



## WEST MIDLANDS TRAFFIC AREA

### DECISION OF THE TRAFFIC COMMISSIONER

PUBLIC INQUIRY HELD IN BIRMINGHAM ON 20 JUNE 2019

**OPERATOR: GURU TRAVEL LTD  
PD1117482**

#### **Decision**

1. The standard international PSV operator's licence held by Guru Travel Ltd is suspended for sixteen days, with effect from 0001 hours on 5 October 2019 until 0001 hours on 21 October 2019. The suspension is pursuant to Section 17(3)(aa) of the Public Passenger Vehicles Act 1981 ("the 1981 Act").
2. The repute of the company and of its transport manager Sylwia Sojka is retained.
3. The company has agreed the following undertaking:
  - i) football supporter groups will not be carried by vehicles operated under this licence.

#### **Background**

1. Guru Travel Ltd holds a standard international licence PD1117482 authorising six vehicles. The sole director of the company is Baljinder Singh Rahal. The nominated transport manager on the licence is Sylwia Sojka.
2. In February 2019 I received a report from PC Michael Dacre of the Merseyside Police. PC Dacre is a dedicated football officer attached to Everton FC. PC Dacre reported that:
  - i) on 29 January 2019 in Huddersfield he had boarded a Guru Travel coach which was carrying Everton fans to a match at Huddersfield. There had been a very strong smell of cannabis on the coach and numerous beer bottles, both empty and full, had been found. No drugs were found: coach organiser Callum Carrol stated that the passengers had smoked it all. Minors were present amongst the passengers;

- ii) on 9 February 2019 PC Dacre had again encountered a Guru Travel coach, this time at an away match against Watford. Passengers from the coach had been involved after the match in an affray during which one man had been kicked and punched unconscious. When PC Dacre had boarded the coach shortly afterwards he had been met with the strong smell of cannabis and alcohol: there were numerous empty beer cans and bottles strewn around the coach and some of the passengers were openly drinking from cans of lager. Again, minors were present.
3. PC Dacre subsequently reported to my office a further incident on 26 February 2019 involving a Guru Travel coach leaving Merseyside destined for an away match against Cardiff. 15 cases of beer had been found in the coach's lockers, along with nitrous oxide and cannabis. Some of the passengers had been arrested.

### **Public inquiry**

#### *Call-up*

4. Concerned by these reports, I decided to call the company and its transport manager to a public inquiry. The call-up letter was sent on 4 March 2019, citing Sections 14ZA and 17(1)(a) and (3)(aa) of the 1981 Act as well as Section 1 of the Sporting Events (Control of Alcohol etc) Act 1985 ("the 1985 Act").
5. The inquiry was originally due to take place on 9 April 2019, but due to the unavailability of the company's legal representative, it was adjourned until 20 June.

#### *Representations*

6. Shortly before the inquiry was due to take place I received a letter from Murray Oliver, solicitor, the legal representative in question. He argued that the public inquiry should not take place as it was possible that the company could yet be prosecuted for offences against the 1985 Act and any decision the traffic commissioner made might prejudice the outcome of that prosecution. Since I was not aware of any such prosecution, I decided to maintain the inquiry.

#### *Public inquiry*

7. The inquiry took place in Birmingham on 20 June 2019. Present were company director Baljinder Singh Rahal and transport manager Sylwia Sojka, represented by Murray Oliver. PC Michael Dacre was also present.
8. Mr Oliver renewed his concerns about the potential unfairness of proceeding with the inquiry with the attendant dangers of his client incriminating himself. After PC Dacre stated that no prosecution of the company was in view (although at least one individual had been prosecuted for affray), I decided to continue with the inquiry.

#### *Evidence of PC Dacre*

9. PC Dacre confirmed the content of his report. In answer to a question posed by Mr Oliver, he confirmed that the passengers had definitely been smoking cannabis before the various encounters rather than vaping. Asked why he had not prevented the driver from continuing after the stop on 29 January 2019 if he had been so worried about the driver being impaired through passive smoking, PC Dacre said that the driver had been spoken to and had not appeared impaired. It was not possible to perform a roadside blood test for cannabis and so the driver had been permitted to continue. PC Dacre also confirmed that, so far as he was aware, Guru Travel had stopped taking football parties organised by Mr Carrol after the stop on 26 February 2019.

#### *Evidence of Baljinder Singh Rahal*

10. Mr Rahal said that Mr Carrol had begun booking football trips direct with Guru Travel after having initially gone through a broker. Mr Rahal had told Mr Carrol that the coaches should return clean from these trips, with no smell of alcohol or smoke. Guru Travel had worked with Mr Carrol for a lengthy period and the coaches had always come back clean. They had ceased working with him after the third stop listed above, on 26 February 2019.
11. Mr Rahal stated that he had been unaware of the 29 January Huddersfield stop until he had received the inquiry papers, as the driver had not said anything to him. The Watford driver on 9 February had mentioned the affray incident involving the passengers, but not the cannabis smoking and alcohol consumption. The coaches had returned clean on both occasions. When he had received the call-up papers he had interviewed all the drivers about the incidents but they had all assured him that no smoking or drinking had taken place. I asked whether it would be possible for 15 crates of beer to be stowed away in the outside lockers without the driver's knowledge: Mr Rahal stated that the driver might have been distracted. He believed his drivers when they had told him that they were not aware of any smoking or drinking. Initially Mr Rahal went on to state that he believed that the police had made everything up but, after a short adjournment requested by Mr Oliver in order for him to receive further instructions, Mr Rahal accepted that beer had indeed been found on the vehicles and that the drivers had admitted to him that "a little bit" of alcohol drinking had taken place. He suspected that the drivers might have received tips in order to turn a blind eye.

#### *Evidence of Sylwia Sojka*

12. Ms Sojka said that she worked around 15 hours per week on the licence, mostly during the evenings. She had known nothing of the Huddersfield incident on 29 January and only that there had been an affray at Watford on 9 February. After the Merseyside stop on 26 February she had realised that the company was being targeted by police and the company had stopped doing football trips as they seemed to be more trouble than they were worth.

#### *Concluding remarks*

13. Mr Oliver noted that Guru Travel intended to downgrade from a standard international to a standard national licence and to bring in an additional transport manager. It was accepted that there was clear evidence of alcohol being on board the vehicles on the three dates concerned. A large part of the responsibility for this lay with organiser Callum Carrol. The operator had not reacted to the incidents at first because the director Mr Rahal had not known what was happening. This changed after the stop on 26 February after which he had stopped working with Mr Carrol.
14. It was accepted that, on the balance of probability beer had been present on the vehicle. However, in Mr Oliver's view, the evidence did not support a finding on the balance of probability that the operator had known about this. The 1985 Act required there to have been knowledge for the operator to have committed an offence. Perhaps it could be said that the operator's systems for controlling its drivers should have been better; there ought perhaps to have been knowledge. But the police had never contacted the operator directly, always just speaking to the drivers.
15. The operator could be trusted in future to comply and instruct its drivers properly. It could be dealt with by way of a warning or, if regulatory action were unavoidable, by a short curtailment. An undertaking could be given not to undertake football work in the future. Any more serious regulatory action would have serious effects on the operator's business: it undertook significant tour work throughout the year and extensive rail replacement services at weekends.

## Findings

16. After considering all the evidence I make the following findings:

- i) the company did have actual knowledge that football parties organised by Mr Carrol were consuming alcohol and cannabis on board the coaches to and from football matches, the former contrary to the 1985 Act. From the amount of smoking and drinking described by PC Dacre, I find it highly improbable that Mr Rawal noticed nothing amiss when his coaches arrived back and that he truly found them in a clean condition. The smell associated with heavy smoking and alcohol consumption does not quickly disappear. Mr Rahal's evidence, as noted above, was inconsistent indeed contradictory at times and I am afraid I cannot rely upon it. In any case, it is beyond doubt that the company's servants (ie the drivers) were fully aware that alcohol was being consumed on board and, by doing nothing to stop it, in effect permitted it. In the case of the driver whose coach had 15 crates of beer in the outside lockers, I find on the balance of probability that not only was he aware that alcohol was being carried but that he actively facilitated such carriage, as the use of such lockers invariably involves the knowledge and co-operation of the driver. If the company's communication policies and procedures were so poor that drivers never communicated the incidents to Mr Rahal (which as I have said I find unlikely), the company (in the form of its servants) nevertheless still had knowledge that alcohol was being consumed.
- ii) that the company was aware by 29 January 2019 at the latest that the football groups it was carrying were flouting the regulations about consumption of alcohol yet did nothing to stop this until it realised, after the third police encounter with its vehicles, that it was being targeted.
- iii) that the company has therefore failed to fulfil its undertaking to ensure the lawful operation of vehicles (Section 17(3)(aa) of the 1981 Act refers).

## Balancing exercise

17. On the positive side of the balance, the operator otherwise appears generally compliant. On the negative side, in addition to the findings above, is the consideration that the company's tolerance of alcohol consumption and the smoking of illegal substances is aggravated by the fact that there were minors on board the coaches when this took place. Although I accept that the minors concerned could well have been participating in these activities themselves, that does not reduce the company's responsibility to prevent them from being exposed to the activities. A further aggravating factor is the inconsistent evidence offered at the inquiry by Mr Rahal.

## Decisions

### *Suspension of the licence*

18. On balance, owing to the company's knowledge of what was happening and failure to do anything about it until after the third occasion, I conclude that the operator's non-compliance with the 1985 Act falls into the moderate to serious category outlined in the Senior Traffic Commissioner's statutory guidance document 10. The suggested regulatory action for this category is a suspension of up to 28 days. I am imposing a 16 day suspension, chosen because it is around the mid-point of the range suggested by the STC and because it covers three weekends during the football season, reflecting the three occasions when the company's vehicles were stopped and alcohol-related offences detected.

19. I am allowing some time before the suspension comes into effect on 5 October 2019, so that the operator can make any necessary alternative arrangements to cover its contracted work (eg by contracting it out to another operator).

*Repute*

20. The company – just – retains its repute, but I am giving it a severe warning that nothing like this must happen again. I am endeavouring to ensure that this is so by accepting the operator's undertaking not to carry football supporters groups in future.
21. I am not taking any action against the repute of transport manager Sylwia Sojka. She is an external manager who worked hours which were unlikely to bring her into contact with coaches or drivers at weekends. However, she is warned that she needs to pay closer attention in future to the risks of any of her operators carrying football supporters and the measures required to ensure compliance with the rules on consumption of alcohol on coaches to sporting events.



Nicholas Denton

Nicholas Denton  
Traffic Commissioner  
4 July 2019