

By letter and email

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Dear Sirs

Competition and Markets Authority (CMA) Phase 2 Merger Inquiry into the Arriva / Northern Franchise (Northern Merger)

We write in response to the CMA's Provisional Findings Report in respect of the Northern Merger, published on 9 September 2016 (the **Report**).

We note the findings of the Report and are pleased that the CMA appears to be taking a pragmatic approach in its assessment of possible remedies. In particular we note that, where the CMA considered the Northern Merger may give rise to a substantial lessening of competition (SLC) on an overlapping flow, the CMA considers that *"the relevant costs of any feasible structural remedy far exceed the scale of adverse effects of the SLC"*.

We welcome the CMA's view that whilst a structural remedy for bus operations (such as disposal or franchising of local operations) would be effective it would also most likely include non-problematic routes and cannot be targeted specifically at overlap routes for commercial reasons; meaning it is unnecessary and disproportionate. Similarly for rail operations, we welcome the CMA's view that whilst a structural remedy is likely to be effective to remedy the SLC provisionally found, it is unnecessary given the small number of flows affected relative to the total number of flows on the franchise.

We therefore fully support the CMA's view that behavioural remedies are equally effective to address the SLCs identified and the CMA's pragmatic approach generally in adopting such behavioural remedies.

We are also pleased that the CMA considered submissions in relation to potential constraints from private transport to public transport in the competitive assessment of overlapping flows, as referenced in Paragraphs 6.16 to 6.29 of the Report. Whilst we note that the extent to which private transport is an actual constraint varies on a flow-by-flow basis and a respondent needs to evidence that private transport exercises a constraint sufficient to prevent fare increases on specific flows, it is helpful that the CMA acknowledges there may be potential constraints from private to public transport and includes this within its assessment.

Yours faithfully

Andrew Levy
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