Transport Planning Manager of KCC, expressed concern that a significant increase in buses attempting to use these stops would exacerbate the problem of congestion in Maidstone. The borough council circulated a statement by the County Constabulary that the police were already concerned about the 'laying over' of buses on bus-stop clearways in Maidstone. The Constabulary said that it was aware that a lay-over by one operator deprived another operator of access to a bus stop. Furthermore, there was added danger for passengers who had to leave or join a bus away from the kerbside. In October 1992 the police introduced a system under which operators were not allowed to take extensive lay-overs on town centre stands, even if these were provided for in their registered timetables. Although matters improved, complaints have continued into 1993. M&D, with more buses on the road than its competitors, contributes most to the usage of the stands; it has, however, carried out a survey which shows that its competitors have longer lay-over times at the town centre stops.

3.99. Congestion is also a problem in Maidstone beneath the Chequers shopping centre. The road is privately owned by The Stoneborough Trust, owner of the Chequers shopping centre. MBC's former subsidiary, Boro'line, and M&D were the only users of the Chequers bus road before deregulation. Since 1986 other operators have come to use the bus road for picking up and setting down passengers. As a result access is sometimes difficult due to the high level of bus movements. The owner has told us that it proposes to introduce improved arrangements.

Competition for local authority tendered services

KCC's policies toward tendered services

3.100. Within the reference area the responsibility for tendered services, which are considered socially necessary but commercially unsuccessful, lies with KCC. KCC estimated that about 20 per cent of local bus mileage within Kent was operated under tendered contracts. The number of passenger journeys on contracted bus services is currently about 6 million per year and the annual cost of supporting these is just over £3 million. KCC holds contracts with nearly 30 different bus operators, although not all of these operate within the reference area.

3.101. The County Education Department spends over £14 million a year in providing statutory free transport daily for 38,000 schoolchildren and students attending colleges of further education. About half of this number using local bus or rail services in the area are allocated scholars' season tickets by KCC. These scholars and students provide a substantial element of the peak-hour passenger traffic on weekdays. The remaining half travel to school by school transport under contracts specially organized and tendered by KCC.

3.102. In addition to providing tendered services and school transport contracts, KCC manages the concessionary fare scheme for the elderly and disabled.

3.103. KCC has a system of priorities in allocating tenders. Rural, inter-urban services, journeys to work, to school, for medical reasons and for shopping take precedence over evening and Sunday services. In assessing the priorities for the support of local bus services, rural areas take precedence over those in more urban situations where some alternative facilities remain available within reasonable distance. The maximum subsidy level is £2.00 per passenger journey. However, with county council member approval this figure can be exceeded when the bus service is the only public transport link available to a rural community. If KCC withdrew all financial support for the provision of local bus services, then virtually no evening or Sunday bus services would operate within the reference area. Much of the rural hinterland of Gravesham, Sevenoaks, Tunbridge Wells, Tonbridge & Malling, Maidstone and Swale would be without services on weekdays.

3.104. For each tender KCC specifies the service level to be provided, including times of journeys. Tenderers must submit bids on this basis but may, in addition, put in alternative bids (operator proposals) including a package of tenders where the bidder offers a lower price for a combination of tenders (see paragraph 3.113). Tenderers may offer to run the proposed tendered service on a different timetable or provide additional journeys if they judge that these alternatives could offer better value for money for KCC and improve the operator's efficiency. KCC specifies the maximum fares scales to be charged on tendered services. It requires that, where a return ticket is purchased for an outward journey on a commercial route, it is valid for acceptance on a return journey on any tendered services on the same route.

3.105. Most contracts for KCC-tendered services are awarded for three or four years. KCC invites proposals for two types of contract, fixed price and revenue guarantee. In the case of fixed-price contracts an operator needs to quote the cost of providing the service after taking into account the revenue likely to be obtained in operating the route. In these contracts KCC provides an estimate of the revenue which could be earned on the service. The successful operator retains all the revenue and invoices KCC each month for one-thirteenth of the annual fixed price quotation. In the case of revenue guarantee contracts bus operators quote the cost of providing the service ignoring any revenue that may be earned. The successful operator invoices KCC for the difference between the actual revenue collected and one-thirteenth of the annual quotation. A recent change of policy now limits the revenue guarantee contract either to experimental services or those where changes are so substantial as to make revenue predictions difficult.

3.106. KCC told us that it had encouraged new and small bus operators to bid for tenders. It had introduced revenue guarantee contracts under which KCC shared the risk if revenue fell short of that expected, to encourage bids from small operators. However, the great majority of its contracts were fixed-price contracts since in these cases the operator rather than KCC bore the revenue risk.

KCC's experience of competitive tendering

3.107. The first tendered contracts after deregulation were issued in 1986 and expired in November 1987. The second round of tenders was issued in May 1987 for contracts to commence at the end of November 1987, usually lasting over three or four years.

Medway

3.108. In the first round of contracts, M&D was able to win a large number without encountering much competition in tendering; indeed, in some cases it was the only bidder. KCC found that small operators were more willing to bid for daytime contracts than for evening and Sunday services. Hence M&D operated many of the tendered evening and Sunday services for KCC after July 1987 in lieu of the commercial services on those routes which it had previously deregistered. As a result, M&D introduced a second service number, denoting a KCC tender, on several of its routes when the contract augmented the commercial service. For example, the 612 is the tendered service from Maidstone to Tenterden; the 12 is the commercial service.

TABLE 3.3 Results of tendering in the Medway area

	Contracts commencing on:		
	26.10.86	30.11.87	31.3.91
<i>Number of</i>			
Fixed price contracts	26	46	35
Revenue guarantee contracts	6	5	2
All contracts	32	51	36
<i>Total number of bids</i>			
All contracts	111	162	140
<i>Average number of bids per contract</i>			
All contracts	3.48	3.18	3.89
% of net value of contracts for which there was only one bid	4.40	20.50	3.10
Average ratio of maximum and winning bids	2.94	2.35	3.10

Source: Transport Research Laboratory Contractor Report 346, 1992.

3.109. When the third round of invitations to tender was issued in 1991, M&D encountered much greater competition. One hundred and forty bids were received for the 36 tenders issued. M&D won 16 of the contracts and these accounted for 74 per cent of the value of all contracts. Other successful tenderers were Transcity Link Ltd (Transcity), Boro'line, Grey-Green, Always Travel and Brian Jones Coaches.

3.110. Table 3.4 shows the extent of KCC support for local bus services in the Medway area, with details for the nine operators currently contracted to supply 44 services for KCC.

TABLE 3.4 Local authority support for local bus services in the Medway area by operator, April 1991/92

Operator	Number of contracts		Cost of contracts (£ pa)		Total cost
	FP	RG	FP	RG	
Mercury	1	-	17,920.00	-	17,920.00
Allways Travel	2	-	34,250.00	-	34,250.00
Boro'line	2	-	14,447.00	-	14,447.00
Brian Jones Coaches	-	1	-	29,138.00	29,138.00
Grey-Green	2	1	12,449.00	7,800.00	20,249.00
M&D	30	-	308,507.00	-	308,507.00
Rede Court Minibuses	1	-	3,500.00	-	3,500.00
Shearings	1	-	65,000.00	-	65,000.00
Transcity	3	-	42,504.00	-	42,504.00
Total	42	2	498,577.00	36,983.00	535,560.00

Source: As Table 3.3.

Note: FP = fixed price contract; RG = revenue guarantee contract.

3.111. As Table 3.4 shows, the number of small bus operators bidding for tenders has increased since 1986. It is now very rare for M&D to be the only bidder, as was often the case immediately following deregulation. Competition between operators has ensured that tender prices in real terms have declined. KCC said that it was satisfied with the keen competition that now occurred when it invited tender bids. As a result of this keen competition, it had been able to contain the cost of maintaining the provision of socially necessary local bus services within the reference area.

3.112. The 1985 Act placed a duty on local authorities, when tendering services, not to inhibit competition. The DOT circular providing guidelines on how the Act should be interpreted suggests that, in some circumstances, a local authority can issue a tender which increases the frequency of a bus service. In practice, such an enhancement of a commercial service is rare and is brought about more often under the *de minimis* provisions of the 1985 Act. KCC, like other local authorities, is wary of enhancing the frequency of existing commercial services because the distinction between the two types of service, commercial and tendered, becomes blurred.

3.113. KCC acknowledged that a large operator like M&D had some advantage over smaller operators, by its ability to submit a package of multiple tender bids. However, this advantage was most relevant only on the principal town networks where a large operator could 'package' a number of tender bids to pass on some of the economies that could be secured by a simultaneous interworking of services on several routes. For the rural areas, multiple bids were less relevant since individual routes were not usually capable of being linked to the same extent with other services. Small operators were therefore on a more equal footing with large operators when tendering for the more rural services.

M&D's policy towards tendered services

3.114. M&D told us that it bid for all tendered services in its area of operations. It said that its bids for tendered services were priced to fully recover the direct operating costs of the service, plus a share of depot and overhead costs. KCC tenders now account for a smaller proportion of M&D's turnover than in the first year after deregulation. Since 1986 M&D has lost a number of the contracts as they have come up for renewal. During 1991 and 1992 M&D calculated that it was successful in respect of 54 per cent of the total number of tenders it submitted to KCC.

3.115. M&D told us that its general policy was not to register commercial services to compete with tendered services under KCC contracts awarded to other operators. M&D stated that it had never registered in competition with a tendered service when it had been unsuccessful with its own quotation despite the successful tenderer thereby abstracting some revenue from M&D's commercial services. M&D provided details of those three instances where it had made an exception to its general policy not to compete with tendered services of other operators.

3.116. In November 1987 KCC awarded a tender to M&D for service 148/150 operating every two hours from Chatham and Maidstone to Tunbridge Wells. The service was of significance to M&D since a large number of its commercial services operated in each of the three towns linked by this service. In 1989 M&D lost the tender to a small bus operator, Raff Car Hire Limited, trading as Autoreps Coaches (Autoreps). KCC then received a request from M&D that picking-up and setting-down restrictions be imposed on the service in order to minimize the KCC-subsidized competition for its own services. KCC refused this request on the grounds that, although operators had changed, the public should still benefit from the same level of facility as previously. M&D took no action notwithstanding its concern. As with other tendered services, Autoreps operated the service from the Pentagon Bus Station in Chatham. Autoreps then ceased trading in October 1990 and overnight KCC awarded the tender to M&D on an emergency basis to ensure continuity of service. In December 1990 M&D lost the tender for this service to Shearings following a full retendering exercise by KCC which also included service 142 as part of the new contract. The latter service had long been seen by M&D as competing with its commercial service 145 from Chatham to Warren Wood. In April 1991 Shearings decided to compete with M&D's tendered service 294 between Southborough and Tunbridge Wells. In response M&D registered additional journeys on its service 142 in May 1991. It did not compete with service 148/150.

3.117. In 1991 Shearings wished to withdraw from local bus operations following its acquisition by Mecca Leisure Holidays Ltd (Mecca), part of the Rank Organisation plc. Shearings approached M&D, requesting the company to purchase the Shearings bus fleet. M&D acquired the vehicles and then, with the consent of KCC, took over the operation of existing tendered services 142, 148/150 and 285 on the same terms as those quoted by Shearings in December 1990. At that time M&D had quoted well above the Shearings successful bid and this helps to explain why the contract is currently unprofitable to the company.

3.118. In April 1991 Nu-Venture Coaches Ltd (Nu-Venture) began to compete on M&D's commercial service 71 between West Malling and Maidstone. Nu-Venture registered five journeys which it numbered service 80. In June 1991, M&D introduced a commercial service of two off-peak journeys on the route of the tendered service 68 operated by Nu-Venture. M&D terminated this service in September 1991 as being financially unsuccessful. In the following month Nu-Venture adjusted the route of its service 80 with the effect that it was now less in direct competition with M&D's service 72.

3.119. In all of these cases M&D regarded its commercial registrations as no more than competitive responses to initiatives from other operators.

3.120. M&D said that a further instance where it took exceptional action by registering services against KCC tenders was in respect of contracts won by Mercury. After Mercury had registered against M&D's 191 commercial service, M&D registered its commercial services 113/114 and 151 to commence on 2 March 1992 against Mercury's tendered services on this route. M&D had been concerned that these services had been abstracting revenue from its existing commercial services. M&D considered that the financial performance of its 113/114 and 151 services was unsatisfactory and withdrew these in January 1993.

Competition between tendered services and commercial services

3.121. Competitive action by a bus operator against contracted services can place a county council in a difficult position. The county council does not wish to subsidize a service if there is some evidence that a route is capable of being run on a commercial basis. On the other hand, if a commercial operator undermines the tendered service by running ahead of it and the county council then terminates the contract, there is no guarantee that the commercial service will continue. If the commercial service is indeed deregistered then a county council is under an obligation to reissue a tender. Some contractors may be discouraged from bidding by the experience of the previous holder of the tender. Difficulties for county councils are also caused when commercial operators only provide selected journeys on a tendered route, making the remaining facilities even more difficult to let for contract.

3.122. In 1986 M&D decided that its service 58 from Trottiscliffe to Maidstone was not viable and so KCC sought a tendered service for this route. Farleigh Coaches and Nu-Venture formed Farleigh Venture Bus to bid for a one-year contract and was successful. M&D told us that service 58 abstracted revenue from its London Road service. The two-hourly tendered service 58 began in October 1986. In March 1987 Farleigh Venture Bus introduced its commercial service 258 to supplement tendered service 58 and provide an hourly service on London Road, increasing the abstraction on M&D's service. M&D introduced a commercial service 58 in April 1987. Most of its journeys were timed to run five minutes in front of the tendered service only. Given that M&D had previously decided to withdraw its commercial service, in this case KCC sustained the contract with Farleigh Venture Bus. KCC considered that M&D had engaged in retaliatory action.

3.123. In October 1987 KCC invited tenders to continue the service and Farleigh Venture Bus was again successful. However, KCC was concerned at continuing to support a contract in the face of a prolonged commercial registration. KCC had been told by M&D that it would abandon its commercial service 58 if Farleigh Venture Bus ceased to operate its 258 service from Larkfield to Maidstone which competed with M&D's London Road services. This information was made known to Farleigh Venture Bus which, as a result, decided to withdraw the 258. M&D subsequently withdrew its service 58.

3.124. KCC told us that in 1992 it had invited new tenders for services 310/317 from Meopham to Gravesend. M&D had been the previous contractor but its tender was higher than those of Mercury and Wealden Beeline (the trading name of Wealden PSV Ltd). Having decided to award the contract to Mercury, the lowest tenderer, KCC found that Wealden Beeline had then registered part of the route commercially. Kentish Bus also decided to offer a commercial service on another part of the route. KCC was then left in the position of having to retender a completely fragmented service.

3.125. M&D told us that in November 1992 KCC invited tenders for service 78 from Banky Meadow to Maidstone via Beverley Road. Nu-Venture had been the previous contractor. The contract was awarded to Mercury but subsequently Nu-Venture commercially registered the same journey.

3.126. KCC does not as a general principle wish to impose passenger picking-up and setting-down restrictions on its tendered services. Its policy is that the best possible level of service should be provided to the travelling public. It has resisted requests from M&D to limit the number of stops on tendered routes where these are the same as commercial routes. M&D told us that where a tender enhanced the frequency of a commercial service, it might mean that the commercial operator lost some revenue to the contractor. M&D felt that its interests could be protected if the number of stops on the commercial route were limited. KCC said that it devised the route and timing of tendered services with great care so as to safeguard as much as possible the legitimate interests of those providing commercial services. However, because of complex networks some duplication of route was unavoidable.

Competition in commercial services

3.127. Earlier in this chapter we described how M&D was the major operator within the reference area at the time of deregulation. The company has faced very few new competitors since 1986 and those that offered new services found M&D quick to respond. Both Roseway Travel in 1987 and Allways Minibus Services (which later became Allways Travel) in 1990 introduced services on M&D routes but withdrew within a few months of additional journeys being offered by M&D. Paragraphs 3.34 to 3.40 discussed the changing relationship between M&D and Boro'line between 1985 and 1991. M&D did not challenge Boro'line directly within the Maidstone area when the Maidstone Coordination Agreement (see paragraph 3.34) was ended. M&D ran services on the major roads into Maidstone and left Boro'line to supply services to housing estates within the area of the town. However, when M&D decided to register most of the routes operated by Boro'line as from 2 December 1991, keen competition developed between the two operators and coincidentally between them and the two new entrants to the local bus market, Bygone and Turners. In addition M&D experienced competition from Mercury and Boro'line on some of its routes based on Chatham. This competition manifested itself in an enhancement of bus frequencies, adjustments in the timing of bus

departures, unregistered buses, selective fare cuts on some journeys and complaints that operators would deny their rivals access to bus stops. We now describe these dimensions to competition in turn, beginning with changes in the frequency and timing of buses on individual routes. For each of these routes Appendix 3.3 gives full details of these bus times, together with a route map, a summary of competitive activity on the route and figures for revenues, costs and profit or loss.

Frequencies and timings on individual routes

Routes in the Maidstone area

(a) Service 82/83 (see Appendix 3.3)

3.128. Bygone began to operate in Maidstone on routes hitherto served by Boro'line in September 1990. Only in a limited part of the Maidstone area did Bygone, during its first year of operation, run over routes served by M&D.

3.129. As from 4 November 1991 Bygone ran 16 journeys each day on weekdays between Maidstone and Park Wood. Turners ran one journey. Bygone then encountered competition from M&D as from 2 December 1991 as a result of M&D registering on many of the routes operated by Boro'line. M&D operated at 15-minute frequencies during the day, totalling 45 daily journeys. M&D's fares were the same as those of Boro'line but were higher than those charged by both Bygone and Turners.

3.130. Following Bygone's decision to introduce its service 12 on 15 July 1992 along part of the route of service 82/83 (see paragraph 3.149), M&D added a further 18 journeys to its existing timetable as from 21 August. On these extra journeys M&D matched the 50p Bygone fare. Appendix 3.3 shows that M&D timed 13 of these extra journeys to run three minutes before the departure of the Bygone service from the Queen's Monument in Maidstone and one journey three minutes ahead of Turners' service.

3.131. As from 9 October 1992, Bygone increased the frequency of its journeys such that it offered a half-hourly service totalling 26 daily journeys. M&D stated that, in addition, Bygone's service 12 which ran from Maidstone via Park Wood meant that it now provided 35 journeys. Bygone runs six such journeys and three journeys to Hollingbourne, which run via Park Wood. Bygone numbers this service 12B.

3.132. On 21 September 1992 M&D registered amendments to its service which, after 42 days' notice, were due to come into operation as from 2 November. However, the company actually began to operate 23 further journeys as from 12 October (see paragraphs 3.164 to 3.169). The 18 additional journeys commenced on 21 August were withdrawn, so the net increase in provision was five journeys per day. M&D charged the same fare as Bygone on the 23 extra journeys only. On 21 of these extra journeys the M&D bus was due to leave the Queen's Monument three minutes earlier than the Bygone bus. The 14.38 departure was two minutes ahead of the Bygone service.

3.133. In November 1992 the two operators ran 94 daily journeys between them from Maidstone to Park Wood, of which Bygone ran 26 and M&D 68. As from 29 November 1992 M&D revised its timetable such that it operated 69 daily journeys. Bygone had revised its timetable to run 29 journeys. On the 23 journeys which had been run unlawfully and departed ahead of the Bygone service, fares continued to be as those charged by Bygone. Fares on the majority of journeys operated by M&D were 10p higher than Bygone's for most destinations in Maidstone. Twenty-seven of the 29 Bygone departure timings were closely preceded by an M&D departure.

3.134. Following complaints by Bygone and Turners about the running of unregistered services by M&D, the Traffic Commissioner for the South Eastern and Metropolitan Traffic Area (SEMTA) held a two-day public inquiry in January and February 1993. On 19 February the Traffic Commissioner announced his decision in which he barred M&D from making any changes to the 82 and 89 services,

as both currently registered, and from introducing any new registered local bus services on both of these two routes until 6 June 1993. In addition the company was barred from running five journeys on the 82 service on weekdays and eight journeys on Saturdays.

3.135. M&D subsequently registered changes to its timetable for services 82/83 (and also 85 and 89), to come into effect as from 7 June 1993. The following table shows the number of journeys in the new timetable compared with previous timetables.

TABLE 3.5 Number of journeys by M&D and Bygone on weekdays, service 82/83, Maidstone to Park Wood

	Number of journeys*	
	M&D	Bygone
2 December 1991	45	17
21 August 1992	63	17
9 October 1992	-	26
Operated from 12 October but registered from 2 November 1992	68	-
29 November 1992	69	29†
7 June 1993	49	27†

Source: MMC based on data from M&D.

*Excluding tendered services.

†This figure excludes nine journeys on Bygone's service 12 on this route (the 12 and 12B).

3.136. As Table 3.5 shows, M&D's current timetable now totals 21 fewer journeys than was the case with the previous timetable. The new timetable incorporates a quarter-hourly service between 11.00 and 16.00. Thus 20 journeys now run during this five-hour period whereas under the previous timetable there were 30 journeys. In the new timetable the majority of M&D's departure times from Maidstone precede those of Bygone by four minutes or less. On the return journey from Park Wood, 15 of Bygone's departure times precede those of M&D by four minutes.

(b) Service 85 (see Appendix 3.3)

3.137. In April 1991 Bygone operated eight journeys on weekdays between the Queen's Monument in Maidstone and Senacre Wood. As from 4 November 1991 Bygone enhanced its service to 14 daily journeys.

3.138. M&D introduced a service every 15 minutes as from 2 December 1991 as part of its registration of the Boro'line services in Maidstone. Forty-five journeys were then made by M&D each day. Seven further journeys were added as from 29 March 1992. A further nine journeys were added to the timetable on 21 August 1992 with seven of the timings being three minutes ahead of the Bygone bus departure. Bygone made some amendments to its timetable on 9 October 1992 having the effect that five of its buses preceded an M&D departure by one minute. M&D registered nine additional journeys to operate on the 85 service as from 2 November 1992, but they actually began running on 12 October. The nine additional journeys which commenced on 21 August were simultaneously withdrawn, so there was no increase in provision by M&D. Six of these extra journeys were timed to start from the Queen's Monument three minutes before a Bygone departure. The 07.18 departure ran two minutes ahead of the Bygone departure. The 09.05 preceded a Bygone departure by five minutes. One of M&D's departures (17.17) was timed to depart from the Queen's Monument one minute after the Bygone departure. On all these extra buses M&D reduced its usual fare to that charged by Bygone. After some revisions to its timetable on 29 November 1992 M&D was operating 60 journeys per day, eight more than it had done eight months earlier.

3.139. In June 1993 M&D revised its timetable for service 85. The following table shows the number of journeys in the new timetable. Most of M&D's departure times are just ahead of those of Bygone.

TABLE 3.6 Number of journeys by M&D and Bygone on weekdays, service 85, Maidstone to Senacre Wood

	Number of journeys*	
	M&D	Bygone
2 December 1991	45	9
30 May 1992	52	9
21 August 1992	61	12
Operated from 12 October but registered from 2 November 1992	61	
29 November 1992	60	12
7 June 1993	54	13

Source: MMC based on data from M&D.

*Excluding tendered services.

(c) Service 89 (see Appendix 3.3)

3.140. In November 1991 Bygone ran five journeys on this route between Maidstone and Coxheath. Turners ran two journeys on this route. As from 2 December 1991 M&D ran 25 daily journeys with departure times which related to those of Boro'line but were not close to those of Bygone. Five journeys were added on weekdays as from 21 August 1992 at times which did precede those of Bygone. In one case the M&D bus left six minutes earlier, and in another case one minute prior to the Bygone departure. The three other departure times were four minutes ahead of Bygone's. On all these five additional journeys the usual M&D fares were reduced to match those charged by Bygone and Turners.

3.141. Bygone and Turners between them increased the number of journeys as from 2 October 1992 to a half-hourly frequency such that between them they totalled 25 journeys to Coxheath, only four of which were run by Bygone. The revised timetable did not include times which were close to those of the M&D departures (seven were within eight minutes of M&D). However, M&D responded on the following day in two ways: as from 3 October 1992 it introduced half-price fares for one month; it also introduced 20 further journeys, with 18 timings three minutes ahead of the revised Bygone and Turners timetable. The five additional journeys which commenced on 21 August were simultaneously withdrawn, so there was a net increase in provision of 15 journeys per day. These journeys began to operate as from 3 October even though, like those on the 82/83 and 85 service, they were not registered to run until 2 November 1992. As at 29 November 1992, with a somewhat revised timetable, M&D ran 45 daily journeys of which 20 journeys ran five minutes or less ahead of either a Bygone or Turners departure.

3.142. As indicated above, the Traffic Commissioner in February 1993 barred M&D from making any changes to its 89 service, as then currently registered, and from introducing any new registered local bus services on this route until 6 June 1993. In addition four journeys on the 89 service departing daily from Maidstone were barred, as were seven journeys from The Bell, Coxheath, in the reverse direction.

3.143. As a result of its revisions to the timetable in June 1993, M&D reduced the number of journeys to Coxheath by seven. Table 3.7 shows the changing number of bus movements since 1991 on this route. M&D's new timetable means that most of the Turners bus departures at 31 minutes past the hour are three minutes later than M&D departure times.

TABLE 3.7 Number of journeys by M&D and Bygone and Turners on weekdays, service 89, Maidstone to Coxheath

	Number of journeys*	
	M&D	Bygone/Turners
2 December 1991	25	7
21 August 1992	30	7
2 October 1992	-	25
Operated from 3 October but registered from 2 November 1992	50	-
29 November 1992	45	25
7 June 1993	38	25

Source: MMC based on data from M&D.

*Excluding tendered services.

M&D's additional journeys on services 82, 85 and 89

3.144. M&D was able to increase the frequency of service on these routes as a result of transferring nine drivers from its Gillingham depot to Maidstone. With these drivers M&D created another keyline, or roster. M&D told us that the term 'keyline' actually referred to an individual week of work for a driver. These keylines are grouped together to form rosters. M&D explained that by allocating the extra resources on these routes to a separate roster, it avoided disturbing the main rosters of drivers' duties. It was able to respond to the competition from Bygone and Turners on these Maidstone-based routes without altering the existing four rosters which, between them, contained 96 drivers. The additional 82/83, 85 and 89 roster contained nine drivers. In addition, the new roster could compete with Bygone and Turners on the basis of lower matching fares on additional journeys whilst maintaining the basic even frequency timetables intact. Further responses to competitive service changes could thus be confined to the new roster, avoiding extensive rescheduling of services and drivers.

3.145. M&D believed that a further advantage of creating this roster was that, on all of the journeys on services 82/83, 85 and 89 included in it, the lower matching fares were charged. The drivers were able to display the selective reductions on stickers affixed to bus windows without risk of the stickers being inadvertently left in place on services or journeys not subject to the lower fares.

3.146. A disadvantage of creating this roster was that the drivers involved had no variation from a wholly urban-based routine. The roster was therefore staffed by volunteers from the other Maidstone rosters. The drivers volunteering were replaced by drivers, surplus at the time, transferred from M&D's Gillingham depot. The existence of these surplus resources at Gillingham was a major contributory factor, as M&D saw it, to responding to competition in the Maidstone area as it did.

(d) Service 4/5 (see Appendix 3.3)

3.147. The Maidstone to Hastings route is one on which M&D has a long-established service. In June 1991 M&D ran 14 daily journeys from the Chequers Centre, some of which ended at Hawkhurst. Bygone registered six journeys to begin as from 28 September 1992 and run to Cranbrook. All Bygone departures were between 5 and 12 minutes ahead of M&D's. M&D responded instantly with six extra bus journeys operating from the first day of Bygone's entry on to this route and at fares to match those of Bygone. It did so even though the registrations for these extra journeys were not due to become operative until 2 November 1992. Four of these six journeys were due to leave the Chequers Centre two minutes ahead of the Bygone departure time.

3.148. Bygone told us that in the light of these timings it had found that its service attracted too little custom to be viable and that in December 1992 it had withdrawn from this route.

(e) Service 12 (see Appendix 3.3)

3.149. The Maidstone to Tenterden route is another on which M&D has a well-established service. It ran, in September 1991, 13 journeys from the Queen's Monument each weekday. Bygone offered an alternative service on this route as far as Headcorn as from 15 July 1992, when it registered six daily journeys at times which were not close to those of M&D's departures except at peak times (one five minutes ahead of M&D's 07.35 from Headcorn and one eight minutes ahead of its 15.48 from Maidstone). M&D made a counter-registration to operate six extra journeys to Headcorn as from 21 August 1992, each timed to run two minutes ahead of the Bygone departure times. As from 15 December 1992 M&D revised its timetable, eliminating the six extra journeys introduced four months previously, with the effect that none of its 13 departure times were now close to the timings of the six Bygone departures. Bygone also has three journeys on its service 12B from Maidstone which run via Park Wood but the destination is Hollingbourne, not Tenterden.

Routes in the Chatham area

(a) Service 113/114 (see Appendix 3.3)

3.150. As paragraph 3.52 indicated, it was the securing of three tendered services from KCC, including the 113/114 routes from Chatham to Gillingham and Hempstead Valley, that enabled Mercury to enter the Kent bus market in 1991. (The other two services, 151 and 138, are discussed below.) The Mercury 113 left the Pentagon on the hour six times daily bound for Hempstead Valley, whilst the 114 made four journeys in the reverse direction.

3.151. Following a dispute with M&D concerning the use of the Pentagon, Mercury was obliged to operate from Chatham at the existing Military Road bus stop as from 12 November 1991. This dispute is discussed in paragraphs 3.201 and 3.202. In early 1992 Rochester upon Medway Council erected a bus shelter in Military Road to enable Mercury to maintain services from close to the Pentagon and give passengers protection from the weather.

3.152. M&D regarded the two tendered services 113 and 114, together with the 138 and 151, as abstracting revenue from its commercial services. Mercury registered in competition with M&D's commercial 191 service. M&D responded to Mercury's entry on to 191 and to the abstraction by 113/114, 138 and 151 by registering six journeys timed to run three minutes ahead of the Mercury 113 service. To compete with the Mercury 114 service M&D put on four journeys, three of which were timed to run three minutes before the Mercury departure. These services began to operate on 2 March 1992. M&D added a further four journeys to the 113 service and three journeys to the 114 service as from 21 September 1992. However, M&D was not satisfied with the financial position of this service and withdrew from this route on 25 January 1993.

(b) Service 151 (see Appendix 3.3)

3.153. Mercury's tendered service 151 from Chatham to Rochester and Snodland, ending in West Malling, began in February 1992 and operated in conjunction with Allways Travel. Mercury ran six journeys and Allways Travel five journeys. M&D began to compete with this service as from 2 March 1992, which was also the commencement date of its services in competition with the 113/114 services. M&D put on six journeys, all of which ran three minutes ahead of the tendered service which again it regarded as abstracting revenue from its service. From 30 March Grey-Green operated the five Allways Travel journeys, having acquired the company. M&D continued to compete with the Grey-Green/Mercury tendered service until 25 January 1993 when it withdrew from this route.

(c) Service 138 (see Appendix 3.3)

3.154. In April 1991 Mercury secured a tendered service 138 to provide a service to schools, operating from Borstal to Warren Wood. There was one journey each way daily. M&D put on an alternative service as from 21 September 1992 operating earlier than both of the times of the Mercury

bus service (the morning service was 15 minutes and the afternoon service 35 minutes ahead of M&D). Mercury adjusted its timetable on 28 October 1992 to coincide with the M&D departures. It did so with the consent of the Traffic Commissioner in the light of the earlier starting time of the school day. Having matched M&D's timings, Mercury retained many of the passengers on this school service. M&D withdrew its two journeys on 8 February 1993.

(d) Services 191/192 (see Appendix 3.3)

3.155. Until early 1992 M&D's 190 group of services from Chatham to Hoo operated every 20 minutes from the Pentagon Bus Station without facing any competition from another bus operator. M&D ran 45 daily journeys on weekdays and in addition, from 3 February 1992, took over the KCC contracts for seven evening journeys previously operated by Transcity. Mercury began on 25 February 1992 running ten journeys from Hoo Marina to Chatham, five of which ran three minutes ahead of the M&D departure, one of which was four minutes ahead, and one of which ran at the same time. M&D's response was to register nine additional journeys as service 192, all designed to run between one and three minutes ahead of the Mercury service as from 2 March 1992. Two weeks later Mercury withdrew seven of the off-peak journeys but added two further journeys as from 8 September 1992. M&D revised its timetable as from 23 September with respect to five of the nine journeys previously introduced as a response to Mercury. M&D on its 192 service continued to match the fare charged by Mercury but maintained its standard fares on buses within its 190 group operating to the Isle of Grain.

(e) Services 38A/38B

3.156. On 8 September 1992 Mercury introduced two commercial services designed to serve the needs of those travelling from Chatham and Gillingham to the Rochester grammar schools. As with the 138 service one journey was made in each direction on school days only. M&D already offered many services used by pupils travelling from parts of the Medway towns to the Rochester schools and the new Mercury services covered sections of many of these established M&D services.

3.157. M&D's 160 service had operated from April 1991. M&D introduced a new service 159 for school pupils at the start of the new school year on 8 September 1992. M&D told us that it introduced the 159 in part as a response to the competition from Mercury but also because of pupils' changing travel pattern in the Medway towns: as a result of increasing competition for pupils between schools, catchment areas were rapidly becoming wider. Part of its new service competed with the Mercury 38A and 38B services and on these M&D matched Mercury's fares. On 4 January 1993 M&D adjusted the timing of morning services. M&D told us that Mercury, while still registering the 38B service, no longer appeared to operate it.

(f) Service 394

3.158. In September 1992 Mercury introduced a new service linking Grain and Gravesend operating through Hoo, Strood and Chatham. No service linking all these towns was provided by M&D, but the route taken by the Mercury service did compete with some of M&D's 190 group of local services. Mercury's registration on 8 September resulted in its 394 service running ahead of seven separate M&D departures from Grain, Hoo, Strood and Chatham by up to five minutes.

3.159. M&D responded by registering additional journeys over its existing local routes within its 190 timetable group of services. As from 23 September 1992 it revised its timings such that now nine M&D departures ran ahead of the Mercury 394 timings over local sections of route. Mercury deregistered all of its service 394 with effect from 4 February 1993 after the withdrawal by M&D of its 113/114, 151 and 138 services.

Variations of departure times and duplicate services

3.160. Bus operators are allowed to vary the timing of their registered departure times under the PSV Regulations 1986 and 1988. The regulations set out what must be registered or varied and deal with duplicates (without actually using that word) by treating them as a variation of the registration that does not have to be notified to the Traffic Commissioner. A service may be varied by the provision of additional vehicles which are operated over any part of the route of the service and are operated as closely as possible to the timings in the registered timetable.

3.161. M&D said that it interpreted the Regulations to the effect that an operator might vary the timing of an existing journey by up to five minutes from that shown in the registration and that they did not permit the operator to run an additional journey over and above that shown in the registration except where it was appropriate in exceptional circumstances only, eg where there were exceptional peaks in demand, or disruption to services caused by breakdown or severe traffic congestion. Specifically it did not permit two buses to be run when only one was registered except as indicated below. M&D stated that its policy was in accordance with this interpretation.

3.162. Bygone complained to us that M&D was running several duplicate services either side of its own departure times. Bygone claimed that, if one of its buses was scheduled to leave Maidstone Town Centre at 12.08, M&D would duplicate its 12.08 departure by additional buses leaving at one-minute intervals from 11.58. Bygone said that by the time its 12.08 bus departed, it did so simultaneously with the tenth M&D bus departure within as many minutes.

3.163. M&D stated that it did not operate duplicate services and the company did not put extra buses into service when the Bygone services were scheduled to depart. In M&D's view, much of the evidence of Bygone on alleged duplicate services actually related to the unregistered movements of buses which were the subject of the public inquiry by the Traffic Commissioner.

Unregistered buses

3.164. Competition between bus operators since 1986 in the reference area has centred on changes in the frequency and timing of bus departures on individual routes. All changes in bus timings are required to be registered with the Traffic Commissioner, giving 42 days' notice of variations in timetables. In 1992 both Bygone and Turners alleged that M&D was running unregistered services and that there was interference by M&D in the operation of their services. M&D made similar complaints about the behaviour of the two small operators. In the light of this the Traffic Commissioner for the SEMTA called a public inquiry. The two-day hearing took place in the light of a survey made in October 1992 by the Vehicle Inspectorate Executive Agency (VIEA) of bus movements in the Maidstone area. Based on that survey the Traffic Commissioner decided there was *prima facie* evidence that M&D had run buses on routes at times which were not included in its timetables. He also concluded that there was some evidence that M&D might have deliberately interfered with the services of its competitors.

3.165. The Traffic Commissioner was satisfied that the evidence of the VIEA showed that M&D had, between 19 and 22 October 1992, operated 12 journeys on service 82/83 in advance of their registration date of 2 November 1992. On service 89 there was again unlawful early operation of 11 journeys and three unregistered journeys. There was one unregistered journey on service 85 and also one on service 4/5. Seven further journeys on this latter service were made ahead of the registration date of 2 November 1992. The Traffic Commissioner accepted that 11 unauthorized journeys had taken place on service 12 in October 1992 due to a clerical error in registration procedures. In addition eight journeys were made unlawfully on service 89 because M&D assumed that they were included in the timetable registered with the Traffic Commissioner. In practice, due to several sequential amendments to M&D's timetables, the Traffic Commissioner was not in possession of the complete timetable of journeys on service 89. The Traffic Commissioner accepted that there was not a conscious decision by M&D to operate these journeys unlawfully but, nonetheless, in total 54 bus movements on five services were, for various reasons, found to be unregistered.

3.166. The Traffic Commissioner said that he was satisfied that the operation of services in advance of the authorized date was intentional interference by M&D with the operation of a local service provided by another operator. The consequence of the conscious decision by M&D's management to run buses without authority for over one month just before buses run by competitors was clear. M&D's buses picked up passengers who would otherwise have travelled with Bygone and, to a lesser extent, Turners.

3.167. The Traffic Commissioner was of the opinion that it was a deliberate policy of M&D's management to do everything possible to thwart the competition from Bygone and Turners. Evidence for this was the special keyline squad of selected drivers to 'deal with the competition'. The Traffic Commissioner stated that he was 'singularly unimpressed' with the reasons given by M&D's Director of Operations for the creation of this squad.

3.168. Announcing his decision, the Traffic Commissioner said that he could not justify a finding under section 17 of the 1981 Public Passenger Vehicles Act that M&D was no longer of good repute. The unlawful bus movements had to be set against the very large number of registered services run satisfactorily by M&D over a number of years. On balance the Traffic Commissioner decided not to make a determination under section 111 of the 1985 Transport Act such that M&D would lose 20 per cent of all fuel duty rebate payable in respect of all its operations for a period of three months. He considered that a section 111 decision would be too harsh. The Traffic Commissioner decided to impose a number of conditions on M&D's licence to operate during the period between 19 February 1993 and 6 June 1993. These conditions relating to the running of services 82/83, 85 and 89 were described in paragraphs 3.134 and 3.142.

3.169. The Traffic Commissioner stated that his decision was designed to penalize the operator and minimize the effect on the public. While a mere warning to M&D would be insufficient, the prevention of the 82/83 and 89 services from running at all would adversely affect the travelling public.

Selective fare reductions

3.170. Bygone, Turners and Mercury complained to us that M&D introduced lower matching fares that were available only on M&D buses that ran a few minutes ahead of their services. In addition Turners told us that M&D had reduced fares during the whole of the month of October 1992, thus affecting Turners' 189 service. Turners said that on 28, 29, 30 and 31 October, prior to M&D introducing its Marden service on 2 November, M&D made no charge for those using that service from Marden to Maidstone on those dates. (The service was withdrawn on 25 January 1993.)

3.171. In the preceding discussion of how bus operators adjusted their frequencies and timings, reference has been made to M&D making selective fare cuts. On services which were not timed close to a competitor M&D's fares were those based on its standard mileage scale or a variant of it depending on the locality. On the departures leaving Maidstone or Chatham (and on the return journeys) immediately prior to the Bygone, Turners and Mercury services, M&D reduced its fares to equal those of its competitors.

Impeding buses of competitors

3.172. Both Bygone and Turners complained to us that M&D continually blocked bus stops in Maidstone, denying other operators access to pick up passengers and making it unsafe for passengers to disembark. When a bus had to double park in order to discharge and load passengers, further traffic congestion was caused and there was possible added danger to the travelling public.

3.173. M&D acknowledged that severe congestion at the three town centre bus stops existed but that this was in part caused by excessive lay-overs, ie vehicle parking between arrival and departure taken by other operators. M&D pointed out that it had suggested in September 1992 to both MBC and KCC that they should seek a Traffic Regulation Order from the Traffic Commissioner. Such an order would, in M&D's view, eliminate unnecessary waiting time at bus stops, improve the reliability of bus services and help to reduce traffic congestion.

3.174. Allegations of 'blocking' by M&D were considered at the public inquiry held by the Traffic Commissioner. After two days of oral evidence from all parties the Traffic Commissioner said that he was not satisfied that the allegations had been proved. The Traffic Commissioner was not persuaded that there was sufficient evidence to support the other alleged interferences, including various forms of dangerous driving. Much of the evidence relating to these matters was either hearsay or uncorroborated.

3.175. M&D carried out its own survey of all operators' lay-overs at the Queen's Monument and King Street bus stops on three days in February 1993. Its study showed that, proportionate to the number of departures, M&D's buses spent less time taking lay-overs at these two stops in Maidstone than those of either Bygone or Turners.

3.176. We commissioned a study by the VIEA of bus movements during the period from 18 to 26 February 1993. This produced some evidence of blocking of bus stops by all three operators, which were monitored at the High Street, King Street, the Queen's Monument and Park Wood Parade. The VIEA reported that congestion of buses was particularly noticeable on the market day in Maidstone (Tuesday) and on Saturday morning although it was also evident at rush hours on each weekday. The VIEA noted that during the six days of its study M&D appeared to run several buses in close proximity to an authorized service, but it doubted the need for these given the low passenger loadings.

Survey by the VIEA

3.177. As indicated in paragraph 3.176, the VIEA made a study of bus services in Maidstone for the MMC on six days in February 1993. On the routes checked it found that M&D had operated a small number of unregistered services, the majority of which the VIEA judged could legitimately be claimed as duplicates. M&D stated that all the journeys were registered. On their actual timing the VIEA stated that 67 of 139 journeys ran ahead of schedule, whereas 40 were running late. The VIEA pointed out how severe traffic congestion in Maidstone made it difficult to ensure a regular frequency of service from the town centre bus stops.

3.178. M&D stated that in 98 of the 139 bus observations made by the VIEA there were factual errors. Whilst M&D questioned the accuracy of the majority of the VIEA's observations, many of the errors were of a very minor nature. They included a number of occasions when the VIEA did not record completely accurately the registration numbers of some buses. This would seem inevitable when the VIEA's staff needed to obtain bus sightings without revealing their presence to those whom they were observing. It is also questionable whether the absence of a scheduled arrival time in the VIEA report should constitute a factual error. M&D claimed as factual errors the discrepancies between the scheduled arrival times on many of the buses sighted by the VIEA and what were said to be the correct arrival times. The VIEA stated that its recording of scheduled arrival times was taken from current timetables registered by M&D with the Traffic Commissioner. These discrepancies arose due to defects in M&D registration procedures which came to light as a result of the public inquiry held in January 1993. It appears that there was a genuine misunderstanding between M&D and the staff of the Traffic Commissioner as to which services were current registrations and which had been withdrawn. M&D told us that it had now rectified its registration procedures.

3.179. The VIEA stated that 100 of the 139 buses which it had observed were nearly empty or empty. It considered that M&D was running more duplicate services than was necessary. The passenger numbers supplied to us by M&D tend to support the VIEA's observations that some buses were running empty or nearly empty. However, M&D stated that the observations taken by the VIEA at the specific points chosen gave a misleading impression of passenger loadings because buses arriving at the Queen's Monument or King Street had already set down passengers brought into the town. M&D stated that to assess passenger usage it was necessary to take observations at the point where a bus had achieved maximum loadings, not at termini only. M&D provided us with details of tickets issued on those buses arriving in Maidstone, as observed by the VIEA, to show actual passenger usage. These data excluded passengers on these buses who held either season tickets or Freedom tickets. M&D said that it was to be expected that most buses travelling outward from Maidstone during the morning peak would be nearly empty. These journeys were against the predominant flow of traffic in order to be adding to that flow on the next return journey. The same

point applied to buses travelling into Maidstone during the afternoon peak period. M&D stated that it ran no duplicates. M&D said that 70 buses ran ahead of schedule (61 by five minutes or less) and 57 ran late (30 by less than five minutes).

Advertising

3.180. Mercury told us that it had encountered some difficulties in employing a bus advertising agent. It said that its attempts to employ British Transport Advertising (BTA) to sell advertising space in its buses had been blocked by M&D. M&D denied this.

3.181. BTA told us that it had a contract with M&D Advertising, a subsidiary of M&D. It was renewable annually and included an exclusive arrangement for both parties mutually agreed when the current agreement was last renewed. In the light of this exclusive arrangement it was therefore not possible for BTA to act as an agent for Mercury.

3.182. Bygone told us that in May 1993 M&D had put two red buses into service which looked like its own coloured buses. M&D informed us that the two buses were painted in the livery of two car companies, Rover and Citroën, and that their design specifications, colour and logo lettering had been drawn up by Dutton-Forshaw, dealer for both makes of car in the Maidstone area. Dutton-Forshaw told us that no influence had been placed on it by M&D Advertising in connection with these buses. M&D said that, as required by Dutton-Forshaw, the two buses were in service throughout the Maidstone area and were not in any way intended to confuse the travelling public as to the distinction between Bygone and M&D buses.

Barriers to entry

Buses

3.183. The acquisition of vehicles is unlikely to pose a barrier to entry into local bus markets. The initial capital outlay in acquiring buses is not great in relation to the potential turnover from the business and can be reduced by buying second-hand buses or leasing vehicles.

Depot and maintenance facilities

3.184. The non-availability of a suitable garage or depot is unlikely to act as an entry barrier. We were told that there was no longer any need for a large depot providing comprehensive maintenance facilities; maintenance could be contracted out so that a new operator needed only a space for parking vehicles, and this need not be provided all at one site.

Access to bus stations

3.185. Access to existing bus stations can be important. This was recognized in the 1985 Act which extended the scope of Restrictive Trade Practices legislation to cover arrangements for the use of bus stations (see paragraph 3.11). This change was designed to ensure that existing operators could not use their control of important bus stations to prevent other operators from using them. The Pentagon Bus Station in Chatham is discussed in paragraphs 3.193 to 3.220.

Passenger information about timetables, poles and flags

3.186. Passengers need information about which bus services are provided (routes operated, departure times etc), the quality of the service (reliability etc) and fares. Previous studies suggest that bus passengers get much of their information from sources other than timetables, including by word

of mouth, but particularly by actually using the service. Incumbent operators have an advantage in that passengers will already have knowledge of their services and reliability. The lack of a comprehensive bus timetable may make it difficult for new operators to inform potential passengers about their services. A new operator may need to incur costs of information provision and advertising to promote its new services. Such costs are irrecoverable if these new services are not successful. Establishing a reputation for a reliable service may involve incurring losses in the short term whilst passengers become familiar with the service.

3.187. A bus operator needs to be able to indicate precisely where a new service will run and thus the location of information cases and flags on bus poles is important. M&D owns a large number of the poles on its routes, but has told us that it will now allow all operators to place flags and cases on its poles, on payment of an appropriate fee.

Prepaid ticketing and return fares

3.188. The existence of travelcards, multi-ride tickets and other non-cash methods of ticketing (and of return fares) may provide a barrier to entry, depending on the travel patterns of local bus passengers. An existing dominant operator may offer a travelcard which is available on the whole of its bus network but not on the bus services of any competing operator. If a significant number of passengers want to travel on more than one service, this may provide a barrier to entry to an operator wanting to enter by providing services on just one route. Similarly, the availability of return tickets and season tickets on the services of an incumbent operator may make entry difficult for a new entrant unless it can match the frequency of the incumbent.

Barriers to tendering

3.189. Tender contracts are a potent way of effecting entry into local bus markets. An existing local bus operator which already operates commercial services within a particular area may be at an advantage when bidding for contracts compared with operators from other areas. Small operators can be at a disadvantage in terms of putting in a competitive bid because of the dead mileage involved (travel to operate a tendered service some distance from where they are based). Similarly, small operators may be deterred from bidding for individual tenders because large operators can put in lower prices on a combined tender bid.

Reaction of incumbent operators

3.190. The threat of retaliation by an existing operator may deter new entry. Retaliation would appear to be easy in local bus markets, partly because of the high visibility of new competitors and potential customers and because of the ability of the incumbent to target its response selectively at the new entrant. Retaliation can take the form of reaction on fares or service frequency, or the retiming of buses. If the incumbent develops a reputation for 'seeing off' competitors, this reputation itself may constitute a barrier to entry.

3.191. M&D argued that the appearance of new operators since 1986 showed that entry was easy. In its view the growth in size of the fleets of Bygone and Mercury within the last three years showed that competition from M&D did not drive new entrants away. However, M&D, as the incumbent in this local bus market, has yet to experience competition from a company of similar size to itself.

3.192. Several bus operators which entered the bus market in 1986 have since left it. Boro'line's collapse in 1991 has already been discussed, as well as the withdrawal by Shearings following its acquisition by Mecca in 1991. Earlier withdrawals from the local bus market include Trident Passenger Ltd and Roseway Travel, which both ceased trading in 1987. Autoreps, which ran five buses in the Gravesend area, ceased operating in 1990.

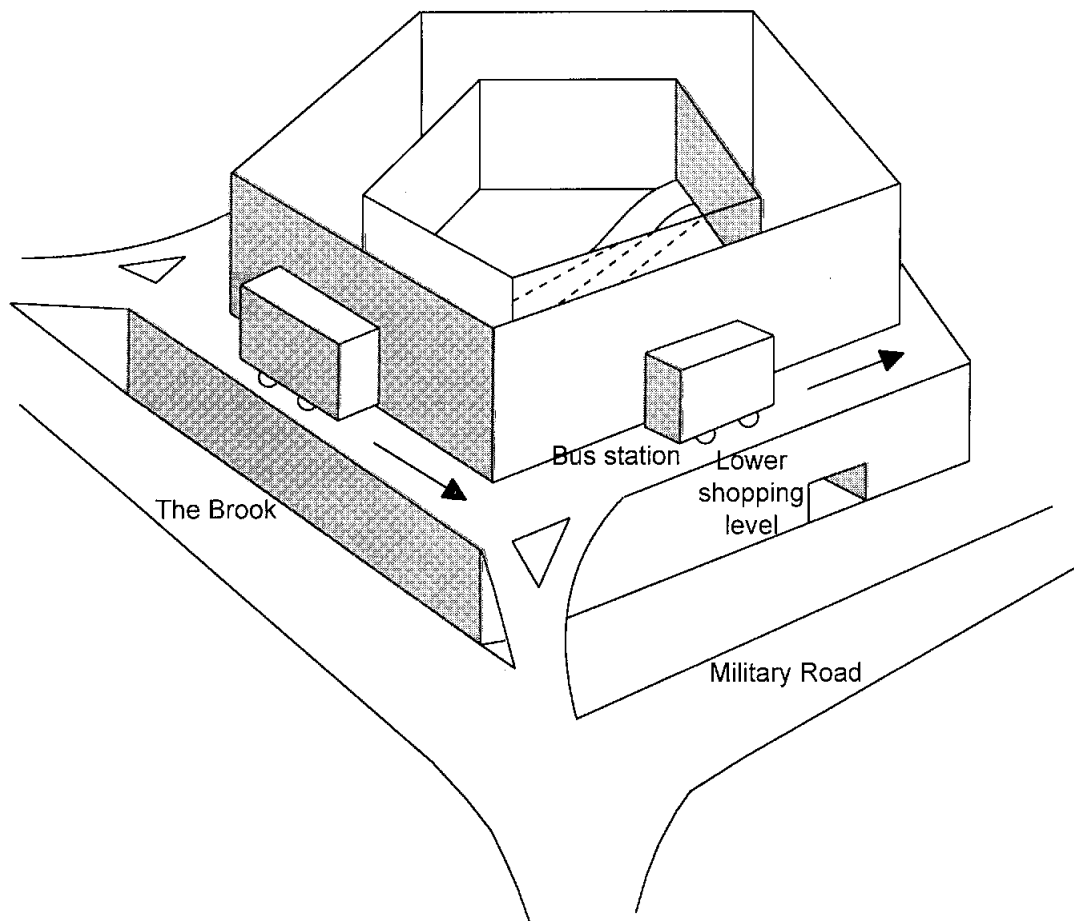
The Pentagon Bus Station, Chatham

Configuration

3.193. The Pentagon Bus Station forms part of the Pentagon Centre development undertaken by the Rochester upon Medway City Council (RUMCC) in the 1970s to improve road and traffic problems in Chatham and to relocate bus facilities and improve the reliability of bus services. The bus station is located at first floor level around the perimeter of the upper floor of the Pentagon Shopping Centre. Buses circulate one way around a circular two-lane bus road, the inner lane consisting of 18 bus stands used mainly for the picking up and setting down of passengers, and the outer lane being the thoroughfare. There are two ramps between the first-floor bus road and ground level, but the arrangement of the bus road is such that only one ramp is available for entry; departing vehicles can use either ramp. The configuration of the bus station is shown in Figure 3.1.

FIGURE 3.1

Diagrammatic representation of the Pentagon Bus Station



Source: Buchanan Report for DOT, 1985.

3.194. Within the Pentagon complex adjacent to the bus station are a passenger information office, crew change, cashing-in and canteen facilities, a control room for the control and monitoring of bus and driver movements within the station and administration facilities. There are waiting areas for passengers by the bus stands. However, the environment is poor because of the low level of natural lighting and the noise and fumes generated within the confined space, enclosed by concrete structures.

Current use

3.195. M&D leases the Pentagon Bus Station from RUMCC for a term of 42 years from 21 March 1976. The company told us that it had enjoyed exclusive use of the bus station from 1976 until bus deregulation in 1986. Following deregulation an agreement had been reached between M&D and KCC allowing access for KCC tendered services. RUMCC told us that the lease of the bus station was at a market rent, which was subject to review every ten years. The lease had been granted before bus deregulation and allowed M&D exclusive use of the premises.

3.196. RUMCC said that the lease did not prevent M&D sharing the premises with other bus operators, although M&D must first obtain the council's consent to any proposed sharing arrangements. The council controlled the ramps leading into and out of the bus station, but had given a covenant in its lease to M&D that it would not consent to anyone else using the ramps. When other bus operators had requested that the present lease be terminated, the council's legal department had advised that, in the absence of any known breach of covenant, there were no grounds for premature termination. The council had, however, indicated to M&D that, should it wish to apply to share possession of the bus station, the application would be given sympathetic consideration.

3.197. M&D told us that all 18 bus stands at the Pentagon were used from Monday to Saturday for service arrivals and departures, except bays 2, 3, 17 and 18 which the company used to park vehicles, although these bays were occasionally used for departures when other bays were fully occupied. It used to park vehicles on the three ramps, but now parked vehicles on only two with the closure of one of the ramps for parking (see paragraph 3.207(a)). Since 1987 M&D had rented six bus parking spaces behind the town hall from the city council, although not all of these were always available to M&D. M&D allocated its services to bus stands on the basis of the destination served, placing most KCC tendered services on Bay 4, the least heavily used of the non-parking bays in the Pentagon.

3.198. M&D said that, since the Pentagon formed an operational centre for the company, a small proportion of the station was used for essential bus parking. This was a common practice in the bus industry, making provision for:

- (a) waiting time of seven to ten minutes prior to departures, which was necessary to allow for operating variables such as traffic congestion and other delays;
- (b) bus substitution, where buses became defective or failed to arrive back at the Pentagon in time to run their service due to traffic delays; and
- (c) driver changeovers and statutory relief periods away from vehicles.

Even with the availability of the six extra parking spaces behind the town hall it was a regular occurrence that M&D had to park buses on the ramps which, strictly speaking, it should not do; indeed this unavoidable practice had in the past given rise to difficulties with RUMCC.

Earlier attempts to gain and regain access

3.199. M&D told us that it had been criticized for not allowing other operators unrestricted access to the Pentagon. It argued that, quite apart from the capacity constraints, the difficult physical layout of the bus station militated against multi-operator use, particularly where there was head-to-head competition. Because the bus road was only two buses wide and one-directional, with one lane being taken for buses stopping at the stands, any blocking of the circulatory lane paralysed the station. This did occur if buses were parked carelessly. M&D gave the examples of Boro'line's unauthorized entry into the Pentagon in December 1991, when operations at the bus station had been brought to a standstill due to Boro'line buses blocking the circulating lane, and Mercury's operations in 1993, causing similar difficulties.

3.200. We have seen copies of correspondence from which it is clear that Boro'line's Managing Director had written to M&D on 15 November 1991 requesting access for two local bus services

which it had registered with the Traffic Commissioner to commence on 16 December 1991. Boro'line considered that there was capacity for it to operate its commercial services from the bays which M&D was using for the same destinations, and expressed its willingness to pay a departure fee on a non-discriminatory basis. In a further letter, dated 29 November 1991, Boro'line stated that it saw a competitive advantage, at least in the early days of a new service, in operating via the bus station. In the light of comments by M&D, as reported in the local press, on the running costs of the station, Boro'line had calculated that departure charges would be in the order of 45p per departure. In the event, M&D refused Boro'line's request on the grounds of lack of capacity and existing congestion at peak times. Following the unauthorized entry of Boro'line vehicles into the Pentagon on 16 December 1991, Boro'line, following an application by M&D to the High Court, consented to an Order on 20 December 1991 restraining Boro'line from entering the bus station.

3.201. Mercury told us that it had complained to the OFT in November 1991 about M&D's use of its monopoly position and possession of the Pentagon Bus Station to stifle competition in the Medway area. M&D said that, because it considered that Mercury had caused disruption to M&D's operation in 1991, it had withdrawn its permission for Mercury to use the Pentagon for its KCC tendered services from 11 November 1991 under clauses 3 and 5 of M&D's Conditions of Use of its premises by other operators. Details of this contract, and of M&D's current contract for such use, are given in Appendix 3.4. M&D emphasized that the only companies, aside from Boro'line, which had made direct requests to M&D, from bus deregulation in 1986 to date, for access to the Pentagon were Mercury, Grey-Green and Transcity, all of which currently ran services from the bus station.

3.202. Mercury considered that the reason why M&D had ejected it from the Pentagon had been M&D's expectation that Mercury was planning to operate commercial routes in the Medway towns (as it was). Mercury said that a senior executive of M&D had, before confirming Mercury's removal from the Pentagon, asked whether it was prepared to give an undertaking not to operate any commercial services in the Medway area. Mercury said that it had declined to give such an undertaking and that M&D had at that time verbally refused its request, made in a letter of 28 November 1991, for readmission to the Pentagon. Mercury believed that M&D had secured a monopoly on bus services in the Medway towns by directly controlling the only bus station, and that it was reluctant to relinquish this control or its monopoly. KCC told us that it had become increasingly concerned about the way in which M&D applied its conditions for the admission of KCC contracted services to M&D premises. At times M&D had been inconsistent, and its decisions on the admission of operators to the Pentagon appeared to relate mainly to whether or not they were engaging in competitive activities against M&D. Moreover the clause relating to the contracted operator engaging in commercial activities had been cited with reference to allegations that Mercury had tried to persuade M&D staff to work for Mercury.

The importance of access

3.203. The importance of access to existing bus stations was recognized in the 1985 Act. This extended the scope of Restrictive Trade Practices legislation to cover arrangements for the use of bus stations, with the aim of ensuring that operators could not use their control of important bus stations to prevent other operators from using them. M&D told us that it did not consider the Pentagon Bus Station in itself to be of major importance to passengers, nor that access to it was necessary to operate a bus service in the Medway area. The company pointed out that there were convenient stops outside the Pentagon which were easily accessible and closer to major shopping attractions and that the Pentagon did not lie on any major transport routes; it also drew attention to the passenger interchange facility at Chatham Railway Station. M&D produced a survey of services using both the Pentagon and the Military Road stops which indicated that half of the passengers who could have boarded at either stop chose to board at Military Road. It also provided a statement from the former traffic manager of Boro'line, now employed by M&D, in which he stated: 'we used stops at Military Road and Tesco's. The revenue returns were very reasonable and in the short time we were there we were very happy with the results. We anticipated ... our revenue returns would have increased'.

3.204. Noting that the current lease gave M&D control over access to the bus station and its facilities, KCC considered that it was inappropriate for the principal bus terminal in Chatham to be under the control of the dominant provider of local bus services. Although M&D had been prepared

to admit some other operators providing KCC tendered services, on payment by the county council, operators of commercial services had not been admitted. Since the Pentagon was the most important bus stop in the Medway towns, this could deter operators from starting commercial services in the area and, therefore, reduce the potential number of operators bidding for KCC tenders or providing improved services to the public.

3.205. KCC said that, with RUMCC, it had established a bus stop outside the Pentagon in Military Road for operators prohibited by M&D from using the Pentagon. However, this was unsatisfactory as an alternative to the bus station. In the council's view, the best interests of the travelling public were served by all local bus services being admitted to the bus station, offering passengers the full choice of service, easing interchange between routes and providing full enquiry facilities. KCC would also wish to see departure stands grouped and allocated on the basis of the destination served, rather than by operator or by the commercial or tendered nature of the service. Moreover, equal prominence should be given at the bus station to the publicity displays of all operators, and to the county council's public transport map.

Capacity

3.206. We have received conflicting evidence concerning the utilization of the Pentagon Bus Station's capacity. On the one hand KCC and Mercury have suggested that additional capacity to accommodate other operators' services is or could be made available, while on the other M&D has drawn attention to a report which it commissioned from Colin Buchanan and Partners (CBP) in January 1993 which concluded that the Pentagon was already operating above capacity in both peak and off-peak hours. CBP had assessed the capacity to be 304,400 departures per annum and actual use to be 346,000 per annum. CBP said that the use above capacity caused excess buses to park on the ramp (a practice which it described as 'undesirable'), queuing and an above-average number of accidents at the bus station. It found both the queuing and accidents 'a significant feature'. In CBP's view it would seem imprudent to introduce additional operations into the bus station until the accident record had been improved. CBP considered that a bus station which, like the Pentagon, was used as an operating centre required extensive parking facilities, and it suggested that nine scheduled parking spaces were needed there in the peak hour and 11 in the off-peak hour, compared with the capacity of eight parking spaces.

3.207. The current shortage of capacity was met, according to CBP, by the undesirable use of the ramps for bus parking. Indeed, M&D told us that it had been informed by RUMCC on 27 April 1993 that:

- (a) one of the two carriageways of one of the exit ramps from the bus station would be unavailable for use until late 1994;
- (b) under the terms of the lease, M&D should not have been using the ramps for parking; and
- (c) the council did not envisage that the parking facility would be available in future after a refurbishment had been completed. M&D noted that these factors further restricted the capacity of the bus station.

3.208. M&D accepted that, if additional and acceptable parking capacity could be provided, that would enable M&D to release further bays at the Pentagon for arrivals and departures, but said that at present no such additional parking was available. If any such additional parking was not immediately adjacent to the Pentagon and conveniently sited, bearing in mind the one-way road system surrounding the complex, the additional cost to M&D of dislodging its essential parking would be very substantial and the effect on the reliable operation of M&D's comprehensive network of services severe.

3.209. On the possibility of creating additional capacity at the bus station by transferring some services to the bus stops outside the Pentagon on Military Road, M&D said that it already used these stops for its 148/150 service, and if Military Road was acceptable for M&D, presumably it was so for other operators. M&D believed that insufficient capacity existed at Military Road to make an

appreciable difference to the situation within the Pentagon. On the suggestion that M&D might either dislodge its parking or transfer services out of the Pentagon in favour of other operators, M&D pointed out that it alone was responsible for administering and bearing the full commercial cost of the bus station and considered that in these circumstances the proposition was both unjust and inappropriate.

3.210. We asked the consultants, Steer Davies Gleave (SDG), to advise on the capacity of the bus station. SDG identified certain operating practices which they considered would have the effect of increasing the bus station's capacity. SDG's analysis indicated that, while five of the 13 local service bays were operated at around their practical capacity, there would be potential to operate a limited number of additional departures from other stands without impinging on the operation of other services. SDG found little evidence to support the idea that introducing additional operations would be likely to increase the number of accidents. CBP pointed out that the 'limited number of additional departures' would increase the average hourly departures per bay to 8.4, higher than at any bus station which it had surveyed and in excess of the 'guideline' of six per hour. CBP also noted that its observations showed 29 buses per hour in the station in the peak, whereas SDG's implied calculation of capacity was 23. M&D stated that the operating practices identified by SDG to increase capacity were neither possible nor realistic at the Pentagon as the company had an integral operations base as part of the complex.

Departure charges

3.211. M&D told us that its charge of £1.95 per departure to other operators using the Pentagon was based on the operating costs of the bus station, excluding the facilities which were not available to users other than M&D. M&D said that in setting the charge it had compared the Pentagon with other bus stations in South-East England. KCC told us of its concern that the departure charge was high. The council had chosen to negotiate and pay for admission to the bus station for its contracted services and, although section 81(6) of the Transport Act 1985 enabled PSV licence holders to apply to the Traffic Commissioner for a review of bus station charges, no such facility existed where another body met these charges.

3.212. SDG thought it would be reasonable for M&D to charge other operators on the basis of the current average cost of providing the facilities. Using the figure of 346,000 departures per year (quoted by CBP as its estimate of the observed use of the station) and operating costs based on information supplied by M&D, SDG estimated the average cost per departure to be 55.6p. M&D believed the cost of operations was much greater: using a figure based on actual costs, a profit element of 10 per cent on cost and CBP's estimated capacity of 304,400 departures per annum, the company quoted the cost as being in excess of £1.20 per departure.

Access: the current situation

3.213. RUMCC told us that, in the course of discussions about improvements to the car park and bus station at the Pentagon, M&D had indicated to the council that it would be prepared to discuss possible variation of the terms of the lease. RUMCC was willing to allow subletting of the premises to enable other operators to gain access to the bus station, subject to appropriate safeguards and to members' approval. RUMCC told us that it would welcome an undertaking by M&D to allow other bus operators to use the station for taking up and setting down passengers, to use the recognized bays for departures to their destinations, and to display information. As an alternative it would have no objection to the renegotiation of all or part of the lease to provide for access by other operators, under reasonable conditions, provided that the council was not financially disadvantaged.

3.214. We put to M&D the Government's statement in its 1984 White Paper, Buses, that 'major bus stations should be operated, whether in private or public ownership, on a commercial basis under arrangements which will provide for all operators to have equal opportunity of gaining access to them'. M&D responded that, while it accepted that statement in principle, its concern was over its practicality given the configuration and capacity of the Pentagon. It provided copies of reports stating that there

had been two instances of blocking within three weeks of Mercury being allowed access for its tendered services from 4 January 1993.

3.215. M&D told us that, in response to Mercury's request for access to the Pentagon for its commercial services, it had offered accommodation, requesting information from Mercury on its proposed use so that M&D could ascertain how to meet Mercury's request. M&D said that no such information had been forthcoming and that Mercury had not responded to letters containing M&D's own analysis of Mercury's timetables which indicated that clashes would occur. Mercury had stated in a discussion with M&D on 23 March 1993 that it no longer wished to operate its commercial services from within the Pentagon. Copies of the correspondence were produced to us including a letter from Mercury confirming this last point.

3.216. Mercury told us that it had again requested access to the Pentagon, for tendered and commercial services, in a letter of 4 December 1992 to M&D, and had been offered access on the conditions set out in M&D's revised list of 'Conditions for Use' dated January 1993 (see Appendix 3.4). Mercury had accordingly operated tendered services from the Pentagon since January 1993, the departure charges being paid by KCC. However, while Mercury hoped to use the Pentagon for commercial services in the longer term, it did not consider it worthwhile to do so, at £1.95 per departure, while:

- (a) M&D insisted that Mercury's services to Hoo should leave from Bay 4, whereas M&D's Hoo services, registered to depart a few minutes before Mercury's, would continue to leave from Bay 14;
- (b) Mercury continued to encounter problems with the use of Bay 4 for its tendered services (see paragraph 3.217); and
- (c) M&D could terminate any arrangement for Mercury's use of the Pentagon if it considered that Mercury was causing 'operational difficulties'.

3.217. Mercury said that the bus station was not used to its capacity. It was full of buses, due to poor management, and many of M&D's parked buses were left on Bay 4, which M&D had allocated for KCC tendered services. SDG also observed that Bay 4 appeared to be used for parking, being occupied for 20- to 30-minute periods by a single vehicle, in the peak and off-peak hours, when slots on the parking bays appeared to be available. KCC's view on the parking of out-of-service vehicles at the Pentagon, especially during off-peak periods, was that for the public the benefits of this town centre site lay in maximizing its use as a bus station and not in using it as a parking facility. With reference to the problems caused by parking at Bay 4, KCC noted that this bay was nearest to the established parking area at Bays 1, 2 and 3. If drivers found these bays occupied they might well be tempted to park on Bay 4. KCC thought that if Mercury were to be allowed to use the same bays as similar M&D services, the parking of M&D vehicles would be unlikely to be an issue, although there might be other difficulties.

3.218. KCC told us that, for tendered services using the Pentagon, it would welcome the allocation of bays other than Bay 4 if the use of the bays allocated for commercial services to similar destinations was not practicable. KCC said that Bays 12 to 16 were probably the best from an environmental viewpoint, although Bay 16 itself would be less convenient than 12 to 15 for KCC services, as this was closest to M&D's parking bays, 17 and 18. Bays 9 to 11 were on the darkest and most noisy side of the Pentagon.

3.219. M&D told us that it was not responsible for the congestion which occurred at Bay 4 at certain times due to the close scheduling by KCC of the departures of its tendered services. The bay had capacity for two big buses or one big bus and two minibuses, and Mercury's tendered service 113/114 was operated mainly by minibuses. M&D drivers had been advised to avoid parking at Bay 4 unless this was unavoidable, but there were occasions when a driver had no alternative to parking at Bay 4. On entering the bus station drivers had a clear view of Bays 4 to 8 inclusive; if Bays 5 to 8 were occupied the driver might stop at Bay 4 until the congestion at Bays 5 to 8 had cleared. In particular, service 132 used Bay 5 and, if this bay was occupied, the driver had either to stop at Bay 4 or to make a circuit of the Pentagon. Moreover drivers were aware that Bay 4 was less busy than

adjacent bays and that it was close to the M&D canteen and offices; they did therefore sometimes park at Bay 4 to minimize the time spent walking to these facilities.

3.220. We put it to M&D that these factors might suggest that Bay 4 was unsuitable for KCC's tendered services and that it would be more appropriate to allow these services the unhindered use of a more convenient bay. M&D responded that similar practices affected on other bays and that, since Bay 4 was less heavily used than others, the use of another bay for KCC services would not necessarily be unhindered. However, M&D said that it did not rule out a different allocation and that it would be willing to discuss the matter with KCC.

4 Views of third parties

Department of Transport

4.1. The DOT told us that it was Government policy to encourage competition within the bus industry. There were undoubtedly concerns about the way in which competition was working in particular areas but, taking the country as a whole, the Department had no major concerns. The tendered services sector was particularly competitive and local authorities were getting good value for the subsidized services which they put out to tender, in that costs were being kept down. The DOT understood the concerns of some local authorities in areas where competition had not been as effective as they would have hoped. The Department would not wish to see the establishment of territorial monopolies, but preferred to see active, reasonable competition.

4.2. The DOT said that where an operator had registered services which were timed to run a few minutes ahead of those of a competitor, it viewed this as a legitimate competitive strategy, provided that the Traffic Commissioner had been properly notified.

4.3. It believed that the 42 days' notice period for registering and deregistering services was operating satisfactorily. The period of notice was necessary in order to prevent operators from introducing new services for very short periods and then withdrawing them. It also provided local authorities with the information they needed when deciding whether to continue providing a particular service by putting it out to tender. The Department would, however, review the position in the light of responses to a consultation paper it had issued in March about the operation of local bus services outside London.

4.4. The DOT felt that the availability of a penalty based on the repayment of an operator's fuel duty rebate had not been as effective as it hoped it would; Traffic Commissioners had been reluctant to use this penalty because it was seen as severe and inflexible. This subject was among those covered in the DOT's consultation paper.

4.5. As regards interavailability of tickets, the DOT said that, since interavailability was obviously convenient for the travelling public, agreements between operators to accept each other's tickets were probably in the public interest. However, it was a matter for operators to decide what ticket arrangements best served their needs.

Local authorities

Kent County Council

4.6. KCC said that the 1985 Act had created an environment of competition among operators of bus services. It welcomed this competition, but considered that some aspects could cause confusion for the travelling public. Some passengers had benefited from the deregulation of bus services, for example through enhanced frequencies and reduced fares. But experience of unfettered competition had also revealed some of the detriments which had arisen, such as difficulties in obtaining information, loss of interavailability of ticketing, congestion at some bus stops and 'fighting' for passengers. KCC would seek to minimize the adverse effects of these factors on the travelling public and to promote the comprehensive service which the public were seeking. Since deregulation, KCC

had attached importance to ensuring stability of service in order to maintain passenger confidence. This stability tended to be lacking in the competitive environment. For example, offers of low fares had tended to be shortlived and it was for the MMC to decide whether these low fares had been harmful to other operators. The situation was further destabilized when an operator applied differing fare levels on different journeys on the same route. In reviewing the situation, KCC asked that close attention should be paid to the following aspects.

Adherence to registrations

4.7. KCC said that, where commercial competition occurred, it was not unusual for the registration requirements to be 'overlooked' in the interests of preserving or increasing market share. For example, the dates of introduction of service changes might vary from those allowed by the service registration. Many of the responses by the established operators hinged on the duplication arrangements until such time as the variation to the registration was accepted in its own right. The duplication arrangements allowed operators to run additional vehicles within five minutes of the registered timetable without further change to the registration. This often meant that the existing company could introduce its response to competition from the same date as the competitive service started rather than having to wait for its own 42-day notice period to expire.

4.8. KCC said that the number of occasions when two vehicles were operated to cater for actual demand was limited, but there had been numerous occasions when 'duplicates' had run in response to competing services. KCC suggested, therefore, that each registered journey should be treated as a single vehicle movement. Duplicates should be identified on the registration and subject to the normal variation requirements, with the Traffic Commissioner having dispensation to introduce the change at less than 42 days' notice if necessary.

4.9. KCC was concerned about the sanctions which could be applied for failure to adhere to the registration requirements. These allowed for a 'fine' of 20 per cent of an operator's fuel duty rebate to be levied. This was an all-or-nothing figure and Traffic Commissioners had considered such a sanction on a large company to be excessive for the level of the misdemeanour.

Publicity

4.10. KCC said that it was empowered to secure bus services where they were considered to be socially necessary, but not provided commercially. Considerable efforts were made to minimize the impact of contracted services on commercial routes, but it was not always possible to avoid totally an overlap between these two types of service. Many contracted routes complemented services which were provided commercially, for example by offering early morning, evening and Sunday journeys to areas served commercially during the daytime. It was of considerable concern when certain commercial service operators refused to publicize these 'in-fills' in their own timetables because other operators were involved. KCC was aware that potential passengers who approached the commercial operator for timetable information often got the impression that no service existed over and above the daytime operation, and some, therefore, might well not travel rather than take their enquiries further.

4.11. KCC, therefore, would seek a requirement that all commercial operators were obliged to publicize full details of complementary services in their own timetables. This would also extend to a requirement to include the display of this information in roadside timetable cases. The larger operators had been able to acquire these cases, and many bus-stop poles, principally as a result of the network support paid to maintain services prior to deregulation. It would be for KCC to determine which services were appropriate to publicize in this way and for KCC, or the operator of the complementary service, to meet the additional costs involved. Similarly, it would be preferable for an independent body to have control over roadside infrastructure so that it could be freely used by all operators rather than at the whim of the historically dominant company.

4.12. Misinformation had also become a problem since the implementation of the 1985 Act. One common example occurred when services changed operators, which was, of course, far more

widespread since deregulation than in the previous regulated environment. It was not unusual for the operator which was cancelling the service to publicize the route simply as being 'withdrawn' with no mention being made of replacement facilities. This, naturally, caused anxiety among passengers and may have encouraged some to seek alternative forms of travel. Seven years into deregulation, many passengers still expected the traditional operator to be the source of information on bus services and they might not appreciate some of the subtleties of the wording of the operator's publicity. KCC would seek, therefore, a requirement that operators withdrawing services were obliged to circulate full details of replacement facilities.

Ticketing

4.13. KCC said that passengers regarded bus services as an entity and would like the freedom to use multi-journey tickets where and when they chose. They were often discouraged by being told that a particular ticket was not accepted on a particular bus and had very little understanding why. KCC had always specified acceptance of any valid ticket on contracted services but had no authority to impose this on commercial services, despite the benefits to the passenger. The Government had recognized the benefits of interavailability of ticketing in its White Paper proposals for the privatization of BR.

4.14. KCC would seek, therefore, arrangements to extend the benefits of interavailability of ticketing further on to the commercial route network. Ideally, this would mean that full interavailability became a requirement. If this was not possible, there were measures which operators could be required to undertake to ease the effects on passengers, ranging from an obligation for operators to publish their fares and those tickets which were accepted more widely, through to the development of electronic systems, eg 'Smartcards' or other stored value systems, which enabled passengers to use any operator's bus, at any fare scale, without hindrance. The benefits of interavailability should also be taken into account by the OFT when considering registrable agreements between operators. Whichever system was pursued, it was imperative that all operators contributed to the reimbursement arrangements, for example through a system similar to that which KCC used to reimburse participants in the concessionary fares scheme.

Bus-stop congestion

4.15. KCC said that the unconstrained growth of services from a particular bus stop might not lead to safety or congestion problems which were severe enough to warrant application to the Traffic Commissioner for a Traffic Regulation Condition under the terms of section 7 of the 1985 Act. In Kent, the usual method of competition was to run journeys two or three minutes ahead of a competitor's service. Inevitably, this created congestion at stops since, in practice, both services were likely to be attempting to use the stop at the same time. With further services at the stop the problems multiplied. Where conventional Traffic Regulation Orders existed, they required effective enforcement requiring the co-operation of the police and traffic wardens, who might not always be sympathetic to the needs of the timetable. Problems were caused, for example, when an infrequent service was 'moved on' because a stop was occupied by frequent, competing services, as happened in Maidstone town centre. However, KCC believed that if all operators used the bus stops sensibly, congestion would be less of a problem.

4.16. KCC would seek, therefore, a defined capacity for contentious bus stops, and considered that registrations should not be accepted by the Traffic Commissioner for services using these stops without consultation with the Highway Authority. It was important to reflect the interests of all the operators involved, but it was also essential that KCC should ensure that the opportunity for socially necessary services (contracted or commercial) to use these stops was not lost because frequent services were provided elsewhere.

Commercial duplication of contracted services

4.17. KCC recognized that competition, or the threat of competition, for local bus service tenders was vital if contract prices were to be held to acceptable levels. Great efforts were undertaken to encourage operators to bid for tenders. Rarely were less than three bids received for any one tender, and many routine renewals of local bus service contracts were achieved at a reduction in cost. The vast majority of local bus contracts held by KCC were on a fixed-price basis meaning that the operator took the risk on revenue.

4.18. KCC welcomed bids to provide previously contracted services on a commercial basis if these were lodged as part of the tendering process. There had been instances where commercial services had been proposed after the award of the contract, but before the service had started, or once the service was in operation. Although attractive in the short term, there was no guarantee that such services would survive. Subsequent tender prices to continue the operation would be higher. Operators would also have little faith in the four-year contracts offered by KCC if they were frequently terminated, at the minimum notice, in response to a commercial registration which might not be sustained.

4.19. KCC would wish to see protection from competing registrations for contracted services, unless an operator was prepared to guarantee its commercial service for the residual life of the contract. It was recognized that circumstances might genuinely change during the life of a contract and therefore an independent arbiter might be necessary to allow such new registrations in certain circumstances.

Pentagon Bus Station, Chatham

4.20. KCC gave us its views on questions relating to the Pentagon Bus Station in Chatham. For convenience these views are summarized in the section of Chapter 3 dealing with the Pentagon (paragraphs 3.193 to 3.220).

Maidstone Borough Council

4.21. MBC said that the 1985 Act provided for a free-market approach to the provision of bus services, the essential component being competition and the benefits derived from it by the travelling public and the community in general. MBC's primary concern was that public transport should operate in the best possible way as far as the public were concerned; the more attractive the service was, the greater its use, and the greater the benefits to the environment and to the economy of the borough.

4.22. MBC believed, however, that there was a danger that unfettered competition could lead to monopoly power and the overzealous competition which was evident in Maidstone and in other parts of the UK. The existence of competition in the provision of bus services was vital. However, MBC thought that competition purely in the form of 'creaming off' would do little to enhance the image and performance of bus services generally.

4.23. MBC stressed the importance of stable public transport services which, it said, were vital to the well-being of towns and cities. In the case of Maidstone, the provision of bus services by M&D, Bygone and other independent operators was generally of a stable nature providing a good level of service for the public at peak periods and on popular routes. M&D had recently made a considerable financial investment in Maidstone through the purchase and improvement of the former Boro'line depot. The establishment, for example, of engineering facilities, with the considerable local employment opportunities involved, was important to the provision of stable bus services and to the local economy. MBC was concerned that a wholesale break-up of the engineering facility would lead to a reduction in local employment, and potentially to even greater instability in the provision of local bus services.

4.24. MBC believed that competition in local bus services had contributed to a higher quality of service at competitive prices provided a regulatory body had sufficient powers to maintain proper control.

4.25. MBC was of the view that, given the provisions of the 1985 Act which were followed by bus operators, it was vital to protect the interests of the travelling public through effective local supervision of services by an independent body. The Traffic Commissioners did not have the resources or local presence to ensure this at present, hence the less satisfactory features of competition which had been evident of late in Maidstone.

4.26. As regards Boro'line, representatives of MBC told us that Bygone had registered services two to three minutes ahead of Boro'line's most lucrative routes, which had an adverse effect on its financial position. They also considered that the disclosure of Boro'line's business plan at the council's meeting on 2 October 1991 might well have contributed to M&D's decision to register on Boro'line's routes, and thus to Boro'line going into receivership.

4.27. MBC considered that M&D's registration and subsequent operation on Boro'line's routes had had a significant effect in deterring other operators from bidding for the company. When Proudmutual was negotiating for the purchase of Boro'line it had expressed an interest in selling on the Maidstone operations to M&D, and at one point had made this a condition of the sale. In the event Proudmutual had withdrawn from the sale.

4.28. MLC said that, prior to Boro'line being placed into receivership, the company's London contracts had been sold to a subsidiary of Proudmutual. Subsequently M&D had purchased Boro'line's depot and other assets from the receiver.

Tonbridge & Malling Borough Council

4.29. Tonbridge & Malling Borough Council told us that following deregulation, discussions had been held between members of the council, KCC and M&D to consider the provision of bus services on route 142 between Chatham and Blue Bell Hill village on a commercial basis. M&D had chosen not to serve the route on a commercial basis, and KCC had invited tenders for the provision of a contracted service.

4.30. The council said that in 1991 the tender had been won by Shearings, which had commenced operations, but that shortly afterwards M&D had introduced a duplicate commercial service on route 142, timed to operate a few minutes ahead of Shearings' service. M&D had eventually bought out the interest of Shearings in several routes, including the contracted 142 service, which M&D currently operated.

4.31. The council also drew to our attention action taken by M&D during 1987 when competing on routes in the Waldersdale area. Following the discussions that had been held after deregulation, and when M&D had chosen not to provide a commercial service, Roseway Travel had, in May 1987, begun operating a service R2, which provided an important link between Waldersdale village and Chatham town centre. In June 1987 M&D had introduced a duplicate commercial service, numbered 176, which was timed to operate a couple of minutes before Roseway Travel's buses, and shortly afterwards Roseway Travel had ceased trading. The council said that M&D had since continued to operate service 176, which it currently did by way of a frequent minibus service.

4.32. The council was concerned that uncompetitive practices such as those described, and which were currently being experienced in the Maidstone and Medway areas, adversely affected the quality of bus services provided for local residents.

Rochester upon Medway City Council

4.33. RUMCC gave us its views on questions related to the Pentagon Bus Station in Chatham. For convenience these views are summarized in the section of Chapter 3 dealing with the Pentagon (paragraphs 3.193 to 3.220).

Gillingham Borough Council

4.34. Gillingham Borough Council said that it could not recall having received any complaints about the operation of bus services within the borough in respect of anti-competitive behaviour by any operator. It was the council's policy to try to ensure a reliable and efficient bus service across the borough, with particular emphasis on services for those areas where the population did not have regular access to personal transport.

Gravesham Borough Council

4.35. Gravesham Borough Council said that comments which it had received suggested that services between Gravesend and the Riverview Park and Singlewell areas had become better immediately after deregulation when other companies were competing with the local operator.

Sevenoaks District Council

4.36. Sevenoaks District Council said that M&D had a very limited involvement within the district and it was not aware of any problems with M&D's operations.

Bus operators

Bygone Tours & Bygone Buses

4.37. Bygone began operations in September 1990 in the Maidstone area on selected routes in competition with Boro'line. Initially, it provided two-hourly services using two buses. Bygone currently operates nine commercial services in and around the Maidstone area in competition with M&D using ten vehicles. Bygone told us that it had entered the bus market because it believed it could be competitive by offering fares which were lower than those of Boro'line; the fares which it had set in 1990 were 10p below Boro'line's and had remained unaltered until 4 May 1993. Bygone estimated that it had taken about 10 per cent of passengers from Boro'line on routes where both companies competed.

4.38. Bygone told us that, after taking over the Boro'line routes when Boro'line had ceased trading, M&D had taken anti-competitive action against Bygone. This included running unregistered and duplicate services; blocking access to bus stops in Maidstone; reducing fares to match those of Bygone; domination of information display cabinets; and harassment of Bygone staff. Bygone also said that on some M&D services fares were selectively reduced to match those of Bygone.

4.39. Bygone told us that M&D was running several duplicate services varying five minutes either side of Bygone's scheduled services. This was only occurring when M&D's services were running close to those of Bygone on routes where both companies were in direct competition. Bygone said that because traffic regulations allowed bus operators a variation either side of the registered time, M&D was able to put as many as ten extra buses into service at times when the Bygone services were scheduled to depart. In areas where Bygone did not operate M&D ran its services at normal scheduled times with no duplications.

4.40. Bygone said that all its routes were affected by M&D blocking bus stops in the High Street and the Chequers Centre in Maidstone. Bygone alleged that M&D employed a number of its drivers, known as 'special keyline' drivers, to carry out blocking tactics to deny Bygone buses access to major bus stops. 'Special keyline' drivers frequently drove buses immediately ahead of Bygone services throughout the day, and when Bygone buses approached stops M&D buses would arrive ahead of them to prevent them from gaining access. Bygone also told us that a female member of its driving staff had been subjected to harassment by M&D drivers and had since left the company due to stress.

4.41. Bygone said that M&D used the Chequers Centre bus road as if it were a depot, leaving parked buses which prevented other operators from gaining access to the stops. This resulted in other operators' buses having to stop in the centre lane of the road and in passengers having to walk between parked vehicles to reach them. It also said that at times M&D buses were parked so close to each other that passengers had to walk some distance to find a gap through which they could pass to board a Bygone bus. A further problem was that, when a Bygone bus had a scheduled waiting period even of only a few minutes at the Chequers Centre, it might, if all the stands were full, have to drive round the block and return. Bygone said that it had found difficulties in getting its flags accepted in the Chequers Centre and in the Maidstone area generally.

4.42. Bygone said that it was unhappy about the lack of space it was afforded in the timetable cases owned by MBC. M&D's timetables dominated the displays with Bygone's timetables positioned in a lower corner so that they were barely visible.

4.43. Bygone told us that M&D had recently put into service, on routes operated by Bygone, two of its buses which had been painted in a similar colour to those of Bygone. There was no clear indication on the buses that they were being operated by M&D. Bygone said that M&D's actions were anti-competitive and were designed to confuse passengers.

4.44. As regards possible remedies, Bygone felt that the Traffic Commissioner should be given powers which would allow him to refuse to register services which were timed to run as close as three minutes ahead of a competitor. Bygone also felt that the 42-day period for registration and deregistration of bus services was too long.

Mercury

4.45. Mercury operates both commercial and tendered services mainly in the Medway towns area, using a fleet of seven vehicles. It told us that M&D had duplicated tendered services operated by Mercury by running services three minutes ahead of Mercury's services 112, 114, 151 and 138. Mercury alleged that M&D had taken this action, in a predatory manner, by running its duplicate services at lower fares than Mercury's; in particular, it had advertised special low fares only on the buses which ran three minutes ahead of Mercury's. In the case of route 113/114, where Mercury was providing an hourly service under contract to KCC, M&D had introduced first an hourly commercial service and later a half-hourly service.

4.46. Mercury told us that M&D had refused it access to the Pentagon Bus Station from December 1991 to December 1992. The reason which M&D had given for the action which it had taken was that Mercury was causing it operational difficulties. Although Mercury now had access for its tendered services, the situation was unsatisfactory because it was only allowed to use Bay 4. Mercury said that Bay 4 was in a remote area of the station and that it was unable to pick up passengers safely because M&D regularly had vehicles parked there. Discussions with M&D were continuing in an effort to resolve the matter. Mercury said that given the current situation it was almost impossible for an operator to establish commercial operations in the Medway area if access to the Pentagon Bus Station for commercial services was denied. Because of its limited access to the Pentagon, Mercury was at a competitive disadvantage in that it could not register further commercial routes in the Medway area as they would not be viable. Mercury thought that the departure fees at the Pentagon were too high considering that M&D imposed contract conditions, one of which provided for expulsion if 'operational difficulties' were caused, and could offer Mercury neither equal access nor equal display of information about its services.

4.47. Mercury said that M&D had refused to co-operate with it on arrangements for interchangeable tickets; Mercury accepted other operators' tickets including those of M&D. It told us that it had offered to pay M&D for acceptance of its tickets.

4.48. Mercury told us that M&D had also prevented it from securing the services of a particular transport advertising agency as agent for advertising on Mercury's buses; after Mercury had entered into negotiations with the agency M&D had signed a new agreement with the agency which precluded it from acting as agent for competitors of M&D.

4.49. Mercury said that deregulation of the bus industry had not worked, and that some control was needed. There should be interavailability of tickets throughout the whole industry and the Traffic Commissioner should have powers which allowed him to refuse to register services which were timed to run a few minutes ahead of those of a competitor. There should also be a requirement that fares be registered at the same time as services. Mercury felt that the 42-day period for registration and deregistration of services was too inflexible. For example, where services were being delayed due to major roadworks, KCC or another independent body should have powers to allow operators to reschedule their services outside the scope of the 42-day period. Mercury believed that operators which reduced their fares in a predatory way in order to eliminate a competitor should be required to maintain the reduced fares for a given period.

Turners

4.50. Turners is a small company operating commercial services between Maidstone, Coxheath and Marden, using two vehicles. It began operations in November 1990 in competition with Boro'line on the Maidstone to Coxheath route. Turners said that initially it carried between 150 and 170 passengers per day, which was a very small percentage of Boro'line's passengers on that route.

4.51. Turners believed that by duplicating all of Boro'line's routes M&D's aim had been to put Boro'line out of business. After M&D had taken over all the routes, and Boro'line had ceased trading, M&D had embarked on a campaign of anti-competitive behaviour against its competitors.

4.52. Turners told us that M&D was running additional registered and unregistered services on routes where it was in direct competition with Turners. M&D had registered its services on these routes so that they were timed to run approximately two or three minutes ahead of Turners' scheduled services. Moreover M&D was continually blocking bus stops with its own buses to deny Turners access to pick up passengers.

4.53. Turners also told us that M&D had at times introduced promotional offers of lower fares, but that these lower fares were available only on M&D buses which ran two or three minutes ahead of Turners' or other competitors' services. In a particular case M&D had undercut Turners' usual fare of 30p by 20p thus charging children 10p to travel from Cornwallis School (Linton Corner) to Maidstone.

4.54. Turners stated that on 2 November 1992 M&D had introduced a new service between Marden and Maidstone, but that it had operated the service free during the last four days of October, and had used unfair pressure to persuade passengers to use M&D's service.

4.55. As regards possible remedies, Turners thought that it might be helpful if the Traffic Commissioner had powers to refuse to register services which were timed to run close to those of a competitor. Turners believed that if operators were proved to have lowered their fares and increased the frequency of their services in order to see off competitors, they should be required to maintain the lower fares and the increased frequency of service for a specified period.

Nu-Venture

4.56. Nu-Venture operates both commercial and tendered services within the Maidstone, Medway and Sevenoaks areas. It told us that very shortly after it had introduced a commercial service between

West Malling Airfield and Maidstone, M&D had retaliated by introducing a duplicate service, registered to run three minutes ahead of the Nu-Venture service.

4.57. M&D had also introduced duplicate services, registered to run three minutes ahead of Nu-Venture's off-peak services *and* at reduced fares, on Nu-Venture's tendered routes 68 and 404 between Plaxtol and Sevenoaks and between Ide Hill and Sevenoaks.

Transcity

4.58. Transcity operates tendered services between Sevenoaks and Gravesend, and between Chatham, Gillingham and Maidstone. It said that it would be pointless trying to operate a commercial service to compete with M&D or other large operators because they would swamp the routes with their buses and these would be timed to run just in front of competitors' buses. Transcity said that the large operators had the resources to run loss-making services until competitors were 'seen off'.

Fuggles of Benenden

4.59. Fuggles of Benenden (Fuggles) operates both commercial and tendered services within the Tonbridge and Tunbridge Wells areas. It said that it was evident from M&D's media statements and past actions that M&D intended to maintain its dominant position. Fuggles cited the case following deregulation where New Enterprise Coaches had introduced local bus services between Tonbridge and Tunbridge Wells which competed directly with M&D on a very busy route. Eventually, after competing unsuccessfully, M&D was only able to remove this competition by purchasing New Enterprise Coaches. Fuggles said that M&D was also in a very strong position regarding the provision of publicity and roadside timetable information since it owned the timetable cases on all its commercial routes and did not allow other operators to use them.

4.60. Fuggles noted that, when tendering for local bus contracts, M&D was able to offer KCC publicity for a complete package of tendered services. Although KCC had to look at the lowest overall cost to the council, including publicity costs, Fuggles believed that M&D was abusing its virtual monopoly position and suspected that it was bringing pressure to bear on KCC over the award of contracts.

Other organizations

Transport and General Workers' Union

4.61. The Transport and General Workers' Union (TGWU) told us that it had formal agreements with M&D, East Kent and Kentish Bus, but that it had no such agreements with the smaller bus operators within the reference area. It said that M&D, as one of the larger employers in the area, recognized its obligations to the community in the provision of bus services. Its vehicles were always well maintained and to the highest PSV standard. The TGWU had had a long-standing relationship with M&D; the union's recognition agreement extended to all grades of M&D's employees. The TGWU said that at a time when many companies within the passenger services industry were struggling to survive, M&D had maintained its obligations to its employees on pensions, sick pay, holidays and other benefits.

The National Federation of Bus Users

4.62. The National Federation of Bus Users (NFBU) is a voluntary body representing some 40 local organizations and many individuals. The NFBU said that in December 1991 M&D had registered a network of services in the Maidstone area which broadly duplicated those of Boro'line. According to the NFBU, M&D had done so in order to protect its position because of the uncertainty which had

existed concerning the future of Boro'line. M&D had feared that any new owners of Boro'line might be hostile towards it.

4.63. The NFBU said that M&D's response to competition from local bus operators might be seen as predatory, but its actions were, in the NFBU's view, no different from those which many companies in the retail sector had taken to protect their market shares and their investments.

4.64. Many small operators had entered the market since 1986 and, in the vast majority of cases, they had built up networks of services under contract to county councils. In this way, the larger bus operators had seen a contraction in their networks, but it had allowed them to concentrate on their main routes, often keeping them at the same or at even higher levels than before deregulation.

4.65. The NFBU told us that prior to deregulation it had understood that the DOT had hoped that new entrants to the bus market would concentrate on providing new links and meeting needs not satisfied by existing operators. But in practice most new entrants into commercial operations had chosen to compete with existing operators on their more profitable routes. The NFBU said that it was not surprising that operators such as M&D had reacted in the way they did to competition of this kind.

4.66. On balance the NFBU felt that the best prospects for the future of the bus industry lay with the major operators retaining their main routes. There was still scope in many areas for trials of new services to be introduced, and it saw no reason why new entrants could not be successful in combining tendered services with the provision of new links.

4.67. The NFBU said that in the short term passengers had benefited from competition in terms of more frequent services and lower fares. However, return tickets and bus passes were not interavailable in such circumstances and this had led to the confusion and understandable annoyance of passengers. This type of competition between operators could be costly to the participants in terms of loss of revenue, and it did not bode well for bus networks in the long term: unless the situation in a particular area was reasonably stable and future income prospects assured, operators were, regardless of their size, less likely to invest in new vehicles. In some cases, operators had no funds for such investment.

4.68. The NFBU said that since deregulation passengers had shown that their main requirements were a reasonably stable network of services, reasonable fare levels and an ongoing programme of vehicle replacement, especially the introduction of buses with easier access. Passengers were confused by frequent changes in services as operators competed for market share; in such competitive conditions, passengers could not understand what prevented operators from accepting each other's tickets.

4.69. In order to remedy the situation that currently existed within the reference area, the NFBU thought that discussions should take place between the various operators under the aegis of KCC or MBC. The NFBU would welcome co-operation between operators in the provision of services, although it recognized that such co-operation was unlikely to meet with the approval of the competition authorities.

Tonbridge & District Railway Travellers Association

4.70. The Association represents the interests of commuters who travel regularly from Paddock Wood, Hildenborough and Tonbridge railway stations. Although primarily concerned with rail travel, the Association takes an interest in connecting bus services. It said that M&D had always provided the majority of local bus services, and that this had continued following deregulation. There had been few complaints about the standard of service or the levels of fares.

4.71. The Association said that following deregulation two operators had, at different times, introduced competing services, each over the same route; each service had subsequently been withdrawn because the numbers of passengers carried had not been sufficient to justify continuing the operation. The Association said that it had no evidence that M&D had discouraged passengers from

using those particular services, despite the fact that at least one operator had been charging lower fares.

4.72. The Association believed that the level of fares in the Tonbridge area compared favourably with those elsewhere. It said that M&D's services were generally reliable and free from major failures given the level of traffic congestion in the area. The Association added that M&D had, on several occasions, baled out KCC when operators, which had been under contract to the council to provide tendered services, had withdrawn at short notice.

Individuals

4.73. An ex-employee of Boro'line said that, when Boro'line had been offered for sale in the summer of 1991, M&D had made a classic attack of registering directly competing services, running extensive duplication and blocking bus stops. M&D staff not previously involved in the Maidstone area had been moved in, particularly for the 'dirty' jobs. M&D drivers had even been threatened with redundancy if they allowed competing operators to survive for much longer.

4.74. Mr K J Fryer, manager of a Tourist Information Centre, considered that most bus services had deteriorated since deregulation. M&D, which was the main operator in the area, provided largely clean, safe vehicles operated by highly-trained staff. When Boro'line had ceased trading leaving only one main operator, travel in the Maidstone area had become easier and timetables had become available from a single source.

4.75. Mr Fryer said that in Maidstone a situation existed where a whole range of vehicles in sundry liveries were competing with M&D and attempting to cream off peak-hour business. It did not seem sensible to allow such a situation, as this would ultimately lead to fewer buses because of the loss of revenue to M&D. Mr Fryer said that not only were these operators depriving M&D of revenue, but they were adding to congestion in the town centre.

4.76. Mr Fryer said that visitors to the area were confused by the plethora of operators and by ever-changing timetables. He felt that the situation would be improved if the main operators in adjoining areas were encouraged to co-operate in the provision of services, as was the case prior to deregulation. The main operators could build an effective partnership with the local authority and offer cheaper fares and promotions which would benefit all in the community.

4.77. Mr D M MacInnes, leader of RUMCC between 1980 and 1991, considered that M&D had served the Medway towns very well during that period, and said that he had no reason to believe that the situation had changed. He added that in an area of the size and complexity of the Medway towns it was essential that bus services were suitable for the needs of the residents. Mr MacInnes believed that M&D was mindful of those needs and provided a full public service which was continually being improved, particularly with the introduction of minibuses.

4.78. M&D's large investment in its fleet of minibuses had led to higher levels of service; it had also enabled one particular new service to be introduced where the narrowness of the roads and the presence of parked cars had prevented a service being supplied using larger buses. The introduction of minibuses had contributed to the easing of traffic problems in the Medway towns, which suffered from severe traffic congestion.

4.79. Mr MacInnes said that, at the time of the collapse of Boro'line, M&D appeared to be the only operator which was interested in, or capable of, stepping in immediately to carry on providing an essential service to the public.

4.80. Mr MacInnes commented that other operators in the area appeared only to be interested in competing on prime routes at times which suited them. This could only result in M&D's profits being reduced to the point where it would have to abandon fringe services which it currently provided as part of its commercial operations.

4.81. Mr S D Bell, head teacher at Luton CP Junior School, Chatham, wrote to express the school's appreciation of the support and interest shown in its activities by M&D. This went far beyond the simple conduct of business in the supply of transport services, and made a significant contribution to the quality of education that Mr Bell and his staff were able to offer the pupils. He said that at a time when school and industry links were encouraged at the highest level, it was rewarding to know that there was mutual interest in each other's activities.

4.82. Mr Bell said that the curriculum support that M&D offered was important to the school. M&D's willingness to bring its garage facilities almost to a halt whilst groups of pupils made a study visit was a gesture that could only be applauded. Mr Bell believed that M&D's motivations in this regard were public-spirited, whilst he hoped that pupils, having appreciated the work behind the scene, would have greater regard for property and services.

4.83. Three members of the public complained about M&D. The first said that M&D had introduced half-price fares to combat those being charged by a competitor. M&D had used 'bully-boy' tactics to keep competitors' buses out of boarding areas, and its drivers had harassed a female driver employed by Bygone. Another complained that M&D had overbussed on routes where it faced competition, and that it had reduced its fares at different times of the day, but only when competitors' buses were operating. A third was dissatisfied with M&D's services in the Medway towns, and thought that its fare levels were amongst the highest in the UK. The high level of fares was thought to be a result of M&D's abuse of its monopoly position. M&D had reduced its fares to match those of Boro'line, but after Boro'line had ceased trading it had increased its fares to the levels previously charged. M&D was duplicating routes and timing its services close to those of its competitors with the undoubted aim of removing competition; moreover it did not adhere to its published timetables.

5 Views of The Maidstone & District Motor Services Ltd

The monopoly situation

5.1. M&D accepted that a scale monopoly existed in favour of itself and its holding company, Einkorn, in that it supplied at least one-quarter of the bus services in the reference area of Mid and West Kent. M&D did, however, draw attention to the unusual importance of other modes of travel, especially rail, in the reference area. The following is a summary of the views which M&D put to us, in writing and at three hearings with the MMC, on issues raised during the course of our inquiry.

The viability of routes operated

5.2. M&D told us that its service planning was based on the company's assessment of the most financially beneficial level of services, taking account of its overall strategy of operating a fully comprehensive network, and that it did not run routes in more than the short term unless they covered variable costs as defined by the MMC (ie the costs of drivers, fuel and tyres). It would normally withdraw any existing service which did not cover these costs unless there was a compelling case for retaining the service. While M&D considered that there was no simple answer to the question of whether a service covered its costs, the company drew attention to a number of key points which should be taken into account. Its four-weekly service costing analysis was based on full cost absorption and therefore allocated overheads to all services. A few groups of services did not cover full costs on this basis but were maintained as part of the comprehensive network of services where the cost of withdrawing them would exceed the resulting savings.

5.3. M&D pointed out that its service costing system was not the sole basis for examining the performance of individual service groups. Since it was based on cost allocation rather than cost causation, it did not on its own reflect what would happen to the company's finances if individual services were withdrawn or increased.

5.4. M&D told us that, in making decisions regarding service changes, in its view services should correctly be analysed on an incremental basis whatever their profitability. The company explained that its incremental analysis involved a practical examination of the costs and revenues which arose from a decision to change or not to change a service. It considered that for analysis of this kind the definitions of variable and semi-variable costs which the MMC had used to represent M&D's service costing data were dangerously misleading, since they implied that certain costs were always variable. In fact they were not and managers had to decide which costs and revenues were truly variable, and over what time-scale, on a case-by-case basis.

5.5. M&D said that in the short term the company would always expect to operate some services where revenues exceeded incremental but not full costs; in the medium term there was a financial and economic case for operating services which covered their variable and semi-variable costs, as defined by the MMC, but which made only a limited contribution to overheads. M&D emphasized that a rigid definition of the 'short', 'medium' and 'long' term was artificial and misleading with regard to the evaluation of the financial performance of services. Opportunities to remove from the network services which did not cover full costs arose only when overhead costs would be permanently reduced as a result of cumulative service revisions; this tended to be only when depot facilities could be rationalized.

5.6. M&D believed that the operation of some services which did not cover full costs was inevitable in any network of bus services. Moreover it was entirely in the public interest since M&D's comprehensive network when taken as a whole was profitable and provided good services to the travelling public over a wide area. To sustain this there was some internal support (or 'commercial cross-subsidy') from the more heavily used urban services to the lower-volume services which, by full cost allocation criteria, were poorer performers. If services which operated below full cost were withdrawn, there would be a reduction in services which would reduce passenger facilities. Since the incremental costs would be less than the revenue forgone, fixed and semi-variable costs allocated to the withdrawn services would in consequence have to be absorbed by other services; more services would then fail to cover full costs and, if the policy was taken to its logical conclusion, either the level of public transport would be very much lower or the level of public subsidy required would be higher.

5.7. M&D told us that the commercial cross-subsidy within its network was particularly between routes with common overheads. However, no routes were operated for sustained periods without covering their operating costs, and it would be misleading to say that the company required passengers to cross-subsidize other services. In a deregulated environment cross-subsidy was subject to competition from other operators and could be sustained only if the network company, such as M&D, was delivering a service which customers valued and were willing to pay for at the price charged. Those services which were making higher margins than others were not sustained by a monopolistic position or a regulatory system, but were the result of market forces. The level of patronage on M&D's services showed that the company gave satisfactory value to passengers.

5.8. M&D said that its competitive strategy was to respond to competition in a way which maintained the company's ability to provide its network of services profitably. In some cases it had responded by registering additional journeys or making selective, short-term fare-matching offers in order to minimize the revenue, and hence the profits, which it would otherwise lose. M&D stressed that its revenues and costs could not be judged in isolation from those of its competitors and that it would be irrational for the company to reduce services levels if competitors were also operating below their long-run full costs. However, it was not the case that any service which would not be viable on a fully cost-allocated basis could only be operated with the expectation of driving a competitor out of the market. The company's policies were intended to maximize services' contribution to overheads in the short and medium term where there was no scope to change long-run costs profitably, and its responses to selective competition were consistent with this policy; M&D had always aimed its response to competition at maximizing its profitability and had not been motivated by an attempt to drive out competition.

5.9. M&D told us that even the company's service costing system, despite its imperfections as a tool for analysing individual service groups, showed that M&D's competitive services had generally been profitable. A supplementary analysis which it had carried out on an incremental basis (and had made available to the MMC) showed that the company's competitive decisions had been entirely rational in aiming to maintain or improve passenger levels and the financial performance of the services concerned.

5.10. M&D observed that the bus industry as a whole had suffered from declining patronage and low profitability since deregulation in 1986. M&D had generally returned an operating profit since then, but its profitability had never been sufficiently good to cover the long-run replacement cost of its assets.

5.11. M&D noted that the market was contestable and that if it increased fares it risked losing passengers, whereas if it reduced fares it would not necessarily gain passengers. The profitability of route groups varied, reflecting differing patronage levels and cost structure. While tendered services were, on the whole, less profitable than commercial services, an examination of profits on a service-by-service basis did not show that competition on particular services had reduced profitability; indeed there were cases where non-competitive services had profit levels well below the company average.

Competitive conduct

Registering services to run immediately before a competitor's services

5.12. M&D described registering immediately before a competitor's service as a common competitive practice by bus operators of all sizes throughout the country, either initiating or responding to competition. The company said that it responded to competition for financial and commercial reasons and not to maintain a dominant position or prevent competition. In its view the competitive market made it essential for operators to have the freedom to decide on the timing of their services, and M&D's action in registering services in response to selective competitive timings was entirely consistent with the principle underlying the 1985 Act that the operator should be free to determine service requirements. The fact that bunching of services was one of the questions raised in the DOT's consultative document, issued in March 1993, showed that it was a commonplace national phenomenon and not a problem confined to the circumstances in Mid Kent.

Registering commercial services against a competitor's tendered services

5.13. M&D told us that it was not its policy to register in competition with tendered services and that it had never registered commercially when either losing or failing to gain a tender as part of the normal retendering cycle. Other operators had, however, registered commercial services against M&D's and against each other's tendered services. Commenting on the only five cases since 1986 when it had registered commercially against other operators' tendered services, M&D said that there was no distinction in transport law between tendered and commercial services, that it had taken into account the costs and revenues involved, and that it had withdrawn its competing commercial services when they had not met the company's expectations. M&D added that it would prefer to see some form of protection for tendered services provided that it applied to all operators.

Operating unregistered services

5.14. M&D told us that the only occasion on which it had operated unregistered buses, by introducing services in advance of the authorized date, had been the subject of a Traffic Commissioner's Public Inquiry. The company had been penalized and there would be no repetition. M&D said that its decision to introduce services early, which had been hasty and ill-considered, had been taken for defensive rather than aggressive reasons.

Operating duplicate buses

5.15. M&D explained that duplicate journeys were provided solely for essential operational reasons. Traffic congestion was a common cause of duplication; if the original journey had been delayed another vehicle would be put into service to carry passengers who would otherwise have been inconvenienced. 'Replacement' was a more accurate description than 'duplicate' in this context.

5.16. The only other cause of duplication was to cater for exceptional passenger demand, for example during the pre-Christmas shopping period. The company would normally expect to foresee any permanent increase in demand and cater for it by increasing the registered service. Duplication was therefore rare and, since M&D's overall operation of duplicates was insignificant, it made no formal measure of their use.

Over-bussing

5.17. We put it to M&D that, on the basis of certain details of registered timings and on-bus ticket sales which it had provided in response to the VIEA's observations on services in the Maidstone area, it could be argued that M&D had registered an excessive number of closely spaced journeys. The company responded that, given the resources which it had available and the incremental costs

involved, it had been in M&D's financial interests to operate this level of services and that it was not therefore excessive. Service 82/83, for example, had made a substantial contribution to overhead costs and in certain accounting periods was profitable on a fully allocated cost basis. It also pointed out that its response to selective competition on services such as 82/83 was in the public interest in that the response helped to maintain the profitability of its comprehensive commercial network in the area.

5.18. M&D further stated that it was important to recognize when considering the general principle of 'over-bussing' that this very often arose from the introduction of additional journeys in competition with the incumbent's comprehensive service which was already catering fully for demand. In these circumstances, which typified competition nation-wide, the new entrant's service amounted merely to 'creaming off'. The comprehensive service operator must then consider the financial effects of responding to such selective competition compared to its evaluation of the financial effect of not responding.

5.19. When introducing additional journeys in response to competition from Bygone, M&D had retained without change the services on its existing timetables and had added journeys matching Bygone's journeys and fares. Although in its view there were too many buses of various operators in Maidstone, and M&D would not have run the additional journeys but for the competition, on the basis of the incremental costs of the additional journeys a relatively few passengers per journey would suffice to justify the costs involved.

5.20. M&D noted that the public did benefit from having choice if two different vehicles arrived at the stop in close proximity. However, M&D also believed that the overprovision of buses did not benefit the travelling public in other respects. In particular, the permanent provision of overcapacity by competing operators would ultimately lead to higher fares being charged to meet the cost of this overprovision and/or a continuing decline in the quality and age of the vehicles operated.

5.21. M&D said that one of the most notable features of public transport since deregulation was that the operator which registered timings which enabled it to be first at the stop gained significant advantages. As the DOT's consultation paper (see paragraph 3.7) acknowledged, this inevitably caused bunching and traffic congestion in terms of the blocking of bus stops, whether deliberate or otherwise.

Access to bus stops

5.22. M&D emphasized that it did not intentionally block bus stops in Maidstone or elsewhere. The company had carried out a survey of all operators' arrivals and departures in Maidstone town centre on 23, 26 and 27 February 1993 which showed that, proportionate to the volume of service provided, Bygone and Turners spent more time stationary at town centre stops than did M&D. In response to points made by Bygone (see paragraph 4.41) M&D said that it did not use the Chequers Centre bus road in Maidstone as if it were a depot and did not leave parked buses which prevented other operators from gaining access to the stops. M&D did not control or manage the Chequers Centre bus road and had not received any representations from the owners of the centre about any other operator's use of the bus road.

5.23. M&D told us that in September and October 1992 it had suggested to MBC and KCC that problems of bus stop congestion could be overcome by the local authority seeking a Traffic Regulation Order from the Traffic Commissioner. In the company's view such an order would benefit all bus operators and the public in Maidstone. M&D had sent the two councils details of the surveys which it had carried out in the town centre and was renewing its attempts to persuade them to use their powers.

Selective fare reductions

5.24. We put to M&D the issue of its charging reduced fares only on selected journeys which matched a competitor's services. The company replied that it had, on occasion, operated a policy of selective fare matching where it was commercially sensible to do so. However, it disputed that such a policy was anti-competitive. In examining why M&D had adopted this policy and whether it

operated in the public interest, it was important to consider the company's policy of providing a full network of services. Selective matching fares reductions were intended to maximize the contribution from a route in the competitive circumstances prevailing. Fares were generally set on a common mileage-related basis to achieve an acceptable level of profitability across the network and this involved the element of internal support referred to above (paragraph 6.6).

5.25. M&D said that maintaining a network in this way made M&D vulnerable to selective competition. Because of low barriers to entry and low economies of scale small operators could introduce limited services which competed for passengers on the denser services or at peak times. Moreover, since they could achieve high load factors on such services they could cover their costs at lower fares than those charged by M&D. An example of such competition was service 191/192/194 between Hoo Marina and Chatham, where Mercury had entered with three return journeys at peak times only running in front of existing M&D services and at an average fare of about 80p against M&D's fare of £1.

5.26. M&D considered that it had not been anti-competitive to introduce an additional service on this route at a matched fare, leaving the existing service and fare structure unchanged. The additional service had resulted in an improved contribution to overheads compared with not responding and was not therefore predatory. M&D added that its policy was to match competitors' fares and not to undercut them. It did not consider that it could be against the public interest to charge matching lower fares in this way.

Bus advertising

5.27. With reference to the complaint by Bygone (paragraph 4.43) that M&D had recently put into service, on routes operated by Bygone, two buses painted in a similar colour to those of Bygone, M&D explained, and an advertiser confirmed, that the two buses concerned had been painted in the promotional colours of advertised products and had been used throughout Maidstone as specified by the advertiser.

5.28. Commenting on the complaint by Mercury (paragraph 4.48) that M&D had required an exclusivity undertaking from a transport advertising agency with which Mercury had entered into negotiations, M&D told us that the exclusivity requirement in the contract had been introduced as a counterpart to an undertaking by M&D not to place business with other advertising agencies. The company said that those concerned in the negotiations had been unaware of the parallel negotiations with Mercury.

Provision of information

5.29. M&D told us that its current policy was to publish information, if it was asked to do so, on other operators' services which complemented its own services. The company acknowledged that a small number of its leaflets referring to service withdrawals, when another operator had won a tendered service previously operated by M&D, were not as helpful as they might have been, but stressed that it had not intentionally published misleading information about service withdrawals. M&D was one of the few operators in the reference area which were prepared to provide information about other operators' services. It had experienced difficulties because, whether such information appeared in an M&D leaflet or was given orally, customers were apt to hold M&D responsible for any resulting inconvenience. Despite its misgivings, however, M&D had decided to include the timetables of other operators' tendered services and complementary commercial services in its appropriate timetable leaflets and to hold their leaflets in its travel offices.

5.30. M&D explained that it did not handle information about services in direct competition with its own and considered it unrealistic to expect any company to distribute information about its competitors' services. It did, however, erect bus-stop poles and flags and updated timetable cases under contract to KCC and its present policy was to allow competitors to place flags and cases on M&D poles on payment of an appropriate fee. The company explained that after refurbishment in the Chequers Centre bus road in Maidstone in August 1992, other operators' signs had inadvertently

been left off the poles, but that they had been speedily replaced when the matter had been drawn to M&D's attention.

Interchangeable tickets

5.31. M&D recognized that there were potential benefits to passengers from interavailability of tickets between bus operators and said that it had such arrangements with some other companies. It had never received an offer of payment by another operator for the acceptance of its tickets on M&D's services and, like other operators of commercial bus services, M&D would accept other companies' tickets only if it believed that it was in its own commercial interests to do so.

Barriers to entry

5.32. M&D considered that barriers to entry in the reference area and in the bus industry generally were very low, as evidenced by the number of new operators which had entered the market and expanded since October 1986. Local bus markets were highly contestable open markets, even where they were not currently competitive markets. If M&D's performance in the reference area deteriorated, other large operators would enter the market and compete vigorously.

5.33. M&D said that it might theoretically be the case, as was sometimes suggested, that fear of a competitive response from an incumbent operator with significant resources might deter companies from entering the market. In the reference area, however, M&D had not behaved anti-competitively; in particular, its sensible pricing, registration and tendering policies were well-known to potential new entrants. M&D added that, while it accepted competition for both commercial and tendered services, in common with all other operators, irrespective of size, it would react to and meet selective competition.

Quality of service

5.34. M&D told us that, while it regarded operation in accordance with timetables as the most important element in the quality of bus services, passengers should be able to take several other aspects of quality for granted. These included an assumption that a bus was in a safe and roadworthy condition, clean, warm in winter, and operated in a considerate manner.

5.35. M&D believed that its services were generally more reliable than those run by many other operators. Moreover, by operating a high frequency M&D could meet the needs of passengers who found the service of a small operator unreliable.

5.36. M&D said that it required its drivers to report any lost journeys and significant variations to timetabled services. The company employed four inspectors as a mobile team to make unannounced checks that services were being operated at scheduled times. In total, M&D employed 21 inspectors and 14 regulators to help drivers to adjust vehicle schedules in the light of operating problems as they arose. Daily written reports were submitted to the Area Managers to enable any action to be taken to ensure that a high level of service reliability was maintained.

5.37. M&D told us that all its depots and outstations submitted a weekly return of lost mileage with a statement of the reasons. The four-weekly management accounts reported lost mileage and its causes, including major traffic accidents and emergency road closures which disrupted services.

5.38. M&D considered that the standard of presentation of its vehicles and drivers to the public was at least equal to that of other major bus operators in the reference area. Unlike many other operators in the area, the company supplied a uniform to all its staff who were in regular contact with the public. M&D considered its terms and conditions of employment concerning holidays, pensions and sick pay to be superior to those offered by small operators.

5.39. M&D provided a number of illustrations of how, as a major bus operator, it co-operates with local authorities for the public good. For example, it had assisted KCC in a training exercise held at Hoo in March 1993 for the emergency services within the county, had played a major role in a study of the design of road humps, and would provide special bus services in Maidstone in June 1993 in support of the Child Safety Campaign. The company also pointed out that it often gave emergency assistance to other bus companies, for example by providing cover when breakdowns or severe weather conditions would otherwise have prevented them from meeting their contractual obligations.

The Pentagon Bus Station, Chatham

5.40. M&D gave us its views on access and other questions related to the Pentagon Bus Station at Chatham in a number of written submissions and at two hearings. For convenience these views, other than those on remedies (see paragraphs 5.53 to 5.56), are summarized in the section of Chapter 3 dealing with the Pentagon (paragraphs 3.193 to 3.220).

Remedies

5.41. We invited M&D to comment, on a purely hypothetical basis, on a number of possible remedies were we to find public interest detriments resulting from the monopoly situation. M&D stressed that it did not believe that the current situation was against the public interest and did not therefore accept that there was a case for any remedies. M&D considered, moreover, that nearly all remedies of the kind which we had put to it were contrary to the aims of the 1985 Act and would substitute a regulatory mechanism for an operator's commercial judgment. The Act was based on the premise that the public interest was better served by such judgment and the response to market forces rather than by regulation.

5.42. M&D commented that the practices we were examining were used by most other operators in the industry including others in the reference area; to restrict the ability of one operator, but not others, to respond to competition was in itself anti-competitive and would impose an unfair penalty. Given that competition was invariably selective, targeting peak journeys and/or profitable routes, it was of fundamental importance, both to the company and to the public interest, that M&D should be able to respond defensively so that the effect of revenue abstraction on the network was minimized and the network maintained. It pointed out the importance of a comprehensive, profitable network of services, as referred to in paragraph 5.6.

5.43. We sought M&D's views on a possible limitation of the period for which it could maintain the existing level of service on a commercial route which was not covering its variable and semi-variable costs and making some contribution to overheads; we suggested three four-week costing periods as the maximum permitted period. M&D responded that its policy was to provide a comprehensive and profitable network of services, within which there were interdependencies of both costs and revenues, and some commercial cross-subsidy. When considering the case for changing the level of a service, M&D needed to look at the incremental impact of the change on the profitability of the network as a whole (as explained in paragraphs 5.4 and 5.5). M&D considered that this approach had been envisaged in the 1984 White Paper. M&D referred to the incremental costs and revenues involved in their operations and pointed out that there was a good case for running those few services which did not cover their semi-variable costs, or did not make a contribution to overheads. Not only would the revenue loss associated with the removal of such services exceed the cost savings—and the company's profitability would thus be adversely affected—but also the viability of other routes would suffer as detailed in paragraph 5.6, ie the residue of services would have to bear the unreduced overheads. The withdrawal of such services would almost certainly result in calls for increased public subsidy. It was not therefore acceptable to take service decisions looking at individual services in isolation.

5.44. M&D said that there would, furthermore, be practical difficulties with such a remedy. It would be illogical to act on the basis of the existing level of service if changes were needed in future to take account of passenger demand; in some cases an increase rather than a reduction in service level might improve the service's financial performance and benefits for passengers; changes in the

market might lead M&D to judge that performance would improve, thus justifying the maintenance or increase of services which were apparently performing poorly, or the introduction of a new service; since fare levels could significantly change performance within existing service levels, it might be preferable in some cases to reduce or increase fares rather than to change levels of service.

5.45. We also sought M&D's views on a number of alternative remedies designed to limit the number and/or timing of its buses on routes where competition was occurring or to limit the number of buses which M&D could run within a specified number of minutes of a competitor's services. The company considered that any such remedy would be inconsistent with the policy of bus service deregulation. Apart from hampering the company's competitive response and preventing it from optimizing the balance between revenue and costs, a constraint on the number or timing of services would prevent services being run when passengers wanted them to operate and would deny them the benefits of more frequent services.

5.46. M&D believed there would be problems in defining when competition was occurring. Would it exist when one or two vehicles ran on the same route but at different times of day and would it apply where buses were operated in the same corridor with common sections of route but not on precisely the same route throughout? The company also questioned how timings of services would be recorded and reviewed given the scope for mistakes and misunderstandings when bus services were monitored, especially given the effect on operations of severe traffic congestion in urban areas. M&D also felt that the scope for unjustified or mischievous complaint by competitors was considerable in these circumstances. M&D said that it had considered whether any remedy might be practicable were the MMC to find that the introduction of services timed to run just ahead of those of a competitor was against the public interest. It had, however, been unable to identify any restriction which would not be either much too restrictive on substantial tracts of the network not subject to competition or so weak as to be ineffective.

5.47. We put to M&D a specific hypothetical remedy on service timing whereby it would register services at no shorter an interval before a competitor's service than the competitor had registered before M&D's service. Thus, if a competitor were to register a service to run five minutes before M&D's, M&D would be able to register a service to run five minutes before the competitor's, and so on; were the competitor to time a journey to operate midway between M&D's journeys, no response would be possible. M&D set out at length its objections to such a remedy, both on the grounds referred to in paragraphs 5.41 and 5.42 and on a range of practical and public interest grounds which it summarized as follows:

- (a) In practical terms any such remedy would affect not only directly competitive services such as those which had been introduced in response to entry by a competitor, but also all other long-established services running along parts of the same route or corridor with proximate timings. Such services were designed as part of the comprehensive network to provide a service to the public, not to compete. The fully comprehensive nature of M&D's network would open up the possibility that any restriction would ripple through large areas and numbers of services. The restriction would in many cases prevent sensible and desirable changes to those services, thus either freezing or paralysing substantial tracts of the network. M&D's ability to introduce minor but essential changes in non-competitive situations would also be severely hampered, and in some cases prevented.
- (b) The remedy would in effect cause M&D to plan substantial parts of its network around the sporadic selective competition undertaken by other operators who need give only 42 days' notice of service introductions, withdrawals and changes.
- (c) The complexity of the remedy would be enormous. The risk of inadvertent breach would be high, and monitoring virtually impossible.
- (d) The remedy would clearly be against the public interest as it would unreasonably deprive the public of changes of service.

- (e) It would also be against the public interest because it would prevent sensible changes being made to maintain the profitability of that network and thus the maintenance of the network itself.
- (f) The restriction would give rise to operational inefficiencies by preventing detailed changes to driver and vehicle schedules which required minor timetable adjustments.

5.48. M&D provided the following list of reasons, unrelated to competition, for which it might wish to add a service or change the timing of an existing service:

- (a) to meet alterations to opening and closing hours of schools, places of work, and shopping, leisure and recreation facilities;
- (b) to meet increased or reduced numbers of people requiring transport to attractions in (a) above;
- (c) to amend routes and timings to take account of new and/or expanding housing developments;
- (d) to improve, adjust or create connections with train and other bus services;
- (e) to deal with major roadworks and permanent changes to the highway network, such as one-way systems and pedestrianization schemes; and to improve service reliability with regard to traffic congestion;
- (f) to meet seasonal fluctuations in demand;
- (g) to meet requests from passengers and local authorities for service adjustments regarding changes to timings and routes;
- (h) to meet requests from local authorities providing tendered services under contract;
- (i) minor timing changes enable rescheduling of drivers and vehicles without inconvenience to the public but producing worthwhile economies to the operator;
- (j) frequency reductions or increases improve the financial performance of services and the network;
- (k) adjustments to timings and/or routes may enable services to be combined, thus reducing costs of operation; and
- (l) timing changes may enable or improve the inter-working of services, vehicles and drivers.

M&D emphasized that none of its services stood alone. Any restriction on a particular service would necessarily affect the other M&D services sharing common sections of route, either in whole or in part. Consequently therefore the effect of this or any similar restriction on the public interest must not be underestimated.

5.49. M&D considered that a remedy requiring it to undertake not to make fare cuts on selected journeys on competitive routes would be anti-competitive and inequitable for the reasons set out in paragraphs 5.24 to 5.26.

5.50. We put to M&D a hypothetical remedy that if a competitor withdrew a service following M&D's registration of a service running a few minutes ahead of it, M&D should maintain for a minimum period either the level of service provided when both operators were on the route, or at least the level of service provided by the other operator prior to the introduction of M&D's competing service. M&D commented that fixing the timetable for set periods did not appear to be in the public interest because changes to the service might well be helpful to the public after the other operator had withdrawn. In circumstances where the level of provision by M&D had been appropriate, the competitor's entry would have established an uneconomic level of over-bussing which it would not be

in the public interest to sustain, as the cost of prolonged overcapacity would result in higher fares. There was also a problem in defining 'driven out' given the various reasons for which an operator might withdraw.

5.51. M&D said that any such requirement should apply to all operators but considered that it would undesirably distort the market. A response which made financial and economic sense in circumstances of competition ceased to make sense in the absence of competition. There was also the possibility that the remedy would be triggered by a competitor entering with a service but withdrawing from the route after a few days. Such conduct by another operator has been experienced by M&D in the reference area.

5.52. On the requirement to maintain fares, M&D said that in many circumstances there would be an obligation to provide an uneconomic level of fares for longer than the market could economically justify. That was against the public interest; it reduced profitability unnecessarily and would make it harder to maintain services. M&D considered, however, that there would be some logic in a remedy whereby the incumbent operator would provide for a maximum of six months a service which was not inferior to that which he provided before the competition started; thus if the company had operated a quarter-hourly service at a £1 fare before the competitor entered, it could reasonably be expected to maintain both after his withdrawal for a maximum of six months. The incumbent would thereby guarantee not to attempt to recover the cost of responding to the competition, which M&D said it had never attempted to do. M&D added that it was not offering this as a remedy.

5.53. With reference to the Pentagon Bus Station at Chatham, we invited M&D to comment, on a hypothetical basis, on the renegotiation of the lease or the provision of undertakings to the OFT to provide embody access requirements on the lines of those which the OFT had negotiated with Southern Vectis on access to the bus station at Newport, Isle of Wight (see Appendix 5.1). M&D argued that the Newport bus station was completely different from the Pentagon in that:

- (a) it was of a traditional design with ample room for parking and manoeuvring;
- (b) it was underutilized when Southern Vectis had given undertakings to the OFT, whereas the Pentagon operated substantially above its capacity;
- (c) it did not include essential operational support facilities; and
- (d) it was important to passengers, whereas the Pentagon was not of exceptional importance to passengers in Chatham.

5.54. M&D said that the OFT report¹ had made it clear that the facilities at Newport bus station were of dominant importance in the travel patterns in the Isle of Wight, and that a lack of access to the station represented a barrier to market entry. In those circumstances undertakings about access and pricing for access might have been appropriate. But M&D did not believe that, in the different circumstances of the Pentagon, there was any reason for undertakings of this type; indeed they would be impracticable given the Pentagon's configuration and lack of capacity and the increased difficulty caused there by the withdrawal of the ramps for parking (see paragraph 3.207).

5.55. In M&D's view it would be necessary to consider how any undertaking on access to the Pentagon could operate, given that it was already operating above capacity. M&D would expect to have first call on bay time. It had obligations under the lease and the Pentagon had been designed to incorporate its operational support facilities. As a result M&D needed both loading and parking bays at the bus station and saw no reason why it should give priority to access by other operators, particularly as there were other suitable stops for their services in the town centre. Moreover, any displacement of M&D's services in favour of those of other operators would require M&D to rearrange its operating schedules to account for running times to and from the Pentagon for vehicles

¹The Southern Vectis Omnibus Company Limited—Refusal to allow access to Newport Bus Station, Isle of Wight. Office of Fair Trading, 17 February 1988.

which could no longer be parked there. M&D said that this would result in substantial additional costs.

5.56. M&D suggested a procedure whereby, if other operators indicated to M&D that they wanted access to the Pentagon, it would hold discussions with them to establish whether or not their specific requirements could be accommodated. If M&D decided that there was insufficient capacity for the proposed use and a dispute arose, an arbitrator would be appointed to determine whether sufficient space existed for the other operator's proposed use or not and the loser of the arbitration would pay the arbitrator's costs. M&D observed that operating the Pentagon Bus Station had been a considerable problem even before M&D had lost the use of one of the ramps for parking.

6 Conclusions

6.1. Under the reference dated 15 December 1992, full details of which are set out in Appendix 1.1, we are required to consider whether a monopoly situation exists in relation to the supply of bus services in the area of Mid and West Kent (defined as the districts of Maidstone, Rochester upon Medway, Gillingham, Swale, Tonbridge and Malling, Tunbridge Wells, Sevenoaks and Gravesham in the county of Kent) and, if so, by virtue of which provisions of sections 6 to 8 of the Fair Trading Act 1973 (the Act) that monopoly situation is to be taken to exist, and in favour of what person or persons that monopoly situation exists.

6.2. A monopoly situation in relation to the supply of services of any description in the UK shall be taken to exist under section 7(1)(a) of the Act when at least one-quarter of the supply is by or to the same person.

6.3. As noted in paragraph 3.57, we estimate that in November 1992 The Maidstone & District Motor Services Ltd (M&D) supplied some 62 per cent of bus services in the reference area, as defined above, measured by bus miles. We have no reason to believe that the situation has changed significantly. We therefore conclude that a monopoly situation exists in relation to the supply of bus services within the reference area.

6.4. We are required to consider in whose favour the monopoly situation we have identified exists. M&D is a wholly-owned subsidiary of Einkorn Limited (Einkorn), a company formed in June 1986 by M&D's five senior managers for the purpose of acquiring M&D on the privatization and splitting up of the National Bus Company (NBC). We conclude that the monopoly situation exists in favour of M&D and of Einkorn.

6.5. In accordance with our terms of reference we have therefore to consider:

- (a) whether any steps (by way of uncompetitive practices or otherwise) are being taken by M&D for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (b) whether any action or omission on the part of M&D is attributable to the existence of the monopoly situation, and, if so, what action or omission and in what way it is attributable; and
- (c) whether any facts found in pursuance of our investigation operate, or may be expected to operate, against the public interest.

The market

6.6. In recent years, the use of buses has fallen sharply in the reference area; passengers carried by M&D fell by about one-third over the period 1985 to 1992. Bus services in the reference area face competition from other forms of transport, in particular cars and train services. The ownership of cars in the area, and the proportion of households with a second car, are both well above the national average. There is also a network of rail services which, although primarily used for London commuter services, also provide an alternative to buses for some local movements. In our view, however, there is a distinct market for bus services in the reference area in that the demand includes a captive component of essential journeys. Bus services remain an important means of transport essential to

the mobility of households without cars, in both the towns and the rural areas covered by the reference, in particular for pensioners, schoolchildren and those with below-average incomes.

6.7. Deregulation following the Transport Act 1985 (the 1985 Act) has led to substantial changes in the bus market in the reference area. At that time most local bus services in the reference area were provided by the NBC, through its M&D subsidiary, and within the Maidstone area by Maidstone Borough Council (MBC). Now there are just over 20 bus operators providing such services in Mid and West Kent. Most are small operators with a few buses, indeed some with only a single bus, and many primarily engaged in individual hire services or tendered services. M&D remains by far the largest operator with a network of commercial and tendered services throughout the area. Although it also runs commuter and daytime coach services to Central London and some contract and private hire services, revenue from local bus routes accounted in 1991/92 for [*] per cent of total revenue. Two other substantial bus companies, East Kent Road Car Company Limited (East Kent) and Kentish Bus & Coach Company Ltd (Kentish Bus), both like M&D ex-NBC subsidiaries, are centred in adjacent areas and operate some commercial and tendered services in the edges of the reference area: East Kent in Swale and Kentish Bus in the Gravesham, Tonbridge and Tunbridge Wells areas. There is little head-to-head competition, however, between M&D and these major operators.

6.8. M&D has retained broadly the same organization and geographic network of services throughout the reference area that it operated in 1985 though a number of evening and Sunday commercial services have been withdrawn. It operates local service networks in the Medway towns, Maidstone, Tonbridge, Tunbridge Wells, Sittingbourne and Sheerness, with supporting inter-urban and rural services. M&D has also extended its network to cover the Maidstone town services earlier provided by the MBC-owned company, Boro'line. Under the 1985 Act this operation had to be operated at arm's length from the local authority and without financial support. Following an expansion into London operations, heavy losses were incurred and in late 1991 Boro'line was put up for sale. The London operations were sold but the remaining operations went into administrative receivership early in 1992. M&D had registered bus departure times in front of most of Boro'line's services in late 1991 and a period of intense competition ensued in both the Maidstone and Chatham areas. Boro'line ceased operating in May 1992 and its remaining assets were purchased by M&D and Einkorn.

6.9. Since deregulation most of M&D's evening and Sunday local services and a number of rural services have been withdrawn as commercial services and replaced with tendered services by Kent County Council (KCC). Although M&D initially won the majority of these tenders, other operators have recently been more successful; [*Details omitted. See note on page iv.*]

6.10. A number of small operators have entered the market by bidding for tendered services in the reference area and since 1987 a few have also registered commercial services on routes served by M&D. A major coach operator, Shearings Coach & Bus (Shearings), also entered the market by bidding for local tendered services and introducing some commercial services. All of these operators have either left the local market completely or withdrawn from direct competition with M&D on commercial services with the exception of three which have all entered the local bus market in the last three years: Mercury Passenger and Airport Shuttle Services (Mercury) in competition with M&D in the Chatham and Isle of Grain areas, and Bygone Tours & Bygone Buses (Bygone) and Turners of Maidstone (Turners) in Maidstone. In the closing stages of our inquiry Bygone told the Traffic Commissioner, on 4 June, that it intended to cease providing registered local bus services but on 10 June took steps to reinstate its registrations. Complaints from these operators about M&D's actions on competitive routes played a large part in the present reference but we have also received comments and criticisms from other small operators and from local authorities, including KCC.

The public interest

6.11. A great deal of evidence and many specific complaints, mainly from other operators, were put to us about M&D's response to competition in the reference area. The matters we have considered fall under a number of heads:

*Figure omitted. See note on page iv.

- (a) specific complaints about the frequency, timing and operation of services (including allegations of obstruction and running of unregistered buses), and about fares charged on the routes where there is competition;
- (b) concerns about the attitude of the dominant operator on ticketing arrangements, the provision of timetable information and access to poles, flags, and information cases; and
- (c) access to the Pentagon Bus Station in Chatham.

6.12. We consider the various alleged practices in turn. First, however, we consider as relevant background some general factors influencing entry to the industry and M&D's overall cost and revenue structure, including the extent of cross-subsidy within the network and the extent to which operations on competitive routes are being supported by the rest of M&D's operations.

Barriers to competitive entry

6.13. Immediate barriers to entry and exit in the bus industry are small for an operator seeking a niche opportunity. Second-hand buses and qualified drivers are readily available and an operator can start on a small scale, usually seeking private hire or tender work. Sunk costs are small. There are a considerable number of operations of this type in the reference area. However, this is not an easy market for small firms to expand in. They are likely to be at a disadvantage to a larger and long-standing operator with greater resources, which is better placed to offer return and network tickets and to be recognized and established in concessionary arrangements. New entrants have to build up awareness of their service timings and routes and may find it difficult to inform potential passengers of their services. A further major deterrent is the ability of an incumbent to retaliate against a new entrant by lowering fares, or increasing frequency or retiming and rerouting services. Some established operators have acquired a reputation for 'seeing off' the competition and this is often quoted as one of the main deterrents to establishing entry in the bus industry.

The financial basis of M&D's operations

6.14. As shown in paragraph 2.16, M&D is making modest profits. Its pre-tax return on turnover in 1991/92, at 4.2 per cent, was not sufficient to cover its bus replacement costs. It does, however, have sufficient resources to engage in predatory action against a smaller operator if it wishes to do so.

6.15. There are considerable difficulties in moving beyond the overall financial performance of the company to consider the costs, revenues and profitability of its individual routes, particularly those on which competition is occurring. In the detailed operation of the network not only are depot and general overhead costs to be allocated but drivers and buses can move from route to route within the operating day. Revenues, particularly off-bus revenues from season tickets, Freedom tickets and school buses, also have to be allocated to individual routes, often on the basis of surveys and M&D's general knowledge of the current traffic patterns. M&D's method of fully allocating costs and revenues for the preparation of operating results dates from before deregulation, and met the needs of the subsidized and regulated industry at that time. It is far less satisfactory for measuring the performance of individual routes and presents considerable problems for any outsider trying to do so.

6.16. M&D records information on costs for individual services, as a necessary prerequisite for producing information on route groupings. It told us that in its view the performance of its local bus services could only be measured in terms of these route groupings, which reflected natural catchment areas, passenger flows and operating patterns. M&D's analysis for the first ten costing periods of 1992/93 showed 54 route groupings consisting of 185 individual routes. The results for the individual routes showed (see paragraph 2.46(b)) that a large number of individual routes were not covering their semi-variable costs (maintenance and depreciation); a few were not covering variable costs.

6.17. M&D told us that its long-term aim was that all route groupings should pay their way but that it did operate services where revenues did not cover full costs. It regarded this as a sensible policy and

inevitable in any network of bus services. As shown in paragraph 2.46(a), for the first three quarters of the current year, [

Details omitted. See note on page iv.

] While there is little correlation between the level of profit and the presence of competition on a route, [

Details omitted. See note on page iv.

]

6.18. M&D argued that these operational costings based on a full cost allocation system could not be the basis for day-to-day managerial decisions on service adjustments. It told us that, following a thorough review of the network after privatization when a large number of commercial evening and Sunday services had been withdrawn, there had been only marginal change in its network. Route profitability had been kept under review and a few routes had been relinquished. Managers mostly made changes by rescheduling and redeploying buses and drivers as opportunities arose at different depots and for this purpose used an incremental approach. Under this incremental approach, in considering operational changes, whether or not in response to competition, an estimate of the revenue likely to be directly generated was compared with the costs that would be incurred by the proposed change. What costs were taken into account would vary from case to case; where buses and drivers were free or not fully occupied throughout the day, the extra costs were limited to fuel, tyres and maintenance. For example, the extra journeys introduced in September 1992 on routes 82/83, 85 and 89 had been manned by a special roster of staff who were surplus because the usual loss of drivers over the summer break had not occurred in 1992. In any event M&D claimed that all the routes running against competition were covering variable costs except numbers 113/114, 138 and 151 which had been withdrawn early this year.

6.19. M&D told us that it had to act to preserve its revenues and the profitability of the network on the routes where competition had entered. Like most substantial incumbent operators it offers a network of services. Revenue from such network routes is seen as interdependent and it is common practice for cross-subsidization to occur between routes. In deregulating the industry, Ministers accepted that cross-subsidization between routes may be commercially justified, eg to protect feeder traffic or encourage the continuing use of buses. The incumbent is, however, then vulnerable to entry on its more profitable routes. He may fear losing not only the profits of that route but the benefits to his network in enabling him to spread his overhead costs and absorb the costs of less profitable routes. M&D argued that, in judging its response to new entry, we should accept its incremental approach, in particular its decisions to introduce numbers of extra buses on some routes.

6.20. The main difficulty with this argument is that, if a large operator takes a very short-term approach, and if it has large numbers of drivers and buses and a margin of spare capacity, which is likely because of the operational needs of its network, variable costs on this basis will be low, if not negligible. It is therefore likely that on this approach almost any service changes an incumbent bus company decides to take can be immediately justified. Nor will it be possible for an outside body to satisfy itself on the soundness of the evidence. We consider that the costs and revenues from such action must be measured over a longer period and with a realistic allocation of both variable and semi-variable costs, noting that the provision of services even on this basis requires the ability to cross-subsidize them from other more profitable routes. We also consider that the introduction of additional competitive journeys is likely to be predatory if the revenue generated by such journeys fails to cover short-run variable and semi-variable costs and the firm incurs losses which it could avoid in an attempt to damage its rivals. There is clearly room for argument about the extent to which costs can be avoided for the company taken as a whole. For example, a resource surplus to requirements in one part of the company may be of use elsewhere in the company. For a certain time the company may have to pay for the resource whether it uses it or not. Whether the cost of this resource can or cannot be avoided depends on the minimum period for which it must be incurred. Use of the resource beyond this minimum period means that the cost is avoidable and is therefore properly regarded as a cost of any competitive response.

6.21. M&D gave us detailed figures on which it had based the competitive response for four routes, the 82/83, 85, 89 and 191 routes. For the 191 route M&D was able to produce detailed revenue estimates for only one of the journeys introduced and the position was complicated by the withdrawal

of some of the competitor's services. We were, therefore, unable to reach a firm view on whether the revenue arising from the additional journeys covered variable and semi-variable costs. On M&D's own estimates of additional revenue it is clear that on the 82/83, 85 and 89 routes the additional journeys were not covering variable and semi-variable costs (see paragraph 2.51). We conclude that, where the operation by M&D of additional journeys on such routes does not cover variable and semi-variable costs, this is a step taken by M&D to maintain its monopoly position, and that, for the reasons given above, it is intended to encourage the withdrawal of the competitor. We consider that this will lead to adverse effects for customers through the loss of services and the fares offered on them where these are lower than those charged by M&D on the route, together with the loss of potential benefits of choice and lower prices if competition had been maintained. We consider that the practice operates or may be expected to operate against the public interest.

6.22. We now examine in more detail the various alleged practices and consider whether they may operate against the public interest even where they meet the criteria set out above of covering variable and semi-variable costs. This requires us to consider, among other aspects, the intention of the conduct. Judging intent is not easy but we see value in this approach not only in cases where costs are not covered but in cases where the action may be virtually costless, eg by changing service timings or by impeding or denying access to a competitor. We consider that intent is better inferred from the actual behaviour of the companies concerned rather than their statements. Relevant factors here will be the scale and timing of the response, what form it has taken and most importantly how selective it has been. Such factors allow a distinction to be drawn between a response designed to improve the performance and profitability of the company by benefiting customers and one designed solely to damage rivals.

Operating unregistered buses

6.23. A large number of allegations have been put to us by Bygone and Turners that M&D was running unregistered buses against their services. Registration requirements are explained in paragraph 3.6. A number of these allegations were examined at an inquiry held by the Traffic Commissioner for the South Eastern and Metropolitan Traffic Area during the period of our own inquiry. He found that during the period September to November 1992 M&D had run numbers of extra journeys on the 82, 85 and 89 routes during the 42-day period before the registrations should have come into effect. We received allegations from Bygone and Turners, which were denied by M&D, of further breaches during our inquiry and we commissioned our own survey, carried out by the Vehicle Inspectorate Executive Agency (VIEA), for a week in February 1993. This showed a number of runnings that the VIEA was unable to match to registrations. These, however, in the main were traced to incomplete identifications and to the defects in M&D's registration procedures (see paragraph 3.178), which had apparently resulted from a genuine misunderstanding between M&D and the Traffic Commissioner's staff on which services had been withdrawn and which remained registered. The procedures have now been rectified and the Traffic Commissioner has accepted that the services are registered.

6.24. In respect of the services operated by M&D early in 1993 while these were technically unregistered, we accept that a genuine mistake occurred which has been put right. However, we consider the running of unregistered services during the period September to November 1992 to be a step taken by M&D to maintain its monopoly position. The registration requirements under the 1985 Act were designed to give passengers reasonable certainty of levels of service and to provide a fair basis for competition. We note the Traffic Commissioner's view that M&D, in operating these services, intentionally interfered with another operator's services. We consider that this behaviour by M&D operates or may be expected to operate against the public interest.

Operating unnecessary duplicate buses

6.25. We received a number of complaints from Bygone and Turners that M&D was running duplicates (additional buses designed to meet extra and unforeseen demand (see paragraphs 3.160 and 3.161)) to blanket the routes on which they were competing. M&D assured us that its policy was only to run duplicates where passenger needs required them and denied running unnecessary duplicates

on those routes. Our own investigations (see paragraph 3.177) suggested that buses which appeared to be duplicates were in fact closely spaced registrations, and we discuss these below, in paragraphs 6.29 to 6.32.

Failing to operate the full registered route

6.26. We received a number of allegations from Bygone and Turners that M&D drivers had on occasion deliberately cut out portions of route in order to keep ahead of their buses. A particular example given was the detour into Loose Village from the main Maidstone–Coxheath route. M&D denied that these variations had occurred and stated that it always operated the full route except when prevented by reasons outside its control, eg congestion, breakdowns or accidents. Our own survey, although limited, disclosed no evidence of any variations. We consider that the evidence available does not support any finding under the Act.

Registering and operating commercial services against a competitor's tendered services

6.27. We have described the arrangements for KCC tendered services in paragraphs 3.100 to 3.113. M&D's bidding for and operation of tendered services does not in general appear to raise any public interest issues. We have, however, received a number of allegations that M&D has registered and operated commercial services against another operator's tendered service. M&D told us that it had never registered a route commercially in response to losing or failing to gain the tendered service on it; it had, however, registered over all or part of three tendered routes operated by its competitors. The circumstances are described in paragraphs 3.115 to 3.120. M&D made clear that they were responses to competitive action by the other operators on these or related routes. The registrations against Shearings and Nu-Venture Coaches Ltd were followed in due course by the withdrawal of these companies' services in direct competition with M&D. On the third, M&D has withdrawn its services as financially unprofitable. In all three cases it was clear that the M&D services could not expect to be commercially viable but were designed to abstract revenue that the successful tenderer could expect (all being fixed price rather than guaranteed revenue contracts).

6.28. We recognize that to some extent tendered services abstract revenue from commercial services operating over the same route or corridor and that some response by the commercial operator may in some circumstances be justified. We consider M&D's action in registering commercial services against tendered services in these three cases, where operators had engaged in direct commercial competition on other routes, to be a step taken to maintain the monopoly situation and designed to persuade the competitor to withdraw the directly competing, or other competing, services, with the adverse effect of depriving consumers of the benefits of the additional services. This conduct operates or may be expected to operate against the public interest.

Registering and operating additional services immediately before a competitor's services

6.29. M&D has used the practice of registering before a competitor on a number of occasions in recent years. When Boro'line was in difficulties at the end of 1991 M&D registered three minutes ahead of almost all Boro'line's Maidstone services. More recently M&D has responded to the presence of Bygone and Mercury on some of its routes by registering additional journeys and by rescheduling others, as described in paragraphs 3.128 to 3.159. For example, on routes 82/83 and 85 M&D registered journeys to run three minutes before almost all Bygone's journeys, although Bygone's departure times had mainly been introduced between, rather than against, M&D's journeys. On the 190 group of routes M&D registered a few minutes before Mercury journeys on the route, some of which had themselves been introduced in front of M&D's own journeys. Certain of these services on the 82, 85 and 89 were withdrawn on 19 March by orders of the Traffic Commissioner and revised schedules, less intensive than those operating before the withdrawals but still mostly timed before competitors' journeys, were introduced by M&D on 7 June at the expiry of the ban.

6.30. The practice of registering before competitors is widely used by bus operators as a means of initiating and responding to competition. It brings virtually no benefits to the public, who would be better served by more regularly spaced services, particularly in off-peak periods. It has been accepted as a permissible form of competition since deregulation and Traffic Commissioners have been given no powers to regulate timing of services (except in conditions of congestion following a request from the relevant highway authority). We note that the Department of Transport's recent consultation paper (see paragraph 3.7) refers to concerns about the bunching of services by competing operators on busy routes, but only in relation to effects on road congestion.

6.31. The main method of competition on the disputed routes has been the registering of additional journeys timed before the competitor. Competition in this form against Bygone and Turners on routes 4/5, 12, 82, 85, 89, and against Mercury on the 190 group of routes and on school routes is detailed in paragraph 3.128 onwards. M&D argued that this was a justified means of competition to protect its revenue and that the extra costs of running these journeys were minimal (because the drivers and buses were spare) and more than covered by the revenue. We do not accept these arguments or that the costings arguments in themselves should determine the acceptability of a response. We accept that the timing of their services is one of the ways in which operators can justifiably compete for passengers and that an operator should have some freedom to adjust his timings if, for example, a competitor registers immediately in front of him. We distinguish M&D's behaviour, however, from the simple head-to-head registration adjusting the timing of a journey to take account of the timing of a journey offered by a competitor. In the cases we have examined M&D registered most of these additional journeys to pre-empt the feared loss of revenues to a competitor's services, some of which had been established for some time, and in fact took revenue from the competitor (see, for example, M&D's evidence on passenger journeys on route 82 (paragraph 2.48 and Appendix 2.6)). It is clear to us that the aim of these additional journeys was not to compete by offering a better service to passengers or to meet any perceived need but to remove revenue from Mercury, Bygone and Turners with the likely result that they would be forced off the routes, and that M&D had the resources to run extra journeys for this purpose.

6.32. We regard the introduction of additional journeys timed immediately before a competitor's as a step taken by M&D to maintain its monopoly position. We conclude that the practice may be expected to result in adverse effects for customers through the loss of services, and the fares offered on the routes where these are lower than those charged by M&D on the route, and the loss of potential benefits of choice and lower prices if competition had been maintained. We consider for the reasons set out above that the practice operates or may be expected to operate against the public interest.

Impeding competitors' access to bus stops

6.33. We received a number of complaints from Bygone and Turners and counter-complaints from M&D about access to bus stops in the Maidstone area. The centre of Maidstone is highly congested and there is no bus station. We received a complaint from Bygone that M&D impeded its access to stands in a private road beneath the Chequers shopping centre used by a number of operators for picking up and setting down. M&D has a travel office at the roadside and has made itself responsible for the upkeep of the poles and flags. Currently the owners do not control access or operations and since deregulation something of a free-for-all has developed, with numbers of bus and coach operators bringing in their services. We have received no complaints from other users and we do not think the evidence supports any finding against M&D. The present situation, however, is clearly unsatisfactory and we welcome information we have received from the owners that they propose to introduce improved arrangements.

6.34. There are also major departure points in the centre of the town's one-way system and operators' schedules provide for lay-overs there as well as picking up and setting down passengers. When the limited departure bays are occupied, a bus unable to get on the stand either has to circle the one-way system, which can take more than ten minutes during rush hours, or has to set down and pick up passengers in the street, bringing traffic to a halt.

6.35. Matters reached such a pitch in October 1992 that the police introduced a strict moving-on system under which no operators were allowed to take extensive stop-overs on town centre stands, even if these were provided for in their registered timetables. Matters improved somewhat but complaints have continued into 1993. M&D, with more buses on the road than its competitors, contributes most to the usage of the stands; it has, however, produced a survey it has itself carried out which shows that its competitors have longer lay-over times at the town centre stops.

6.36. The Traffic Commissioner conducted a detailed inquiry into the allegations of deliberate obstruction during the period October/November 1992, based on the results of a VIEA survey and the detailed cross-examination of witnesses. He concluded that the charge against M&D of direct interference with competitors' services was not proven. As regards allegations of continued obstruction since the start of our inquiry, M&D has denied the allegations. The limited survey in February 1993 carried out on our behalf by the VIEA (see paragraph 3.176) produced some evidence of problems caused by and for all three operators, with extended lay-overs at town centre stops blocking access for competitors. It is clear that, given the level of traffic, combined with the road arrangements in Maidstone, there is ample scope for problems to arise between operators even without any ill-will. Given the intense head-to-head competition between M&D on one hand and Bygone and Turners on the other, we think it inevitable that drivers and inspectors will have taken advantage of the conditions on some occasions to inconvenience their rivals. We do not think, however, that the evidence before us supports a finding that M&D has carried out a deliberate policy of impeding competitors' access to stops in the town centre or in the Chequers Centre.

Access to poles, flags and information cases

6.37. One operator, Bygone, has claimed that it has found difficulties in getting its flags accepted in the Chequers Centre and that its timetables have not been accepted in M&D timetable cases there. M&D told us that, after refurbishment in the Chequers Centre in late 1992, other operators' signs were inadvertently left off poles but that they were speedily replaced when the matter was drawn to its attention. M&D owns a large number of the poles on its routes. KCC complained that M&D had generally been unwilling to allow KCC or other operators to put flags or information cases on them. M&D told us that present company policy was to allow competitors to place flags and cases on its poles, on payment of an appropriate fee. We find insufficient evidence to support any finding that M&D has restricted access to its poles, flags or cases in order to maintain its monopoly position.

Provision of information

6.38. As the dominant operator in the area M&D has the largest and most widespread travel points where passengers are likely to expect to find full details available. KCC told us that until recently M&D had been unhelpful by refusing to carry KCC timetables or information about tendered services which complemented its commercial services when these were run by other operators. In addition, on a number of occasions where M&D had lost a tendered service it had issued leaflets announcing the withdrawal of the service with no indication that it would continue in other hands, and this had caused unnecessary concern to passengers. M&D told us that such an impression was inadvertent and pointed to other leaflets which it had issued over the same period referring to replacement services. It had been unwilling to carry information about other operators' services or the KCC material in case passengers held it responsible for their accuracy. Although it considered it unreasonable to be expected to carry information at travel points or in its own information cases about competing commercial services, it had agreed in November 1992 to carry information on KCC tendered services and KCC publications on bus services throughout the county where they were clearly identified as produced by KCC.

6.39. With the large number of bus operators now in the area it is clearly a great advantage to passengers to have comprehensive information on services provided by KCC and we consider that M&D, as the dominant operator, has a particular responsibility to make it available. We welcome M&D's change of policy and the assurance that it will continue to carry information provided by KCC.

6.40. While the failure to provide information about replacement services may have reflected an unhelpful attitude to competitors, the evidence made available shows that it occurred on only a handful of occasions over a period when M&D also issued numbers of acceptable leaflets and we do not think the evidence supports any finding under the Act.

6.41. While the provision of information produced by competitors about their commercial services would be of benefit to the travelling public we do not think it reasonable that M&D should be required to handle information about services actively competing against its own.

Interchangeable tickets

6.42. M&D participates with other operators in KCC's concessionary fare schemes. It also has arrangements for interchangeable tickets on certain routes and for an area-wide Explorer ticket with East Kent, Kentish Bus and South Coast Buses Ltd. Fare levels are broadly comparable and the arrangements are for the reciprocal acceptance of tickets; no payments are made between the operators. Mercury has suggested an interchangeable ticket scheme on its joint routes with M&D. M&D has pointed out that a scheme would need to be registered with the Office of Fair Trading (OFT) under restrictive practices legislation, and that it would require arrangements to recompense it at its own higher fare levels, but has not formally rejected the approach.

6.43. Arrangements for interchangeable tickets are of benefit to passengers and are normally approved by the OFT. Where such arrangements exist or the dominant operator is responsible for most of the network, exclusions from such arrangements for smaller operators can be a handicap. However, in the present circumstances we do not consider that M&D can reasonably be criticized if it refuses to enter into such arrangements on the routes on which it is directly competing with Mercury.

Other complaints

6.44. We received a number of other complaints that M&D had disadvantaged its competitors in various ways, for example by running advertising buses in colours which might be mistaken for those of a competitor. We did not consider the evidence in any of these cases sufficient to justify any finding under the Act.

M&D's fare levels

6.45. M&D operates a basic fares structure of the standard kind, linking fares to distance travelled, with a taper for increasing mileage. There are, however, departures from this structure for particular areas and routes. For example, fares in Maidstone for historical reasons are lower than elsewhere in the area, a system based on flat fares has been operated in Sittingbourne, and in a number of cases fares on indirect and direct routes to the same destinations have had to be aligned. M&D's ticketing arrangements do not allow it to record journeys in sufficient detail to construct a comprehensive index of average fare levels for comparison with other operators or to measure fares increases over time with any accuracy. There is, however, no evidence that M&D's fares as a whole are high compared with industry levels or that recent increases have been out of line with those elsewhere in the industry.

Charging reduced fares only on selected journeys

6.46. Bygone, Turners and Mercury have all entered the market with fares below those of M&D. M&D has not responded by any general price reductions on these routes. In March 1993 it had special offers on its Freedom tickets. These were spread throughout its network and we accept that they were not focused on the competition. However, M&D had earlier introduced selective price reductions on the buses running directly against competitors' buses, while leaving fares on other buses unaltered, as described in paragraphs 3.170 and 3.171. Buses offering low fares carried placards advertising the fact. M&D withdrew the selective fares reductions on 4 January 1993 but told us that

revenues would be kept under review and the reductions reinstated if necessary. M&D told us that the fares reductions were a justified competitive response in order to protect revenue, and that it had only matched, not undercut, the competitor's fares.

6.47. We consider the selective fares matching a step taken by M&D to maintain the monopoly situation. Where, as here, the dominant firm is well established with a large market share, we consider the use of this highly selective and flexible response, targeted against a competitor's attempt to enter the market, to be against the public interest in that it is likely over time to undermine the competitor's services. We find that M&D's conduct operates or may be expected to operate against the public interest.

Access to the Pentagon Bus Station

6.48. In considering the question of access to bus stations and the Pentagon Bus Station at Chatham in particular, we have noted the statement in the 1984 White Paper on deregulation that major bus stations should be operated, whether in public or private ownership, on a commercial basis under arrangements which will provide for all operators to have equal opportunity of gaining access to them. Accordingly, under the 1985 Act the scope of Restrictive Trade Practices legislation was extended to cover arrangements for the use of bus stations. This was designed to ensure that existing operators could not use their control of important bus stations to prevent other operators using them.

6.49. The Pentagon is a bus station in the centre of Chatham which is leased by M&D from Rochester upon Medway City Council under a 42-year lease, expiring in 2018. It is of unusual design; effectively it consists of a one-way double lane carriageway encircling a large shopping centre at the first floor level. The station consists of 18 bays spaced along the irregular five-sided carriageway and fully occupying one of the two lanes. Four of those bays are used for parking, as are two of the three access ramps and up to six spaces at a local car park. Two are used for other operators' long-distance and tendered services. The remainder are used for M&D's local services. Much of the carriageway is enclosed and ventilation and lighting are poor. Vehicle access is by a single ramp from a complex one-way system and there are two exits. M&D has its administrative headquarters for the area and a travel shop within the centre and is responsible for supervising all bus operations in the station.

6.50. Arguments about access to the Pentagon being refused to competitors go back over a number of years, as described more fully in paragraphs 3.199 to 3.202. On 10 December 1992 M&D agreed to allow KCC's tendered services operated by Mercury and Grey-Green Coaches to be operated from the Pentagon. Mercury began operating these services from the Pentagon on 4 January 1993. It has, however, told us that the bay allocated by M&D for other operators' tendered services (Bay 4) is inconvenient and frequently occupied by M&D buses parked there by M&D staff using M&D's cashing-up and canteen facilities.

6.51. The main M&D grounds for refusing earlier requests for access were that the bus station was already operating above capacity and that this, combined with the operating difficulties of the layout, made it impossible to accommodate further buses. M&D commissioned a report from a firm of transport consultants, which suggested that in November 1991 the station was already operating above capacity. We sought comments from a second firm of consultants, who concluded that there was in fact capacity for further departures but only at certain times. The differences between the two consultants' views have not been fully resolved; it seems clear, however, that without some adjustment of timetables or new bay arrangements there is not capacity to absorb further services, such as Mercury's competitive ones.

6.52. M&D has made clear that it considers the station to be operating already at full capacity. Its parking facilities were essential for smooth running of services and the station had been designed to include these and operational support facilities. M&D had obligations under the lease, and carried the costs of rent, administration and supervision of operations in the station. It was willing to allow access to others where they could be accommodated but would expect to have first call on bay time and saw no reason to give priority to others.

6.53. M&D also argued that access to the Pentagon is of little significance to other operators since the bus stops in Military Road and outside the Pentagon at ground level are already used by a number of services, including Mercury's commercial services, and provide an adequate alternative for passengers. Our consultant, however, advised that, while operations could be satisfactorily carried out without a bus station, where a station existed it was a significant handicap to an operator not to have access. In particular, passengers would tend to use the departure points where the dominant operator, and thus the most frequent services, on a route were located. There was also a significant proportion of passengers changing buses who would tend to use those departure points.

6.54. We do not accept that facilities outside the Pentagon are equally good. We note that there are differing expert views on whether there is spare capacity in the station at present. However, even if there is none, this does not dispose of the issue. If equal access for all operators were held to be desirable, it might be necessary in some circumstances to provide access even at the cost of ejecting some of the incumbent's operations.

6.55. M&D recently indicated that it was ready to discuss access for Mercury's commercial services and provided a copy of the conditions which would apply (see Appendix 3.4(b)). Two important conditions are that the arrangements with any operator allowed in will be terminated if the operation of its services causes M&D 'operational' difficulties and that departure charges set by M&D will be levied. M&D's current departure charges are considerably above those charged by a number of other commercial operators in the South-East and above those needed to cover an appropriate share of the costs of operating the station.

6.56. Mercury told us that it is not interested in pursuing the present offer because the departure bay offered was unsatisfactory, being the opposite side of the station from the departure bay for M&D's competing services, the departure charge was unreasonably high, and the terms and conditions would allow M&D to eject Mercury without notice if, in its view, Mercury was causing operational difficulties.

6.57. We note the criticism of M&D's terms and conditions for the use of the station. We do not consider that the provision for immediate ejection from the station if an operator causes operational difficulties is reasonable when the case is to be judged by the main competitor. While noting M&D's offer during the inquiry to renegotiate departure charges to reflect costs of operation, we consider that the present charges are at a level to put a new entrant at a disadvantage to M&D and could deter entry.

6.58. We have noted M&D's statement to us that it is prepared to discuss all these matters with Mercury, the current applicant, to try and reach a satisfactory solution. We note, however, that access has only been given to tendered services and offered to commercial services since M&D was made aware of the likelihood of the present reference. We note also that M&D made it clear in its response to us on this issue that M&D's operations must always have first call on bay space and that if Mercury's commercial services are admitted it will only be into slots left vacant by M&D's operations.

6.59. We consider that the terms and conditions under which M&D is currently offering access do not provide entrants with reasonable facilities or the security of enjoying them. Passengers consequently are denied the benefits and convenience of choice if competitive services cannot leave from the same departure point. We conclude that the failure to offer access on reasonable terms is a step taken by M&D to exploit or maintain the monopoly situation, with the adverse effects specified above, and that it operates or may be expected to operate against the public interest.

Conclusions

6.60. In the earlier paragraphs we have described the various ways in which M&D has competed in the reference area. In defending its conduct M&D emphasized the need to protect its network and revenues and claimed that, in all the cases we had examined, the additional costs to it of taking action were less than the revenue created or protected. We have explained in paragraphs 6.20 and 6.21 that we consider this approach flawed. We do not accept M&D's identification of short-term incremental costs, nor do we consider this analysis, which would appear to justify virtually all types of immediate

retaliation by an incumbent operator, an adequate basis for assessing the acceptability of M&D's competitive response.

6.61. We recognize the benefits of the M&D network of services to the reference area, and the fact that M&D has provided good-quality services and has been ready to provide services when other operators, for various reasons, have failed to operate journeys. We recognize that an incumbent operator must be free to respond to competition and to protect revenue and the benefits of his network. We think, however, that the response to competition should be fair and not designed to eliminate the competitor from the network.

6.62. In a competitive situation firms attempt to gain advantage over their rivals and to increase market share at the expense of their competitors. It is through such rivalry, with the attendant pressure to cut costs and improve efficiency, that the benefits of competition are passed on to consumers. If competition is fair, the more efficient and innovative firms are likely to prevail. The types of practices we have to consider can on the one hand be seen as normal and desirable responses to competition; on the other hand, when used by a dominant supplier, they can be seen as predatory actions designed to drive a competitor out of the market, thus denying the benefits of competition to the consumer. M&D, as the established company, has the advantages of an established network. It has the ability by selective action to target competitors which may well not have the resources to retaliate effectively in kind and may well have to withdraw from routes, thus depriving customers of the benefits deregulation was designed to bring. We have concluded that in the cases we have examined M&D was indeed trying to achieve this aim.

6.63. Against this background:

- (a) we have concluded that the running of additional journeys that do not cover their variable and semi-variable costs by M&D operates or may be expected to operate against the public interest (see paragraph 6.21);
- (b) we have identified as M&D's main method of competition its ability to target the competitor by registering additional journeys immediately before its journeys, and found that this practice operates or may be expected to operate against the public interest (see paragraph 6.32);
- (c) we have also found that three other practices—the running of unregistered buses, the registration of commercial services against competitors' tendered services, and reducing fares only on selected journeys—operate or may be expected to operate against the public interest (see paragraphs 6.24, 6.28 and 6.47); and
- (d) finally, we have found that restrictions applied by M&D to access to the Pentagon Bus Station at Chatham disadvantage competitors and operate or may be expected to operate against the public interest (see paragraph 6.59).

6.64. We have identified in paragraphs 6.21, 6.24, 6.28, 6.32, 6.47 and 6.59 certain steps taken by M&D to maintain or exploit and maintain the monopoly situation and have in those paragraphs identified adverse effects arising from these steps. We have found no actions or omissions attributable to the monopoly situation. We conclude that the steps identified above are facts found in the course of our investigation which operate or may be expected to operate against the public interest.

Recommendations

6.65. We are required by section 54(3) of the Act to consider what action (if any) should be taken for the purpose of remedying or preventing the adverse effects we have identified and we may, if we think fit, make recommendations as to such action.

6.66. M&D argued that any restraints on its freedom to react to competition would be inconsistent with the principles of deregulation in the 1985 Act. M&D pointed out that the practices we were examining were used by most other operators in the industry, including others in the reference area, and it would be unfair to penalize them. We note, however, that the 1985 Act was intended to

introduce free and fair competition and placed the industry within the scope of competition legislation. We are examining the behaviour of M&D, in whose favour we have found a monopoly situation to exist, and if we find that in the circumstances of this inquiry certain of M&D's actions are anti-competitive and against the public interest, we consider we should recommend whatever measures seem appropriate within our terms of reference.

6.67. We have found the running by M&D of additional journeys on competitive routes that do not cover variable and semi-variable costs to operate against the public interest. We therefore first considered a remedy involving the identification and regulation of such journeys. We concluded that, since allocation of costs and revenues to individual routes necessarily involves considerable judgment and some inevitably arbitrary decisions, it would be difficult for M&D to produce reliable cost and revenue estimates for individual competitive routes. For the OFT, as the regulatory body, to monitor the results across the network would make heavy demands on its resources, and those of M&D. We do not therefore make this the subject of any recommendation.

6.68. To meet the detriment we have identified arising from M&D's practice on competitive routes of introducing additional journeys immediately before a competitor's journeys we have considered two remedies in this field. The first is a limitation on the number of journeys M&D may run on a route where competition is occurring to the level at which M&D is running when the competitor enters. That frequency of service is one which, before the competitive entry, M&D considered adequate to meet consumer needs profitably. Within such a constraint it would be possible for M&D to respond to attempts by the competitor to abstract revenue by registering immediately before it, but any attempt to swamp a competitor's services with extra buses would be limited by the constraint on total numbers and at the expense of leaving the route uncovered at other times of the day.

6.69. We have also examined limitations on the timing of M&D's journeys on such routes. We considered laying down a specific interval or intervals within which M&D might not register new journeys before a competitor's service. We concluded, however, that the variety of routes and frequencies across M&D's network where competition might occur made this impracticable.

6.70. We therefore considered a more general remedy under which, on a route on which a competitor had entered or on a substantially similar route, M&D could not register a journey before a competitor's service within a shorter interval than the competitor had itself registered before an existing M&D service. Thus, if a competitor were to register an additional journey five minutes before M&D, M&D would not be able to register a journey less than five minutes before the competition; if the competitor registered ten minutes before M&D, M&D could not register less than ten minutes before the competitor, etc. We think that to be effective the remedy should apply to new registrations by M&D whether these are registrations of additional journeys or retimings of an existing service.

6.71. We considered the danger that this remedy might create an unstable situation as competitors leap-frogged one another's services. Such a remedy, however, has the advantage of also influencing the competitor's behaviour to avoid overconcentration of services. For example, if a competitor entered with timings spaced evenly between those of M&D, which is likely to provide maximum benefit to passengers, then M&D would be unable to change its registration. We concluded that the remedy was likely to encourage greater stability in timing.

6.72. We consider that the suggested remedy imposing constraints on the timing of M&D's additional journeys would be the more effective in remedying the adverse effects we have identified and the easier to implement. It has the advantage of generating some potential benefits for the travelling public by encouraging more even spacing of services and adjusts the severity of the constraint on M&D to the extent to which the new entrant targets its services against M&D's. Apart from these restrictions on timing we do not suggest any limit on M&D's ability to register new journeys or reschedule existing ones. The freedom to do so within the constraints we have suggested should help M&D to deal with some of the practical operational difficulties it foresees in the remedy, which are described below.

6.73. M&D put to us forcefully the practical difficulties that it thought might arise for it from the remedy. As M&D pointed out, if the application of the remedy was confined to routes which were directly competitive along their whole length, eg the 82 or 89 in Maidstone or the 191 in the Chatham

area, its effects could be avoided by adjusting services on closely related routes running over part of the same route or by registering new routes incorporating minor variations of existing routes. On the other hand, if limitations on timing extended to such routes M&D considered that its operations would be unreasonably constrained if it wished to make desirable changes—for example, where a number of its routes came together in a section over which a competitor ran or if it wished to introduce a new service, eg to serve a school, or to adjust services to meet other changes in demand which ran in part over a competitor's route.

6.74. Given the size of M&D's network it is not appropriate for us to try to accommodate every situation M&D has identified by laying down detailed rules. Our aim is that the remedy should apply to those of M&D commercial services which are in direct competition with those of other operators, either over the same or a substantially similar route. The intention of our remedy is clear and it would be for the OFT to consider the background in deciding whether, in the particular circumstances, M&D's registration of a service was justified. We recognize that there are difficulties in applying the remedy to a complex network of bus services and that practical problems will have to be settled. Nor do we think that the remedy will necessarily provide the complete solution to the detriments we have identified. We do, however, consider that it will act as a significant restraint on M&D's behaviour and provide some protection for new entrants against the practice which we have found to operate against the public interest.

6.75. We do not think any variation of the remedy would be needed to cover the position on existing competitive services, since other operators, if they so wished, would be able to adjust their own timings to limit the opportunities for M&D to run immediately in front of them. However, any remedy of this kind would need supporting by measures to prevent avoidance relating to duplicate services and tendered services. M&D assured us that it is not its practice to run duplicate buses except to meet non-routine passenger needs. It would be possible for M&D to retaliate against a competitor by itself entering on that competitor's own routes, either commercial or tendered. On commercial routes, the undertakings above would apply after M&D's entry to its ability to respond subsequently to any adjustment by the competitor. On tendered routes the competitor's response would be limited by the terms of the tender. We have found M&D's registration of commercial services against competitors' tendered services to operate against the public interest (see paragraph 6.28). We recommend that undertakings be sought from M&D that it will not enter on a competitor's tendered route unless it can demonstrate to the OFT that the competitor's route is in head-to-head competition with an M&D route over that part on which it enters.

6.76. We therefore recommend that the Director General of Fair Trading (DGFT) should seek undertakings to implement the remedy described in paragraph 6.70 and that such undertakings should, as may be necessary, include provision relating to tendered and duplicate services.

6.77. We are also concerned that, even if the undertakings we propose are negotiated, they may not fully remedy the effects of M&D's behaviour. We recognize that the remedy we recommend in paragraph 6.76 breaks new ground, would take time to introduce, and that its effectiveness has yet to be tested. We cannot rule out the possibility that M&D's behaviour in running additional services may contribute to other operators being forced to withdraw services, either from existing competitive routes or others established in the future. We have identified in paragraph 6.32 the potential loss of benefits to the consumer from such developments. We recommend therefore that if before undertakings are introduced M&D has introduced, or introduces, additional services running before those of the competitor on a competitive route, and the competitor then withdraws from the route, M&D, for a period of at least one year, should maintain its level of service provided on the route at the time of the withdrawal and charge no higher fares except proportionately to any general fares increase.

6.78. When such undertakings were in place we would not envisage detailed monitoring of the situation. We envisage that any monitoring would be triggered by complaints about M&D's registrations from other operators. It would be open to M&D, if uncertain about the acceptability of a proposed new registration, to consult the OFT in advance. Since most of the demand changes to which it would want to respond should be foreseeable some months in advance this should not in most cases cause difficulties for M&D over the registration process. Any complaints about whether M&D was properly operating its registered services would be dealt with, as now, by the Traffic Commissioner.

6.79. M&D argued that our recommendations if implemented would impose constraints on M&D which would not apply to its competitors. As the dominant operator, however, M&D has advantages in possessing a network and access to resources not shared by actual competitors or likely new entrants. If, contrary to our expectations, a competitor emerged with similar advantages or if, for example, more than one operator entered an M&D route, it would be open to M&D to seek review of its undertakings.

6.80. We have found that the running of unregistered buses by M&D operates and may be expected to operate against the public interest. Under the 1985 Act monitoring of the proper registration and operation of bus services and action against operators of unregistered buses are the responsibility of the Traffic Commissioner, who has only recently investigated complaints against M&D and taken action on those which were found to be well-founded. We therefore make no recommendations relating to this conduct.

6.81. We have also found that M&D's practice of charging reduced fares from its normal fares structure on the route, on selected journeys which directly match a competitor's timings, is against the public interest. We recommend that M&D be required to cease this practice. M&D would remain free to reduce all fares on a route if it wished to use this means of responding to a competitor.

6.82. We have also found that M&D's limitations on access to the Pentagon Bus Station at Chatham for other operators' buses operates and may be expected to operate against the public interest. We recommend that M&D should give undertakings to the OFT, first to provide all operators with equal opportunity of gaining access for their services on reasonable terms and charges, on the lines of those negotiated with Southern Vectis on access to the bus station at Newport, Isle of Wight (see Appendix 5.1), and secondly to remove from its current terms and conditions of the power summarily to eject an operator if it infringes M&D's operating conditions. We consider that such undertakings should take into account the current arrangements for tendered services and the case for moving them from Bay 4, which is prone to unauthorized parking by M&D staff. We recognize that space at the station for further commercial services is limited; we envisage that the conditions will require that, if demand for space exceeds the limited number of slots at present available, M&D will make available a further bay by rearranging and, if necessary, removing some of its own operations, possibly by surrendering a parking bay. We note in this connection that any difficulties would be considerably eased if Rochester upon Medway City Council was able to offer M&D additional parking spaces near the Pentagon.

6.83. If M&D refuses to give the undertakings suggested, or to implement them in a manner satisfactory to the OFT, we expect that the OFT will continue to monitor the situation. Should such monitoring suggest that the public interest detriments we have identified appear to be continuing, it would be open to the DGFT to consider the possibility of further action under competition legislation.

6.84. In considering these remedies, we have noted the powers exercisable under Schedule 8 to the Act. These enable Ministers to make orders to remedy certain public interest detriments identified in a monopoly report. We note that Schedule 8 does not provide order-making powers to enforce remedies of the kind we have recommended above except in relation to selective fares reductions. We urge that, in the context of the proposed measures to strengthen the existing legislation against anti-competitive behaviour announced in April 1993, consideration should be given to widening the scope of the powers.

6.85. In this inquiry, the first monopoly inquiry into a part of the UK bus industry, we have been impressed by the problems of maintaining effective competition in the reference area, where an established operator has a dominant position and is concerned to maintain the benefits of his network. Entry by a new operator may then lead to unstable and potentially destructive competition, with little benefit to consumers. We were also concerned by the difficulties, given the nature of the industry, in framing remedies for the adverse effects we have identified from M&D's response to new entry on to its routes. While we consider that the remedies we have put forward are likely to improve the situation, we do not see them, for the reasons we have set out, as providing a complete solution.

6.86. In our earlier report on the acquisition by Stagecoach (Holdings) Ltd of Portsmouth Citybus Ltd¹ this Commission said in May 1990: 'We believe that a more general review of the bus industry may indeed be necessary given the continuing evolution in the industry's structure following the 1985 Act. This would provide an opportunity to assess the extent to which competition has asserted itself at regional and local level following deregulation.' Our experience in this inquiry has underlined the need for a searching review. One question for such a review would be the possibility of introducing effective competition through a form of franchising system, which has been applied in the television industry and is the Government's preferred route for introducing competition in the railway industry; another would be the question of whether the establishment of an 'OFBUS' regulator of the kind introduced for other utilities could lead to effective control of the adverse features we have identified.

6.87. We urge that such a review should be set in hand.

A FERRY (*Chairman*)

P BRENNAN

P A HODGSON

J S METCALFE

L PRIESTLEY

S N BURBRIDGE (*Secretary*)

14 June 1993

¹*Stagecoach (Holdings) Ltd and Portsmouth Citybus Ltd: a report on the acquisition by Stagecoach (Holdings) Ltd of Portsmouth Citybus Ltd*, July 1990, Cm 1130.

APPENDIX 1.1
(referred to in paragraphs 1.1 and 6.1)

The reference and background

1. On 15 December 1992 the OFT sent to the MMC the following reference:

The Director General of Fair Trading, in exercise of his powers under sections 9(1), 47(1), 49(1) and 50(1) of the Fair Trading Act 1973 (the Act), hereby refers to the Monopolies and Mergers Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply in the reference area of bus services.

The Commission shall investigate and report on the questions whether a monopoly situation exists in relation to such supply and, if so:

- (a) by virtue of which provisions of sections 6 to 8 of the Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or those persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or those persons is attributable to the existence of the monopoly situation and, if so, what action or omission and in what way it is so attributable; and
- (e) whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this paragraph operate, or may be expected to operate, against the public interest.

In this reference:

'bus services' has the same meaning as in section 159(1) of the Transport Act 1968, as amended by paragraph 1 of Schedule 1 to the Transport Act 1985; and

'the reference area' means the districts of Maidstone, Rochester upon Medway, Gillingham, Swale, Tonbridge and Malling, Tunbridge Wells, Sevenoaks and Gravesham in the County of Kent.

The Commission shall report on this reference within a period of six months from the date hereof.

15 December 1992

(signed) BRYAN CARSBURG
Director General of Fair Trading

2. On 15 December 1992, in a press release announcing the reference, the OFT stated that the Director General of Fair Trading considered that there were possible anti-competitive practices in the supply of bus services in the mid-Kent area which deserved investigation by the MMC.

3. The composition of the Group of members of the MMC which was responsible for the present investigation and report is indicated in the list of members in the preface.

4. Notices inviting interested parties to submit evidence to the MMC were placed in:

Coach & Bus Week

Bus & Coach Buyer

The Gravesend and Dartford Extra

Kent Messenger

Medway Extra

Sevenoaks Chronicle

Sheerness & Sittingborne Extra

Tonbridge & Tunbridge Wells Extra

5. We received written evidence from Kent County Council, Maidstone Borough Council, Tonbridge & Malling Borough Council, Gillingham Borough Council, Rochester upon Medway City Council, Gravesham Borough Council, Sevenoaks District Council, the Department of Transport, a number of bus companies operating within the reference area, organizations representing the views of bus users, the Transport and General Workers' Union and the Vehicle Inspectorate Executive Agency, and from a number of individuals.

6. Questionnaires were sent to bus companies operating in the reference area and the results of the survey are reflected in Chapter 3. We held hearings with representatives of the Department of Transport, Kent County Council, Maidstone Borough Council, Bygone Tours & Bygone Buses, Mercury Passenger and Airport Shuttle Services, Turners of Maidstone, the National Federation of Bus Users, and with KPMG Peat Marwick and Mr David Coupland.

7. We received written submissions from The Maidstone & District Motor Services Ltd and the company attended three hearings.

8. Members of the Group, accompanied by staff, visited the reference area to view local bus service facilities and operations.

9. We should like to thank all those who helped us in our inquiry, and in particular the staff of M&D on whom we made great demands for evidence and who responded promptly and fully to our many requests. We are also grateful to Kent County Council for a great deal of assistance during the inquiry including the arrangements for our visit to Mid and West Kent, and to Maidstone Borough Council for its helpfulness in providing information.

APPENDIX 2.1
(referred to in paragraphs 2.14, 2.19 and 2.25)

M&D: balance sheets

	<i>Years ended May</i>						<i>£'000</i>
	<i>1987</i>	<i>1988</i>	<i>1989</i>	<i>1990</i>	<i>1991</i>	<i>1992</i>	
Tangible assets	5,914	6,136	4,735	5,077	4,092	3,760	
Stock	638	664	665	590	632	580	
Debtors other than loans	939	1,307	1,628	1,357	1,449	1,527	
Less: creditors other than borrowings and provisions	<u>-2,671</u>	<u>-2,871</u>	<u>-2,798</u>	<u>-3,997</u>	<u>-2,948</u>	<u>-2,978</u>	
Capital employed	4,820	5,236	4,230	3,027	3,225	2,889	
Investments	0	10	11	1	1	1	
Borrowings net of loans to group companies and cash	<u>-1,283</u>	<u>-1,527</u>	<u>-617</u>	<u>1,117</u>	<u>1,346</u>	<u>-538</u>	
Net assets	3,537	3,719	3,624	4,145	4,572	2,352	
Share capital, profit and loss account and reserves	2,565	2,941	3,539	4,113	2,047	2,324	
Provisions for liabilities including proposed dividends	<u>972</u>	<u>778</u>	<u>85</u>	<u>32</u>	<u>2,525</u>	<u>28</u>	
Equity	3,537	3,719	3,624	4,145	4,572	2,352	

Source: M&D.

<i>Note:</i>						
Average capital employed	5,028	4,733	3,629	3,126	3,057	
Operating profit	213	134	106	453	742	
Return on average capital employed (operating profit as a percentage of average capital employed)	4.2	2.8	2.9	14.5	24.3	<i>per cent</i>
Gearing (net borrowings as a percentage of equity)	41.1	17.0	0	0	22.9	

APPENDIX 2.2
(referred to in paragraph 2.16)

M&D: profit and loss accounts

	<i>Years ended mid-May</i>				<i>£'000</i>
	1988	1989	1990	1991	1992
Turnover	15,940	16,486	16,909	17,407	16,802
Staff costs	-10,345	-11,182	-11,545	-11,239	-10,975
Other operating costs	-5,629	-5,513	-5,741	-6,297	-5,677
Other operating income	<u>247</u>	<u>343</u>	<u>483</u>	<u>582</u>	<u>592</u>
Operating profit	213	134	106	453	742
Net interest payable (-)/receivable (+)	<u>-67</u>	<u>-7</u>	<u>-123</u>	<u>38</u>	<u>-3</u>
Profit on ordinary activities before taxation	146	127	-17	491	739
Surplus arising from fire insurance claim	0	0	715	0	0
Gain on sale of Maidstone bus station	233	0	0	0	0
Tax on profit on ordinary activities	41	471	-122	68	-297
Dividends	<u>-44</u>	<u>0</u>	<u>0</u>	<u>-2,511</u>	<u>-164</u>
Retained profit/loss for the financial period	376	598	576	-1,952	278

Source: M&D.

Notes:

	<i>per cent</i>				
1. Return on turnover:					
(a) Operating profit as a percentage of turnover plus other operating income	1.3	0.8	0.6	2.5	4.3
(b) Profit before tax as a percentage of turnover plus other operating income	0.9	0.8	-0.1	2.7	4.2

2. Year ends are to various dates around mid-May: 14 May 1988; 13 May 1989; 12 May 1990; 18 May 1991; and 16 May 1992.

APPENDIX 2.3
(referred to in paragraph 2.41)

**M&D: summary of M&D's general principles of accounting
for revenues and costs and their allocation to individual bus routes**

Operational costing periods

1. For the purposes of operational costing, M&D divides its accounting year into 13 costing periods (CPs) of four weeks each.

Buses and services

2. Under M&D's bus network operations the same bus may operate on different services. Buses move from one service number to another during the day in order to keep the buses as fully occupied as possible. This interchangeability of buses and services is allowed for in M&D's operational costing system by allocating costs on the bases of the standard hours and mileages operated on each route.

Accounting for revenue

3. On-bus revenue is recorded on 'waybills' prepared by drivers and is aggregated to produce a total by service and depot for each costing period.

4. Off-bus revenue:

(a) season tickets (which includes scholars' season tickets purchased by KCC in addition to season tickets purchased by adults and children at M&D travel offices and agents): revenue is credited to the specific routes for which season tickets issued are valid; and

(b) other off-bus revenue (eg Freedom tickets) is allocated on the basis of sample survey information.

Accounting for costs

Bases of allocation of costs

Standard hours

5. These are the hours spent by drivers in providing the timetabled service on a route, together with any hours which need to be spent in placing vehicle and driver in position to operate the timetable, eg the time spent in driving empty from a depot or, after the end of one piece of work, to start another journey.

6. As Saturday pay is higher than that on other days of the week, standard hours are weighted, as a means of apportioning drivers' costs only, to reflect the extent of Saturday operation on a particular route.

Mileage

7. The mileage of each route is determined at the time of registration, including that which necessarily has to be run on positioning journeys. The standard mileage figures are adjusted to take

account of any journeys, and thus mileage, lost or operated additionally, eg due to adverse weather or traffic congestion.

Allocation of costs

8. Variable costs (drivers' costs, fuel and tyres):

- actual drivers' costs are charged to routes for the appropriate category of driver in proportion to the total weighted standard hours of each route; and
- actual fuel and tyre costs are charged to routes on a mileage basis allowing for type of bus used, eg minibus or full-sized bus.

9. Semi-variable costs (maintenance and historic depreciation):

- the great majority of vehicle maintenance costs are incurred at depot level, the remainder being allocated by peak vehicle requirement, and thence to routes in proportion to standard hours.

10. Overhead costs (depot and company overheads):

- company overheads are allocated to depots in the proportion which the total standard hours run at a depot bears to the company's total standard hours; depot overheads are allocated to routes in proportion to standard hours.

Notes:

1. This appendix considers M&D's costs on a full-cost absorption basis, ie allocating all costs, including overheads, to routes. However, it should be noted that M&D said that its managerial decisions were based on judgments of the likely incremental costs and revenues resulting from service revisions.

2. Most costs are charged to depots and allocated to routes by M&D in the costing period in which they are incurred. Exceptional costs relating to specific depots, eg the refurbishment of the Armstrong Road, Maidstone, depot, are charged in the periods in which they fall. Fixed costs such as insurance, business rates, etc, are charged in equal amounts per period.

APPENDIX 2.4
(referred to in paragraph 2.46(a))

M&D route costings: summary of local bus routes by timetable groupings, costing periods 1 to 10, 1992/93

Route	Revenue	Variable costs	Operating surplus	Semi-variable costs	Contribution to overheads plus profit	Overhead costs	£'000 Profit/loss(-)
4/5/500							
6/7							
8/9/20							
12/612/812							
70-74							
79							
82/83							
85							
88/89							
95							
100							
101/102/142/155							
105/106/107							
111							
113/114							
115/117/132/32/783							
133/136/33/36							
137/145/37/134/138/ 143/156							
140/141/170-173/40							
150/48/148							
151							
164/64							
166/186/786/160/161/ 165/167/175/761							
176/181/184/784/81							
180							
182/882							
183							
185							
190-196/198/90/91/ 94/794							
197							
204/210							
218/219							
215-217/294/214/315							
222/223							
228/229/224/225							
231-234/236							
252							
277/279/877							
280/283							
281/381							
285							
286/276/386/266							
292/295/297							
306/308/310/317/318/ 808							
326/327							
333/331/334							
348-350/353/849/853							
360-362/341/342/860							
400-404							
729							
20-29 Medway Sunday							
119-129 Medway Evng							
501-504 park and ride							
59							

*Figures omitted.
See note on page iv.*

							£'000
Route	Revenue	Variable costs	Operating surplus	Semi-variable costs	Contribution to overheads plus profit	Overhead costs	Profit/loss(-)
1 Maidstone staff bus	[
239/291							
200/211/212							
271				<i>Figures omitted.</i>			
				<i>See note</i>			
				<i>on page iv.</i>			
Totals, each timetable group rounded to £'000]
<i>Source: M&D.</i>							

Note: Figures for the route groupings above are rounded and the totals reflect this. If unrounded route groupings totals were rounded, they would be:

[*Figures omitted. See note on page iv.*]

APPENDIX 2.5
(referred to in paragraph 2.46(b))

**M&D route costings: individual routes showing operating deficit
and/or negative contribution, costing periods 1 to 10, 1992/93**

Route	Revenue	Variable costs	Operating surplus/deficit (-)	Semi-variable costs	Contribution to overheads and profit	Overhead costs	£'000 Loss (-)
86	[
89							
106							
111							
112							
113/114							
126							
134							
142							
148/150							
151							
160							
167							
185							
220							
221							
280/283							
285							
292							
294							
339							
340							
341							
342							
502							
612							
614							
621							
627							
652							
783							
808							
841							
860							
877							
882							
109							
159							
138							
706							
826							
10							
59							
158							
168							
169							
179							
189							
Totals]

*Figures omitted.
See note on page iv.*

Source: M&D.

Notes:

1. Services 113/114 and 151 were withdrawn in January 1993 and service 138 was withdrawn in February 1993.
2. Services 126, 142, 148/150, 185, 280/283 and 285 are tendered services taken over from Shearings which are due to be relet in April 1994.

APPENDIX 2.6
(referred to in paragraphs 2.48, 2.51, 2.52 and 6.31)

**M&D: examples of M&D's use of incremental analysis
of revenues and costs in the operation of bus services**

Routes 82/83, 85 and 89

1. In taking the decision to run additional services on these routes in 1992, M&D concluded that the incremental costs would be less than the loss of revenue if the additional services were not operated. These incremental costs and revenues were calculated by M&D as set out below.

Calculation of incremental costs

	Service 82/83	Service 85	Service 89	
[<i>Details omitted. See note on page iv.</i>]
<i>Incremental costs per week</i>	£	£	£	
[<i>Details omitted. See note on page iv.</i>]
<i>Source: M&D.</i>]

*[

*Details omitted.
See note
on page iv.*

]

The basic wages of the nine drivers transferred from Gillingham depot to Maidstone depot were not included in these incremental costs.

Of the above total of £[†], the weekly incremental driving costs shown in the table for routes 82/83, 85 and 89 totalled £[†].

Calculation of incremental revenue

2. M&D stated that it did not forecast revenue in detail, but that it was management's view at the time that the additional costs incurred were likely to be less than the revenue that would have been lost by not responding to competition.

3. In support of this, M&D stated that, for service 82/83, an additional [†] passengers were carried in the week ending 24 October 1992; at an average fare of [†] per passenger, additional revenue would be £[†] compared with the incremental costs of £[†] shown in the table above. M&D also stated that the number of passengers it would have to have generated or retained to cover the incremental costs on services 85 and 89 were respectively [†] (at an average fare of [†]) and [†]

† Figures omitted. See note on page iv.

(at an average fare of [*]). M&D management's view was that, in the light of these figures, the additional services were likely to more than cover the incremental costs.

Route 191

4. [

Details omitted. See note on page iv.

]

5. [

Details omitted. See note on page iv.

]

6. [

*Details omitted.
See note on page iv.*

]

7. [

Details omitted. See note on page iv.

]

M&D: calculation of results of no response and of response to selective competition on route 191

	<i>Before competition</i>	<i>No response</i>	<i>Expanded service</i>
Service	[
Average fares			
Passengers			
Revenues			
Fully allocated total costs per journey		<i>Figures omitted. See note on page iv.</i>	
Incremental costs per journey			
Profit			

Source: M&D.

]

Notes:

[

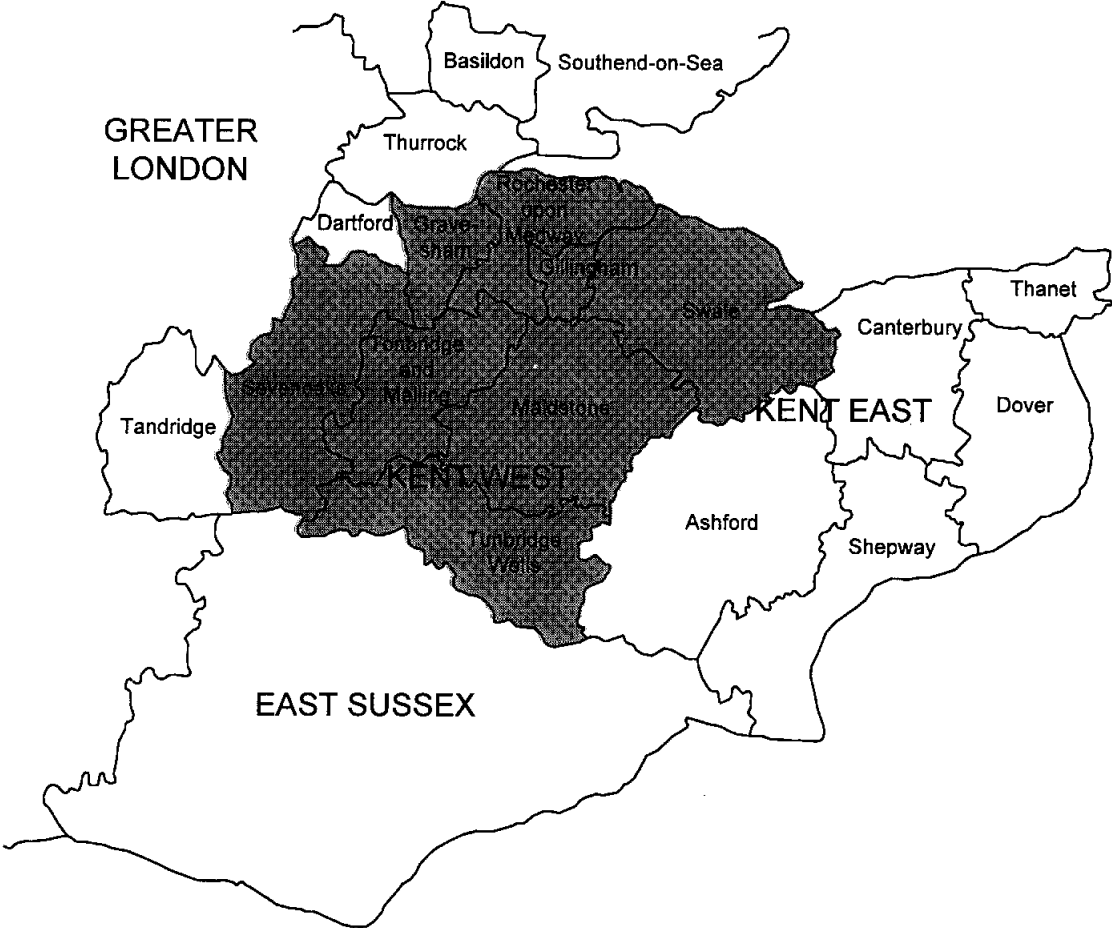
*Details omitted.
See note on page iv.*

]

*Figure omitted. See note on page iv.

APPENDIX 3.1
(referred to in paragraph 3.12)

The reference area



Source: MMC.

APPENDIX 3.2
(referred to in paragraph 3.54)

Some of the small bus operators in the reference area

<i>Name</i>	<i>Where based</i>	<i>Fleet size on registered local bus services</i>
Chalkwell Coaches	Sittingbourne	1
Donsway Coaches	Dunkirk	1
Fuggles of Benenden Ltd	Benenden	6
Hams Travel	Flimwell	5
JRS Traveline	Hadlow	1
New Enterprise Coaches	Tonbridge	1
Nu-Venture Coaches Ltd	Aylesford	7
Taylor's (Tunbridge Wells) Ltd	Tunbridge Wells	2
Transcity Link Ltd	Sidcup	4
Turners of Maidstone	Wouldham	2

Source: MMC from data returns to questionnaire.

APPENDIX 3.3
(referred to in paragraphs 2.47, 3.127 to 3.155)

Information on selected bus services in the Maidstone and Chatham areas

BUS SERVICES IN MID AND WEST KENT

Maidstone services 4/5, 12, 82, 85 and 89:
Competing operators: M&D; Bygone; and Turners.

Chatham services 113/114, 138, 151 and 190-195/198/794 (the 190 group):
Competing operators: M&D; and Mercury.

Sections:

Route maps

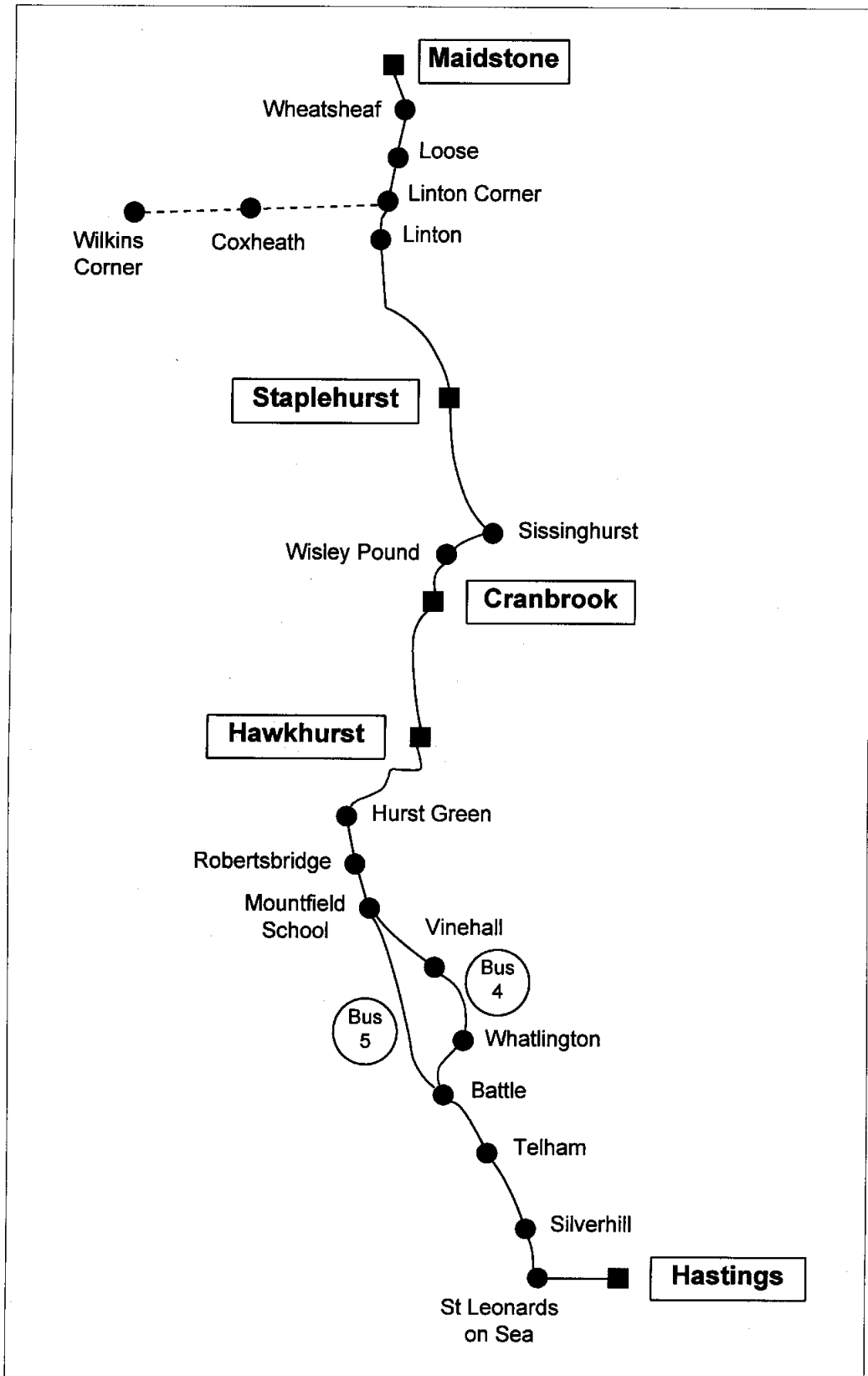
Summary of history of routes

Bus times and fares

Route revenues, costs and profit/(loss)

Notes on main movements in revenues and costs

FIGURE 1
M&D service 4/5



Source: M&D.

M&D service 4/5, Maidstone–Cranbrook–Hawkhurst–Hastings

1991

- June M&D ran a long-established hourly service.
- 2 December M&D introduced two extra journeys, giving fast travel to Hawkhurst, on an experimental basis.

1992

- 29 March M&D withdrew the two extra journeys.
- 28 September Bygone introduced its service offering six journeys between Maidstone and Cranbrook. Five of these journeys ran between 5 and 12 minutes ahead of M&D.
- 28 September M&D introduced six additional journeys between Maidstone and Cranbrook, all except one of which was timed to run just ahead of a Bygone departure. These journeys operated ahead of registration date of 2 November. M&D matched the fares of Bygone.
- 2 November M&D's fares reverted to normal level except for a special pre-Christmas return fare offer Cranbrook–Maidstone only.
- 31 December Bygone withdrew from this route.

1993

- 18 January M&D withdrew the six additional journeys introduced in September 1992.

M&D service 4/5 Chequers Centre, Maidstone to Hastings (Monday to Friday) (M&D terminus in Maidstone is King Street, not Chequers Centre)

	M&D 30 June 91 (departure times from King St/Queen's Monument is 2 mins earlier)	M&D 2 Dec 91 extra journeys	Bygone No 5 service 28 Sept 92 (timings are from Queen's Monument, not Chequers)	M&D 28 Sept 92 (but not registered to start till 2 Nov) Extra journeys until 18 Jan 93	M&D full service 19 Jan 93	Bygone 31 Dec 92 Withdrawn from this route
07.00	30**				30**	
08.00	17		10	08	17	
09.00	17				17	
10.00	17		5	03	17	
11.00	17		5		17	
12.00	17			03	17	
13.00	02		55	53	02	
14.00	02				02	
15.00	17		55	53	17	
16.00	07 47†				07 47†	
17.00	12† 47†		55	33	12† 47†	
18.00	17 47**†	12			17 47**†	
19.00		02				
20.00	47*	(both above times withdrawn on 29 March 1992)			47*	
21.00						
22.00						
23.00	07**†				07**	
No of journeys	14	2	6	6	13	
	(Excluding 4 tendered services)		Bygone service to Cranbrook only	M&D extra buses ran to Cranbrook only. Fares matched those charged by Bygone	(Excluding 4 tendered services)	

SDO = School days only.
*KCC tendered services.
†To Hawkhurst only.

Note: Between Maidstone and Linton Cross Roads the route of service No 4/5 is the same as that of service No 89. Timings of buses on the No 89 service are not included here.

M&D service 4/5 route costings

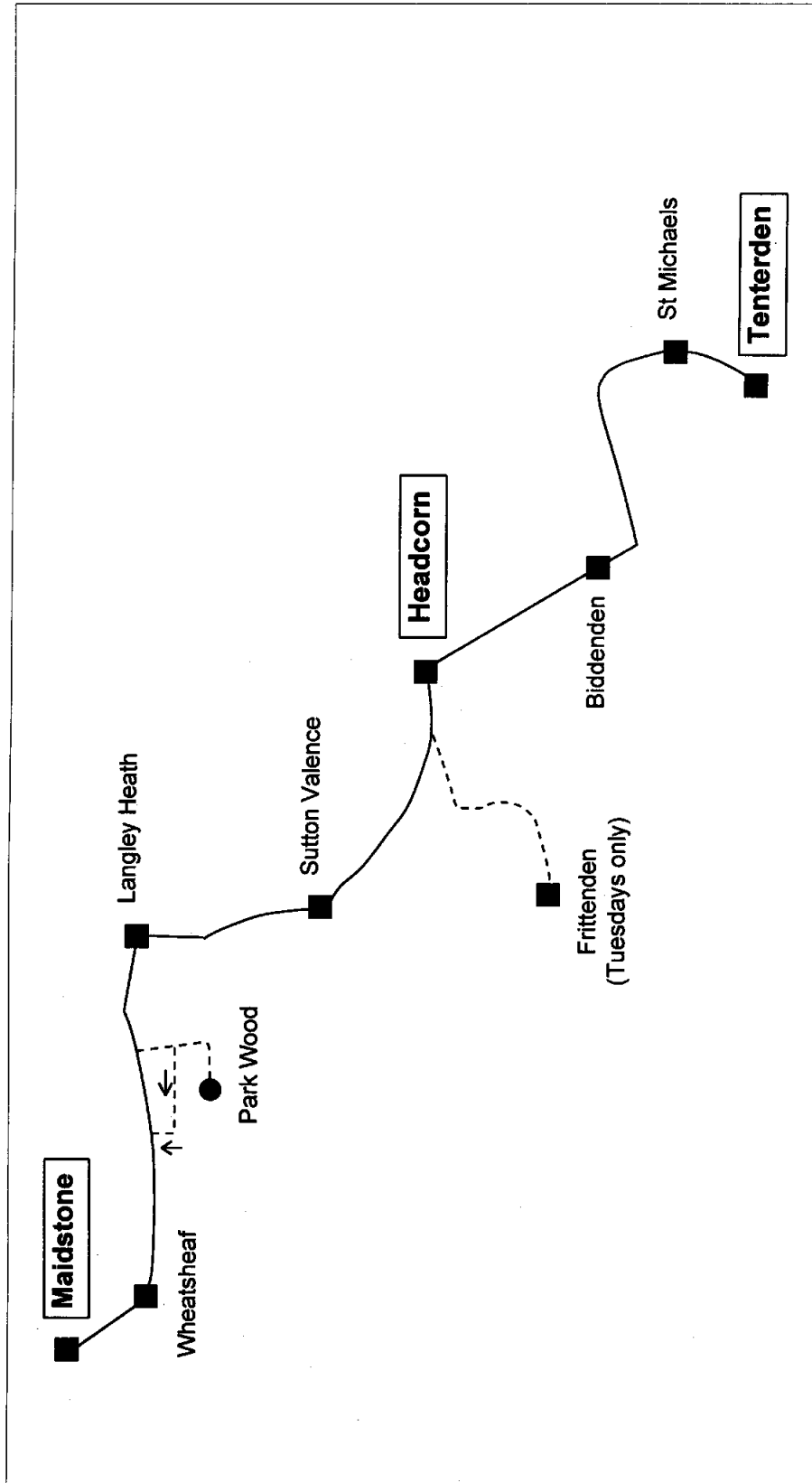
							£'000
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1991/92							
13 CPs to							
16.5.92	[
Average 1991/92							
1992/93							
CP: 1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
Total to end							
period 10,							
20.2.93							
Average of 10 CPs							
to 20.2.93]

*Figures omitted.
See note
on page iv.*

Source: M&D.

FIGURE 2

M&D service 12



Source: M&D.

M&D service 12, Maidstone–Headcorn–Tenterden

1991

September M&D ran a long-established hourly service. Boro'line service operated within Maidstone but also ran three KCC tendered journeys.

1992

30 May M&D awarded contract for six tendered journeys following withdrawal by Boro'line.

15 July Bygone introduced its service running six journeys daily between Maidstone and Headcorn only. M&D reduced its fares to match Bygone. Bygone's 15.40 departure eight minutes ahead of M&D departure. Bygone return journey from Headcorn at 07.30 five minutes ahead of M&D departure.

21 August M&D introduced six additional journeys each timed to depart two minutes ahead of Bygone departures.

29 November M&D lost the contract for three evening KCC tendered journeys. Contract awarded to Nu-Venture.

15 December M&D discovered a mistake in its registration procedures and immediately withdrew its six additional journeys. As a result Bygone rescinded its earlier decision to withdraw from this route.

1993

4 January M&D reverted to normal fares on all journeys.

M&D service 12 Queen's Monument, Maldstone to Tenterden (Monday to Friday)

	M&D 1 Sept 91	M&D revised 30 May 92	Bygone 15 July 92 (to Headcorn)	M&D including extra journeys 21 Aug 92	M&D revised timetable 16 Dec 92
07.00	47	47		47	47
08.00	47	47	10	8+,47	47
09.00			35	33+	
10.00	5	5		5	5
11.00	5*	5*	35	5*	5*
12.00	5	5	50	33+	5
13.00	10*	10*		5	
14.00	5	5		48+	10*
	59*			10*	5
15.00	48	8*	40	08*,38+	08*,48
		48		48	
16.00	13	13		13,48	13,48
	48	48			
17.00	23	23	10	8+	23
	58			23	
18.00		3		3	3
19.00		44*		44*	
20.00		57*		57*	
21.00					
22.00		50*		50*	
No of journeys	<u>10</u>	<u>10</u>	<u>6</u>	<u>16</u>	<u>10</u>
	Excluding 3 tendered services	Excluding 6 tendered services	Bygone entered this route	Excluding 6 tendered services	Excludes 3 daytime tendered services
	Three evening tendered services run instead of by Boro'line	Three evening tendered services run instead of by Boro'line	Bygone entered this route	The six extra journeys+ run 2 minutes before Bygone buses	No evening tendered services as from 29 November 1992

*KCC tendered service No 812.

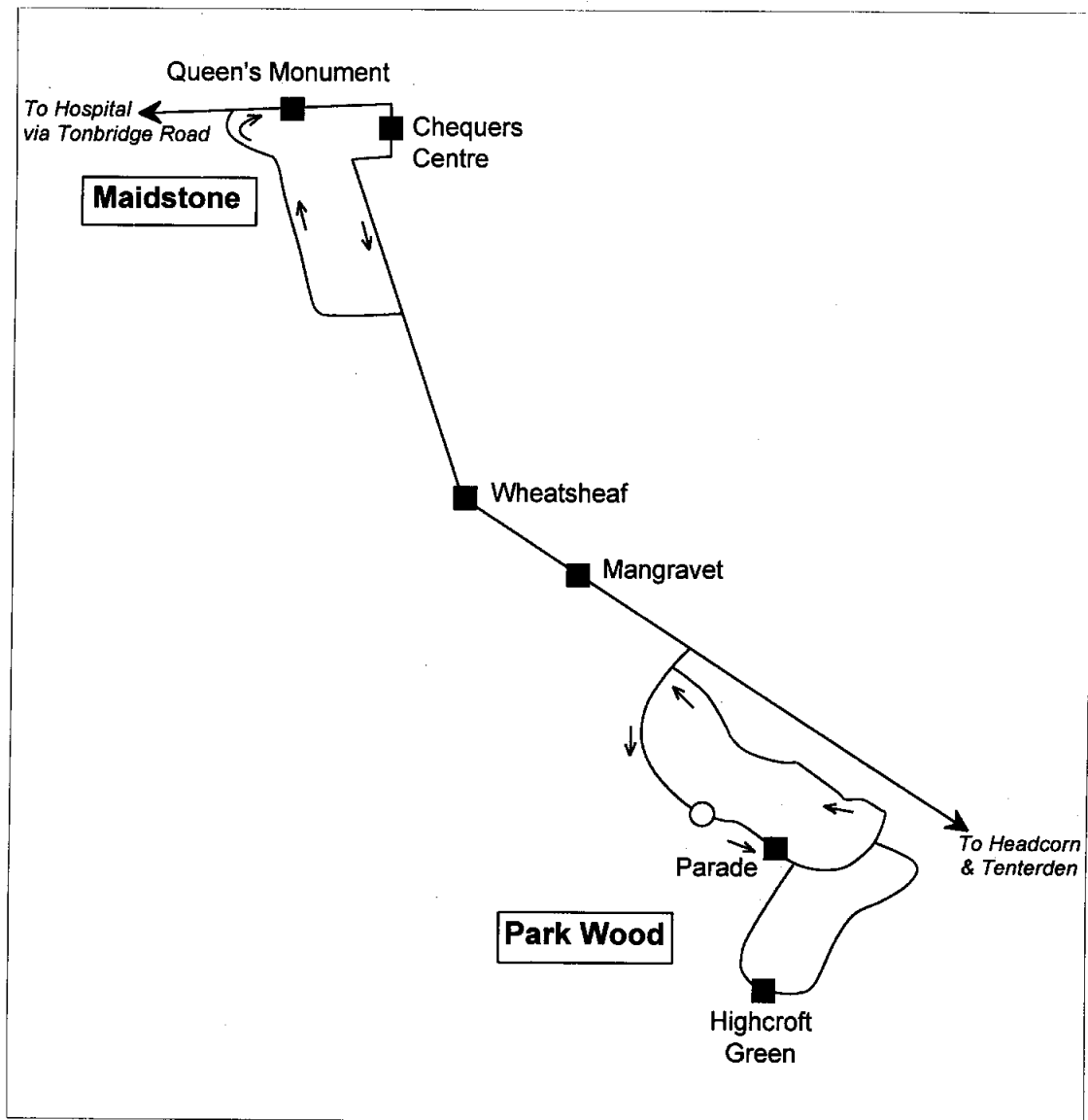
M&D service 12 route costings

							£'000
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1991/92							
13 CPs to							
16.5.92	[
Average 1991/92							
1992/93							
CP: 1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
Total to end period 10, 20.2.93							
Average of 10 CPs to 20.2.93]
<i>Source: M&D.</i>							

*Figures omitted.
See note
on page iv.*

FIGURE 3

M&D service 82



Source: M&D.

M&D service 82, Maidstone–Park Wood

1991

- September Service supplied by Boro'line and, since September 1990, by Bygone.
- 4 November Bygone expanded its competing service.
- 2 December M&D introduced a service in anticipation of collapse of Boro'line matching Boro'line fares.

1992

- 30 May M&D awarded contract for KCC tendered early morning, evening and Sunday services following withdrawal by Boro'line.
- 21 August Additional journeys introduced by M&D most timed to run three minutes ahead of Bygone. Fares matched those of Bygone.
- 9 October Bygone revised its timetable and added extra journeys.
- 12 October M&D revised and expanded its schedule of additional journeys so that virtually all departure times preceded a Bygone departure by three minutes. These journeys operated ahead of registration date of 2 November.
- 29 November Bygone introduced three early morning journeys against the KCC tendered service operated by M&D. KCC withdrew these tendered journeys but re-awarded the evening service to M&D. Sunday service awarded to Westbus (UK) Ltd.

1993

- 4 January M&D reverted to normal fares on all its journeys.
- February Traffic Commissioner barred M&D from running four journeys from Maidstone to Park Wood and one in the reverse direction on weekdays. On Saturdays M&D was barred from operating six journeys departing from Maidstone and two departing from Park Wood.

M&D service 82 From Queen's Monument to Park Wood (Monday to Friday)

	Bygone 4 Nov 91	M&D 2 Dec 91	M&D added 21 Aug 92	M&D full service, Aug 92	Bygone 9 Oct 92	M&D extra journeys 2 Nov 92 (run from 12 Oct)	M&D revised timetable 29 Nov 92
05.00				38*			29,54
06.00	57			12*,29,57*			17,23,27,37,38,54
07.00	23,38,54	18		18,23,38,54	20,30,40	17,27,37	
08.00	11,31,34+	22		11,22,31,34	15,45	12,42	11,12,31,34,42
09.00	46,56			46,56			46,56
	14,24,41,54	02,27,47		02,14,24,27,41	15,45	12,42	12,14,24,41,42,54
				47,54			
10.00	11,26,41,56	42,57		11,26,41,42,56,57	15,45	12,42	11,12,26,41,42,56
11.00	11,26,41,56	17,47		11,17,26,41,47,56	15,45	12,42	11,12,26,41,42,56
12.00	11,26,41,56	57		11,26,41,56,57	15	12	11,12,26,41,56
13.00	11,26,41,56	20,52		11,20,26,41,52,56	00,15,45	42	11,26,41,42,56
14.00	11,26,41,56	37,52		11,26,37,41,52,56	15,40	12,38	11,12,26,38,41
15.00	40	37		11,26,37,41,56	15,45	12,42,57	56
16.00	25	22		11,22,26,41,56	00,15,30,55	12,42,52	11,12,26,41,42
17.00	25,40	22,37		11,22,26,37,41,56	05,15,40	02,37	52,56
No of journeys	17	45	18	53	26	23	69
	Fares matched Boro line	Fares matched Bygone	Excludes tendered services	29 journeys after 29 November 1992 when Bygone operate journeys at 07.14, 07.47 and 07.55	Fares matched Bygone	Excludes evening tendered services	
	Most departure times 3 minutes before Bygone	On all except two of these buses departure time 3 minutes ahead of Bygone	Simultaneously with these introducing journeys, M&D withdrew the additional journeys introduced on 21 August				

*Tendered service.

†Starts Chequers Centre.

Note: M&D stated that, as from about 9 October 1992, Bygone also ran nine journeys on this route. Bygone operates six journeys on service 12 and three service 12B journeys from Maidstone to Hollingbourne via Park Wood.

M&D service 82 route costings, started period 8, 1991/92

£'000

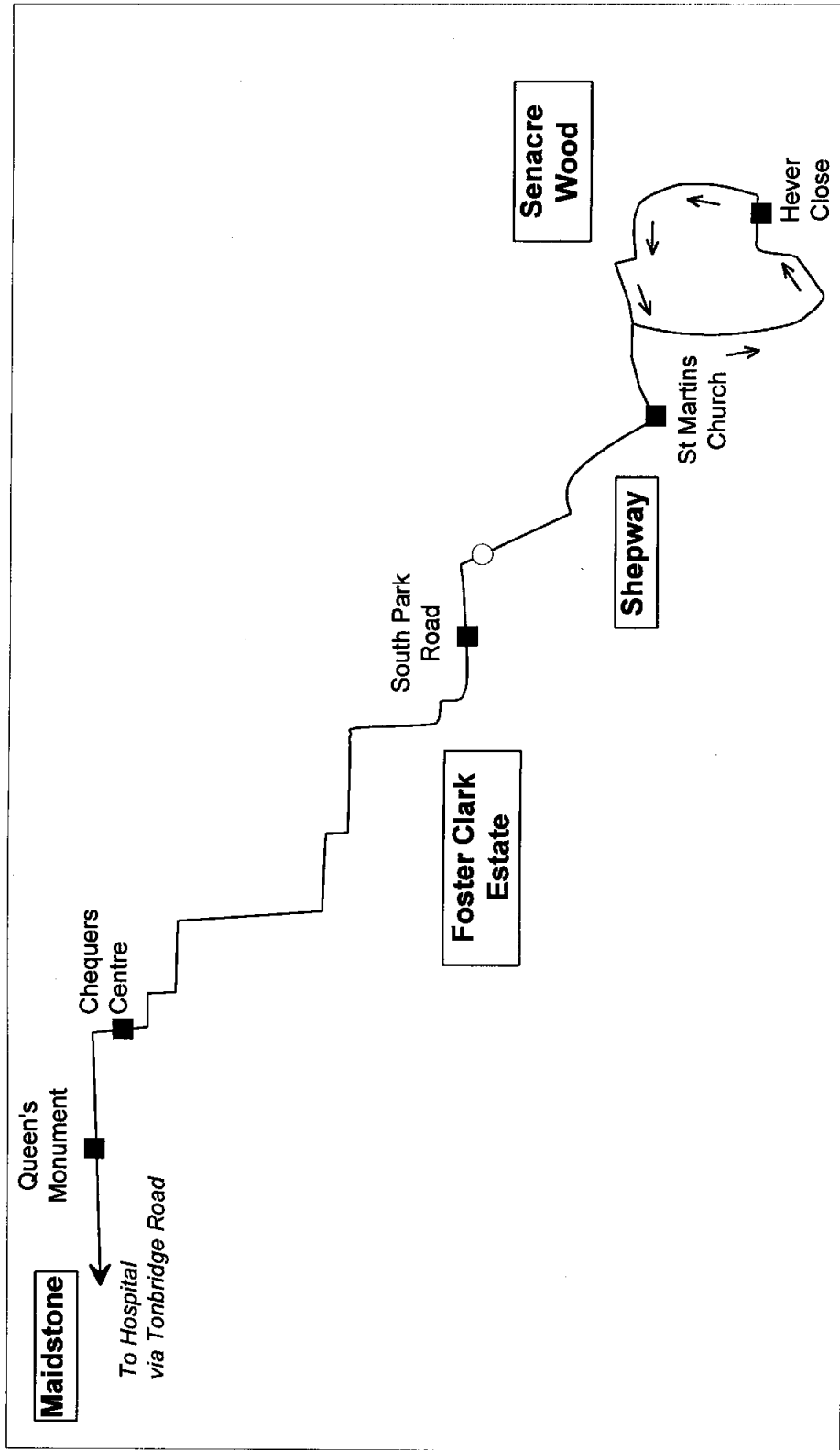
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1991/92							
CP: 8	[
9							
10							
11							
12							
13							
Total of 6 CPs to 16.5.92 Average 1991/92							
1992/93							
CP: 1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
Total to end period 10, 20.2.93							
Average of 10 CPs to 20.2.93]

*Figures omitted.
See note
on page iv.*

Source: M&D.

FIGURE 4

M&D service 85



Source: M&D.

M&D service 85, Maidstone–Senacre Wood

1991

- September Service supplied by Boro'line, and since September 1990, by Bygone.
- 4 November Bygone introduced an expanded service.
- 2 December M&D introduced service in anticipation of collapse of Boro'line matching Boro'line fares.

1992

- 29 March M&D increased its service frequency during peak hours.
- 30 May M&D awarded contract for KCC tendered early morning, evening and Sunday services following withdrawal by Boro'line.
- 21 August Additional journeys introduced by M&D timed to run three minutes ahead of Bygone. Fares matched those of Bygone.
- 9 October Bygone revised and expanded its competing service.
- 12 October M&D revised its schedule of additional journeys so that most departure times preceded a Bygone departure by three minutes. These journeys operated ahead of the registration date of 2 November.
- 29 November Bygone introduced three early morning journeys against the KCC tendered service operated by M&D. KCC withdrew these tendered journeys but reawarded the evening service to M&D.
- 4 December Bygone revised its timetable, adding one additional journey.

1993

- 4 January M&D reverted to normal fares on all its journeys.

M&D service 85 Queen's Monument, Maldstone to Senacre Wood (Monday to Friday)

	Bygone 4 Nov 91	M&D 2 Dec 91	M&D 29 March 92	Bygone 20 April 92	M&D additional journeys* 21 Aug 92	Bygone 9 Oct 92	M&D additional journeys 12 Oct 92 but registered to start 2 Nov 92	M&D revised full service 29 Nov 92	Bygone 4 Dec
06.00			9.39 (14*43 as from 30 May)				43		14
07.00	40	11,26,41,56	11,26,41,56	20	18	20	11,18,26,41,51	11,18,26,41,51	20
08.00	20	11,26,41,56	01,11,41,51,				01,11,41,51	01,11,41,51	
09.00	5,50	11,26,41,56	01,11,21,31,41,51	05,50	02	10,30,50 47	05,47	01,05,11,21,31	10,30,50
10.00		11,26,41,56	01,11,26,41,56	50	50			01,11,26,41,47,56	50
11.00	50	11,26,41,56	11,26,41,56	50	47	50	47	11,26,41,56	50
12.00	20†	11,26,41,56	11,26,41,56					11,26,41,56	
13.00	50	11,26,41,56	11,26,41,56	50	47	10	57	11,26,41,56,57	10
14.00	35	11,26,41,56	11,26,41,56	35	32,57	00,30	27,57	11,26,27,41,56,57	00,30
15.00	00,35(NSD)	11,26,41,56	11,26,41,56	00		00		11,26,41,56	00
16.00	30,45	11,26,41,56	11,21,31,41,51	30	27,42	30	27	11,21,27,31,41,51	30
17.00	16,30,50	11,26,41,56	01,11,21,31,41,56	16,50	27	16	17	01,11,17,21,31,41,56	16
18.00		11	11,48*					18*,48*	
19.00			18*					18*	
20.00			18*,48*					18*,48*	
21.00			18*,48*					18*,48*	
22.00			18*,50*					18*,50*	
23.00									
No of journeys	<u>14</u>	<u>45</u>	<u>52</u> from 30 May <u>53</u> from 29 March	<u>9</u>	<u>9</u>	<u>12</u>	<u>9</u>	<u>60</u>	<u>13</u>
Total excludes NSD journey		Fares matched Boro'line	Total excludes 9 tendered services	Fares matched those of Bygone	Seven journeys preceded Bygone departure by 3 minutes or less	Five departure times 1 minute prior to M&D	Six departures 3 minutes prior to Bygone. Fares matched Bygone.	Excludes 9 tendered services	
		Eight evening services as from 30 May on demise of Boro'line				Simultaneously with introducing these journeys, M&D withdrew the additional journeys introduced on 21 August.			

NSD = not school days.
*KCC tendered services.
†Turners from 28/11/90.

M&D service 85 route costings, started period 8, 1991/92

£'000

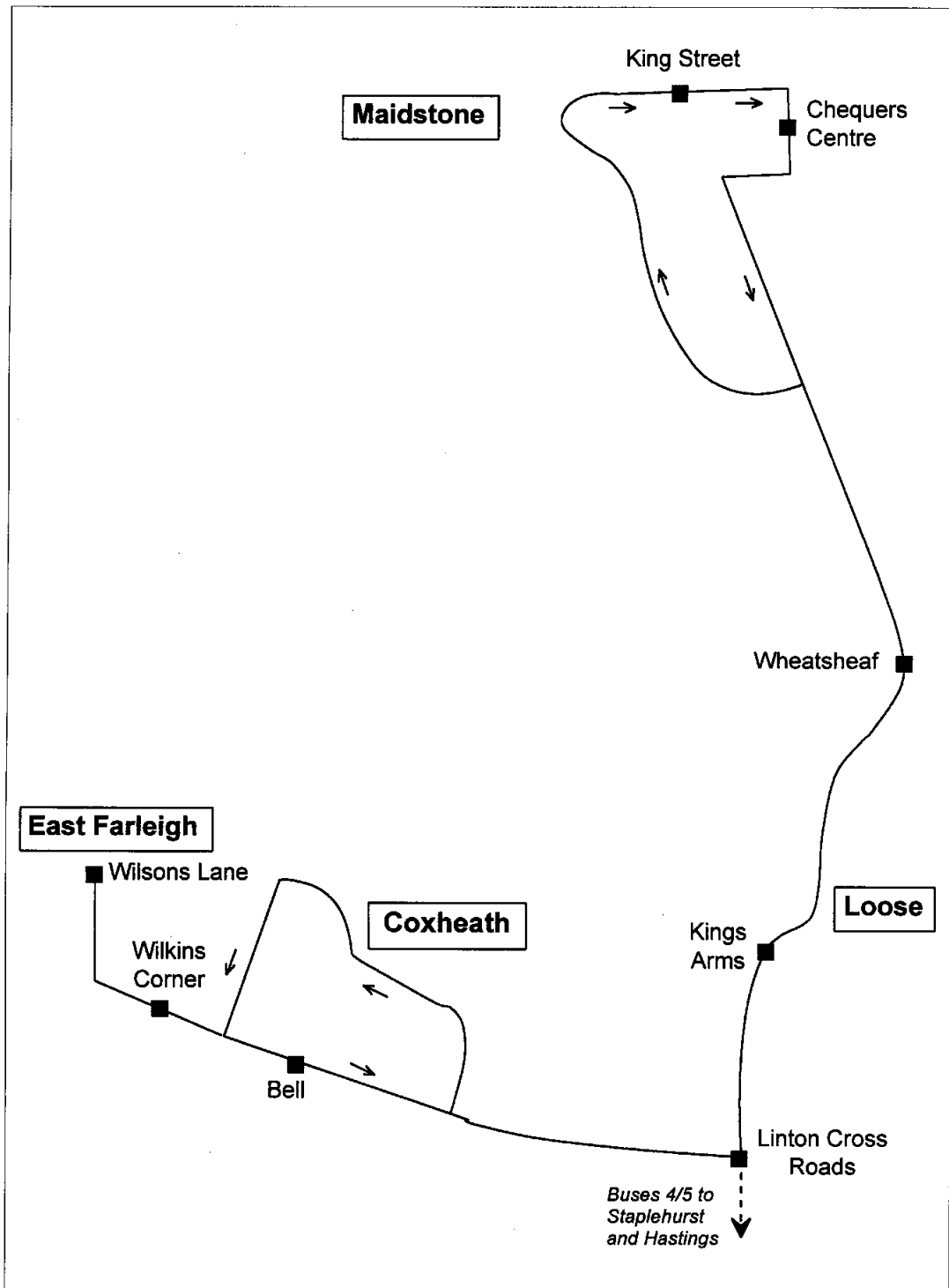
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1991/92							
CP: 8	[
9							
10							
11							
12							
13							
Total of 6 CPs to 16.5.92 Average 1991/92							
1992/93							
CP: 1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
Total of 10 CPs to 20.2.93 Average of 10 CPs to 20.2.93]

*Figures omitted.
See note on page iv.*

Source: M&D.

FIGURE 5

M&D service 89



Source: M&D.

M&D service 89, Maidstone–Loose Road–Linton Cross Roads–Coxheath

1991

- November Services supplied by Boro'line, Turners and Bygone.
- 2 December M&D introduced half-hourly service in anticipation of the collapse of Boro'line matching Boro'line fares.

1992

- 30 May M&D awarded contract for KCC tendered early morning, evening and Sunday services following withdrawal of Boro'line.
- 21 August Additional five journeys introduced by M&D all timed to run between one and six minutes ahead of Bygone and Turners departures. Fares matched those of Bygone.
- 2 October Turners introduced new half-hourly 189 service eight minutes ahead of M&D. Bygone now ran two journeys daily.
- 3 October M&D revised its schedule of additional journeys and operated ahead of registration date of 2 November. Most departure times three minutes ahead of those by Turners and Bygone. Special fares offer for October.
- 2 November M&D fares matched those of Turners.

1993

- 4 January M&D reverted to normal fares on all its journeys.
- February Traffic Commissioner barred M&D from running four journeys departing from Maidstone and seven journeys from Coxheath, Mondays to Saturdays inclusive.

M&D service 89 Chequers Centre/King Street/Queen's Monument, In Maidstone to Coxheath

	Bygone 4 Nov 91	M&D 2 Dec 91	M&D 30 May 92	M&D additional journeys 21 Aug	M&D revised timetable 28 Sept 92	Turners/Bygone 2 Oct 92	M&D additional journeys 3 Oct 92	M&D revised timetable 29 Nov 92
06.00		42*	42*		42	01,31	58	42*42*
07.00		42	42		12,42	01,31	28,58	42,58
08.00	10,32 (Turners)	12,42	12,42		09,39	01,31	31,58	12,28,42,58
09.00		09,39	09,39	26	09,39	01,31	28,58	09,31,39,58
10.00	30	09,39	09,39	16	09,26,39	01,31	16,28,58	09,28,39,58
11.00	20	09,39	09,39	26	09,16,39	01,31	27,58	09,16,28,39,58
12.00	30	09,39	09,39		09,26,39	01	28,58	09,27,39,58
13.00		09,39	09,39		09,39	01,31	28,58	09,28,39,58
14.00		09,29(SDO),39	09,29(SDO),39		09,29(SDO),39	01,31 37(SDO)	28,58	09,28,29(SDO),39,58
15.00		09,39,54	09,39,54		09,39,54	01,31	58	09,39,54,58
16.00	32	09,39,54	09,39,54	26	09,26,39,54	01,31 32(Bygone)	28	09,28,39,54
17.00	25(Turners)	09,39,54	09,39,54	31	09,31,39,54	06,31	03,28	03,09,28,39,54
18.00		26*	26*		26*			26*
19.00		16*	16*		26*			26*
20.00		16*	16*		26*			31*
21.00		16*	16*		26*			26*
22.00		06*,56*	06*,56*		6*,56*			11*,56*
No of journeys excluding tendered services	<u>7</u>	<u>25</u>	<u>25</u>	<u>5</u>	<u>30</u>	<u>25</u>	<u>20</u>	<u>45</u>
	Fares matched Boro line	Fares matched Bygone and Turners	Three buses preceded Bygone by 4 minutes; one bus by 1 minute, one bus by 6 minutes	Two half-hourly services now offered by two operators	Special half- price fares during October	As from 4 Jan 1993 no differential fares on No 89 service	Twenty departures are five minutes or less ahead of Bygone/Turners	

*KCC tendered services (service No 88).

SDO = School days only.

Note: Between Maidstone and Linton Cross Roads the route of service 89 is the same as that of service 4/5. Timings of buses on the 4/5 are not included here.

M&D service 89 route costings, started period 8, 1991/92

							£'000
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution to overheads and profit</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1991/92							
CP: 8	[
9							
10							
11							
12							
13							
Total of 6 CPs to 16.5.92							
Average 1991/92							
1992/93							
CP: 1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
Total to end period 10, 20.2.93							
Average of 10 CPs to 20.2.93]
<i>Source: M&D.</i>							

*Figures omitted.
See note
on page iv.*

**Services 4/5, 12, 82, 85 and 89:
notes on the main movements in revenues and costs**

Service 4/5

1. The fall in revenue in 1992/93 CPs 4 and 9 was due to the impact of holiday periods with fewer passengers.
2. Semi-variable costs are liable to fluctuation between CPs due to different amounts of maintenance expenditure; for example, if bus engines replaced in a CP, depot maintenance costs to be allocated to routes in that CP will be higher than in another CP with no, or less, exceptional expenditure. This applies to all routes.
3. Overhead costs in CP 9 onwards were affected by legal and professional fees incurred in connection with the MMC inquiry.

Service 12

The fall in revenue in 1992/93 CPs 3 and 4 was due mainly to fewer passengers in the summer holiday period; school holidays started in July, which affected CP 3 as well as CP 4. The increase in revenue in 1992/93 CP 5 was due mainly to renewal of season tickets by passengers after the holiday period (credited to CP of sale, not apportioned over the period of season ticket).

Services 82, 85 and 89

1. M&D started routes 82, 85 and 89 in CP 8 1991/92 (December 1991) in anticipation of the demise of Boro'line, which M&D had expected to take place by Christmas 1991. However, Boro'line did not cease operating until May 1992. As a result, from CPs 8 to 13 1991/92, M&D's revenues on these routes were depressed due to competing and sharing the routes' revenues with Boro'line. M&D's revenues on the routes increased from CP 1 1992/93 following the demise of Boro'line.

2. M&D's revenue from these routes fell in 1992/93 CP 4 mainly due to the seasonal fall associated with annual school summer holidays; revenue fell in later periods on route 89 due to significantly increased competition. Variable costs on route 89 increased in 1992/93 from CP 4 because M&D registered additional services to compete with Turners and Bygone.

3. [

Details omitted. See note on page iv.

] M&D's reduction of its frequency of service on route 89
from 7 June 1993 will reduce operating costs.

4. [

Details omitted. See note on page iv.

]

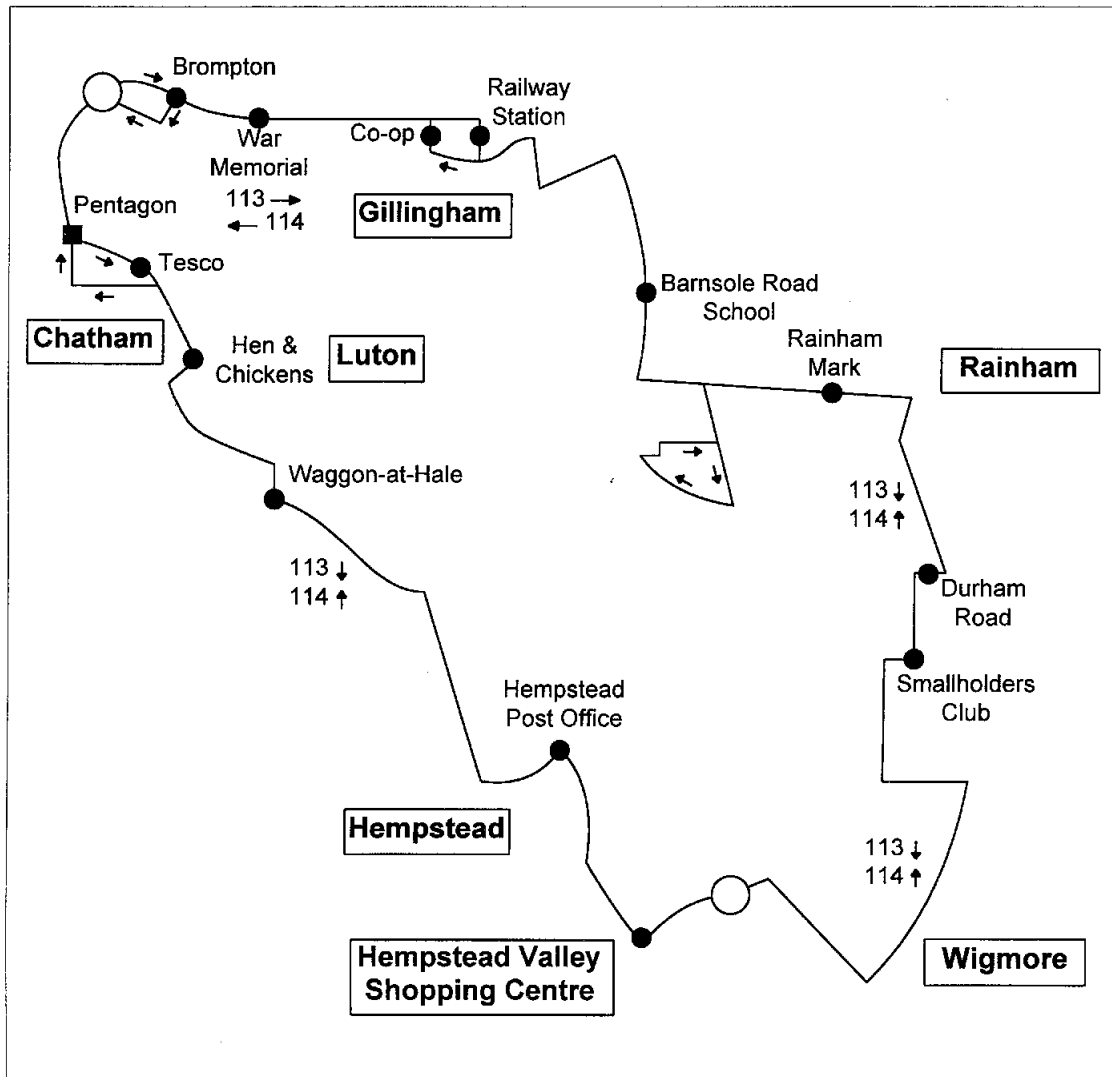
5. M&D stated that the costing procedures for recharging engineering work from the works unit to individual depots has been improved with the introduction of a computerized vehicle maintenance

system. These improvements had been incorporated in the operational costing returns since the beginning of M&D's financial year 1992/93.

6. In 1992/93 CPs 2 to 7, depot costs increased because of expenditure on refurbishing the Armstrong Road depot acquired from the Administrative Receiver of Boro'line. M&D stated that the increase in overheads from 1992/93 CP 9 was due mainly to additional legal and other costs incurred in connection with the MMC reference.

FIGURE 6

M&D service 113/114



Source: M&D.

M&D service 113/114, Chatham–Gillingham–Hempstead Valley–Chatham

1991

1 April Mercury awarded this KCC tendered service operating from the Pentagon, Chatham, until 11 November 1991.

1992

2 March M&D registered against the tendered service with departure times three minutes ahead of Mercury departure times and half-price fare offer.

16 March M&D matched Mercury fares.

21 September M&D expanded its service.

1993

25 January M&D withdrew its commercial service.

M&D service 113/114 Chatham-Gillingham, Hempstead Valley-Chatham (Monday to Friday)

	Mercury 114 Chatham- Hempstead Valley- Gillingham-Chatham	M&D (113) 2 March 92	M&D (114) 2 March 92	M&D (113) 21 Sept 92	M&D (114) 21 Sept 92	M&D withdraws 113 and 114 on 25 Jan 93
07.00			40			
08.00	06 (H Valley start)	57	57	57	22 (to Hempstead Valley only) 40	
09.00	00	57	57	57 (SDO)	57 (SDO)	
10.00	00	57	57	57 (SDO)	57 (SDO)	
11.00	00	57	57	57	30 (to H Valley only)	
12.00	00	57	57	57	57	
13.00	00	57	57	57	57	
14.00	00 (SSH)	57 (SSH)	57	57 (SSH)	57	
15.00	15 (SDO) (Rainham only)	12 (to Rainham Mark only)(SDO)	57	12 (to Rainham Mark only)	57	
		57	57	15 (H Valley to Chatham,SDO)	57	
16.00	00	57	57	57	57	
17.00	00	57	57	57	57	
18.00	<u>6</u>	<u>6</u>	<u>4</u>	<u>10</u>	<u>9</u>	
No of journeys (excludes SSH journeys)		Departures 3 minutes before Mercury	Departures 3 minutes before Mercury	4 journeys added	3 journeys added	

Notes: Mercury start at Pentagon (KCC supported) until 11 November 1991.

M&D at Military Road.

NSH = Not school holidays.

SSH = Saturdays and school holidays only.

SDO = School days only.

M&D service 113/114 route costing, started period 11, 1991/92

£'000

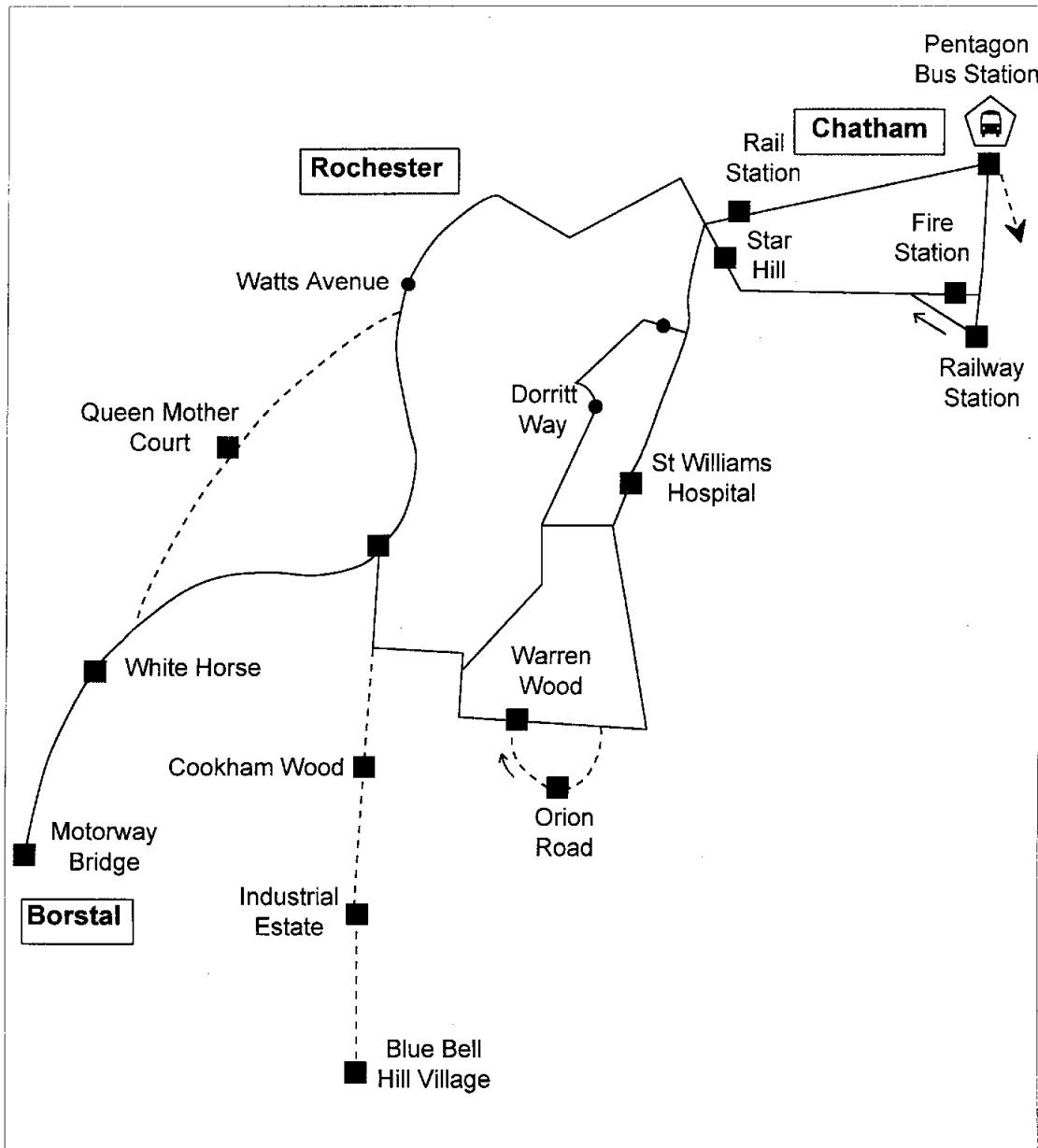
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1991/92							
CP: 11	[
12							
13							
Total of 3 CPs to 16.5.92							
Average 1991/92							
1992/93							
CP: 1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
Total to end period 10, 20.2.93							
Average of 9 operational CPs to 23.1.93]

*Figures omitted.
See note on page iv.*

Source: M&D.

FIGURE 7

M&D service 138



Source: M&D.

M&D service 138, Borstal–Warren Wood

1991

5 April Mercury awarded this KCC tender school service for one journey each way.

21 September M&D registered against this service. Fares matched those of Mercury.

28 October Mercury adjusted its departure times.

1993

8 February M&D withdrew its commercial service.

M&D service 138 Borstal to Warren Wood (school service—one each way daily, school days only)

Mercury 15 April 91	M&D 21 Sept 92	Mercury 28 Oct 92	M&D 8 Feb 93
08.35	08.20	08.20	

Return journey Return journey Return journey

15.44 15.09 15.09

Service
withdrawn

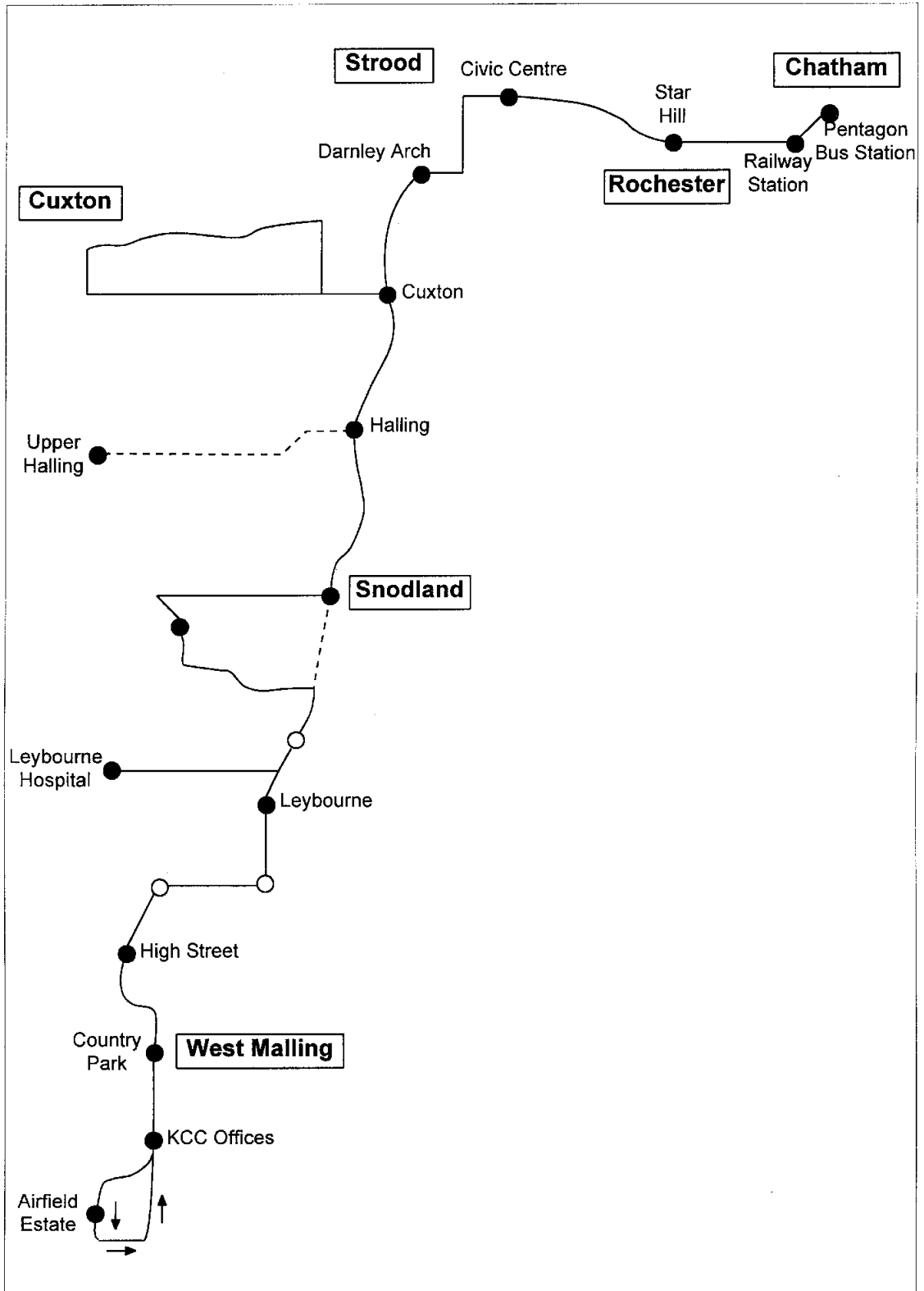
Note: Traffic Commissioner
agreed to earlier times
due to a change in school
start time—his decision
made on 8 July 1992.

M&D service 138 route costing, started period 5, 1992/93

	£'000						
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1992/93							
CP: 5	[
6							
7							
8							
9							
10							
				<i>Figures omitted. See note on page iv.</i>			
Total to end period 10, 20.2.93							
Average of 6 CPs to 20.2.93]
<i>Source: M&D.</i>							

FIGURE 8

M&D service 151



Source: M&D.

M&D service 151, Chatham–Rochester–Snodland–West Malling

1991 Mercury awarded this KCC tendered service in conjunction with Allways Travel.

1992

2 March M&D registered six journeys against this service with departure times three minutes ahead of Mercury.

30 March Grey-Green, having acquired Allways Travel, now operated this tendered service in conjunction with Mercury.

1993

25 January M&D withdrew its commercial service.

M&D service 151 Chatham-Rochester, Snodland-West Malling (Monday to Friday)

	Mercury 17 Feb 92 from Military Road	M&D 2 March 92 from the Pentagon	Mercury 7 Sept 92	Grey-Green 7 Sept 92	M&D 21 Sept 92	M&D 25 Jan 93
06.00	12	09				
07.00		57	40 (No change to the six other timings)		19 (ten minutes later; no change to the five other timings)	Service 151 withdrawn
08.00	00,30*			30		
09.00	45	42				
10.00	30*			30		
11.00						
12.00	30	27		30		
13.00	30*					
14.00	35	32		35		
15.00	35*					
16.00	35	32		30		
17.00	30*					
18.00	<u>11</u> (6 by Mercury)	<u>6</u>	<u>7</u>	<u>5</u>	<u>6</u>	
No of journeys		All departures 3 minutes ahead of Mercury		Allways Travel had been acquired by Grey-Green in March 1992		

*This tendered service for KCC operated by Allways Travel.

M&D service 151 route costing, started period 11, 1991/92

£'000

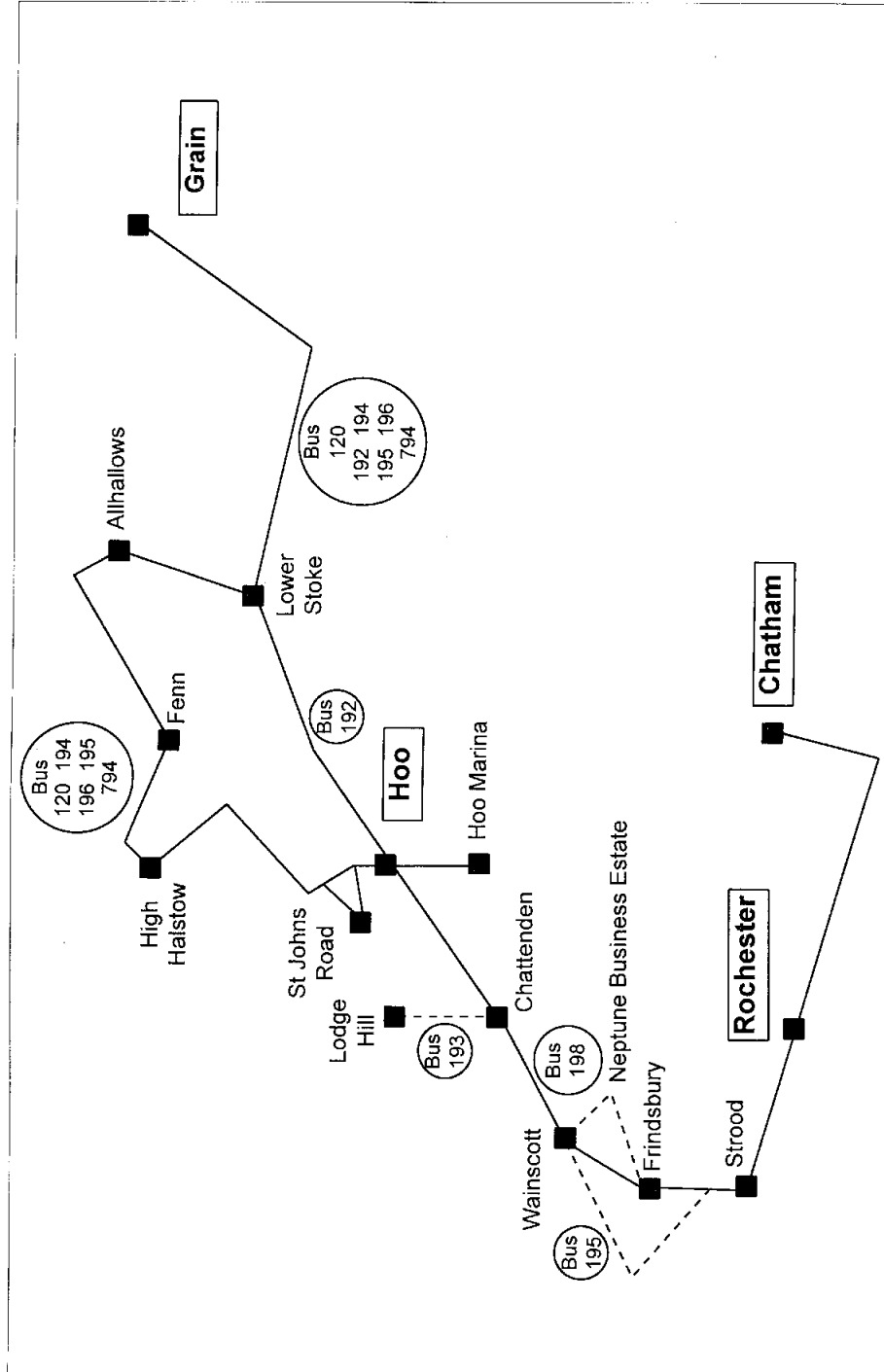
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
1991/92							
CP: 11	[
12							
13							
Total of 3 CPs to 16.5.92							
Average 1991/92							
1992/93							
CP: 1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
Total to end period 10, 20.2.93							
Average of 9 operational CPs to 23.1.93]

*Figures omitted.
See note on page iv.*

Source: M&D.

FIGURE 9

M&D services 190 to 196, 794, 120



Source: M&D.

M&D 190 group of services, Chatham–Rochester–Strood–Hoo

1991

September M&D operated a service every 20 minutes to Hoo as part of its long-established 190 service group.

1992

3 February M&D awarded contract for KCC tendered evening service following the termination of KCC contract with Transcity.

25 February Mercury introduced an almost hourly service with five departures from Hoo Marina three minutes ahead of M&D departure times.

2 March M&D introduced nine additional journeys between Chatham and Hoo with a two-week introductory offer of half-price fares on these additional journeys only.

12 March Mercury withdrew several of its journeys.

16 March M&D matched Mercury fares.

8 September Mercury amended its reduced service at the time it introduced its new 394 service.

23 September M&D revised the timings of its additional journeys such that some preceded Mercury departure times. M&D matched fares of Mercury on these journeys.

1993

4 January M&D revised some of its departure times, and reverted to normal fares on all journeys. Mercury commenced additional journeys on tendered service 197 previously operated by M&D.

M&D 190 group of services
 Mercury service 191 Chatham-Hoo (Monday to Friday)

	M&D 1 Sept 91 from the Pentagon	Mercury 25 Feb 92	M&D extra journeys- 2 March 92	Mercury 12 March 92	Mercury 8 Sept 92	M&D 23 Sept 92 (Revised schedule for extra journeys)	Full service M&D 4 Jan 93
05.00	27						27
06.00	08,25,44,59+						03,25,44,59
07.00	11(SDO),15 20*(SDO),49						11(SDO),15,20(SDO)
08.00	08(SDO),20(NSD),30*, 40(NSD),55	30 (from Star Hill)					35(SDO),44(SDO) 00,40(NSD),55
09.00	20,40	15	12				20,40
10.00	00,20,40	10	08				00,20,40
11.00	00,20,40	10	08				00,20,40
12.00	00,20,40						00,20,40
13.00	00,20,30,40	10	08				00,20,30,40
14.00	00,20,35(SDO),50	10	08				00,01 (Bingham Road, Frindsbury),20,35(SDO)
15.00	10,30,40	40	38		35 (from Rochester Schools)	38	50 10,30,35 (from Rochester School),40 44 (from Rochester Star Hill)
16.00	00,20,40,40*	55	53	55 (from Military Road)	55 (from Military Road)	53	00,20,40,53
17.00	00,20,40	48 (from Civic Centre), 55	45 (from Civic Centre), 54	48 (from Strood PO)	48 (from Strood PO)	48 (Bingham Road, Frindsbury), 54 (Pentagon)	00,20,40,48 (from Bingham Road, Frindsbury),54
18.00	00,20*,40*			55 (from Military Road)	55 (from Military Road)		20*,40*
19.00	10*						10*
20.00	00*,40*						00*,40*
21.00	40*						40*
22.00	40*						40*
No of journeys	45(+7 Transcity until 3 February 1992 when M&D took these over)	10	9	3	4	5	54
		On return to Chatham Mercury precede M&D departure by 3 minutes	Departures 3 minutes ahead of Mercury. Fares matched Mercury.	The off-peak journeys withdrawn after two weeks			

+To Riverside Estate only.

*KCC tender (those in evening 18.20 onwards by Transcity).

SDO = School days only.

NSD = Not school days.

M&D services 190-195/198/794 route costing

							£'000
<i>Period</i>	<i>Revenue</i>	<i>Variable costs</i>	<i>Operating surplus</i>	<i>Semi-variable costs</i>	<i>Contribution</i>	<i>Overhead costs</i>	<i>Profit/loss(-)</i>
<i>1991/92</i>							
CP:	1	[
	2						
	3						
	4						
	5						
	6						
	7						
	8						
	9						
	10						
	11						
	12						
	13						
13 CPs to 16.5.92							
Average 1991/92							
				<i>Figures omitted.</i>			
				<i>See note on page iv.</i>			
<i>1992/93</i>							
CP:	1						
	2						
	3						
	4						
	5						
	6						
	7						
	8						
	9						
	10						
Total to end period 10, 20.2.93							
Average of 10 CPs to 20.2.93							
]
<i>Source: M&D.</i>							

**Services 113/114, 151, 138 and 190-195/198/794:
notes on the main movements in revenues and costs**

Services 113/114 and 151

Both started in CP 11 1991/92 as new off-peak services; [*Details omitted.*
See note on page iv.] both were withdrawn in January 1993 (CP 10 1992/93).

Service 138

This service started in CP 5 1992/93 [*Details omitted. See note on page iv.*]; it was withdrawn in CP 10.

Services 190-195/198/794

1. Reductions in revenue in CPs 4 and 9 are primarily seasonal, due to fewer passengers in the summer and Christmas/New Year holidays affecting these costing periods, in particular as many school pupils use these services. [*Details omitted. See note on page iv.*
]

2. M&D stated that these routes should be considered in conjunction with route 199, the Hoo peninsula schools service, and their profitability looked at as a whole; and that it was misleading to look at them separately. [*Details omitted. See note on page iv.*
]

3. M&D stated that overhead costs were depressed in 1992/93 CP 5 due to a rates refund and CP 6 was not thought by M&D to be out of the ordinary. CP 9 onwards was affected by legal and professional fees incurred in connection with the MMC inquiry.

APPENDIX 3.4
(referred to in paragraphs 3.201, 3.216 and 6.55)

Details of M&D's contracts for other operators' use of its premises

(a) Contract dated 1 October 1986 *(referred to in paragraph 3.201)*

**Conditions for use of Maidstone & District Properties and Leased
Premises by other Operators providing local bus services under
contract to Kent County Council**

1. Vehicles and drivers will be under the control of Maidstone & District supervisory staff at all times whilst on Company premises or leased premises.
2. Use of Company's premises or leased premises is restricted to the arrival and departure of buses. This agreement does not cover the use of other Company facilities, for example waiting rooms, toilets, canteen facilities, booking offices and engineering facilities. These matters can be the subject of a separate agreement and charging.
3. Should the Operator engage in activities of a competitive nature with the business of Maidstone & District, then this arrangement will be terminated with immediate effect.
4. It shall be the responsibility of Kent County Council to ensure that Maidstone & District are furnished with up to date details of the services covered by this Agreement.
5. Should the operation of services covered by this Agreement cause Maidstone & District operational difficulties, then the arrangement will be terminated with immediate effect.
6. Properties covered by these conditions are:-

Pentagon Bus Station, Chatham
Bus Station, Nelson Road, Gillingham
Maidstone Bus Station, Lower Stone Street, Maidstone
Bus Station, Bridge Street, Sheerness
Bus Garage, Borough Green
Bus Station, Hawkhurst.

(b) Contract dated January 1993 *(referred to in paragraphs 3.216 and 6.55)*

**Conditions for use of Maidstone & District Properties and
Leased Premises by other Operators**

1. } *As clauses 1 and 2 in 1986 contract.*
2. }
3. It shall be the responsibility of the Operator to ensure that Maidstone & District are furnished with up-to-date details of the services covered by this Agreement.
4. *As clause 5 in 1986 contract.*

5. Properties covered by these conditions are:-

Pentagon Bus Station, Chatham
Bus Station, Nelson Road, Gillingham
Bus Station, Bridge Street, Sheerness
Bus Station, Hawkhurst

6. Departure fees will be charged at rates subject to annual review.

APPENDIX 5.1
(referred to in paragraphs 5.53 and 6.82)

**Undertakings given by the Southern Vectis
Omnibus Co Ltd on 5 May 1988**

1. Southern Vectis hereby undertakes to the Director General of Fair Trading:

- (i) to permit bus operators of registered services for the purposes of Section 6 of the Transport Act 1985 ('bus operators'), to use the bus station at Newport, Isle of Wight ('the bus station'), on a basis which is not anti-competitive, for the purpose of taking up and setting down passengers;
- (ii) in permitting bus operators to use the bus station for the purposes of taking up passengers, to permit such bus operators, in so far as is reasonable and operationally practicable, to take up passengers at bus stands from which registered services normally depart to the relevant destinations or failing that to use such other standings as may be available;
- (iii) to permit such bus operators, at their own cost and in a form approved by SV (such approval not to be unreasonably withheld), to display such notices or signs at bus stands as may be necessary to draw the relevant registered services to the attention of the travelling public;

2. PROVIDED ALWAYS that the said undertakings shall apply only in the case of bus operators who agree to enter into a licence agreement with SV renewable on a yearly basis in respect of such permission, and agree to comply with the reasonable rules of operation of the bus station and pay SV a reasonable fee in connection there with; for this purpose a reasonable fee should comprise:

- (a) the appropriate proportion of the costs incurred by SV in administering, maintaining and operating the bus station, where 'the appropriate proportion' means such proportion as, having regard to any guidance published by the Chartered Institute of Public Finance and Accountancy, properly reflects the use made by the bus operator concerned of the bus station as compared with the use made of it by other operators (including SV), and having regard to the part or parts of the bus station used by that bus operator; and
- (b) a return not exceeding 8 per cent on the Capital value of the bus station area, this capital value to reflect the bus station's value on an existing use basis and to exclude those parts of the bus station complex used for other purposes such as offices and shops.

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