



TRAFFIC COMMISSIONER'S DECISION

**CROYDON COACHES (UK) LIMITED
t/a Coaches Excetera**

LICENCE NO. PK1078393

AND

GIAMPIERO ALESSANDRO MAZZA – TRANSPORT MANAGER

PUBLIC PASSENGER VEHICLES ACT 1981 (as amended)

DECISION

1. Pursuant to adverse findings under Section 17(3) (aa), (c) and (e) of the Public Passenger Vehicles Act 1981 Croydon Coaches (UK) Limited no longer meets the requirements of Section 14AZ(2)(a) of the 1981 Act – good repute and professional competence. Accordingly, the licence is revoked with effect from 23:45hrs on 1 August 2019 as provided for by Section 17(1) of the 1981 Act.
2. Croydon Coaches (UK) Limited, Mr Sirichai Trilertwong (former director) and Mr Giampiero Mazza (director) are disqualified from holding or obtaining an Operator's Licence or being involved in the management, administration or control of an entity that holds or obtains such a Licence for period of 6 years as provided for by Section 28 of the Transport Act 1985. The disqualification commences at 23:45 hrs on 1 August 2019.
3. Upon a finding that the Transport Manager, Mr Giampiero Alessandro Mazza, no longer satisfies the requirements of Section 14ZA (3) to be of good repute in accordance with Schedule 3 of the Public Passenger Vehicles Act 1981 and a finding that he is unfit to manage the transport activities of an undertaking, Mr Giampiero Alessandro Mazza is disqualified for a period of 6 years from engaging in the role of Transport Manager in any Member State. The disqualification commences at 23:45hrs on 1 August 2019.

PART 1

BACKGROUND

Events leading to the Public Inquiry

4. This Public Inquiry stems from an initial roadside encounter between a Driver & Vehicle Standards Agency ('DVSA') Traffic Examiner ('TE') Emma Jane Morris and a 52-seater coach operated by Croydon Coaches (UK) Limited ('Croydon Coaches') on 9 February 2017. She found a number of offences, including episodes of driving without a card, by 3 different drivers, after checking the Vehicle Data Unit.
5. DVSA then undertook a full operator investigation and a visit was arranged for 9 March 2017. The sole director, then Mr Sirichai Trilertwong ('Siri') and transport manager Giampiero 'Alex' Mazza ('Mr Mazza') were not present but authorised a Mr Gordon Daikin to speak on their behalf. All drivers and vehicle tachograph records for the period 1 November 2016 to 1 February 2017 were required to be delivered to DVSA by 2 March 2017 (Section 99ZA). This was not complied with.
6. The visit is said to have highlighted significant failings in the operating systems. TE Morris found no system/procedure in place or, if in place, not working:
 - Scheduling/planning of drivers' journeys and duties;
 - Analysis of data;
 - Action on infringements;
 - Compliance with the Working Time Directive;
 - Driver licence checks;
 - Operator licence detail accuracy
7. In addition, TE Morris identified areas where there were some systems/procedures in place but they were not working entirely satisfactorily. These are:
 - Return of data downloading;
 - Storage of data;
 - Refresher training;
 - Availability of CPC records;
 - Tachograph calibrations.
8. During the period of analysis, TE Rossiter stopped a coach operated by Croydon Coaches, on 23 March 2017. He discovered an offence of no driver card inserted which had been committed on 19 March 2017. Other DVSA officers also found 3 further drivers' hours' offences committed during the period of the investigation as a result of a random stop - these were daily rest offences and false records.
9. In light of the above, I determined that Croydon Coaches and Mr Mazza were to come to Public Inquiry. I also called a number of the drivers investigated to Driver Conduct Hearings.
10. Separately, DVSA arranged a maintenance investigation on 18 October 2017, the outcome of that was marked 'unsatisfactory'. I determined these matters should also be considered at the Public Inquiry because:
 - The transport manager was unable to provide evidence of refresher training;
 - No evidence of acceptable forward planning was in place;
 - The driver defect reporting system is defective in many respects, repairs are not evidenced, and there was no audit system in place;
 - No Letter of Intent from the maintenance provider;
 - A poor first time pass rate at annual test;

- Easily identifiable defects were missed on Driver Defect Report checks, which led to an immediate prohibition on vehicle S60 ETC.

The Hearings

11. The Public Inquiry was originally listed for 5 - 7 November 2018 inclusive. I agreed to adjourn the Public Inquiry due to last minute issues surrounding legal representation. However, I proceeded with the Driver Conduct Hearings on 5 November 2018. The Operator sent a lawyer to observe and take notes. I issued a number of case management directions to the parties prior to the new date fixed for the Public Inquiry. Regrettably many of these were not complied with. Just two weeks before the January 2019 hearings, Siri resigned as the sole director and was replaced by Mr Mazza. The Public Inquiry commenced on 29 January 2019 and concluded on 31 January 2019 in the Tribunal Room at the Office of the Traffic Commissioner in Eastbourne.
12. Croydon Coaches and Mr Mazza were represented by Mr Oliver Powell of Counsel. Siri did not attend and was not represented. Siri did not lodge any written representations. I heard oral evidence from Mr Mazza for Croydon Coaches and on his own behalf as transport manager. DVSA was represented by Mr Stephen Thomas, Solicitor. I heard oral evidence from TE Morris, TE Rossiter and Vehicle Examiner ('VE') Forshaw. I also heard oral evidence from former drivers Mr Andrew Blackford and Mr Rajarathnam Navaneethan. The hearing concluded late on the last day and I afforded Mr Powell a further 14 days to submit a written closing. I also agreed that DVSA could lodge a closing note in relation to areas where evidence at the hearing differed from that during interview. I confirmed that I would thereafter issue a written decision. The final closing documents were actually received by me on 22 February 2019.

Documents etc.

13. Prior to considering my written decision I have reviewed the following:-
 - (i) Public Inquiry bundle of documents;
 - (ii) Witness statement from Mr Mazza.;
 - (iii) Pre Inquiry correspondence and reports from Croydon Coaches Solicitors;
 - (iv) Operator's external audit report, Ridgeway Training, narrative dated 17 January 2019;
 - (v) The complete set of the exhibits which were not available at the Public Inquiry but were received subsequently;
 - (vi) Documents copied and handed in during the course of the hearings;
 - (vii) DVSA Case Summary;
 - (viii) Closing submissions from Counsel dated 15 February 2019;
 - (ix) Email from the Operator's Solicitor with further representations and documents attached dated 18 February 2019;
 - (x) My handwritten notes taken at the hearing and a CD download of some of the evidence given at the hearing;
 - (xi) South Bucks District Council and another V Porter(FC) (2004) UKHL33, English v Emery Reimbold & Strick Ltd [2002] EWCA Civ 605 and Bradley Fold Travel Limited & Peter Wright v Secretary of State for Transport [2010] EWCA Civ 695 in relation to written decisions generally;

- (xii) Upper Tribunal Decisions and other guidance I consider relevant to this determination as listed elsewhere in this Decision;
- (xiii) The Senior Traffic Commissioner's Statutory Guidance and Statutory Directions.

The Issues

14. The parties do not materially challenge the VE's written and oral evidence. In relation to the alleged offences set out in the Traffic Examiner's Public Inquiry Statement, the parties accept that of the initial 158 allegations of the Operator's vehicles being driven without a digital card in a position to record:-
 - (a) 42 allegations of false records are proven;
 - (b) 81 allegations of failing to keep a proper record by reason of failing to record some or all of the working day are proven.
15. In summary, of those 158 allegations, the Operator and transport manager accepted 123 offences - 35 offences were not pursued by DVSA. In addition, there are a further 147 allegations of hours offences and unauthorised withdrawal. Croydon Coaches and Mr Mazza were unable to admit or deny these allegations. It is disappointing perhaps that we found ourselves in this position, bearing in mind the amount of time Croydon Coaches, Siri and Mr Mazza had with all the evidence. I appreciate that there were issues with legal representation but this did not preclude an Operator doing its own analysis or independently instructing consultants.
16. The TE also alleges that Croydon Coaches is effectively run as one entity alongside BETC Ltd and Atbus Ltd. The sole director of those companies is Mr Richard Hill. This was explored at a hearing in January 2017 for BETC Ltd. This is denied by Mr Mazza.
17. DVSA submit that when all the evidence is considered together, the investigation reveals:-
 - An operator who was not cooperative with DVSA – all 3 Section 99ZA requests were not fully complied with;
 - The operator failed to notify the Traffic Commissioner in 2011 that there was only one director;
 - Vast infringements of drivers' hours' rules;
 - False records;
 - That manual records have been made by the drivers but never produced to the DVSA;
 - That 3 companies (Croydon Coaches, BETC and Atbus) were operating as one;
 - That both the Director and Transport Manager were difficult to contact and did not co-operate with the investigation;
 - Siri was not in control of what was going on;
 - Either Mr Mazza did not carry out proper tachograph checks or deliberately chose to ignore tachograph infringements;
 - Records were made up after the event - one driver refers to going into the office being given blank analogue charts and told to complete them;
 - Warning letters produced now by Croydon Coaches were not given to the drivers and that they never received any warnings until after the DVSA investigation started;
 - Middle management encouraged drivers to make false records;
 - The company contacted drivers on mobile phones and did not provide hands-free kits.
18. The parties who attended accept that there have been breaches of the undertakings in relation to drivers' hours' and tachographs, Working Time Directive and vehicle roadworthiness. However, I am asked to find that Croydon Coaches and the transport manager remain of good repute. I am also asked to find that Mr Mazza was not a 'shadow' or 'de facto' director. The former director, Siri, has not produced any evidence for the purposes of this decision.

Chronology

19. I have prepared the following chronology to assist understanding of the sequence of events and the links between companies and individuals.

3 April 2001	On the Road (EU) Limited incorporated. Mr Mazza is director and Mrs Gaetana Maiorana is company secretary. She is Mr Mazza's mother.
18 June 2002	On the Road (EU) Limited t/a OTR Travel is granted a Licence (PK1007510) for 8 vehicles. Mr Mazza is the transport manager. Authorisation subsequently increased to 10 vehicles.
7 February 2006	Atbus Ltd incorporated.
21 February 2006	Gaetana Maiorana trading as OTR Travel is granted a Licence (PK1054882) for 25 vehicles. Mr Mazza is the transport manager. It is unclear when the trading name changed to Valley Point Coaches.
28 February 2006	Gaetana Maiorana resigns as company secretary of On the Road (EU) Limited.
1 March 2006	Giuseppina Mazza appointed as company secretary of On the Road (EU) Limited. She is Mr Mazza's sister.
14 March 2006	Valley Point (Trading) Limited incorporated. Mr Mazza is director and Giuseppina Mazza appointed as company secretary. Valley Point (Assets) Limited is incorporated. Mr Mazza is director and Giuseppina Mazza is company secretary.
5 April 2006	EPI Coaches Limited incorporated.
30 April 2006	Mr Mazza resigns as director of On the Road (EU) Limited.
1 May 2006	Cataldo Mazza appointed as director of On the Road (EU) Limited.
26 May 2006	Giuseppina Mazza resigns as company secretary of On the Road (EU) Limited.
31 May 2006	Cataldo Mazza resigns as director of On the Road (EU) Limited. Replaced by Luxury Mini Coaches Limited as sole director.
30 January 2007	Mr Mazza resigns as director of Valley Point (Assets) Limited and is replaced the next day by Siri.
18 June 2007	Public Inquiry which lead to the decisions on 19 July 2007 below. <i>'Mrs Maiorana and Mr Mazza were in attendance and were represented by Mr Carless, Transport Consultant. 'Miss' Trilertwong, director of Valley Point (Assets) Limited since 30 January 2007, was also in attendance.'</i> (source paragraph 3 (xx) of 'TCPI 7') – note it should say 'Mr Trilertwong'.
19 July 2007	PI Decisions: PK1007510 : ON THE ROAD (EU) LTD Licence revoked with immediate effect. PK1054882 : GAETANA MAIORANA (T/A VALLEY POINT COACHES)

	<p>Licence revoked and Gaetana Maiorana is disqualified under section 28 Transport Act 1985 for 5 years from 01/09/07. Decision includes the finding '<i>...that Mrs GM has allowed her licence to be used by another party – Valley Trading – and even after her Transport Manager was made aware that this was illegal..... I accept that she may have relied too heavily on the advice of her son and Transport Manager.....</i>'</p> <p>PK1065137 : VALLEY POINT TRADING LTD Application refused '<i>...because its director and proposed Transport Manager – Mr Mazza - was the guiding hand throughout when it operated using a third-party's licence and discs.</i>'</p> <p>PK1068187 : VALLEY POINT (ASSETS) LTD Application refused. Siri is the director at the date of the Public Inquiry but the decision includes '<i>Although Mr Mazza is not a current director of or its proposed Transport Manager for Valley Assets, he is the sole shareholder in and controller of that company. Having looked behind the veil of incorporation, I am satisfied that Valley Asset's application should also be refused.</i>'</p>
13 December 2007	<p>Transport Tribunal Decision 2007/252 & 253 GAETANA MAIORANA (T/A VALLEY POINT COACHES) and VALLEY POINT TRADING LTD – appeals dismissed. At para 10 the TT states: '<i>Once there had been a finding that VPT had been using Mrs Maiorana's licence, the application for a new licence in the name of VPT was destined to fail. The company had been operating without a licence and continued to do so following the warning of illegal operation given by TE Dowling and the subsequent prosecution. The company was also operating without any proper systems for ensuring that the rules on drivers' hours and records were being complied with and there were maintenance failings. Such misconduct is fundamental to the issue of good repute in relation to the company. At present, Mr Mazza's individual repute is undetermined and it is for the Deputy Traffic Commissioner to consider that issue at some stage in the future. It would have been wrong of him to do so whilst an appeal was outstanding. Be that as it may, we are satisfied that he was the driving force behind "the group" and responsibility for the failings highlighted by VOSA lies with him. In the circumstances, the appeal fails.</i>'</p>
20 December 2007	<p>TC Decision on EPI Coaches Limited PK1069974 – included a finding that it was 'fronting' for Mr Mazza (source: 'TCP18')</p>
2 July 2008	<p>On the Road (EU) Limited – winding up order (successful petition by HMRC)</p>
1 January 2008	<p>Siri resigns as director of Valley Point (Assets) Limited. There is no director until Mr Mazza is appointed on 1 May 2008.</p>
31 January 2008	<p>Croydon Coaches incorporated. Leon Pyke is sole director.</p>
8 February 2008	<p>Public Inquiry held - convened to consider Mr Mazza's good repute as transport manager (see 13 December 2007 above).</p>
29 April 2008	<p>Transport Tribunal decision EPI Coaches Limited 2008/026 – appeal against revocation allowed after the offer of the following undertakings:</p> <p><i>(i) that Mr Giampiero Mazza is to have no role, whether direct or indirect in the management or running of the Appellant's business, (ii)</i></p>

	<i>that all sums of money either paid to or owed to Mr Giampiero Mazza by the Appellant and/or Mr Enrico Pilia shall be specifically identified in the annual accounts of the Appellant company and (iii) that copies of the annual accounts of the Appellant company shall be supplied to the Traffic Commissioner within 28 days of the date on which they are required to be filed at Companies House.</i>
1 May 2008	HMRC serve winding up petition - On the Road (EU) Limited. Mr Mazza re-appointed director of Valley Point (Assets) Limited.
1 July 2008	Neville Carnegie appointed as director of Croydon Coaches (source: Companies House)
15 July 2008	Leon Pyke resigns as the director of Croydon Coaches (source: Companies House)
6 August 2008	Oswald Smith is sole director of Croydon Coaches (source: Companies House)
2 September 2008	Decision letter re Mr Mazza's good repute as transport manager – see 8 February 2008 above. Decision states: <i>At the end of the Inquiry the Deputy Traffic Commissioner indicated that he would reserve his decision until the outcome of an appeal to the Transport Tribunal made by EPI Coaches was known.</i> <i>As that appeal has now been considered and a ruling made the Deputy Traffic Commissioner has now made a decision and has concluded that it would not be appropriate to make any finding against your repute as a transport manager.</i>
	At this point Mr Mazza is not named on any Licence in Great Britain.
8 October 2008	Oswald Smith resigns as the sole director of Croydon Coaches (source: Companies House)
13 October 2008	Croydon Coaches Operator Licence granted for 15 vehicles. Neville Carnegie is the declared director and Leon Pyke is the transport manager.
28 October 2008	Oswald Smith is re-appointed as a director of Croydon Coaches (source: Companies House).
1 March 2009	Neville Carnegie resigns as director of Croydon Coaches (source: Companies House)
12 May 2009	Mr Mazza is appointed as director and becomes the sole director of Croydon Coaches as Oswald Smith resigns as director of Croydon Coaches the next day (source: Companies House). Central Licensing Office ("CLO") notified on 10 June 2009.
28 October 2009	EPI Coaches licence – surrender accepted instead of PI for drivers' hours' convictions.
9 December 2009	Mr Mazza is appointed transport manager and becomes the sole transport manager for Croydon Coaches.

19 January 2010	Liquidator appointed for On the Road (EU) Limited. No Liquidator's report has ever been lodged at Companies House.
19 April 2010	Croydon Coaches and Transport Manager Public Inquiry. Before the hearing Pelly's Solicitors wrote in that they had been instructed by the company. Pellys confirm Croydon Coaches purchased the assets of EPI Coaches. Also they were writing ' <i>.....to explain the reasons for his (Giampiero Mazza's) purchase of EPI's assets' – EPI Coaches Ltd (PK1069974). The director of the company (Giampeiro Mazza) 'accepts that there have been problems in the past with adhering to the regulatory system. He is determined to ensure that none of the problems of the past are repeated'</i> ' (Source: TC PI6'). Formal Warning issued (page 43 of Public Inquiry bundle).
5 May 2010	Mr Mazza resigns as director of Valley Point Trading Limited and is replaced by Giuseppina Mazza.
30 June 2010	Giuseppina Mazza becomes a director of Croydon Coaches.
16 July 2010	Mr Mazza signs the undertaking under CDDA 1986 – to be disqualified for 7 years arising from irregularities with On The Road (EU) Ltd.
18 August 2010	The disqualification order comes into effect and Mr Mazza resigns as director of Croydon Coaches the same day. Disqualification not notified to the CLO and he remains the transport manager of Croydon Coaches.
18 October 2010	Stanley Travel (UK) Ltd incorporated. Name subsequently changed to Buses Etc UK Limited.
19 April 2011	Valley Point Coaches Limited changes its name to Coaches Etc Limited.
2 May 2011	Siri becomes director of Croydon Coaches and Giuseppina Mazza resigns. CLO were not notified of the resignation.
12 May 2011	Richard Hill becomes sole director of Atbus Ltd.
27 December 2011	Coaches Etc Limited is dissolved.
22 February 2012	CETC Ltd incorporated. Giuseppina Mazza is sole director. Her correspondence address 57 Truslove Road, London SE27 9LH (note: postcode should be OQG).
10 May 2012	EPI Coaches Limited changes registered office to 57 Truslove Road, London SE27 9LH (note: postcode should be OQG).
12 February 2013	Upul Sajith Karunararne appointed a director of CETC Ltd.
12 March 2013	Giuseppina Mazza resigns as director of CETC Ltd.
27 March 2013	BETC incorporated. Adam Paul Smith (aka Paul Jones) is sole director. Liquidator's business address for both is Alan Clark of Cater Clark at Recover House, 15-17 Roebuck Road, Ilford, Essex IG6 3TU.

1 August 2013	Coaches Excetera Limited is incorporated. Richard Hill is a director.
16-10 December 2013	Richard Hill is a director of Stanley Travel (UK) Ltd.
17 January 2014	Mr Karunaratne appointed director of Stanley Travel (UK) Ltd.
13 May 2014	Richard Hill becomes sole director of BETC Ltd.
29 May 2014	Resolution passes to change the name of Stanley Travel to Buses Etc UK Ltd.
10 October 2014	'Excetera Group' employment offer to Stephen Hughes to be 'based at 120 Beddington Lane ...or any other Depot as deemed necessary'. Croydon Coaches details across the heading. Croydon Coaches sole Depot is at 120 Beddington Lane. Document is e mailed from operation@coachesetc.com – the e-mail address given to DVSA for Mr Mazza.
14 October 2014	EPI Coaches Limited dissolved via compulsory strike off.
10 November 2014	Satisfactory DVSA Maintenance Investigation. Vehicle Examiner notes being told that Stephen Hughes recently hired by Croydon Coaches as 'Fleet Manager'.
10 November 2014	Registered office for Buses Etc UK Ltd changes to 57 Truslove Road, London SE27 0QG.
22 November 2014	Stephen Hughes appointed transport manager of BETC (page 87 of Public Inquiry bundle). Darren Bow joins BETC shortly after page 107 of the Public inquiry Bundle).
12 February 2015	Warning letter regarding unsatisfactory maintenance investigation and the failure to notify Giuseppina Mazza's resignation as director.
16 February 2015	Buses Etc UK Limited accounts at Companies House show it is 'dormant' to this year-end.
28 February 2015	CETC Limited accounts at Companies House show it is 'dormant' to this year-end.
14 April 2015	Coaches Excetera Limited changes name to School Transport Middlesex Limited. Richard Hill remains director.
20 April 2015	ABC Group Holdings Limited and National Coach & Bus Franchising Limited are incorporated; Giuseppina Mazza is sole director of both.
16 February 2016	Buses Etc UK Limited accounts at Companies House show it is 'dormant' to this year-end. No further accounts lodged.
29 February 2016	CETC Limited accounts at Companies House show it is 'dormant' to this year-end. No further accounts lodged.
6 April 2016	Siri becomes Person with Significant Control of Croydon Coaches ('PSC').
6 September 2016	The date the parties accept Mr Navaneethan left Croydon Coaches.

18 September 2016	The date Mr Navaneethan says that he left his employer.
2 October 2016	Bridge Strike: BETC work sub-contracted by Croydon Coaches with 'Atbus' driver. Driver is Gabriel Tanaselea whose contract of employment is with 'ABC Group Limited' ('TCPI 1'). The contract is headed 'Excetera' and dated 14 March 2016.
12 October 2016	A vehicle is used in service in Mr Navaneethan's name.
15 October 2016	A vehicle is used in service in Mr Navaneethan's name.
2 March 2017	Deadline for Croydon Coaches to produce records to DVSA under Section 99ZA. Limited data received after chasing email.
9 March 2017	TE Morris announced visit to Croydon Coaches. Takes place at Merstham as per Darren Bow's request (BETC Operating Centre + Workshop). Gordon Daikin and Darren Bow present. 6 key concerns across all aspects considered. TE notes Giuseppina Mazza no longer director. She requests contact details for Siri and Mr Mazza as all future communications to be with them. Mr Bow and Mr Daikin say the details will be forwarded to her. The TE never hears from Gordon Daikin after this date.
14 March 2017	TE Morris sends a chasing email to Mr Daikin and Mr Bow reminding them she awaited the contact details for Siri or Mr Mazza. The TE also reminds them that other information is also still required – "missing charts, manual records, registration documents and so on".
15 March 2017	TE Morris hears from Darren Bow for the last time (email timed at 23:42) – provides e-mail addresses for Siri and Mr Mazza. This is the last communication she receives from Mr Bow.
15 March 2017	Stephen Hughes resigns as transport manager for BETC.
16/17 March 2017	TE Morris emails Mr Bow requesting telephone numbers for Siri and Mr Mazza. No reply. TE Morris telephones Croydon Coaches to speak to Siri or Mr Mazza. She is told Mr Mazza will return her call and he does so. He is told all future communications must be from Siri or himself. Emails further Section 99ZA request for additional operating period in light of the offences already found.
23 March 2017	TE Rossiter roadside encounter with Croydon Coaches vehicle and offence found of no driver card in use when vehicle operated on 19 March 2017. TE Rossiter subsequently aware of TE Morris' investigation and evidence transferred to her.
29 March 2017	TE Clarke roadside encounter with Croydon Coaches vehicle and offence found of insufficient daily rest by the driver on 23 March 2017 (only 7 hours 36 mins taken).
31 March 2017	Deadline for Section 99ZA data.
April 2017	Atbus Limited moves from Northolt to Uxbridge this month (page 93 of Public inquiry bundle).

7 April 2017	Extended deadline at Mr Mazza's request, but not all records are received by DVSA.
7 April 2017	Steve Hughes e-mail to operation@coachesetc.com and darren@busesetc.com 'looks like you paid you lying bastard', copying in e mail from HMRC to say no tax paid on his income from 6 4 16 but CETC payslip shows deductions ('TCPI 1').
8 May 2017	Further records received after TE Morris chased Croydon Coaches.
9 May 2017	BETC Ltd Public Inquiry commences. TE Morris is the investigating Examiner. Download from BETC website includes 'contact us Buses Etc UK Limited' ('TCPI 2').
11 May 2017	Additional records received and Mr Mazza states, "That's everything available".
25 May 2017	TE Morris concludes her analysis with the available data and identifies that between 1/8/16 to 01/02/17 'vast amounts' of driving without a card/chart and Drivers' Hours' and Working Time Directive infringements across 30 drivers. She also notes data for 11 drivers during the period who had not been disclosed in Mr Bow's previous driver list. Schedule of driving without an appropriate card sent to Mr Mazza with request for information and evidence around that use. Extension given to 15 June 2017 as Mr Mazza had been away.
8 June 2017	TE Foster roadside encounter with Croydon Coaches vehicle and offence found of false record (driver card withdrawn during a period of driving) committed when vehicle operated on 21 May 2017.
15 June 2017	Mr Mazza sends detailed response to the Traffic Examiner and bundle of 'Relevant Documents' received the next day. Response confirms refreshed drivers' memory that <u>all</u> , including 'out of scope', to be recorded on digi card.
5 July 2017	E mail Stephen Huges to BETC Public inquiry clerk. Confirms all work he did was at the request of Mr Mazza, including for DVSA visits to Croydon Coaches and Atbus ('TCPI 2').
12 -14 September 2017	Drivers interviewed under caution.
28 September 2017	Siri and Mr Mazza interviewed under caution. The same day TE Spendley had roadside encounter with Croydon Coaches vehicle and offence found of insufficient daily rest by the driver on 23 September 2017.
18 October 2017	Unannounced Maintenance Investigation – Vehicle Examiner ('VE') Forshaw and VE Middleton identify shortcomings and a PG9 is immediately issued. Mr Mazza present at visit.
2 November 2017	VE received 'draft' reply to PG13F+G.
1 March 2018	Daniela Gianina Ciortan appointed as a director of CETC Ltd and Buses Etc UK Ltd.

9 March 2018	Mr Karunaratne resigns as director of CETC Ltd.
12 March 2018	Mr Karunaratne resigns as director of Buses Etc UK Ltd.
10 April 2018	CETC Ltd and Buses Etc UK Ltd are placed into Creditors Voluntary Liquidation.
29 April 2018	CETC Ltd and Buses Etc UK Ltd - liquidators appointed.
19 June 2018	ABC Group Holdings Limited and National Coach & Bus Franchising Ltd – compulsory strike off at Companies House. Last accounts filed to year end April 2016 ('Dormant') for both.
3 September 2018	Pre-Public Inquiry letter to Croydon Coaches and Mr Mazza notifying hearing dates in November 2018.
2 October 2018	Croydon Coaches and Transport Manager Call-In Letters: Public Inquiry to convene 5 November 2018 and conclude 7 November 2018 but subsequently adjourned.
24/25 October 2018	Mr Mazza attends external 2 day Transport Manager CPC Refresher training.
5 November 2018	Driver Conduct Hearings.
14 January 2019	Siri resigns as director. Mr Mazza appointed. Siri remains PSC.

PART 2

MAINTENANCE

20. The Vehicle Examiner's Public Inquiry Statement is summarised in the Background section above. At the hearing, the Vehicle Examiner reviewed the Operator's compliance record since his original investigation. He confirmed that there was a roadside encounter led by the Metropolitan Police on 8 December 2018 and that was clear. The MOT record for 2018 shows 15 MOT tests of which 4 failed giving a 26% failure rate. One vehicle (LIG9704) failed twice on steering. In terms of the current maintenance systems, the Vehicle Examiner had an opportunity to look at the records for BF15 XPM. That was a vehicle that the Operator's Consultant had also looked at in the recent audit. As a result of the records he retained a number of concerns. In particular:-

- The MOT pass rate was disappointing. At one time Croydon Coaches had a 94% pass rate but as at the date of the Inquiry it was only 74%;
- The records did not demonstrate a system for brake testing and in particular roller brake testing. The roller brake tests produced appeared to only be linked to MOTs. The Guide to Maintaining Roadworthiness recommends as best practice, a roller brake test at every Preventative Maintenance Inspection ('PMI') but certainly not less than 4 per annum including at MOT. A decelerometer and/or road test alone is not acceptable as part of a system;
- Vehicle BF15 XPM had a roller brake test on 28 October 2018 which shows a 73% imbalance on one axle. The fact that a vehicle would pass its MOT is irrelevant because the vehicle is not roadworthy to next PMI. The imbalance may be due to roller contamination or a component. What the percentage does say, is that if there is an

emergency stop, the imbalance will cause the vehicle to veer off to one side. The Operator and transport manager would not necessarily know the full technical issues, but they should pick up the large imbalance and the uneven tyre tread depth also shown on the PMI and ask relevant questions;

- BF15 XPM PMI dated 7 January 2019 only shows a road test with no details such as the weather and road conditions and no heat gun to indicate whether all brakes are working. This is a recurring theme across the PMI records;
- Tyre pressures are overwritten but it is unclear why;
- There are too many driver defect items appearing on PMI sheets sitting alongside a driver defect system that is difficult to interrogate. On BF15 XPM there are in-service defect rectification reports, but there is no correlating driver defect sheet indicating when the defects were picked up. Croydon Coaches said that they existed but they were unable to produce them at the hearing. The PMI on 27 January 2018 includes: number plate insecure, screen wash low and near front headlight not working;
- There is no obvious interrogation of the records by Siri or Mr Mazza. It follows that the system in relation to PMIs and driver defect reporting remains inadequate;

21. The Examiner agreed that the now revised PMI sheets include all IM numbers and that retorquing is recorded is a positive, but there was still work to be done over a year after his original investigation.

PART 3

SUMMARY OF MATERIAL AVAILABLE EVIDENCE FOR TRAFFIC EXAMINER ASPECTS OF THE CASE PRIOR TO HER ORAL EVIDENCE

BETC Ltd

22. In May 2017, I commenced a Public Inquiry into BETC Limited (PK1120600), during which possible links to *inter alia* Atbus Limited (PK1060272) and Croydon Coaches became apparent. That case was adjourned part heard and to date has not reconvened for unrelated reasons. However, the BETC Public Inquiry transcript was included in the Croydon Coaches hearing bundle out of fairness and because the evidence is relevant to the investigation by DVSA into Croydon Coaches. In summary:-

- TE Morris, Stephen Hughes (ex-Transport Manager), Darren Bow (General Manager and proposed Transport Manager) and Richard Hill (Director) attended;
- Driver Conduct Hearing G Tanaselea – says employer is Atbus (page 70 of Public Inquiry bundle). In September moved from Northolt to Croydon depot but still same employer, Atbus (page 76 of Public Inquiry bundle). Contract gives employer as ‘ABC Group’;
- Darren Bows gives BETC evidence on the Bridge Strike (page 80 of Public Inquiry bundle). Regarding Mr Tanaselea, he says “He’s a, a good driver. We’ve never had any issues with Gabriel” (page 82 of Public Inquiry bundle). Stephen Hughes gives evidence on his own account as former transport manager;
- Darren Bow discussed bus timeliness issues in October to December 2016 with the TE (page 88 of Public Inquiry bundle). Mr Bow was the only person she spoke with at BETC, although she saw Stephen Hughes;

- Stephen Hughes produces payslips naming his employer as CETC Ltd, not BETC (page 92 of Public Inquiry bundle).

Evidence of Richard Hill

- Managing Director of BETC (page 93 of Public Inquiry bundle). He is also the Managing Director of Atbus and School Transport Middlesex Limited. Atbus has just moved from its Northolt base to Uxbridge. No role whatsoever at Croydon Coaches (page 94 of Public Inquiry bundle). No role in CETC, which he believes is a payroll company operated by Croydon Coaches (page 94 of Public Inquiry bundle). Initially Stephen Hughes employed by CETC to look after Merstham (BETC) and Northolt (Atbus) (page 94 of Public Inquiry bundle). Clarified as BETC, Atbus and Croydon Coaches. BETC pay CETC for a proportion of Stephen Hughes time. Confirms Stephen Hughes was BETC transport manager until he recently left – they spoke daily (page 95 of Public Inquiry bundle);
- Darren Bow started with BETC shortly after Stephen Hughes to strengthen the management team (pages 95 and 102 of Public Inquiry bundle);
- BETC, Atbus and Croydon Coaches are standalone companies but there is an 'inter-company' invoicing system. All work is chargeable, the same as any other Operator. Done through Coach Manager system (page 99/100 of Public Inquiry bundle);
- Atbus does very little work for BETC (page 100 of Public Inquiry bundle);
- Stephen Hughes worked with Mr Hill at Croydon Coaches 'quite a long time ago' (page 100 of Public Inquiry bundle). Mr Hill was previously Croydon Coaches General Manager;
- BETC evolved from the 'old regime' at Croydon Coaches. Adam Smith/Paul Jones was subsequently removed and Mr Hill took over (page 102 of Public Inquiry bundle);
- Compliance improved due to Stephen Hughes and Darren Bow (page 102 of Public Inquiry bundle);
- Mr Hill was on the CPT Executive Committee for schools transport (page 103 of Public Inquiry bundle);
- CETC is just a payroll company – Mr Hill brought Stephen Hughes into the fold (page 105 of Public Inquiry bundle). Employed by CETC to spread the cost - 33% per each Croydon Coaches, BETC and Atbus (pages 109 and 110 of Public Inquiry bundle);
- In September 2014, there was a discussion. Stephen Hughes brought in to cover BETC, Atbus and Croydon Coaches (page 107 of Public Inquiry bundle). Initially focus on BETC to 'put right the mess Adam had created' (page 107 of Public Inquiry bundle). Then Mr Hill wanted him to take an overview and 'help me look at Croydon Coaches as well' (page 108 of Public Inquiry bundle);
- Mr Hill spoke to Stephen Hughes a few weeks before the 2014 BETC Public Inquiry in October 2014 nominated Stephen Hughes as transport manager. Public Inquiry originally listed for January 2015 but adjourned to March 2015 (page 106 of Public Inquiry bundle). Darren Bow joined BETC in November 2014 (page 107 of Public Inquiry bundle);
- Mr Hill has no role at Croydon Coaches, but the businesses are 'friendly' as 'we work together on a lot of projects' and he wanted to 'spread the cost' as 'BETC was foundering'. Discussed it with 'Siri, who's the owner' (page 108 of Public Inquiry bundle);

- Giampiero Mazza was transport manager at Croydon Coaches but he is 'not capable of running the operation properly'. Stephen Hughes was going to help (page 108 of Public Inquiry bundle).
- Assistance to Croydon Coaches was not imminent as at November 2014 but in the short term (page 109 of Public Inquiry bundle).
- Around Easter 2015 Stephen Hughes started to get involved with the other companies, though little to do with Atbus (pages 110 and 111 of Public Inquiry bundle).
- It was left for Stephen Hughes to decide what hours he did for each Company (page 111 of Public Inquiry bundle). He was based at Mertsham (BETC) all of the time (page 112 of Public Inquiry bundle).
- Darren Bow and everyone else was paid by BETC. Only Stephen Hughes was paid by CETC;
- Mr Hill personally employed Mr Tanaselea for Atbus at Northolt. He left Atbus and moved to Croydon as easier to find accommodation (page 114 of Public Inquiry bundle). On the day of the bridge strike he was employed by Croydon Coaches (not Atbus) but it was sub-contracted work for BETC (page 115 of Public Inquiry bundle);
- BETC Bus Service Operator Grant ('BSOG') was previously 'sorted' through Croydon Coaches as a matter of cost efficiency as it had an 'expert'. The 'expert' did BSOG for all three companies. This changed to being claimed by each Company individually after DVSA investigation (page 123 of Public Inquiry bundle). It was originally set up as being all through Croydon Coaches by Adam Smith/Paul Jones (page 24 of Public Inquiry bundle).

Stephen Hughes

- Contract of employment is with 'Excetera' of 120 Beddington Lane, Croydon CR9 4TD. This is the Excetera Group's head office. Mr Hughes thought it was Atbus, BETC and CETC. CETC paid him. Mr Hughes initially worked for BETC. It was never explained to him why he was paid by CETC. Croydon Coaches was not mentioned until June or July 2015 (pages 126/127 of Public Inquiry bundle). Mr Hughes helped Darren Bow produce BETC employee handbook (page 128 of Public Inquiry bundle);
- Mr Hughes was first involved with Croydon Coaches after DVSA check at Thorpe Park. Atbus had a large job and Croydon Coaches and BETC were used too as sub-contractors. A Croydon Coaches vehicle drove off before DVSA checked it and DVSA contacted Croydon Coaches (page 129 of Public Inquiry bundle). DVSA wanted records for some of the vehicles and Mr Hill asked Mr Hughes to help Croydon Coaches with the DVSA investigation (page 129 of Public Inquiry bundle). BETC only did maintenance for itself, Atbus and Croydon Coaches (page 130 of Public Inquiry bundle). Mr Hughes was checking the Preventative Maintenance Inspections ('PMIs') and driver defect inspections for all 3 (page 131 of Public Inquiry bundle). Spent time with Darren Bow most days (page 131 of Public Inquiry bundle). Mr Hughes confirms that 120 Beddington Lane is Croydon Coaches (page 133 of the Public Inquiry bundle). Mr Hughes says Excetera Group is BETC and Atbus but acknowledge all information on his contract the same as Croydon Coaches (page 133 of Public Inquiry bundle);
- Mr Hughes left because he was planning to move away from the area to drastically reduce work hours for his wife. Currently working for son at his plumbing firm;
- Darren Bow dealt with the bridge strike as Mr Hughes was off that day (pages 133/134 of Public Inquiry bundle);

- Before Mr Hughes left BETC he only did limited work for Croydon Coaches. BETC only had 2 vehicles able to do Croydon Coaches work. Likewise, Atbus, as there were only 2 tachograph vehicles on the fleet (page 135 of Public Inquiry bundle);
- Mr Hughes spoke to Croydon Coaches every day but to do with vehicle maintenance only, not contracts.
- Mr Hughes knew as the BETC transport manager the work a vehicle was doing, but he did not know whose work it was (page 136 of Public Inquiry bundle);
- Mr Hughes and Darren Bow worked in partnership as a team neither one in control over the other (page 137 of Public Inquiry bundle).

Summary of Mr Mazza's Interview under Caution

23. Mr Mazza was interviewed under caution on 28 September 2017. He was represented by Croydon Coaches's former solicitors. His interview under caution can be summarised as follows:-

- He does not schedule journeys but does oversee them;
- At first, he said that Croydon Coaches pay all drivers wages, tax and national insurance.
- The Traffic Examiner stated that some drivers said they were self-employed and paid their own tax. Mr Mazza then said he wasn't sure and doesn't get into this as he is a transport manager;
- All the data analysed was for Croydon Coaches UK Limited and was Croydon Coaches' work;
- Private Hire work was notified well in advance and given 1 - 2 days before;
- Ochain is a duty manager, dealing with scheduling, allocations day to day, driving and running;
- Ochain works out of Beddington Lane. The TE explained during driver interviews Ochain was at Merstham. Mr Mazza then said Ochain moves around and was sometimes at Merstham because the maintenance is done at Merstham. He then says Ochain is involved in maintenance as well;
- The drivers do not know what goes on behind the scenes with scheduling;
- His mobile is on 24/7 and states all drivers are able to contact someone 24 hours a day;
- He completes all analysis of the drivers' hours;
- He only deals with certain infringements and certain drivers;
- He agrees that Gordon Daikin's name is on the bottom of every infringement report and warning letters. He agrees that it should have been him or Siri signing them as part of their monitoring and control;
- Siri is reported to about tachographs, maintenance and whatever is in his duties.
- He is aware of everything in the day to day running and Siri has the overall say;

- When asked about poor communication for himself and Siri, Mr Mazza related it to his Mother's health condition for both himself and Siri;
- When the TE asked why Gordon Daikin was no longer in employment, he said 'it's not true'. The TE pointed out that the list from his solicitor said otherwise. He then said that Mr Daikin left in August 2017 and came back in September 2017, due to not doing his job properly in relation to this investigation. Mr Mazza said he was back but not sure how long for;
- When Mr Daikin was gone for that month, Ochain was delegating all work. The TE asked who was overseeing Ochain, whilst he and Siri were out of the country. Mr Mazza said he was accessing the system remotely;
- 'Historically' there is a drop in private hire work from the end of July;
- Atbus is another coach operator;
- BETC is another coach operator;
- Croydon Coaches lease the Merstham premises to BETC;
- Croydon Coaches get work from Atbus and vice versa;
- When Croydon Coaches are short of drivers' they will ask them if they have drivers, but only occasionally;
- Croydon Coaches get work from BETC and vice versa;
- Steve Hughes assisted all three companies (Atbus, Croydon Coaches and BETC);
- Darren Bow covered as and when requested when he and Siri were out of the country. Mr Hill had asked Mr Bow to deal with DVSA whilst they were away. (The TE noted this was not mentioned earlier in the interview when discussing cover);
- Richard Hill does not work for Croydon Coaches. When asked about Mr Hill giving instructions to the drivers, Mr Mazza says it is to do with the working relationship between the companies;
- He was asked about Darren Bow's office at Beddington Lane, giving instructions to drivers and discussing wages. The interview was paused and Mr Mazza then stated Mr Bow is a general manager being asked to help out;
- He did not know about the visit on 9 April 2017 (noted by the Traffic Examiners as contradictory to emails received from Mr Mazza throughout the investigation and Mr Hill asking Mr Bow to deal with DVSA);
- When asked about Mr Bow calling a Croydon Coaches driver to come back and work for the company, Mr Mazza stated he wasn't sure;
- Atbus are not a part of Croydon Coaches, but when asked why a driver was paid by Croydon Coaches when employed by Atbus he couldn't explain;
- When asked why a driver's work was scheduled by Atbus yet he was driving for Croydon Coaches, he said he wasn't sure;
- He disagrees that all companies are one and the same;

- He states all work is legal within EU regulations, in a reasonable timeframe, does not accept pressure was put on drivers;
- Ochain ensures the jobs are legal and Ochain is competent;
- He has no knowledge of drivers being unable to get a replacement driver and drivers breaching hours;
- He never instructed a driver to pull a card and has no knowledge of drivers coming back to the yard without a card in the head;
- 'Personal use' was a general misunderstanding, but accepts all offences where committed due to personal use of coaches;
- He accepts all offences of false records;
- He does not agree that Croydon Coaches are responsible for false records;
- When asked about use of Mr Navaneethan's digital card after he had ceased employment Mr Mazza stated 'can't confirm';
- All warnings are correct and signed;
- He does not agree drivers were making manual records retrospectively;
- Drivers are given tachograph training at the start of their employment;
- He acknowledges that he did not supply the Traffic Examiner with a full set of tachograph data but states that the failure was not deliberate;
- Croydon Coaches does not supply mobile phone hands-free kits to drivers. Drivers have to provide their own. Drivers are only called as and when needed;

Summary of Siri's Interview under Caution

24. Siri was interviewed after Mr Mazza and also under caution on 28 September 2017. He was represented by the Croydon Coaches's former solicitors. That interview under caution can be summarised as follows: -

- As sole director, he deals with the finance, clients, overlooks the operation and makes final decisions (amended at end of interview from being "involved in final decision");
- Mr Mazza reports to him on a regular basis, but it is Mr Mazza who oversees drivers' hours and deals with infringements. Mr Mazza does not schedule or delegate work on a daily basis. That is done by the operations team. Mr Mazza made him aware that drivers were committing infringements, but he could not remember the details. He believes that all infringements are dealt with, but he was unable to say why neither he nor Mr Mazza had signed any of the documentation. He was not present at any formal meetings but was involved in every infringement;
- The Operations Manager is Gordon Daikin but some issues were being looked into in that regard;
- Darren Bow works at Croydon Coaches once every 2 weeks and Stephen Hughes had given some advice to Croydon Coaches the previous year. He does not know anything about Darren Bow giving instructions to drivers;

- When asked about the DVSA visit on 9 April 2017, Siri firstly stated he was not aware of it. When reminded that Mr Bow and Mr Daikin had authorisation to represent the Company at the visit, he recalled that Croydon Coaches did ask Mr Bow to help out with that appointment;
- He does not know how Darren Bow knows so much about the Croydon Coaches' operation;
- He did not know that Darren Bow had asked a driver to come back and work for Croydon Coaches;
- When asked why Stephen Hughes allocated work for drivers, he stated Mr Hughes helped out in the operations department but then withdrew the comment;
- Richard Hill used to work for Croydon Coaches but has not done so in the last year;
- Atbus is another coach company Croydon Coaches know well. Croydon Coaches are the landlord for the Mertsham yard used by BETC and BETC undertake Croydon Coaches' maintenance. They do help each other out with work but Croydon Coaches is not linked to them. He denies that Croydon Coaches, BETC and Atbus are one and the same company;
- He does not deal with the drivers and therefore they would not know what his actual position was in the Company. He could not help with any confusion amongst the drivers such as a driver who is pressured to sign a contract to complete private hire work for Croydon Coaches whilst being employed by Atbus;
- He disagrees that drivers are pressured or that there are unreasonable timeframes for the work. At the same time he accepted all the offences of false records, personal use offences and driver's hours offences committed;
- He could not give a reason why drivers are committing the infringements, but 'Ochain' does the scheduling;
- He was unaware that Mr Mazza had been disqualified as a director.

The evidence of the drivers and former drivers of Croydon Coaches.

Witness Evidence from former Croydon Coaches Drivers at Public Inquiry

25. Mr Andrew Blackford produced a Witness Statement and exhibits for DVSA after he had left Croydon Coaches but during the original investigation. Mr Blackford told the Inquiry:-
- His first day of work was in Croydon for 'Excetera Coaches' but he had received his contractual documentation before then. He never noticed that his contractual documents contained the details for BETC Limited;
 - He subsequently became aware that 'Excetera Coaches' was in fact Croydon Coaches. However, his payslips, P45 and P60 were from different companies:
 - On 2 occasions his bank statements showed that he had been paid by 'Stanley Travel';
 - His payslip for February 2017 shows CETC Limited;
 - His P60 for year end 5 April 2017 showed his employer as CETC Limited;
 - His payslip for May 2017 shows his employer as CETC Limited;
 - His payslip for June 2017 shows Buses Etc UK Limited;
 - His payslip for July 2017 shows the employer as Buses Etc UK Limited;

- His P45 with a leaving date of 31 August 2017 showed his employer as Buses Etc UK Limited;
 - The address for both companies is 57 Truslove Road, West Norwood, London, SE27 0QG.
- He never saw Siri and rarely saw Mr Mazza, who he described as 'not very talkative'. His boss was Darren Bow;
 - He would be called on his mobile telephone when driving a vehicle in service by 'the Company' and was often not given enough time to do the work allocated;
 - He does know Richard Hill, because he *'deals with Uxbridge'*;
 - He did raise some of his concerns with regard to safety with Darren Bow. Mr Bow did try and make things better but that was with DVSA investigation in the background.

26. I heard oral evidence from Mr Rajarathnam Navaneethan. Mr Navaneethan was interviewed under caution in 2017 and a summary can be found at page 38 of the Traffic Examiner's Public Inquiry statement. He told the Inquiry:-

- So far as he was aware, he was only ever employed by Atbus Limited. He always collected vehicles for service from the Northolt depot. Most of his documentation was from Atbus although some was from 'Excetera Coaches'. No one explained to him that he may be working for anyone other than Atbus;
- He left Atbus on 18 September 2016 and therefore any driving thereafter attributed to him is false. Therefore when his driver card was used on 12 and 15 October 2016, someone else in 'the Company' had used it. (It is accepted by Croydon Coaches that Mr Navaneethan did leave in September 2016);
- Twice the 'the Company' had cut his wages but he does not know why. Darren Bow said that if he would stay with 'the Company' any pay previously deducted would be reimbursed;
- He became disillusioned within 2 months of his start date because of the way work was planned. On one day in August 2016 he worked 19 hours. He denies this is an exaggeration. He states that he started work at 06:00hrs and did not finish until 03:00hrs the following day because his 'feeder' cover did not turn up;
- He does not know Mr Mazza and he did not recognise him in the Public Inquiry room. All his dealings were with Darren Bow and Stephen Hughes;
- He was adamant that the drivers were constantly put under pressure due to the poor planning. He was there for 9 months and it is his view that 'the Company' did not care about the rules and regulations;
- He was sure that he did not receive warning letters and no one spoke to him individually about infringements (in response to page 119 part B of the Public Inquiry bundle);
- He did recall 2 weeks before he left that Mr Hill spoke to him and other drivers about infringements as a group. This was done in the yard at the end of a school run. There were 5 or 6 drivers in the group but the others were the Italian and Romanian drivers. None of them were the ones that were called to the same Driver Conduct Hearing as him in November 2018;
- All jobs were sent by email either from Ochain or one other person but most of his daily contact was with 'Emma';

- He did tell 'the Company' that a vehicle he was allocated had a defective tachograph. The transport manager must have known because of the downloads. He was not aware of 'the Company' policy around 'fixing it' within 7 days.

Drivers who did not attend to give oral evidence at the Public Inquiry

27. After the Driver Conduct Hearings on 5 November 2018, DVSA agreed to identify which drivers the Agency would call to give evidence at the Public Inquiry and to arrange attendance. Insofar as they were legally represented at the Driver Conduct Hearing then revised witness statements in relation to their oral evidence was required. Shortly before the Public Inquiry, a number of drivers indicated that they preferred not to attend and were aware that they could not be compelled to do so. At the Driver Conduct Hearings, they were questioned by DVSA and by me but I will have to assess the weight given bearing in mind they did not open themselves to questioning from the parties to the Public Inquiry.
28. My decision relating to the drivers dealt with on 5 November 2018, includes the findings at paragraph 13, set out below for ease. After hearing all the Public Inquiry evidence in January 2019, I see no good reason to depart from those views:-

"I have reviewed the hearing papers in relation to each of the above drivers. I have also considered my handwritten notes of evidence and the very helpful closing submissions from Mrs Sharma of Counsel. Although the submissions were made on behalf of her clients, Mrs Sharma rightly noted that some relate to all the drivers. I have identified the following common principles which are relevant to each of the drivers:

- *The age of the offences – the most recent offence is January 2017 and most date back to 2016.*
- *All the drivers have had the outcome of this hearing hanging over them since the conclusion of the DVSA investigation.*
- *Most had clean driving licences as at 5th November 2018. The three who did not are aware that further offending may lead to 'totting' and/or a further driver conduct hearing.*
- *None of the drivers above received endorsements since 5th November 2018.*
- *I accept on the balance of probabilities that where drivers have said manual entries were made, but not produced by the Operator, that those manual entries did previously exist.*
- *The Operator may not have produced other relevant business records to assist the drivers, as evidenced by the driver data report for Mr Raage for 14 October 2016 provided at the hearing with the help of a third party.*
- *The admitted offending is to be considered in the context of the particular working environment. At the same time, whilst the Operator's approach and systems may have been wanting, all accept that they are responsible for their own vocational driving entitlements and must ensure compliance.*
- *Relevant training has been undertaken".*

PART 4

SUMMARY OF THE ORAL EVIDENCE GIVEN BY TRAFFIC EXAMINER MORRIS

29. At the commencement of the oral evidence from TE Morris, I went through with Counsel and DVSA's solicitor, the various documents and schedules to make sure I fully understood what remained an issue and what was for me to decide. The following was noted:-
- The Operator concedes 41 offences of false record and 81 offences of failing to keep a record;
 - DVSA did not pursue 35 similar allegations;
 - One similar offence remained in dispute (allegation number 24) but was conceded after during the TE's oral evidence;
 - The parties are not in a position to agree or deny the 147 'other' offences asserted by DVSA which are made up as follows:
 - 57 insufficient rests
 - 2 insufficient rests in a 30 hour period
 - 25 unauthorised withdrawal of tachograph
 - 6 failing to take weekly rest
 - 54 exceeding 4.5 hours driving without a 45 minute break
 - 3 exceeding 10 hours driving
30. There was confusion around Appendix 16, Appendix 18 and Appendix 19 of the Traffic Examiner's Report in terms of Foster Tachographs' analysis on behalf of Mr Mazza. It was conceded by DVSA that a schedule for Appendix 18 was actually within Appendix 19. I accept that it is not surprising that Foster Tachographs fell into possible confusion. However, these papers had been with the Operator and Transport Manager for months by this point and at no time was clarification sought. For completeness the TE confirmed that Appendix 16 and 18 are identical save that Appendix 18 has the Operator's comments on.
31. During the course of her evidence, the TE took me to a number of examples in support of the systems and procedures she says were not in place or if they were in place, not working during the course of her investigation.

Scheduling/Planning of Drivers' Journeys and Duties

32. On 9 March 2017, TE Morris was told that Gordon Daikin and Ochain Gondorf did the daily run planning and their work was signed off by Mr Mazza (TEOR form Appendix 7 page 109+ of the Public Inquiry bundle). TE Morris pointed to the fact that some of the drivers' work had no job sheets at all and it was simply arranged verbally. Where there are job sheets (a) some have no start or finish times/locations; and (b) they link to the false record offences. Some of the job sheets show on the face of them that the work could not have been done within the timeframe or if they could, there was no allowance for delays such as traffic. By way of example:-
- Allegation 48 (page 171 of the Public Inquiry bundle): The job sheet shows the coach arriving in Birmingham at 10:50hrs and leaving at 19:00hrs and states that in between, the driver will have 9 hours off. Even on basic maths, the maximum that could be achieved is 8 hours and 10 minutes but it also leaves no allowance for other work, such as passengers getting on and off the vehicle. TE Morris also states that the timings are 'tight' over and above the 9-hour inaccuracy. This appears to be born out as the Tru Tac duty report at page 172 of the Public Inquiry bundle shows that in fact the driver finished at 00:34hrs. The TE analysis shows the false record occurring at between 19:23hrs and 19:32hrs which would not completely remedy the failure to take a full 9 hours rest but it does come close. Further, the other work missing on the job sheet is also borne out on the driver card, for example at 10:39hrs the vehicle

stopped in Birmingham but there is no other work on the card for alighting the passengers. I am invited to accept that this is a good example of the poor planning and pressure Mr Blackford described in his evidence.

- Allegation 51 (page 178 of the Public Inquiry bundle): This job sheet gives is no start or finish time but it is a journey from Clapton in East London to Manchester and back. This is a journey of 202 miles, which even on a car route planner takes 4 hours 15 minutes. Therefore, in a coach, this is likely to require a 45 minute break during the journey. This is not accounted for in the planning. It means that the driver could not take a 9 hour break in the middle of the day. The journey is planned as starting at 06:50hrs on 24 September 2016 and finishing at a time after 01:00hrs on Sunday 25 September 2016 although it is difficult to work out exactly how late because there is no finish time but this is beyond lawful hours.
- Allegation 49 (page 173 of the Public Inquiry bundle): This job sheet (together with many others) shows a start and finish location of 'A-A'. Mr Mazza was unable to assist on the legend for this 'location'. There is no actual start time for getting into position at the Holiday Inn in Wembley, nor how the vehicle or driver got to Wembley if they did not go together. The Examiner invites me to accept that this is a good example of where drivers were expected to choose their own start time and drivers taking a coach home which would also be to the Operator's benefit - because the driver did not have to go to base and the whole vehicle could go straight to work.

System for analysing data.

33. In interview under caution, Mr Mazza stated that he analysed 'all data'. The TE reminded the Inquiry that her TEOR form (Appendix 7 of the Traffic Examiner Public Inquiry statement) set out the picture presented to her in March 2017. From her visit and the Section 99ZA responses, it was clear that there was missing charts/data and where the charts/data did exist Croydon Coaches was not picking up numerous and serious offences. The TE invites me to accept Mr Mazza's statement of analysing 'all data' is false.

Action on infringements.

34. The TEOR form states that where infringements were picked up, drivers seemed to simply be getting warnings for repeat offences. However, there was little actual evidence of any action being taken during the period DVSA was looking at. With a number of International drivers, a language barrier appeared to be a problem. After the March 2017 visit, some warning letters were received along with the endorsed schedule relating to missing mileage. The TE expressed doubts on the veracity of the letters for a number of reasons:

- The drivers interviewed said they had not seen the letters and stated nothing was done prior to the start of the DVSA investigation;
- The letters appear to have been 'churned' off a computer;
- There is no company header on the letters;
- There is no driver signature on the letters;
- The letters are signed by Gordon Daikin, never Siri or Mr Mazza;
- The letters list identical offences to those on her missing mileage schedule or those she pointed out from the digi-analysis she did at the premises; intimating they have been created after the event as a result of the investigation (it is important to record here that this is strenuously denied by Croydon Coaches and Mr Mazza).

35. The TE also points out that the warning letters, even if contemporaneous, provide no detail of the individual offences. Further, there is nothing to say what evidence was shown or what narrative was given to the driver. The letters are also silent about whether additional training was to be organised.

Working Time Directive

36. The TEOR form states that despite the Operator suggesting WTD is included in the planning, breaches were occurring due to the long duty days. As at the date of the Public Inquiry, she still had not seen any evidence of Working Time Directive planning or analysis.

Driver Licence checks

37. In March 2017, the TE was told that all drivers' licences were checked on employment and every 3 months thereafter. No evidence of this system could be produced on the day. Indeed, of the drivers she did check at the premises, the company records were over a year old.

Traffic Examiner evidence on Croydon Coaches compliance documentation and evidence produced for the Public Inquiry

38. The letter from DVSA's solicitor, dated 25 January 2019, helpfully set out other areas of disagreement and further comments in relation to the report from Foster Tachographs, which DVSA only received at 18:00hrs on Wednesday 23 January 2019. TE Morris confirmed in her evidence that the following areas remained in issue:-

- DVSA do not accept the assertions made by Foster Tachographs that false records were not made for and did not benefit Croydon Coaches;
- DVSA do not accept the assertion that the drivers would be within the hours rules even if all work been recorded;
- DVSA do not accept there was other motive for the drivers to commit the offences, other than management pressure;
- DVSA aver that manual printouts were made by drivers but these were never produced by Croydon Coaches despite three Section 99ZA letters;
- DVSA do not accept drivers using the vehicles to go home was for the drivers' benefit only;
- Where explanations have been provided for missing mileage, but without corroborative evidence, the Operator has had since September 2017 to provide that evidence. DVSA do not accept the explanation given and stand by the original allegations. Where evidence has been supplied to Foster Tachographs those explanations are agreed by DVSA;
- The number of offences committed by a number of different drivers supports the DVSA submission that the planning and scheduling of journeys laid impractical or impossible burdens on the drivers, such that they were unable to comply with the drivers hours rules;
- DVSA do not accept Mr Mazza's assertion that there was a robust system of warning letters and aver that the letters produced are questionable. DVSA allege that generic warning letters have been prepared after the DVSA investigation as a reactive response to the investigation. DVSA notes that the letters dated September 2017 are referred to in respect of the investigation period 1 August 2016 to 28 February 2017. DVSA submit that there is no legitimate evidence of a warning/disciplinary system in place prior to the investigation. It is noted that the drivers stated that they did not receive warning letters until after the investigation started in any event. Inconsistent warnings were given, e.g. a warning is given for the innocent loss of a card. In some cases the warning letter does not match the name of the driver. In some cases, the warnings have been given for the incorrect offences and in some cases the work tickets produced show evidence of bad planning.

39. The Operator produced a report by Foster Tachographs solely covering October 2018 onwards i.e. after the original Public Inquiry notification date. I advised the Public Inquiry early on that without wider explanation this appeared highly selective and self-serving to me. This is particularly so when considering the helpful principles set out by the Upper Tribunal in NT/2013/082 Arnold Transport (assessing when steps were taken to remedy failings).
40. To assist me in forming a balanced view, I requested that vehicle and driver card data was sent to the TE (the specifics of which were left to her) for January 2018, October 2018 and December 2018. As a result, TE Morris produced a handwritten document (headed 'Croydon Coaches Analysis') which is marked 'TEPI1';
41. For January 2018, there only appeared to be 4 regular drivers and 17 driver cards were completely blank for this month. As we worked through document 'TEPI1' in the Inquiry, it became apparent that the driver card data was corrupted or there was some other issue because the vehicle unit confirmed that Stephen Hughes and Ivan Balvanov did drive in January 2018 even though their driver cards were blank. The driver card issue meant that there was very little evidence for January 2018 to inform a view. However, TE Morris confirmed that on 23 January 2018 vehicle BX64CZY was driven without a card between 06:26hrs and 07:52hrs. I noted for the Inquiry at this point that in his interview under caution in September 2017, Mr Mazza described a policy of all driving whether 'in scope' or not being included on a digi-card.
42. For technical reasons, due to shortness of time, the TE analysed August 2018 through to December 2018. Where there was vehicle data available (because 6 specific vehicle data unit records were required- BX64CZY; PO15GVE; S19ETC; S60ETC; YD15JUU and BF15XPM) 4 offences were confirmed as definitely being duty for Croydon Coaches. These were:-
- 11 August 2018 – Driver Mr DeCosta daily rest too short by 32 minutes – driving S19 ETC.
 - 11 August 2018 – Driver Mr Macpherson – daily rest too short by 2 hours 20 minutes – driving BF15 XPN.
 - 27 August 2018 – Driver Mr DeCosta – daily rest too short by 1 hour 35 minutes – vehicle driven S19 ETC.
 - 4 October 2018 – Driver Mr Neeraj – weekly rest too short by 1 hour 13 minutes – driving vehicle PO15 GVE.
43. There is a further offence for Driver Mr Neeraj on 3 August 2018 in vehicle J333 ETC - daily rest taken too late by 45 minutes. This was not a vehicle requested by DVSA. A subsequent registered keeper check shows the vehicle disposed of by 'Middlesex Coaches' on 1 May 2018 with no new keeper until January 2019 ('TEPI 2'). Further, on 3 and 4 August 2018, Driver Mr Oni – committed 2 offences - joining S20ETC as a second driver after the 1 hour tolerance and a daily rest which was too short by 5 hours 50 minutes. This is a Croydon Coaches vehicle (Appendix 21 page 292).
44. Three particularly serious matters arose on the face of the data provided to the TE. Driver Mr Biferamunda drove for 8 days in a row between 8 August 2018 and 15 August 2018. In August 2018, Mr McEvoy drove for 11 days in a row and in October 2018 he drove for 9 days in a row. These periods of driving were not in the vehicles specifically requested by the TE but the driver data was sent over and therefore would have been available to the Operator. The Traffic Examiner asked me to take particular note that Mr Biferamunda had allegedly received a final warning on 16 December 2016 and therefore she could not understand why he was still driving for Croydon Coaches at all in light of the current offending.

45. In addition, the following driving without a driver card was identified in the vehicle data unit for the 6 vehicles requested. This is as follows: -
- 5 August 2018 - between 21:01hrs and 21:23hrs in BX64CZY;
 - 18/19 August 2018 – a period of 7 hours 23 minutes driving a vehicle without a card between 06:38hrs on 18 August through to 02:07hrs on 19 August 2018 in BF15XPM;
 - 11 October 2018 – 47 minutes of driving off-card prior to 07:11hrs in PO15GVE;
 - 22 October 2018 – 54 minutes driven without a card between 10:24hrs and 12:33hrs in BF15XPM. I identified from the papers at the hearing that the vehicle was with the maintenance contractor for a Preventative Maintenance Inspection during this period. Accordingly, this one was therefore discounted;
 - 12 October 2018 – a period of driving off-card for 1 hour 9 minutes in BX64CZY;
 - 14 November – a period of driving off-card for 1 hour 34 minutes in YD15JUU.

Operator and Transport Manager’s Evidence to the Public Inquiry

46. Prior to the Public Inquiry, a short Witness Statement was lodged for Mr Mazza on behalf of Croydon Coaches and himself as the transport manager. The Statement gives some personal background for Mr Mazza and confirms that on 14 January 2019 he became the sole director. I am told that Siri has moved back to Thailand for an indeterminate period to resolve some family issues.
47. The Witness Statement can be summarised as follows:-
- Croydon Coaches provides a variety of passenger transport services ranging from school transport and college trips, corporate coach hire and private hire;
 - Siri’s role had been to deal with finances and obtaining work. He did not have day to day interaction with the drivers;
 - Mr Mazza is the full-time transport manager dealing with the day to day running of the transport operation, assisted by an operations team which now consists of Stephen Hughes (Operations Manager), Ochain Gondorf (Duty Manager), a full time Administrative Assistant and a part time Administrative Assistant;
 - The recent changes mean that he will have to expand his involvement in the Croydon Coaches business;
 - Croydon Coaches “regularly” instruct independent transport consultants to audit the operation. Ridgeway Training had done the most up-to-date audit in January 2019;
 - Croydon Coaches, BETC and Atbus have a longstanding and close-working relationship - subcontracting work to each other, with BETC also the maintenance provider for all 3 entities. Each Company is a separate legal entity and fundamental resources are not shared. They share information across the Coach Manager system but have separate platforms. This is done to provide a more efficient service to clients;
 - Adam Smith/Paul Jones has not been involved in Croydon Coaches since he departed in 2013. He describes Adam Smith/Paul Jones as “*a dishonest person who I would not wish to associate with in business*”. To the best of his knowledge, Adam Smith/Paul Jones is not involved with BETC or Atbus;

- Giusppina Mazza is his sister. She resigned in 2011 and it was an oversight that her resignation was not notified to my office;
- He takes his responsibilities as transport manager extremely seriously. At the time of the DVSA initial visit on 9 March 2017 he was out of the country as his mother was unwell. He states, *“I accept that during this period I was not focussed on the operation and standards slipped. During the course of the initial investigation, my mind was focussed on my Mother’s condition as a priority. I spent a lot of time in Italy during that period”*;
- Once his Mother made a recovery, he was able to focus his attention on cooperating with the investigation and improving systems relating to tachograph compliance and compliance generally;
- He relies on a recent Foster Tachographs audit stating that Croydon Coaches has an offence rate which is of the “Earned Recognition standards”. He avers that there is a marked improvement in systems and strives for further improvements;
- He completed a 2-day Transport Manager CPC refresher on 24 and 25 October 2018.

48. Mr Mazza gave oral evidence at the Public Inquiry to expand upon that Statement and answer questions. Mr Mazza confirmed that his interview under caution stand as part of his evidence in chief. Mr Mazza’s oral evidence can be summarised as follows:-

Director Disqualification and Good Repute

- He was not disqualified as a Director at the point he became transport manager for Croydon Coaches. He was not aware he had to notify The Office of The Traffic Commissioner but acknowledges that obligation has now been explained to him.
- He did not tell Siri that he was disqualified because Siri never asked. In hindsight, he should have volunteered that information.
- He did not take formal legal advice before signing the disqualification undertaking, but did receive some external advice. He did not think to ask Pelly’s Solicitors who had represented him at the Public Inquiry in the same quarter shortly before signing.
- The disqualification arose out of failing to discharge obligations around VAT payments.
- He did not appreciate from the undertaking wording that he could not be involved in the “management of a company without the leave of the court”, precluded him being a Transport Manager (my emphasis).
- When a director, Siri has at all times fulfilled that function. Siri was aware of this Public Inquiry and the importance of him attending. Mr Mazza could not force him to do so and Siri decided his business affairs in Thailand were more important.
- He denied being a ‘De Facto’ or ‘Shadow Director’ of Croydon Coaches prior to his formal appointment on 14 January 2019.
- The shareholders are Siri (60%), a Mr Guglielmo (20%), and he personally holds 20% but this will change and he will acquire Siri’s interest. This does not accord with Companies House which states that Siri holds at least 75% of the shares and has done so since April 2016. Mr Mazza was unable to help with this discrepancy.

Connections with BETC, CETC and Atbus

- The main manager who used to work at BETC and has now joined Croydon Coaches, is Mr Stephen Hughes;
- The BETC premises are 'owned' by Croydon Coaches, as well as BETC being the Croydon Coaches maintenance contractor. Any subcontracting is to maximise the use of everyone's' vehicles;
- The 3 Companies do not hire vehicles from each other, it is a sub-contracting arrangement but he cannot assist on whether there are any formal written agreements;
- He cannot help on the invoicing arrangements between BETC and Croydon Coaches save to insist that they do pay each other. He does not know if it was a 'set-off' arrangement or if individual invoices were paid but all payments were by "inter-company" transfer;
- So far as he was aware, Mr Hughes was previously working for Croydon Coaches, Atbus and BETC but Croydon Coaches only paid for Mr Hughes for the work that he did for Croydon Coaches. He is not aware how that was dealt with formally;
- He has heard of CETC but does not think there is a relationship between Croydon Coaches and CETC. He was unable to comment on whether it was a payroll company. He thinks that he might have seen "CETC" named as the 'customer' on some of the PMIs but he did not think that odd at the time;
- So far as he is aware, there has never been a business relationship with Buses Etc UK Limited. Mr Mazza accepts that Mr Blackford worked for Croydon Coaches for a period. He cannot explain why Mr Blackford has pay documentation relating to other entities at a time when he says he was still with Croydon Coaches. He denies ever handing paperwork to Mr Blackford and if he did, it would only have had Croydon Coaches details on. Mr Bow was doing some consultancy work for Croydon Coaches at the time so Mr Blackford will have interacted with him. There came a point in his employment when it was clear Mr Blackford was not suitable and therefore he was driving and also working elsewhere because Croydon Coaches did not keep him on full time. Mr Mazza simply believes that Mr Blackford has become "*very very confused*";
- He does not know who 'ABC Group' is. 'Excetera Group' is made up of Croydon Coaches, Atbus and BETC. The Excetera brand belongs to Croydon Coaches and he believes that BETC will have paid Croydon Coaches to use that brand. The idea was for it to be like a franchise arrangement such as EasyBus, EasyGym etc but at the moment it is only Croydon Coaches, Atbus and BETC that can use it.

Mr Mazza's arrangements with Croydon Coaches

- He has always been full time at Croydon Coaches but in 2016/2017 his Mother was unwell, and he was backwards and forwards to Italy. In early 2017, he was usually away for a long weekend every month but when she was in hospital he was away for 2 weeks. In addition, he took some personal holidays;
- He is paid by Croydon Coaches and does not believe he has ever been paid by CETC. He is paid in cash and there are no payslips etc. It was a private arrangement with Siri.
- He bought the Croydon Coaches business in 2009 but it was effectively buying the Operators' Licence as its previous director had lost interest in the business;

- Once he knew a disqualification was pending, his sister took over the business after he approached her. He was not involved in the transfer by his sister to Siri. Throughout this period he was simply a minor shareholder. Nothing changed across this period for him, he just stayed as the full time transport manager;
- He is unable to explain why the shareholding at Companies House does not reflect his own understanding.

Mr Mazza's oral evidence on the results of DVSA's original drivers' hours' and tachographs investigation

- The Section 99ZA request for records was not complied with in time and then not everything was sent because his mother was extremely unwell with pneumonia. Even though he may have been in the UK his mind was not necessarily on the job. At the time of the visit on 9 March 2017 both he and Siri were on holiday;
- During the relevant investigation period he or Mr Gordon Daikin (Operations Manager) analysed the data using Tru Tac software. This was done monthly. All the data was analysed, infringement reports were printed off and drivers were spoken to. They were given a copy of the print out and it may have led to more training. If the infringements were serious or repeated it would be taken further but there is no audit trail to show this for sure. The system has now been completely changed and there is a proper audit trail but none of this evidence was brought to the Public Inquiry for the Traffic Examiner to see. Examples of training certificates are in the Systems Audit annexes from January 2019 but the earliest of these is September 2018 for drivers CPC;
- He was not aware that drivers' "personal use" of the authorised vehicles was unlawful. He assumed that it would be acceptable but he had now done his refresher training in October 2018. Although he only did the formal training in October 2018 he went through the Guide to Maintaining Roadworthiness and the Guide on Drivers' Hours and Tachographs prior to that;
- The drivers are incorrect when they say they were put under pressure and that they had to break the law to meet scheduling. If he had been made aware of that, he would have taken action to stop it. He has never instructed a driver to drive without their card in. He was never aware that Mr Navaneethan had been required to work a 19 hour day - he would never have sanctioned it;
- There was a procedure in place if a tachograph was faulty but on some occasions drivers were simply putting their card in the wrong slot and it was their fault;
- In response to the accepted false records and this investigations outcomes generally, the drivers were given refresher training and those involved were reprimanded. Two of the drivers were sacked after his interview under caution;
- During the relevant period, in his absence, all work was allocated by Gordon and Ochain (Duty Manager). However he was monitoring it remotely and doing audits to ensure the work fitted in lawful hours. In busy periods he would tighten up some of the scheduling;
- The Coach Manager system was key to scheduling but he was unable to assist with the work sheets having a start and finish location on occasion of "A-A" he had never picked that up on his checking and auditing;
- He accepts that some of the offences that were pointed out to him by the TE in his interview under caution had come as a surprise. Coach Manager has now been 'tweaked' so that it allows for delays and the fact that it is a coach and not a car being scheduled;

- In future if there will be long periods when he is absent, a locum transport manager will be appointed and he will also upskill others by putting them through their Transport Manager CPC. Ochain has already done his Transport Manager CPC training. He passed the exam first time and is eager to learn;
- Siri never mentioned to him that there was a stated intention to replace him as transport manager.

Croydon Coaches moving forward

- He will remain the sole director and also stay as a transport manager but there is a plan to have another transport manager in place. However, Croydon Coaches needs to find the right person. He anticipates this will take approximately 6 months and thereafter he will stand down, so he would be able to concentrate on the director role;
- Croydon Coaches employs 50 people and has approximately 7 contracts with schools.

PART 5

CONSIDERATION & FINDINGS

Approach

49. The then Transport Tribunal helpfully commented in 2007/459 KDL European Ltd & Kevin Lumsden at para 11 on the relevance of the South Bucks case (see para 12 (xi) above) to this jurisdiction: *'We do not propose any changes in the Tribunal's general approach to the giving of reasons. But we do take two points from Lord Brown's speech and think these to be of general application. First, that decisions from traffic commissioners are directed to operators who will be well aware of the issues involved and the arguments advanced. And, second, that each case turns on its own facts, with "the degree of particularity required depending on the nature of the issues falling for decision".'* I have set out the evidence in more detail than otherwise to ensure that the full links and history are recorded in one place, as care was taken at the hearing to ensure the availability of previous appeal decisions involving Mr Mazza. This case concerned serious allegations and as the House of Lords made clear in Re: H&R (1996)(1)FLR80, cogent evidence is therefore required.
50. There is clear and consistent case law from the Upper Tribunal that I am entitled to treat the conduct of a Sole Director effectively as the conduct of the Limited Company and repute or fitness is determined accordingly. Such an approach has received approval from the appellate tribunal on a number of occasions, including 2013/008 Vision Travel International Limited and T2013/61 Alan Michael Knight. Whilst there have been 3 directors of Croydon Coaches Limited during the relevant period (Mr Mazza, Giuseppina Mazza and Siri), there has only ever been one statutory director at a time.
51. In relation to HGV operator licensing the terms of Regulation 5(1) and 5(2) of the Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012, are identical to the terms of paragraph 1 of Schedule 3 to the 1995 Act. In the appeal of NT/2013/82 Arnold Transport & Sons Ltd v DOENI the Tribunal said this: -

*"12. The Tribunal has stated on many occasions that operator's licensing is based on **trust**. Since it is impossible to police every operator and every vehicle at all times the Department in Northern Ireland, (and Traffic Commissioners in GB), must feel able to trust operators to comply with all relevant parts of the operator's licensing regime. In addition other operators must be able to trust their competitors to comply, otherwise they will no longer compete on a level playing field. In our view this reflects the general public interest in ensuring that Heavy Goods Vehicles are properly maintained and safely driven. Unfair competition is against the public interest because it encourages*

operators to cut corners in order to remain in business. Cutting corners all too easily leads to compromising safe operation.

13. It is important that operators understand that if their actions cast doubt on whether they can be trusted to comply with the regulatory regime they are likely to be called to a Public Inquiry at which their fitness to hold an operator's licence will be called into question. It will become clear, in due course, that fitness to hold an operator's licence is an essential element of good repute. It is also important for operators to understand that the Head of the TRU is clearly alive to the old saying that: "actions speak louder than words", (see paragraph 2(xxix) above). We agree that this is a helpful and appropriate approach. The attitude of an operator when something goes wrong can be very instructive. Some recognise the problem at once and take immediate and effective steps to put matters right. Others only recognise the problem when it is set out in a call-up letter and begin to put matters right in the period before the Public Inquiry takes place. A third group leave it even later and come to the Public Inquiry with promises of action in the future. A fourth group bury their heads in the sand and wait to be told what to do during the Public Inquiry. It will be for the Head of the TRU to assess the position on the facts of each individual case. However it seems clear that prompt and effective action is likely to be given greater weight than untested promises to put matters right in the future.

18. The provisions in relation to Good Repute are set out in Regulations 5-9 of the Qualifications Regulations. The scope of the requirement to be of good repute can best be assessed by considering the terms of Regulation 5(1), (in relation to individuals), and Regulation 5(2), (in relation to companies). Regulation 5(1) permits the Department to have regard to "any matter" but requires it to have regard to (i) any convictions or penalties incurred by the individual or any other relevant person and (ii) any other information which appears to the Department to relate to the individual's "fitness" to hold a licence. Regulation 5(2) requires the Department to have regard to "all the material evidence" but, in particular, to (i) any convictions or penalties incurred by the company, company employees or any other relevant person and (ii) any other information as to past conduct on the part of the company or any relevant person if the conduct appears to the Department to relate to the company's "fitness" to hold a licence. We have underlined the word 'fitness' in both these provisions because it is critical to understanding the breadth of the requirement to be of good repute. It means, for example, that an operator who cannot be trusted to comply with the operator's licensing regime is unlikely to be fit to hold an operator's licence".

52. As well as the operator licensing obligations, a company director must exercise his or her statutory duties of demonstrating independent judgement, skill, care and diligence, as per sections 173 and 174 Companies Act 2006).

53. In 2012/71 Silvertree Transport Ltd, at paragraph 4 of that decision the Tribunal provided a helpful description of 'fronting': "Another way in which to describe the same situation would be to say that: 'fronting' occurs when appearances suggest that a vehicle, (or fleet), is being operated by the holder of an operators' licence when the reality is that it is being operated by an entity, (i.e. an individual, partnership or company), which does not hold an operators' licence and the manner in which the vehicle is being operated requires, if the operation is to be lawful, that the real operator holds an operator's licence". The Tribunal made it clear that this must be set out clearly for parties and it was set out in full in the 'call in' letters. The Tribunal went on to explain that if a Traffic Commissioner is satisfied the evidence establishes 'fronting' has taken place, he is entitled to take a serious view of such conduct, firstly because fronting involves deception and secondly because it is conduct which can seriously undermine the effectiveness of the regulatory regime.

54. On the assessment of credibility, the approach of the Deputy Traffic Commissioner, (set out at paragraph 2(xiv) of the decision), was approved by the Upper Tribunal in 2011/29 David Pritchard and Vehicle and Operator Services Agency: Possible innocent explanations were considered and reasons given for rejecting them. Only then was the conclusion reached that the witness was not credible. Whenever appropriate this approach to the assessment of credibility should be followed.

Assessment

55. I have looked at the DVSA analysis on the 'other' 147 offences. DVSA aver and I accept that Traffic Examiner Morris did the analysis to the best of her ability with a piecemeal production of data and records and the fact that not all drivers were able to be interviewed. At page 25/26 of her Public Inquiry statement, Traffic Examiner Morris confirms that the personal use 'misunderstanding' accounted for no more than 20 of the 'other' alleged offences. It follows that the majority of offences were straightforward, obvious on the face of the chart/digi data. Both Siri and Mr Mazza accepted these offences in interview. In the absence of meaningful challenge at the Public Inquiry, I accept them as proven.
56. Croydon Coaches arranged a full systems audit with an external consultant for the Public Inquiry. The audit visit did not take place until 17 January 2019. I did not receive a copy until the first morning and it was incomplete (double-sided annexes copied single sided). The director was listed as Siri, even though he is said to have resigned on 14 January 2019. A complete copy was received on or around 22 February 2019. I can therefore only give it limited weight. I note that the auditor broadly agrees with the evidence of DVSA on current systems and issues. However, in the conclusion he states "the audit did uncover a few concerning areas but with the right amount of support, time and professional enthusiasm, these are areas which could be rectified easily". It goes without saying that these should have been rectified long before 17 January 2019.
57. As a matter of law, I must look at the Operator and transport manager as at the date of the Inquiry. However, that does not make the past irrelevant, quite the contrary. Particularly apposite in this case is the reminder in *T/2014/59 Randolph Transport Ltd & Catherine Tottenham* at paragraph 12 the Tribunal said: "*Although repute must be considered as at the date of the decision, that does not mean that the past becomes irrelevant. In many cases, the present is simply the culmination of past events*".
58. By the date of this Operator's Public Inquiry in 2010, Mr Mazza had already been to Public Inquiry with On The Road (EU) Limited and Valley Point ("TCPI4"). The entities linked to him had an existing licence revoked and applications for a new licences refused (decision dated 19.07.07). Those cases involved missing tachograph charts and other business documents indicating that the tachograph regulations may have been breached. Mr Mazza admitted then that he had been using his mothers' Operator's Licence for his own business purposes. Mr Mazza's company Valley Point Coaches Limited was also prosecuted and fined £2,500 for operating without a licence. Thereafter illegal operation continued (para 8 of the appeal cases 2007/252 + 253). The same investigation had also identified significant concerns with the maintenance regime, including use of a vehicle without a serious defect being rectified. In my judgement, Mr Mazza was fortunate that he did not lose his good repute as transport manager at this time.
59. The 2007 decision sets out how far below standards Mr Mazza fell across the whole operator licencing system. It follows that he should have heightened awareness of the need for compliance on an ongoing basis. Despite this, there is a Public Inquiry for Croydon Coaches in April 2010, when Mr Mazza was sole director and transport manager. This was as a result of an unsatisfactory maintenance report. Drivers' hours were found to be in order. It was at this Public Inquiry, that Mr Mazza gave assurances to the presiding Traffic Commissioner that none of the previous problems would be repeated (see Chronology and "TCPI6"). In light of those assurances, a formal warning was issued.
60. It is appropriate at this point to consider the terms of a formal warning. Whilst a warning is not regulatory action per se, it is a marker that assurances have been accepted and there should now be compliance on an ongoing basis.
61. There was a follow-up maintenance investigation in November 2014. By that point Siri is listed as director but Mr Mazza remains the transport manager. It had a 100% MOT pass rate and the stated recent appointment of Stephen Hughes as Fleet Manager had brought about some

satisfactory changes. In February 2015 this report and Mr Mazza's disqualification as a director was referred to a Traffic Commissioner (at this point Mr Mazza is the transport manager). It is clear from that decision that the failure to disclose the disqualification and the reasons for failing to do so were considered ("TCPI10") but it is apparent that the terms of the undertaking itself were not. Again, a warning was issued, namely the importance of dealing openly and transparently moving forward.

62. By February 2015, Mr Mazza had appeared at two Public Inquiries and Croydon Coaches one Public Inquiry. Croydon Coaches had received two formal warnings – one for maintenance and one for transparency with the Regulator, arising from the failure to notify material changes. By March 2017, there are real issues with drivers' hours', tachographs and Working Time Directive. Much of this Public Inquiry was taken up with whether there were systems, but they were not working satisfactorily or whether there were no systems at all. I remind all that, in health & safety terms, where a system does not work it is no system at all. The level of serious offending (whether driver or operator led) denotes that whatever was in place, it did not prevent or reduce serious breaches. One does not go from a base point of compliance to 270 offences (including 42 false records) across 6 months, overnight.
63. Mr Mazza's evidence was fluid from the start of his interview under caution through to the conclusion of the Public Inquiry. In his interview under caution Mr Mazza's response implies that, even when absent he was continuously & effectively managing the transport operations. For example, he insists that he analysed all the tachograph data and journeys were scheduled to be legal. In support of this a bundle of documents was produced on 15 June 2017. In interview he said he was available 24/7 for the drivers. This is not borne out by the evidence:
- Mr Navaneethan did not know who Mr Mazza was and he had to be pointed to him at the end of the Public Inquiry;
 - Mr Mazza accepted in interview that manual records were made by the drivers. They were never supplied to DVSA – not one manual record for a 6 month period;
 - There are 'Infringement Debrief' documents (pages 27 – 41 of Appendix 19 Traffic Examiner Morris statement). These are all signed by Gordon Daikin as 'Manager' never by Mr Mazza or Siri;
 - The Debrief documents are signed by the drivers but they are confusing. At pages 28 – 40 it is suggested that Mr Murray had his previous debrief on 5 September 2016. The only previous debrief evidence is on 14 July 2016 (page 27) for an offence on 19 June 2016. It is unclear why a debrief on 5 September 2016 did not cover any of the infringements in July 2016 (pages 33 & 34). It is also unclear why the offence of 3 June 2016 (page 30) was not picked up in the briefing on 14 July 2016 (page 560 appendix 34). It is at odds with Siri's suggestion of monthly analysis. Mr Murray is said to have committed 20 offences across the period. The 'Next Action' box states 'No Action', but some say training is required and some do not. The document for offences on 11 July 2016 states 'The period of June to September there are several incidents of the 4.5 hour driving rule and daily and weekly rest. From today, 16 September, you must follow these guidelines and the advice given in training today'. The training sheet on page 41 is dated the day before.
 - The TEOR (Appendix 7, page 107 – 112) confirms that the Debrief system had stopped at some point and was to be reintroduced (see Section D on Page 109).
 - On the face of it, the system as at September 2016 may appear robust but the devil is in the detail and suggests otherwise. Further, there is no evidence this system went beyond September 2016. It is of note that Mr Murray suggests on page 34 that the reason for the reduced rest is because it should have been a 'two man' job – a complaint of a number of drivers.
 - None of the warning letters are signed by the drivers. The warning system is further undermined by the operator's inability to produce even raw data in a timely manner under the S99 requests. This indicates it was not necessarily available to Croydon Coaches at the time of the warnings;
 - In his interview under caution, Mr Mazza denied he was aware of the Traffic Examiner visit on 9 March 2017 (undermined by subsequent e mail) before the event as he was

out of the country. However, he was aware by the time of the conversations on 16 March 2017. He had plenty of time to prepare for the interview.

64. DVSA have alleged that the warning letters are not genuine. It is suggested that they were created after the event for the purposes of the investigation. This is a serious allegation, and the required approach is explained above. I do note that on 9 March 2017 it was found that the Operator was not picking up all the offences (section C of TEOR at page 109 Part A). Mr Murray admits to having signed infringement reports but denies receipt of a warning (page 35 TE report driver interview summary). Bearing in mind the analysis of Mr Murray's Debrief documents above, there does not appear any reason for him to have received a warning letter on 12 September 2016. If he had a warning letter on 12 September 2016, why is there a conclusion of No Action other than training required a couple of days later? The letter refers to offences on 13 August 2016, 27 August 2016 and 10 September 2016. The Infringement Debrief documents include offences between 3 June 2016 and 24 August 2016 and page 39 refers to September analysis too. None of the offences in the warning letter appear on the Debrief dated 16 September 2016. I see this as definitive evidence that the Debrief documents are legitimate, but the warning letters are not. In addition, where warning letters are produced, they should be on headed paper, set out in detail how the offences occurred and be signed by the driver. These 'warning letters' fail every test which also indicate that they are not genuine. Whilst Mr Mazza produced them to DVSA there is no evidence that he created them or asked for that to happen. There were others involved in the management chain at the time. However, the responsibility for producing them to DVSA lies with Croydon Coaches and Mr Mazza.
65. The timing and amount of training is also an issue. Mr Mazza stated in interview that all drivers received training at the start of employment. There is no evidence of this prior to March 2017. There is evidence of internal training by Mr Daikin during employment, but its ineffectiveness is obvious by repeated infringements thereafter.
66. There are questions around other documents produced by Mr Mazza on 15 June 2017 and relied on in his interview. By way of example, at pages 70 – 71, Mr Joshua Henry signs a letter on 14 July 2014 acknowledging his duties as a driver. At page 73 there is an identical letter in a different typeface and font, it is undated and purported to be signed by Mr Henry.
67. Mr Mazza denied in interview that the scheduling put the drivers under pressure. He said he would normally oversee allocation but Gordon and Ochain do it in his absence. The suggestion of lawful scheduling is patently incorrect from paragraph 32 above. Mr Mazza and Siri were on notice that drivers could not do this work. Upon questioning at Public Inquiry, it transpired that the Coach Manager IT system was planning journeys as if the vehicle were a car and no allowance was being input by management for the coaching challenges (slower vehicle, alighting and collecting passengers).
68. By the end of the interview, Mr Mazza admits (page 462 and Appendix 33) that "*.....certain things have slipped. The system and monitoring have not been as robust as they should have been.....*". He puts this down to regular trips to Italy as his Mother is very unwell. He blames Mr Daikin for not doing his job properly. In interview, Mr Mazza does not put a time frame on how long his mind was absent prior to the start of the DVSA investigation in March 2017. However, upon detailed questioning by me, he admitted it was around 18 months. On that timescale his focus became diverted from his duties around August 2015, just a few months after the most recent formal warning. This totally undermines his evidence in interview as 'slippage' is not what Traffic Examiner Morris found.
69. Mr Mazza re-stated his interview evidence that offending arising from 'personal use' was down to a 'mistake'. However, it is of note that Mr Mazza was given advice by Traffic Examiner Dowling on a number of matters in 2006, including about drivers taking coaches home with them ("TCPI7" at paragraph 3 (vii)). Even if the circumstances were not identical, Mr Mazza was on notice in 2016 that it was something that required great care. PSV375 is the DVSA Guide on Drivers Hours and Tachographs: Buses & Coaches. It has always been in the public domain and therefore Croydon Coaches and Mr Mazza have deemed notice of it (as per 20212/030 MGM

Haulage & Recycling Limited). The table in the version published on 25 September 2016 confirms that drivers' hours' rules may apply to journeys for private use. The footnote confirms that for vehicles between 10 and 17 passenger seats, if the vehicle is also used for any commercial purpose any private use will be subject to the 'EU/AETR rules'. I see no good reason for Mr Mazza to have made a 'mistake'.

70. In relation to the Channel 4 documentary showing a Croydon Coaches driver using a mobile phone (appendix 34), the driver is identified by Gordon Daikin a Mr Aleksov Kiril. A copy of his driving licence is attached (page 555) with an issue date of 14 June 2016. Mr Daikin told Traffic Examiner Evans that he left the company September/October 2016. However, the DVSA investigation covered from 1 August 2016, yet Mr Kiril's name does not appear on the driver list provided to TE Morris.
71. I turn now to the question of whether drivers were put under pressure by the Operator and transport manager and, if so, to what extent. I have already found that the scheduling was significantly deficient. I accept that when drivers are found to have committed offences their evidence blaming the Operator may be self-serving. The same can be said of where an Operator blames the drivers – as here. It is upon that basis I assess the direct evidence of pressure or otherwise from all involved.
72. I am invited by Mr Powell to particularly treat Mr Blackford's evidence with caution as he had an axe to grind. In fact, I found him to be a truthful and credible witness. He answered all the questions openly and did not contradict himself. Some of his answers benefitted the Operator e.g. if he felt the work issued went beyond lawful hours, he was not pressured to do it. The work was allocated to another driver and he did not raise his concerns with Siri or Mr Mazza. When he raised concerns with Darren Bow, he did try to make improvements albeit the inspection was due by then. Mr Navaneethan was also a truthful and credible witness. His evidence was consistent with his interview under caution. Under cross examination he remained firm that he felt constantly under pressure. He was employed for 9 months and in that time the managers were not interested in rules and regulations. No one from Croydon Coaches ever spoke to him about infringements. The only time was as part of a group by Richard Hill, two weeks before he left. This assessment is supported by a greater or lesser degree by the other drivers who attended on 5 November 2018.
73. It flows through the acts and/or omissions of Siri and Mr Mazza, that the drivers felt under pressure. Mr Mazza personally, and through Foster Tachographs, asserts that any driving off card had no benefit to the Operator. I disagree. By way of example, taking vehicles home from the final drop off, after removing the card, has a clear benefit to the Operator. It provides a false account of actual duty and allows for an earlier start. That is a matter of common sense.
74. Drivers are in a precarious position when work schedules are tight or indeed unlawful. That is not an excuse to break the law. However, some drivers will cope with and challenge such an approach in different ways. Mr Blackford and Mr Navaneethan are very different characters and dealt with it in different ways. However, the common theme, which I accept - the way the work was allocated and 'in service' issues dealt with, was not always lawful, placing drivers in a difficult position. Operators and transport managers owe a duty of care to drivers to ensure that all work can be completed within lawful hours. The drivers' hours maximums are just that – absolute maximums. They are not a target.
75. Mr Mazza's evidence from March 2017 to January 2019 is not credible because of his inconsistency, in addition to his approach and demeanour when giving evidence. The interview under caution did not elicit veracity from Mr Mazza in light of the concessions during the Public Inquiry. Mr Mazza goes from being involved and analysing everything, including scheduling, to being distracted from the business for 18 months. What is clear is that, from being compliant with robust systems in 2010, by 2016 those systems were not present, or if present they were not working to a significant degree across the board. In giving evidence, Mr Mazza had to be persuaded to concentrate on the questions posed, even when his own Counsel was taking the lead. By way of example, he was still flicking through his interview under caution when Mr Powell

was asking him questions on a completely different subject where that document could not assist. On some aspects he was opaque, such as the missing manual records. On other aspects he was certain, indeed quickly emphatic, such as whether he had been a 'de facto' or 'shadow director'.

76. It is with the whole history from 2006 through to January 2019 in mind that I must assess any improvements since the interviews in September 2017. I am asked to accept by Foster Tachographs that this Operator is now at a level of compliance equivalent to the standards for Earned Recognition. I disagree. The Operator only achieves that level:

(i) after mitigation, and

(ii) only if I accept that mitigation.

The Earned Recognition threshold of 4% is before any mitigation, not after. The report for the Public Inquiry is self-serving because it is highly selective. It covers October 2018 to December 2018 – after the Operator knew it was coming to Public Inquiry (see Chronology at 3.9.18). Further in the absence of the records themselves, the veracity is hard to assess. The Traffic Examiner did her best after delays in supplying the raw data to the Inquiry.

77. The Foster Tachographs report refers at paragraph 3.39-3.4 to exactly 497 'unknown driver movements'. The original analysis is not produced to me. The report refers to 11 movements between 2.5 kms and 12 movements between 6 and 38 kms. These appear to have been put down to maintenance. I contrast this with the stated policy set out on 15 June 2017. Again, at paragraph 3.43 there is a statement claiming that there would be no motive to commit offences but the devil is in the detail and detailed records are lacking. It is implicit the other 374 incidents of no card were <2kms rather than >38kms. The expert report refers to 'snapshot' roadside standards in terms of seriousness. This is very different to the standard to be considered for an Operator with this history at a Public Inquiry. It is for this reason I was keen for the Traffic Examiner to look at January 2018, August 2018 and December 2018. For an Operator that suggests it is at Earned Recognition level in January 2019, it is extraordinary the time it took (i) for the raw data to be emailed to the TE at the hearing and (ii) for Fosters on behalf of Croydon Coaches to be able to address the Traffic Examiner's questions arising once that data had been received. I therefore do my best with what I have.

78. I make the following findings arising from "TEPI1" (i.e. a sample of 6 vehicles):

- The data for January 2018 is deficient. It is clear from vehicle data that drivers were on duty when the driver card data showed otherwise;
- Between 3 August 2018 and 18 August 2018 there was serious offending, including driving for 8 days in a row (Mr Biferamunda) and 11 days in a row (Mr McEvoy). Mr Biferamunda was driving Croydon Coaches vehicle BX64 CZY between 8 August 2018 and 15 August 2018 with only a daily rest, not a weekly rest. It is unclear who Mr McEvoy was driving for in August 2018 but despite the data being available to Croydon Coaches, he was still driving for it in October 2016;
- Between 18 and 19 August 2018, the Operator's vehicle BX15 XPM is operated without a driver card between 06:38 and 14:07 - a period of 7 hours 23 minutes;
- In October and November 2018 there is further driving off card for periods ranging between 47 minutes and 1 hour 34 minutes in the Operator's vehicles BF15 XPM, BX64 CZY, PO15 GVE and YD15 JUU;
- There is limited evidence before me that any of this was addressed by Croydon Coaches. The Foster Tachographs report received on the last hearing day refers to a system of Infringement De-brief reports and warning letters, including some of the above offences. However, these type of documents did not pass proper scrutiny in terms of the original investigation. It is unclear whether the current veracity was assessed by those representing Croydon Coaches. What is clear is that no evidence of the infringement reports or other evidence of contemporaneous action/assessment were emailed to the

hearing, in time for them to be properly considered in evidence. These should have been readily available.

79. On the one hand, this is a straightforward regulatory case. There is an Operator which at the end of 2016/early 2017 accepts it did not have sufficiently robust systems in place to ensure that drivers' hours', tachographs and Working Time Directive were properly managed. Further Croydon Coaches acknowledges the failings in the maintenance systems. The evidence of current compliance produced to the Inquiry was highly selective, delivered so late as to only allow limited testing and when challenged could not be readily dealt with. However, sitting beneath this is the question of who has been really in control at Croydon Coaches, linked to the level of involvement and influence of Siri and Mr Mazza. In terms of the helpful test set out in *E A Scaffolding and Systems Limited (2004/377)* this is where matters become less straightforward because: -

- The only evidence from Siri who was the named director at Companies House for the whole period, is from the interview under caution. Even though Siri is said to be the sole Director, he did not engage with DVSA at all over many months apart from the interview. Siri did not attend, or even lodge a witness statement, to assist me with this or indeed any important point;
- Mr Mazza did attend but states that he cannot help me on much of this as he was the transport manager and was not involved in this sort of detail. I have also found him not to be a credible witness;
- Some drivers believed that they were working for one company when in fact the documentation was for CETC, BETC or Buses Etc UK Limited. A driver who thought he was working for Atbus was in fact employed by Croydon Coaches. Mr Blackford was paid by different entities on different months but believed he worked for Croydon Coaches;
- Gordon Daikin, Stephen Hughes and Darren Bow, (who the TE was told were to do with mainly BETC), are names appearing regularly in relation to Croydon Coaches at management level. None attended to give evidence to assist Croydon Coaches. I am told by Mr Mazza that the Hughes/Bow cross over is because BETC does the Croydon Coaches maintenance and there were some consultancy arrangements. However, this does not explain, for example, the introduction of Mr Hughes to a DVSA Examiner as the Croydon Coaches Fleet Manager in 2014, when on his own evidence in May 2017 Mr Hughes said he was not involved with Croydon Coaches at that point. It does not explain Mr Hughes strongly worded e mail to Mr Mazza and Mr Bow about the apparent failure to forward his tax contributions to HMRC and the related pay documents.

80. It is difficult to assess the truth when some of the evidence is across 2 separate Inquiries and 2 years apart. I must be careful to ensure that due credit is given for positive compliance. In terms of the arrangements between Croydon Coaches, BETC and Atbus - regarding servicing and paying for work, paying drivers, which entity was the Operator for maintenance and how their linked work was scheduled – the lack of records and agreements are unacceptable. There needs to be a clear audit trail to show that the disc in vehicle window directly links to the Operator on the day. To that extent Croydon Coaches and Mr Mazza had already been the subject of warnings.

81. Mr Mazza's evidence is that he was not a 'shadow' or 'de facto' director of Croydon Coaches after his disqualification was imposed in 2010 or after that disqualification ended in 2017. In support, he relies on his lack of knowledge around all aspects other than the day to day transport operations. This does not particularly assist him as it is rather easy to say 'I do not know'. It is also at odds, for example, with his certainty around who was paying him (but no paperwork) and who was or was not paying the drivers (yet he said Siri dealt with the wages and finances generally). It also does not explain the apparent informality when transferring the business to his sister and she in turn to Siri. Whilst Mr Mazza may have effectively bought an Operator's Licence, by the time he was disqualified this business was fully operational and thriving (as per the 2010

Public Inquiry). It also had and retains the principle benefit (whether freehold or leasehold) of the business premises for Croydon Coaches and BETC (including workshop). These all have a value. I was told that there is no audit trail as such. This is indicative to me of a temporary outward facing arrangement rather than a true arms length arrangement.

82. A similar situation arose when Mr Mazza was in difficulties in 2006/7, when it was found that Mr Mazza was in control even though Siri was the named director (Valley Point (Trading) Limited). Mr Mazza also relies on Siri's majority shareholding as evidence of control. However, even on Mr Mazza's own evidence Siri's shareholding is less than stated at Companies House. What the true position is remains opaque. In his interview under caution Siri was less than compelling in his responses. Mr Mazza says he does not know about CETC Limited or ABC Group Limited. I do not believe him. His sister has been associated with both companies and the chronology shows that she has also been involved in Mr Mazza's other business interests. There is not a familial relationship alone. Whilst no one aspect or event of itself provides the answer, taken together the chronology suggests that Giuseppina Mazza and then Siri are no more than a respectable façade behind which Mr Mazza was exercising the real control.
83. From September 2018, I took steps to case manage an orderly Public Inquiry with timescales to ensure all involved had time to prepare and present evidence in advance but to no avail. It is a matter of record that legal expense insurance challenges sat in the background and hence I reluctantly allowed the November 2018 adjournment. I say reluctantly because Mr Mazza and Croydon Coaches were having the same issues in 2017 and a line has to be drawn somewhere. This was compounded by Mr Mazza and Siri having pre-booked trips abroad covering all of December and most of January delaying re-listing. Despite all this additional time, I was given a last minute snapshot of current compliance, much of which post dated September 2018. I accept that there is evidence of improvement in there. However, analysis of the June 2017 papers and the inconsistency in Mr Mazza's approach, suggested that rigorous scrutiny was required in assessing that recent evidence – time the Inquiry was not afforded by Croydon Coaches and Mr Mazza.
84. When I pose the question, helpfully suggested in *Priority Freight Ltd and Paul Williams 2009/225*, how likely is it that I can trust this operator in future, to operate in compliance with the operator's licensing regime, the answer must be that I cannot be satisfied on balance that it will be. My decision sets out in detail the significant offending and system failures over a sustained period. The piecemeal approach to providing data and records, including even basic information on registered services, to DVSA goes directly to the question of trust. Co-operation with the Traffic Commissioner and other authorities is to be expected because it is a basic requirement of the regulatory regime. As a result, when advanced as a favourable factor it can only carry limited weight. By contrast non-compliance with the Traffic Commissioner, the OTC, DVSA or any other relevant authority is an aggravating factor, to which, in appropriate circumstances the Traffic Commissioner is entitled to give great weight, see paragraph 45 of: *T/2015/21 J O'Doherty*
85. The potential significance of failing to produce all records was considered in *NT/2014/02 Mrs Janet Lyons t/a Lyons Haulage*. At paragraph 28 the Tribunal said:

"28. At first sight and taken out of context a failure to produce tachograph records may not appear to be particularly serious. However, it should always provoke the question: 'why were the records not produced?' The use of tachographs makes an important contribution to road safety and the safety of the public. In particular it provides a record of a vehicle's speed and a check on whether the driver has taken proper rest breaks. Where failure to produce tachograph records results in a conviction it suggests that there is no innocent explanation for the no-production of the records. That in turn prompts the question: 'what is the operator trying to hide?'"

Instead of a prosecution, DVSA brought the case to me to make the formal findings. It follows that failure to produce all the data and information to DVSA also strikes at the heart of trust.

86. In *2007/459 KDL European* the Tribunal said this at paragraph 14:

“Adopting Counsel’s words, we are satisfied of the need “to make an example of the operator so as to send a warning to the industry as a whole”. This is consistent with the approach by the five-judge Court of Session in the Thomas Muir case (see paragraph 2(xiii) above), (Thomas Muir (Haulage) Limited v. The Secretary of State for the Environment, Transport and the Regions), where deterrence is expressly mentioned (“in particular for the purpose of deterring the operator or other persons from failing to carry out their responsibilities under the legislation”). This is not by way of punishment per se but, as Lord Cullen said, is “in order to assist in the achievement of the purpose of the legislation”.

87. I turn therefore to ask the question ‘is the conduct of the operator such that the operator ought to be put out of business’ as per Bryan Haulage No.2 2002/217. In my judgement the answer is ‘yes’. The importance of compliance with the regulations and co-operation was further stressed by the Tribunal in T/2014/25 & 26 H. Sivyver (Transport) Operator and Simon Sivyver (Transport Manager) at paragraph 7 the Tribunal said:

“The actual infringements illustrate the road safety implications of missing data. The purposes of the drivers’ hours’ regulations and tachograph requirements include road safety, driver protection and fair competition. This operator, relying as it does in these proceedings upon its long history, good reputation and prestigious contracts should have been an example to others. Instead, for too long, there was a significant and serious failure to manage an aspect of its transport operation that goes to the heart of road and public safety, and fair competition within a highly competitive industry where prestigious contracts are hard fought over. In the circumstances, we do not think that the Traffic Commissioner had any realistic alternative but to take significant regulatory action”.

88. The proportionality principle requires Traffic Commissioners to make decisions which are commensurate with the merits of the case; the decision must focus on the impact to road safety and fair competition that flow from the factual findings. Even if I am wrong about the level of control by Mr Mazza as director, the circumstances of this case are still sufficiently serious to warrant significant regulatory action.

89. The failings cover the undertakings in relation to vehicle roadworthiness and drivers hours, together with a failure to allow a meaningful assessment of current compliance are a dangerous mix. My assessment strikes equally as failures of the Operator and Transport Manager. The former failed lamentably to exercise proper monitoring and control of the transport operations. Mr Mazza, as Transport Manager, failed to exercise continuous and effective management of those operations. All this is underpinned by a lack of transparency and co-operation. I have not received the evidence relevant to the impact of regulatory action since 1 March 2019, as referred to in paragraph 12 (ix) above. Accordingly, I have reached the decision set out in paragraphs 1 and 3 above, with a limited period of run off after the school term ends and in a period where I was told in evidence private hire work usually ‘drops off’.

90. One of the questions which arose in T/2014/72 Ian Russell Nicholas t/a Wigan Container Services v Secretary of State for Transport was whether the Traffic Commissioner was entitled to have regard to the message sent to other operators by her decision. The Tribunal, (at paragraph 5), concluded that she was, adding: -

“The primary purpose of the regulatory regime is to ensure that potentially dangerous vehicles are operated safely. That purpose is not confined to keeping vehicles in a fit and serviceable condition. Instead it extends to ensuring, amongst other things, that drivers are properly qualified, that they are not required, or permitted, to work excessive hours and that operators comply with all the obligations of the regulatory regime and compete fairly with each other”.

91. Whilst no additional features are required to consider disqualification, reasons must be given. In my judgement, the need to protect the legitimate industry is on point with the Tribunal’s view above. Other Operator’s reading this history are entitled to expect the Regulator to take robust action. Where there is a driver shortage, margins are tight and the impact of Brexit remains

uncertain, I must protect the hard-working legitimate industry. Accordingly, I have reached the decision set out in paragraph 2 above. I have specifically referred to disqualification from the 'management, administration and control' because of my concerns over possible 'fronting' in the future. Such an approach received approval in 2015 078 Black Velvet Travel Ltd; Western Greyhound Ltd Michael John Bishop.



Miss Sarah Bell
Traffic Commissioner
London & South East of England
17 June 2019