

REVIEW OF PASSENGER TRANSPORT PROCUREMENT PROCEDURES

Transit New Zealand Research Report No. 36

REVIEW OF PASSENGER TRANSPORT PROCUREMENT PROCEDURES

TRIVERS MORGAN (NZ) LTD
in association with
ERNST & YOUNG

Transit New Zealand Research Report No. 36

ISBN 0-478-04114-4
ISSN 1170-9405

© 1994, Transit New Zealand
PO Box 5084, Lambton Quay, Wellington New Zealand
Telephone (04) 499-6600; Facsimile (04) 496-6666

Travers Morgan (NZ) Ltd in association with Ernst & Young.
Review of Passenger Transport Procurement Procedures.
Transit New Zealand Research Report No 36. 100pp.

**Keywords: public passenger transport procurement, New Zealand, bus,
competitive tendering, contracting, procurement, economic regulation**

AN IMPORTANT NOTE FOR THE READER

While this report is believed to be correct at the time publication, Transit New Zealand and its employees and agents involved in preparation and publication cannot accept any contractual, tortious or other liability for its content or for any consequences arising from its use and make no warranties or representations of any kind whatsoever in relation to any of its contents.

The report is only made available on the basis that all users of it, whether direct or indirect, must take appropriate legal or other expert advice in relation to their own circumstances and must rely solely on their own judgement and such legal or other expert advice.

The material contained in this report is the output of research and should not be construed in any way as policy adopted by Transit New Zealand but may form the basis of future policy.

This research report on passenger transport procurement procedures has been carried out by Travers Morgan and Ernst & Young in consultation with the Passenger Transport Advisory Group (PTAG).

It should be emphasised that neither PTAG nor the TNZ Authority have endorsed the report or agree with all of the findings and recommendations of the research report. The findings and recommendations of the report are the views of the researchers after thorough consultation with interested parties throughout the industry, and should be viewed in this context.

CONTENTS

Executive Summary	i
Abstract	xiv
1 INTRODUCTION	1
1.1 Purpose of this Report	1
1.2 Structure of Report	1
1.3 Scope of the Review	1
1.4 Passenger Transport System Objectives	3
2 INDUSTRY CONSULTATIONS	7
2.1 The Consultation Process	7
2.2 The Submitters	8
2.3 Submission Summary and Analysis	8
3 SUMMARY AND APPRAISAL OF INDUSTRY CONCERNS - GENERAL/POLICY ISSUES	10
3.1 Overview	10
3.2 The Original Concerns	11
3.3 Other General/Policy Concerns	16
3.4 Alternative Economic Regulatory Systems	22
4 SUMMARY AND APPRAISAL OF INDUSTRY CONCERNS - CPP-RELATED ISSUES	39
4.1 Introduction	39
4.2 Status of CPPs	39
4.3 Industry Concerns and Appraisal Approach - Overview	40
4.4 Tendering Authority Concerns	42
4.5 Operator Concerns	44
4.6 Summary of CPP-Related Recommendations	47
Appendices	
A List of Submitters	
B Summary of General/Policy Concerns by Submitter	
C Summary of CPP-Related Concerns	

EXECUTIVE SUMMARY

1 Introduction

In February 1994, Transit New Zealand (TNZ) commissioned a "Review of Procedures for the Procurement of Public Passenger Transport Services" in response to concerns about the effectiveness of the present procedures raised by some groups in the passenger transport industry.

This final report of the Review has been prepared for TNZ and its Passenger Transport Advisory Group (PTAG) by the consultants for the Review (Travers Morgan (NZ) Ltd in association with Ernst & Young).

2 Project Objectives, Scope and Output

The objectives of the Review were to:

- "(i) identify and examine concerns of the public passenger transport industry with the present system of competitive pricing procedures; and*
- (ii) consider what, if any, changes to the existing system would resolve these concerns."*

The Review was required to provide:

" ... a report on the concerns of the New Zealand passenger transport industry with the present CPP system for passenger transport together with the identification and initial appraisal of potential changes to the present system which would address any valid concerns."

It should be noted that the Review was required to outline potential solutions and their implications in broad terms only, and was not in general expected to make specific recommendations at this stage. It was recognised that further work might subsequently be required in two areas:

- to translate any recommendations for changes to the present CPP requirements into revised CPP wording;
- to develop and assess in more detail any potential changes outside the present route-based tendering system and the existing CPP framework.

3 Industry Consultation

A major part of the Review took the form of consultation with industry participants. This involved:

- a call for submissions through advertisements, letters to local authorities and operators, and through industry newsletters
- documentation of submissions
- interviews with interested parties
- feedback from industry
- summary of industry views and preliminary findings
- further feedback from industry parties.

31 groups or organisations made submissions to the Review. They comprised:

• Regional Councils	7
• District Councils	3
• Passenger Transport (Bus) Operators	17
• Others	4
	<u>31.</u>

Meetings or extended phone calls were held with 12 of these submitters (5 regional councils, 7 operators).

It is notable that:

- There were no submissions from taxi or small passenger vehicle operators.
- There was no submission from New Zealand Rail Ltd.
- Very few submissions were from public transport user groups or individuals (although this is not surprising, given that the Review was directed primarily at the concerns of those in the passenger transport industry).

Thus the submissions received were primarily from the long-established operators of "conventional" buses and from the main regulatory/contracting authorities (the regional councils). The operators involved in submissions operate the majority of urban route bus services in New Zealand; while the regional councils involved are responsible for the majority of urban passenger transport services.

4 Industry Concerns and Appraisal - Overview

The 31 submissions covered a wide range of issues relating to the NZ passenger transport industry, and no attempt was made to constrain the range of issues raised. Some submitters focused on broad policy and funding issues, often putting forward suggested solutions; while others confined themselves to the service procurement process and provided detailed critiques and suggestions on the wording of individual clauses of the CPP Manual. Different submitters had different interests and thus expressed different and often conflicting viewpoints, and there was no clear consensus on many of the issues raised.

The submissions represented two main interest groups:

- Regional councils, who are required to procure passenger transport services, within the CPPs established by TNZ.
- Passenger transport operators, who tender for and (where successful) operate services under the rules specified by the regional councils. There were some significant differences in views between "established" operators and newer/smaller operators who are trying to increase their share of the market.

The interests of both these groups appear to differ from TNZ's interest in meeting the CPP requirements set out in the TNZ Act, ie. to encourage competition, to achieve efficient use of funds, to limit administration costs, and to take account of safety and other public interests.

The general approach adopted in the Review in appraising each of the concerns expressed was as follows:

- to identify its cause
- to assess its validity
- to assess its importance
- to identify possible changes to the present system/procedures which might ameliorate the concern
- to appraise the main implications of the possible changes, principally against the Government's objectives for passenger transport and in particular against the CPP requirements of the TNZ Act (as noted above)
- to make recommendations.

In practice, it was found that solutions/recommendations to individual concerns could not be developed in isolation; the approach adopted was to develop a coordinated package of measures which address a range of concerns and which together pursue certain objectives or policy directions for the provision of passenger transport services.

The remainder of this Executive Summary summarises our appraisal of the industry concerns and our recommendations on the possible solutions, in four main groups:

- The four original concerns (set out in the Brief)
- Additional concerns of a general or policy nature
- Concerns relating specifically to clauses in the CPP Manual
- Alternative systems of economic regulation.

5 The Original Concerns

Four specific areas of concern raised by operators and regional councils prior to the start of the Review were identified in the project brief:

- A: Potential formation of bus company monopolies
- B: Lack of investment in the industry
- C: Lack of incentives for operators to improve services
- D: Declining patronage.

Only a minority of the written submissions addressed these four issues specifically. In addition, in the interview stage we canvassed the views of some submitters on these issues.

For each of the four issues, Table 1 summarises:

- the extent to which it was a concern of the submitters
- our assessment of the causes of the concerns
- our assessment of the validity and importance of the concerns
- our conclusions and recommendations to address the concerns.

Issue (A) was not seen as a major concern by either regional councils or established operators, but was of greater concern to some smaller/newer operators. In our view it is of some importance. The extent of competition for contracts in some regions appears to be decreasing to very low levels, in part because of the tendering practices adopted by some regional councils. In the medium term this seems likely to lead to increased public funding requirements (and maybe is already doing so). In our view it is therefore important that contestability should be maintained or enhanced, through both the CPP requirements and regional council practices (which may be covered by CPP guidelines). This is an important thrust behind a number of the Review recommendations.

In regard to issue (B), the concerns expressed are already being addressed to an extent through the introduction of vehicle quality standards in most regions. However, we caution against considering investment as an end in itself: what is important is the provision of cost-effective services attractive to potential users, rather than new buses per se. Operators are most likely to provide such services, in conjunction with the regional councils, if they are given appropriate commercially-based incentives and responsibilities for encouraging patronage. Thus the approaches to issue (B) and issue (C) are linked.

TABLE 1 ORIGINAL CONCERNS - SUMMARY APPRAISAL

Issue	Extent of Concern	Causes	Validity/Importance	Conclusions/Recommendations
A. Potential Formation of Bus Company Monopolies	Not a prime concern of operators or regional councils. Mainly of concern to smaller operators	<ul style="list-style-type: none"> • Various tendering/contracting practices of some regional councils • Threats of retaliatory behaviour by dominant operators • Operator take-over of potential competitors. 	Some validity. Potentially important under present procurement system: danger of insufficient contestability, leading to higher funding requirements.	<ul style="list-style-type: none"> • Best addressed through measures to enhance contestability (consistent with CPP requirements of TNZ Act) • Propose range of CPP-related changes to maintain/enhance contestability (details later in report) • Need to also provide further guidance to regional councils on appropriate practices • Area franchise system could be consistent with any tendencies to local area monopolies (needs further study).
B. Lack of Industry Investment	Operators considered a major concern, regional councils less so. Recognised that problem being partly resolved through introduction of vehicle quality standards (VQS).	<ul style="list-style-type: none"> • Uncertainty associated with introduction of new regulatory system • Lack of adequate standards in RFTs to require asset renewal/upgrading • Emphasis on lowest price in tender evaluation • Short contract duration relative to typical bus life. 	Generally valid. Importance of issue being reduced by adoption of VQS by regional councils. However, investment should not be regarded as an end in itself: objective should be to provide cost-effective services attractive to potential users.	<ul style="list-style-type: none"> • Encourage regional councils to adopt VQS with emphasis on provision of user-friendly vehicles. • Allow more flexibility in contract length (likely to increase average length of contracts) • Explore merits of adopting some form of output-based funding for contracts (relating to passengers carried) • Further study of merits of more commercially-based regulatory systems.
C. Lack of Operator Incentives to Improve Services	Greatest concern of the four issues, especially among operators: they consider they have little incentive in terms of service planning, service quality or innovation.	<ul style="list-style-type: none"> • Only minority of services are commercial, giving operators full commercial responsibilities and incentives. • Operators given little say in specification of contracted services • Tender evaluation gives little or no recognition to higher levels/standards of service • Even with net contracts, operator incentives to increase patronage are limited • Competitive tendering requirement inhibits service innovation/development by operator and regional council in partnership. 	Valid (although situation may be no worse than pre-1991). Very important: most effective means of achieving market-oriented services is likely to be by service providers with appropriate incentives and responsibility.	<ul style="list-style-type: none"> • Encourage regional councils to liaise closely with potential operators in the development of service specifications prior to tendering; and to encourage service improvements (and payments as appropriate) over the life of a contract • Explore merits of output-based funding (as above), within existing system or alternative regulatory system. • Further study of alternative regulatory systems, with emphasis on appropriate incentive/responsibility structures.
D. Declining Patronage	Least concern of the four issues: declining patronage largely not seen as result of the present regulatory system.	<ul style="list-style-type: none"> • Major cause of recent patronage trends has been the underlying economic/employment situation • However, clear evidence that patronage in some centres adversely affected by 1991 changes, but maybe more by adverse publicity than changes in service levels and quality. • Any service changes may have adverse short-term effects on patronage. 	Some validity, in terms of effects of 1991 changes and subsequent service changes on patronage levels. Potentially important: services need to be market-responsive and reasonably stable if patronage is to increase.	<ul style="list-style-type: none"> • Refer Issue (C) above • Also need to ensure reasonable stability of services and good passenger information.

Issue (C) was of the greatest concern to operators. Operators consider strongly that they are better equipped to plan and develop services than are regional councils, certainly at the detailed level. They consider that they are not given sufficient scope to contribute to service planning, nor sufficient incentive to provide better services. We consider that this issue is of considerable importance and that the concerns expressed are valid. However, we note that the evidence on the relative effectiveness of operators and regulatory authorities in planning cost-effective services for passengers is not clear-cut. On balance, we consider that operators should play a greater role in service development: if this is to be successful, they must be given appropriate incentives and responsibilities.

We recommend a number of measures which can be taken within the existing regulatory/procurement system to address issues (B) and (C). These include exploring the merits of contract funding related to passengers carried: this would need to be accompanied by giving more flexibility to the operator to vary the service to attract additional passengers. We also note the case for examining alternative regulatory systems, which would affect these two issues.

The other original issue, that of declining patronage (D), was of least concern, as the problem is regarded as not mainly the result of the present regulatory system. However, we consider that the concern has some validity and is closely linked with issue (C). It is best addressed by similar policies.

6 Additional General/Policy Concerns

This section presents our findings in relation to additional concerns raised by submitters which were of a general/policy nature rather than specific to the CPPs.

Table 2 summarises the most important or strongest concerns (from the viewpoint of submitters) in this category, describing the issue of concern, commenting on its validity and presenting our conclusions and/or recommendations in each case. Most of the concerns identified as valid could be addressed, at least in part, by changes to the present the CPPs and regional council practices without fundamental changes to the present regulatory system or legislation. In other cases, changes to the present system of economic regulation, and to the associated legislation, could be introduced to address the concerns.

Of the eight issues described in the table, issues (J) and (K) were largely covered in the previous section, as part of the original concerns; while issue (G) is primarily dealt with under CPP-related issues, in the next section of this Summary. Brief comments on the remaining five issues now follow, to supplement those in the table.

6.1 General Passenger Transport Policy and Funding Issues (E)

There was a strong call, particularly from operators, for a clear statement of national objectives relating to the role and funding of public transport. The absence of clear national objectives was seen as symptomatic of the lack of Government commitment to public transport.

We believe it would be desirable for a clear statement at the national level of the desired future role of public transport, of the way in which it might contribute to national objectives, and of the basis of national funding to help achieve these objectives. This would provide a broad policy and funding framework for the provision of local public transport services within which each regional council would continue to be responsible for setting its own regional objectives and priorities.

TABLE 2 OTHER GENERAL/POLICY CONCERNS - SUMMARY APPRAISAL

Issue/Concern	Conclusions/Recommendations
<p>(E) General PT Policy and Funding Issues</p> <ul style="list-style-type: none"> Need for a clear statement of Government policy, objectives and funding for PT, to provide a firmer basis for CPPs, RC policies etc. (Mainly an operator view: largely valid.) 	<ul style="list-style-type: none"> Desirable for clear national statement on future role for PT, and on the basis of national funding. This would be appropriate within the proposed National Land Transport Strategy. TNZ should complete development of PT funding assistance policy, and then be allowed by Government to implement this (including road v PT trade-offs as appropriate). National system of monitoring value for money from PT services should be introduced (currently under development by TNZ). Adoption of clear funding policy should reduce/remove risks of contracts being cancelled due to shortage of funding (refer Table 3).
<p>(F) Focus on Cost Minimisation</p> <ul style="list-style-type: none"> System has excessive focus on tendering/contracting and cost minimisation, rather than service quality. (Not always clear whether this criticism is directed at the CPPs, or the wider TLR system: mainly an operator view). (Some validity, but CPPs are only one part of overall system). 	<ul style="list-style-type: none"> Criticism only partly valid. Large part of responsibility for service quality etc is with RCs, in terms of service specification etc. RCs should be encouraged to give greater weight to value for money, rather than lowest price, in tendering/contracting process. Situation may be ameliorated with improved operator incentive structures, such as output-based funding. Alternative regulatory systems (eg. area franchise) could reduce emphasis on tendering process and encourage improvements in service quality.
<p>(G) Nature of/Responsibilities for CPPs</p> <ul style="list-style-type: none"> CPP system is too prescriptive and inflexible (operator and RC view). (Some validity, but RCs allowed to propose own CPPs at present.) 	<ul style="list-style-type: none"> Refer Executive Summary S.7 and Chapter 4. RCs may submit their own CPPs for approval by TNZ.
<p>(H) Commercial Service Issues</p> <ul style="list-style-type: none"> Mixed commercial/contract system does not work successfully - because of both the legislation and the way it is applied by RCs in practice. (Largely valid). 	<ul style="list-style-type: none"> Improve procedures at interface between commercial and contract services (eg. refuse commercial notifications during tendering process). Refer Executive Summary S7. Consider alternative regulatory systems which either maximise the proportion of commercial services, or under which all services are contracted.
<p>(J) Service Planning Issues</p> <ul style="list-style-type: none"> RCs have become excessively involved in detailed service planning: this should be left to the operators, who are closer to the market (operator view). (Probably valid, although no clear evidence with present system). 	<ul style="list-style-type: none"> Largely covered in Table 1, item (C). Require appropriate incentive structures for operators if to have greater service planning responsibilities. May be ameliorated by alternative regulatory systems which maximise the proportion of commercial services (sole responsibility of the operator), or within an area franchise system (operator defines services within broad RC service guidelines).
<p>(K) Service Innovation</p> <ul style="list-style-type: none"> Need for more flexibility in contracting and funding procedures so as to encourage new/innovative services. (Valid). 	<ul style="list-style-type: none"> Need modified contracting and funding procedures to encourage service innovation, private sector promotion of services etc
<p>(M) High Capital/Fixed Asset Modes</p> <ul style="list-style-type: none"> These modes are not handled well through CPP process: need to be dealt with outside CPPs, or CPP process modified. (Some validity). 	<ul style="list-style-type: none"> Considerable difficulties in achieving contestability in cases of monopoly supplier (eg. rail services): "sole supplier" CPPs have much less of a competitive element than "standard" CPPs. Remains important to retain competitive pressures under whatever procedures are adopted. Should further explore mechanisms for contracting infrastructure/rollingstock separately (on longer contract) from operations. May also be merits in legislative to allow RCs to own assets in such cases.
<p>(P) Concessionary Fares Issues</p> <ul style="list-style-type: none"> Present concession fare procedures are unsatisfactory: concession fares are treated differently to other fares. (Valid). TLR intentions re concession fares have never been properly implemented. (Doubtful if valid.) 	<ul style="list-style-type: none"> Consider deleting concessionary fare provisions of CPP Chapter 4 and allowing RCs to determine concession fares/ reimbursement arrangements along with other fares. RCs could require/allow operators of commercial services to provide concession fares: the commercial service process would constitute a competitive pricing procedure (subject to legal check). (May be necessary to put limitations on concession fare funding to prevent abuse.) Could introduce national concession fare policy/reimbursement arrangements (as part of policy of encouraging commercial services). But may be best left up to regions.

The proposed National Land Transport Strategy would seem the appropriate place for such a statement. (We recognise that work is currently in progress on the development of the Strategy and on passenger transport funding policies.)

6.2 Focus on Cost Minimisation (F)

A number of operators voiced the view that the current regulatory/procurement system produces an excessive focus on the tendering/contracting process and on cost minimisation, to the detriment of service quality and user orientation.

In our view the concerns are only partly valid. The competitive tendering system has undoubtedly placed a greater focus than previously on cost minimisation, but this is within whatever service specification and standards are stipulated by the regional council. Regional councils should be encouraged to put a greater emphasis on value for money rather than price alone.

6.3 Commercial Service Issues (H)

The general issue raised under this heading was that, under the present regulatory system, the mixture of commercial and contracted services gives rise to inefficiencies as a result of the legislation and/or the practices of regional councils:

The deficiencies inherent in the present "mixed" system are, in our view, of some significance. They suggest a case for changing to an alternative regulatory system which reduces or eliminates the distinction between the two types of service. Possible alternatives are a system with a much higher proportion of "commercial" services, or a system under which all services are contracted (refer later discussion).

Recommendations on other issues will assist in ameliorating some of the reported problems with the registration of commercial services.

6.4 High Capital/Fixed Asset Modes (M)

The main issues arising under this heading were:

- The difficulties of achieving a reasonable level of contestability in the case of a monopoly supplier (eg. NZ Rail Ltd in terms of urban rail services).
- The difficulties of procuring in an efficient manner services which involve substantial fixed assets and with a long asset life.

We recommend further exploration of the merits of contracting infrastructure and/or rollingstock on separate (longer) contracts than for operations, and possibly of changing the legislation to allow regional councils to own such assets.

6.5 Concessionary Fares Issues (P)

The present concession fares procedures (involving the concessionary fares committee requirement), are administratively unsatisfactory and cumbersome, and the competitive nature of the process involved is dubious.

In our view, the preferred approach would be to delete the present concessionary fare provisions, and allow regional councils to determine concession fares (and reimbursement arrangements) along with other fares. The commercial service process would be taken as constituting the competitive pricing procedure as required under the existing legislation:

however, if on legal advice this is not acceptable, then we suggest the possibility of a legislative change should be examined.

7 CPP-Related Concerns

7.1 Overview and Approach

Many of the submissions focused on concerns with the CPP Manual¹, in some cases in general terms but more often in relation to specific clauses. In many cases, the criticisms related more to the practices adopted by individual regional councils than to the manual itself (although this distinction was not normally made by submitters). On many issues different submitters put forward opposing views.

Our general comments are as follows:

- Tendering authorities (regional councils) tended to the view that the Manual is too prescriptive for their particular circumstances, and that more latitude should be given to the regions to determine their own procedures.
- Operators expressed little concern about the degree of prescription of the CPP Manual. Indeed some suggested measures to make it more prescriptive, in order to increase the consistency of procedures across the different regions and to restrict what were seen as undesirable practices by tendering authorities.

In considering CPP changes, it has been recognised that the CPPs provide a framework and some specific constraints within which regional councils are required to develop their own detailed procedures.

We therefore consider that:

- The Manual should focus on the principal procedures which will help to achieve the CPP requirements specified in the TNZ Act.
- Guidelines on good practice should be provided to assist tendering authorities in developing their own procedures.

The following sub-sections summarise the main concerns identified relating to the procurement process and our recommendations for specific CPP changes.

7.2 Main CPP-Related Concerns

Table 3 summarises the main issues (or groups of issues) raised by submitters in regard to the CPP Manual and the regional council service procurement process and our conclusions/recommendations. (There were, of course, numerous other concerns raised about specific aspects of the CPP, which are covered in the body of this report.)

Of the Table 3 issues, the two of most importance relating to the overall procurement process and meeting the CPP requirements of the TNZ Act are:

- Commercial service registrations during the tendering process
- Provision of patronage information.

Both of these issues are seen as likely to have quite significant effects on the extent of competition and efficient tender pricing. We believe that the practices of some regional councils are overly favourable to incumbent and/or larger operators. We recommend appropriate changes to the CPPs.

¹ Manual of Competitive Pricing Procedures. Vol 2: Public Passenger Transport.

TABLE 3 SUMMARY OF MAIN CPP-RELATED CONCERNS

Issue	Description/Appraisal	Recommendations/Comments
Commercial Service Registrations during Tendering Process	<ul style="list-style-type: none"> • Practice of operators notifying commercial services immediately after they are unsuccessful in the tendering process, and these services being registered by regional councils. • Strong concern by a number of submitters (operators and regional councils). • Undesirable practice in general: frustrates the tendering process, discourages competition, advantages incumbent operators. • May provide some short-term cost savings, but adverse effect on level of competition in medium-term. 	<ul style="list-style-type: none"> • CPPs should require/encourage regional councils not to register commercial service notifications between (at least) decision on preferred tenderer and award of contract; and then to assess any notification in light of new contract. • This should generally be achievable without any legislative change, subject to legal check (this practice already followed by some councils).
Security of Contract Tenure	<ul style="list-style-type: none"> • Possibility of operator contracts being cancelled at short notice because of shortage of funds. • Concern expressed by a number of operators: particularly affects operators who would need to purchase vehicles. • Present practice seems likely to have some adverse effect on level of competition and on tender prices. 	<ul style="list-style-type: none"> • TNZ/Government should pursue the possibility of guaranteeing the TNZ share of funding relating to all outstanding contracts. • CPPs (guidelines) should encourage tendering authorities to guarantee funding for the full contract duration, or to pay liquidated damages in case of contract cancellation due to lack of funding. • Refer also Table 2.
Preference to Incumbent Operators	<ul style="list-style-type: none"> • Claimed practice of some regional councils in favouring incumbent operators in the tender evaluation process. • Concern expressed by some smaller/newer operators. • May be legitimate reasons for favouring a particular (usually incumbent) operator, eg. lower administrative costs, service stability for users. • However incumbent operators already tend to have significant advantages in the tendering process. 	<ul style="list-style-type: none"> • On balance, consider that no preference should be given to incumbent operators even if lower costs (external to the tender bid) can be identified.
Provision of Patronage Information	<ul style="list-style-type: none"> • Present CPPs make no requirement on regional councils to provide patronage or revenue information to assist tenderers in case of net contracts. • This is key information for potential tenderers. Present policy is likely to discourage competition and increase funding costs in medium term. 	<ul style="list-style-type: none"> • CPPs should require that regional councils provide patronage information in RFTs in case of net contracts. (Patronage information may be obtained from council survey rather than from incumbent operators, and may be subject to suitable disclaimers). • This should help to avoid cases of operators surrendering contracts due to over-estimation of revenues.
Excessive Emphasis on Lowest Price	<ul style="list-style-type: none"> • Present CPPs put excessive emphasis on lowest price in tender evaluation. • Frequent grounds of criticism by operators. • Generally not valid as criticism of CPPs: up to regional councils what weight they put on non-price features. • However, some regional councils have been reluctant to give credit for non-price features better than the minimum. • Refer also Table 2 item (F). 	<ul style="list-style-type: none"> • No changes required to mandatory CPP aspects. • Suggest improved CPP guidelines to advise regional councils on treatment of non-price attributes.
Prescriptive Nature of CPPs	<ul style="list-style-type: none"> • CPPs regarded as too prescriptive in many respects, without any clear benefits. • Principally view of regional councils. • Numerous individual points raised, relating to specific CPP clauses. • Valid criticism in many cases. 	<ul style="list-style-type: none"> • CPPs should focus on key aspects which help to achieve requirements of TNZ Act; but to be less prescriptive in other aspects (refer Section 7.1). • Numerous specific recommendations made in the context of this general approach.

7.3 Recommendations on Specific CPP Clauses

We have evaluated the detailed proposals for changes to the Manual included in the submissions and make a recommendation in each case. These recommendations cover the following points and relate primarily to the mandatory CPP provisions (a more detailed list is given in the main text):

- Simplify advertising requirements (especially for smaller contracts).
- Make requirements for pre-tender meetings more flexible.
- Remove requirement to submit conforming tender along with alternative tender.
- Clarify tender evaluation procedures for optional features and alternative tenders.
- Require regional councils to provide patronage information if net tenders are requested.
- Allow larger contract sizes where necessary to cover a single route.
- Allow combined RFTs to cover more than one route.
- Allow roll-over provisions in contracts, subject to certain conditions.
- Allow contracts of less than one year.
- Allow greater flexibility in spacing of contract expiry dates.
- Allow greater service level variations within contracts.
- Allow greater flexibility for price adjustments in cases of service level changes.
- Give responsibilities for determining concession fare policies to regional councils, and abolish the need for separate concessionary fare committees (subject to legal opinion of how this is best achieved).

While these recommended changes individually appear to be quite minor, we consider that taken together they will give regional councils greater flexibility in meeting their own individual objectives through the procurement system, while still satisfying Section 19 of the TNZ Act. The introduction of further/amended CPP Guidelines will also help regional councils to adopt best practice on certain aspects, and thereby reduce some of the concerns expressed by operators.

If any regional council still believes the modified "standard" CPPs are inappropriate for its needs, given the requirements of the TNZ Act, it will still have the option of submitting an alternative CPP to TNZ for approval.

8 Alternative Regulatory Systems

8.1 Concerns Expressed about the Present NZ System

Many of the general/policy concerns raised by submitters (and summarised earlier) were ascribed to the present system of economic regulation and/or were seen as being ameliorated by a change of regulatory system. The main concerns in this category were:

- Lack of operator incentives to develop/improve services
- System discourages industry investment
- Excessive focus on the tendering process and cost minimisation, at the expense of user orientation
- Regional councils are inefficient and not sufficiently market-oriented in service planning
- Difficult to achieve service integration
- Present system is unsuccessful, particularly at the interface between commercial and tendered services
- Funding requirements for different services are not transparent.

8.2 Alternative Systems

The system of economic regulation of passenger transport services in NZ introduced under the transport law reform legislation may be described broadly as a deregulated system (commercial services) supplemented by a system of competitive tendering for "gap-filling" contracts.

Starting from the current NZ system, two very different directions for change were identified by submitters: to a "deregulated/ commercial" system; or to an "all contract" or "area franchise" system. An overview of these alternatives is as follows:

- **"Commercial" System.** The main thrust of this system would be to maximise the extent of provision of "commercial" services, ie. services for which operators could cover their costs without bidding for subsidy funds (This may involve measures to "artificially" inflate revenues and reduce costs). The system would become "market driven" rather than "contract driven" (eg. in terms of price-setting), and the powers of regional councils to restrict/discourage commercial services would be limited. Operators would be responsible for planning most of the services, although some residual contracted services might still be expected. (The system would be generally similar to the present UK (outside London) system.)
- **"All Contract" or "Area Franchise" Systems.** These systems abolish the concept of commercial services and to make all services subject to tendering/ contracting procedures. Contracts could be negative (ie the operator pays a fee to the tendering authority) or subsidised (as now).

Under the **"All Contract"** system, service planning would be largely left to the regional councils, although (as now) greater or lesser latitude could be given to operators. (This is similar to the present London model, which has hitherto involved gross cost contracts, but is converting to net subsidy contracts.)

The **"Area Franchise"** system brings a number of geographically adjacent services together into a single area contract. Establishment of an area monopoly for a specified operator gives more scope for the operator to plan services in the area in an integrated manner. Typically area franchise systems are characterised by longer duration contracts than route-based systems and maybe a lesser degree of contestability, although this does not have to be so. (The present Sydney private operator system is of this area franchise type, but with a very limited degree of contestability.)

In practice, a considerable range of systems is possible, combining features of the different models.

8.3 Merits of Alternative Systems

A detailed evaluation of the merits of alternative economic regulatory systems was outside the scope of this project. However, a preliminary appraisal was undertaken of the comparative performance of the existing system and the three alternatives noted above, in terms of:

- their amelioration of the main industry concerns
- their impact on the two main objectives for CPPs in the TNZ Act (ie. encouragement of competition; efficient use of public funds, in terms of productive efficiency and allocative efficiency).

This preliminary appraisal was sufficient to highlight that no one system is clearly superior to any of the others in these terms: the "best" solution will depend on the trade-off considered appropriate between the different concerns and objectives.

There was also no clear-cut preferred system amongst the submitters. The operators that advocated change tended to prefer the "Commercial" system, with the Area Franchise" system as an alternative. The regional councils that advocated change tended to prefer an "All Contract" or "Area Franchise" system. A number of other submitters cautioned against moving away from the present regulatory system unless a clear-cut case was established.

8.4 The Way Forward

The appraisal of alternative systems undertaken to date indicates that there is not a clear-cut case for moving to an alternative regulatory system, either to ameliorate industry concerns or to better meet the CPP requirements of the TNZ Act. Whether an alternative system would be "better" overall depends on the relative priorities to be given to specific issues and objectives.

Further work would therefore be necessary, both to define the most promising alternative systems and to evaluate their merits on a consistent basis, before any definitive view could be formed. It would also need to be examined whether any change in regulatory system should be mandatory (ie. would have to be applied in all regions), or permissive (ie. could be applied at the discretion of each regional council).

It is also likely that legislative changes (to the TNZ Act and/or TSLA) would be desirable, if not essential, pre-requisites for adopting one of the alternative models examined.

Further, our appraisal of CPP-related issues suggested that many of the concerns expressed can be at least partly met by changes to the present CPP Manual, within the existing legislation, and that many of the potential benefits of alternative systems might be secured in this way.

These factors lead us to recommend a two-pronged approach as most appropriate:

- Pursuance of amendments to the CPP Manual, within the existing legislation, to overcome/ameliorate as many as possible of the concerns expressed.
- In parallel, further investigation of the merits of alternative regulatory systems, by comparison with the modified existing system, in terms of their ability to meet industry concerns and the objectives of the TNZ Act.

9 Conclusions and Next Steps

It is clear that much has been achieved through transport law reform in the passenger transport sector, perhaps most strikingly the improvement in the productive efficiency of service delivery and the associated reduction in public funding requirements. However the concerns expressed by the industry together with our appraisal of the situation suggest that transport law reform has not achieved all the objectives set for it. In particular, there has been limited progress in service innovation and increased market responsiveness.

The submissions to the Review represented the operators of the majority of urban passenger transport services in New Zealand, and the regional councils responsible for the majority of these services. Many valid concerns were raised, ranging from those relating to general

transport policy issues to those relating to the wording of specific CPP clauses. Many operator concerns related more to the policies and practices adopted by regional councils in procuring services, rather than to the CPPs themselves.

We consider that many of the concerns expressed can be best addressed by modifications to the CPP system, rather than by radical changes to a different regulatory system. In general, we do not consider it appropriate to make the CPPs more prescriptive. Rather, we propose that the mandatory aspects of the CPPs should focus on those key procedures which are important in achieving the CPP requirements of the TNZ Act. Additionally, the CPP Guidelines should be used to provide further guidance on best practice, to help regional councils avoid some of the pitfalls which have become apparent.

Following this approach, the broad aspects on which the CPPs should place emphasis include:

- Ensuring the tender process and also (to the extent it is able) the commercial registration process are managed in such a way as to encourage competition, minimise the scope for anti-competitive activity and ensure efficient use of public funds.
- Assisting in fostering a competitive market, through ensuring that potential tenderers have adequate information and are able to compete on an equal footing.
- Encouraging operators to remain in and invest in the industry, by providing a reasonably stable environment for operators.
- Encourage both operators and regional councils to provide services responsive to the needs of the market, through the most appropriate arrangement of incentives and responsibilities.

We have made a series of specific recommendations for amendments to individual clauses of the CPP Manual, to respond to some of the detailed issues raised in submissions.

Regional councils should, in turn, take greater responsibility for ensuring that their policies and practices are consistent with the objectives of the legislation. In general, they should be able to work within the modified (mandatory) CPP requirements. However, if regional councils wish to put forward alternative CPPs, then these should be given proper consideration by TNZ provided they are consistent with the requirements of the TNZ Act.

ABSTRACT

A review was undertaken in 1994 of the regulatory system for local public passenger transport services in New Zealand. It had a particular focus on the procedures developed by Transit New Zealand to procure subsidised services operated under contract to regional councils: these comprise the majority of local passenger services in New Zealand. The review arose in response to concerns raised by some groups in the passenger transport industry about the effectiveness of the procedures.

Through a consultation process with passenger transport operators, regional councils and other parties, a wide range of concerns with the present procedures were identified. These concerns were appraised as to their validity, their causes and their importance and possible procedural changes to ameliorate the concerns were identified and assessed.

Recommendations were put forward in three main areas. First, a number of detailed recommendations were made for changes to the present competitive pricing procedures of Transit New Zealand. Second, recommendations were made relating to other policy and funding issues affecting passenger transport in New Zealand. These two groups of recommendations together were expected to overcome many of the concerns expressed. Third, recommendations were made for further investigation of alternative economic regulatory systems, to assess whether any fundamental changes in the regulatory system and associated service procurement procedures would be warranted.

CHAPTER 1 INTRODUCTION

1.1 Purpose of this Report

In February 1994, Transit New Zealand (TNZ) commissioned a "Review of Procedures for the Procurement of Public Passenger Transport Services" in response to concerns about the effectiveness of the present procedures raised by some groups in the passenger transport industry.

This final report of the Review has been prepared for TNZ and its Passenger Transport Advisory Group (PTAG) by the consultants for the Review (Travers Morgan (NZ) Ltd in association with Ernst & Young).

1.2 Structure of Report

This report is structured as follows:

- Chapter 1 - covers the scope, objectives and approach of the Review; and the objectives for the NZ passenger transport system, against which the industry concerns need to be assessed.
- Chapter 2 - summarises the process of industry consultation undertaken in the Review.
- Chapter 3 - presents our summary and appraisal of the concerns expressed in the consultations relating to passenger transport policy, funding and general issues.
- Chapter 4 - represents our summary and appraisal of the concerns expressed relating to the Competitive Pricing Procedures and their implementation.

1.3 Scope of the Review

1.3.1 Industry Concerns

The TNZ Research Brief drawn up for the Review stated that:

" ... as the new system introduced by the Transport Law Reform legislation and the CPPs has developed over the last 2-3 years, a number of concerns have emerged among some operators and some regional councils about the effectiveness of the new system, and about the procedures for procurement of services through the CPPs in particular.

Four specific areas of concern have been identified:

- *potential formation of bus company monopolies;*
- *lack of investment in the industry, eg. bus replacement;*
- *lack of incentives for operators to improve services; and*
- *declining patronage.*

This research project will initially identify and examine concerns with the existing system and (depending on the outcome of this initial phase) will review the existing procurement system to determine what, if any, changes to the existing system would resolve these concerns."

1.3.2 Objectives of the Review

The objectives of the Review, as stated in the Research Brief, were to:

- "(i) identify and examine concerns of the public passenger transport industry with the present system of competitive pricing procedures; and*
- (ii) consider what, if any, changes to the existing system would resolve these concerns."*

1.3.3 Outputs of the Review

The Research Brief stated that:

"The output of this project will be a report on the concerns of the New Zealand passenger transport industry with the present CPP system for passenger transport together with the identification and initial appraisal of potential changes to the present system which would address any valid concerns. Some indication will also be given of other procurement systems which could resolve these concerns.

This information will be a key input into formulating any changes to the present CPP system so that it might better meet the objectives of the Transit New Zealand Act and the needs of the passenger transport industry."

1.3.4 Approach to the Review

In consultation with the Review Steering Group, it was agreed that the Review should be structured to focus on the following questions:

- (A) What are the problems that the PT industry believes have resulted from the new passenger transport system introduced in 1991 by the Transport Law Reform legislation and the Competitive Pricing Procedures (CPPs)?
- (B) What is the validity of these problems and what substantial deficiencies do they identify with the new TLR/CPP system?
- (C) Which of these problems/deficiencies result from the present CPPs, or might be ameliorated by changes to the present CPPs?
- (D) For those problems/deficiencies relating to the CPPs, what CPP changes would ameliorate/resolve them?
- (E) For other problems/deficiencies, what types of changes to legislation or other procedures (in broad terms) might ameliorate/resolve them?

The prime focus of the Review was thus on examining the concerns expressed by people in the PT industry about the present passenger transport system, on assessing their validity and importance, and on identifying possible changes to the present system that might ameliorate or resolve the concerns expressed. A major part of the Review was therefore based on consultation with those in the industry, to identify and discuss their concerns.

It should perhaps be emphasised here that the Review was not confined to problems and issues relating to the CPPs, but had a broader coverage. It was required to address the full range of industry concerns with the current passenger transport system in NZ (as introduced in 1991 under Transport Law Reform), and to examine (in broad terms) whatever changes might be appropriate to ameliorate these concerns. In regard to specific issues related to the CPPs, the Review was to address the principles raised and to outline potential approaches to remedying any deficiencies, but it was not required to develop recommendations on detailed changes in CPP wording.

1.3.5 Review Tasks

The Research Brief divided the work of the Review into nine tasks:

- Task 1: Initial Meeting with Research Steering Group
- Task 2: Call for Submissions
- Task 3: Initial Documentation/Examination of Submissions
- Task 4: Interviews
- Task 5: Expanded Documentation/Examination of Submissions
- Task 6: Feedback from Industry
- Task 7: Summary of Industry Views
- Task 8: Appraisal of Potential Changes
- Task 9: Reporting - Draft Report (for review by Research Steering Group)
- Final Report.

An interim report was prepared to cover Tasks 1-7 and part of Task 8, and was used as the focus for earlier consultations with PTAG. Feedback from these consultations has been incorporated in this final report.

1.4 Passenger Transport System Objectives

In appraising the concerns expressed about the present PT system and in developing "solutions" to these concerns, it was essential to keep in mind what the present system is attempting to achieve, ie. its stated objectives. A number of submissions made the point that the objectives of the present PT system (as introduced in 1991) are not clearly set out; and that therefore the success (or otherwise) of the system is difficult to assess.

We have some sympathy with this view. The following paragraphs set out our understanding of objectives for:

- Passenger transport in NZ
- Government intervention in the passenger transport sector
- The 1991 Transport Law Reform legislation applying to the passenger transport sector
- The Competitive Pricing Procedures for passenger transport.

1.4.1 National Objectives for Passenger Transport in NZ

At the national level, there is at present no clear statement of Government strategy, role and funding policy for passenger transport services. The recent (July 1994) MoT consultation document "Land Transport Strategies and Network Funding" proposes that a National Land Transport Strategy be developed and incorporated in legislation. It states that:

"In 1992, regions were required to produce Regional Land Transport Strategies to identify the future land transport needs of their region and the appropriate role of each land transport mode in fulfilling those needs. At a national level, however, national strategies are variously found in a number of documents including the National Road Safety Plan, the National Land Transport Programme, and the Safety (Administration) Programme. A National Land Transport Strategy would pull together all the high level goals relating to the land transport sector and put them in one place. Such a strategy would cover goals such as safety, infrastructure, environment/energy efficiency and transport disadvantaged. The National Land Transport Strategy once developed would be binding on all players in the transport area and would be an overall guide for Regional Land Transport Strategies."

The consultation document notes the "vision" already adopted for the New Zealand transport system as a whole:

"New Zealand will have a safe, sustainable land transport system at reasonable cost".

However it gives few further clues to the policy directions for public transport likely to be incorporated in the proposed Strategy.

The earlier (May 1994) MoT document "Transport Directions 1994-1999" provides more detail on proposed policy goals and policy initiatives for the NZ transport system. Passenger transport services are mainly covered under the goal of **social sustainability**, where policy initiatives are outlined relating to:

- Access for all users (to transport facilities, vehicles, fare systems, information services etc)
- Provision of services for the transport disadvantaged (to be defined)
- Revised funding systems, which give planning certainty and customer responsiveness
- Encouragement of innovation.

1.4.2 Rationale for Government Intervention

There is a rationale for government intervention in the provision of public passenger transport in three areas:

- **Economic efficiency:** there are strong economies of scale in the total (operator plus user) costs of public transport. If the value of the time spent accessing (walking and waiting) and travelling on public transport is included, these user costs are a significant proportion of the total social cost of travel. Increasing the number of people using the system leads to increased frequencies or coverage which reduces the access cost for existing users.

Conversely, a reduction in the number of people travelling leads to poorer services for the remainder, leading to a vicious spiral of reducing services. It is this relationship between number of people travelling and the level of service enjoyed by all passengers that distinguishes public transport from normal consumer goods.

Where there are economies of scale, the average cost (which would be charged in a free market) is higher than the marginal cost (which is the price which should be charged to maximise social and economic benefits). Therefore a free market would provide less than the social optimum level of service.

It can be argued that the same principle warrants government intervention in other transport markets such as air travel (and indeed many governments still do intervene). The critical factor is the relative size of the access cost to the total travel cost; the higher this is, the greater the warrant for intervention.

Note that it is generally accepted that there are no economies of scale in the production of urban bus services - ie. the cost per bus kilometre is the same for a 10 bus fleet as for a 100 bus fleet: it is in the user costs that the benefits of scale are felt. In the case of rail services, increased patronage may be reflected in larger trains (and thus lower costs per passenger) or more frequent services.

- **Transport disadvantaged:** the almost universal availability of the motorcar has greatly enhanced the mobility of most of the population, and has led to changes in the social infrastructure (centralisation of facilities, concentration of shopping facilities into regional shopping malls) which have reduced costs and improved the range and choice of services for the majority.

However those without access to a car have seen their local infrastructure decline. At the

same time as public transport services have declined with declining patronage, transport has become more important than ever to gain access to the necessities of life. This has left those without access to a car doubly disadvantaged.

- **Congestion:** where roads are congested, the motorist does not pay the social cost incurred as a result of the use of the road. Each additional motorist on a congested road slows the traffic stream, and this imposes additional travel time on all existing users. Economists argue that the best solution is to use congestion pricing to ration road space. The "second best" solution is to plan for road and public transport as one system, providing attractive public transport as an alternative to road use.

Subsidised public transport at peak times is one way (albeit imperfect) of attracting potential motorists, and thus reducing the total transport resource cost.

We believe that a strong restatement at the national level of these warrants for public transport subsidy would be desirable. However, we suggest that the relative importance of the above issues differs markedly by locality. Therefore, within a national framework, each regional council should still be responsible for determining the appropriate level and type of service to achieve its own regional objectives. Transport is, after all, a derived demand, and transport objectives must be consistent with regional objectives.

This being so, different regional councils will properly adopt different levels of intervention and public funding for public transport.

1.4.3 Objectives of Passenger Transport Law Reform

At the time of introducing the 1989 Transport Law Reform Bill, MoT stated ("Transport Law Reform") that the main aims of the new land transport system overall were:

- *To provide integrated land transport planning*
- *To provide a clear picture of transport system costs*
- *To improve road safety*
- *To reduce bureaucracy*
- *To encourage innovation in land transport*
- *To devolve appropriate responsibility to local government*
- *To provide for fair competition between commercial operators*
- *To improve consumer service and safety*
- *To achieve greater efficiency in public expenditure".*

Following the implementation of Transport Law Reform, MoT stated that the specific policy goals for the new passenger transport regime thereby introduced were:

- *to integrate all passenger transport modes into a single management system to provide the most appropriate and cost effective services for passengers;*
- *to clearly define the responsibility of regional councils for the level of public passenger transport in their region;*
- *to provide a cost effective mechanism for meeting social needs such as improved accessibility for the transport disadvantaged;*
- *to integrate public transport into general land transport planning in any area;*
- *to provide opportunities for innovation in service development and technology, and*
- *to clearly separate the responsibilities and interests of planners and policy makers from those of transport operators."*

(Speech to TNZ Masterton Conference, December 1992 by Roger Toleman.)

The BCA submission to this Review states the Government's policy objectives for Transport Law Reform in the following terms:

"The Government at the time of the introduction of the Transport Law Reform legislation stated that the overall objective was to:

"enlarge the opportunity for all NZ to have access to a public transport system tailored to meet their needs"

Service provision was to be separated from service policy, planning and funding. Through the opening up of the routes to competitive tendering and with the presence of commercial registrations it was claimed that:

- new entrants would be encouraged to enter the industry*
- innovative new services would be introduced*
- protection of the large and long established expensive local and regional authority operators would be eliminated*
- there would be an overall reduction in the requirements for subsidy."*

(The original source for this statement is not known to us.)

There appears to be broad agreement that the present system was intended to combine the assurance and community responsibility of a system planned to meet local needs and aspirations, with the innovativeness, market responsiveness, and competitive efficiencies of the private sector.

1.4.4 Objectives for Competitive Pricing Procedures

The CPP provisions are only a small part of the Transport Law Reform legislation. They are concerned solely with the way in which services are to be procured, not with service levels, service quality, or levels and distribution of funding.

The CPP provisions are specified in the Transit New Zealand Act 1989 (as amended). The main provisions relevant here are:

- With certain specified exceptions, all local authority funding of passenger services is to be subject to CPP.
- TNZ may (from time to time) approve CPPs for projects or classes of projects.
- In approving a CPP, TNZ is to have regard to:
 - "(a) The **efficient** application of the Account:*
 - (b) The **safety and other interests** of the public in respect of the project or the class of project:*
 - (c) The desirability of encouraging **competition** in the sector of industry likely to supply goods or services in relation to the project or the class of project:*
 - (d) The undesirability of excluding from **competition** for the project or the class of project any party who might otherwise be willing and able to compete:*
 - (e) The **costs of administration** associated with the pricing procedure or of any contract formed pursuant thereto."*

Since the CPPs are concerned with the procurement process for "projects", it is perhaps not surprising that two of the above factors are concerned with competition, and two with costs and efficiency. Only one is concerned with other factors ("safety and other interests of the public").

CHAPTER 2 INDUSTRY CONSULTATIONS

2.1 The Consultation Process

As noted earlier, the main thrust of the Review was to obtain and appraise the views of participants in the NZ passenger transport industry about the present passenger transport system. Thus the major part of the Review involved a process of consultation with industry participants. This involved the following tasks.

Task 2: Call for Submissions

This involved an invitation for submissions through:

- Press advertisements
- Letter to all local authorities
- Letters to PT operators on regional council mailing lists
- Details in newsletters of BCA, NZ Taxi Federation and Local Government Association.

The call for submissions was supplemented by a 2-page note on "Terms of Reference and Consultation Process".

Task 3: Initial Documentation/Examination of Submissions

The consultants prepared a summary of each submission received, categorising all points within a systematic framework and adding additional comments, queries etc.

Task 4: Interviews

Interviews were held with all those submitters requesting them. Most of these were face-to-face meetings, lasting up to 3-4 hours. Some were by way of extended telephone discussions.

The interviews involved more detailed presentation/elucidation of the written submissions by the submitter; addition of further points; discussion with the consultants of the importance, cause and validity of some of the points raised; and discussion of the merits and implications of any changes to the system suggested by the submitter.

Task 5: Expanded Documentation/Examination of Submissions

Following each interview, the consultants expanded and refined the initial documentation of the submission, so as to provide a summary of key points made by the submitter in their written submission and the interview.

Task 6: Feedback from Industry

Each submitter interviewed was then provided with a copy of the expanded documentation of their views. Any comments received from the submitter on this document were then incorporated in a revised, comprehensive listing of industry views.

Task 7: Summary of Industry Views

An overall summary of industry views was then prepared by the consultants: this has been incorporated into this report.

Task 8: Appraisal of Potential Changes

This key task involved appraisal of the industry concerns (in terms of validity, cause and importance) and assessment of possible changes that might address these concerns. It concluded with a series of recommendations on changes to the CPPs and other aspects of the procurement system.

A meeting with PTAG was held during this task, to provide feedback on the findings up to this stage. Some further written comments were also made by PTAG members following this meeting.

Task 9: Reporting

A draft report was first prepared, for review by the project Steering Group and for presentation to PTAG. This final version was then prepared in the light of the comments received from PTAG members.

2.2 The Submitters

31 groups/organisations made submissions to the Review (following several extensions of the original time limit).

They may be divided into:

Regional Councils	7
District Councils	3
PT (bus) operators	17
Others	<u>4</u>
Total	<u>31.</u>

The full list of submitters is attached, in Appendix A.

Meetings or extended phone calls were held with 12 of these submitters (5 regional councils, 7 operators).

It is perhaps notable that:

- There were no submissions from taxi or small passenger vehicle operators.
- Very few submissions were from public transport user groups or individuals (although this is not surprising, given that the Review was directed primarily at the concerns of those in the passenger transport industry).
- There was no submission from New Zealand Rail Ltd.

Thus the submissions received were primarily from the long-established operators of "conventional" buses and from the main regulatory/contracting authorities (the regional councils). The operators involved in submissions operate the majority of urban route bus services in New Zealand; while the regional councils involved are responsible for the majority of urban passenger transport services.

Many of the submissions were clearly self-seeking. This is as it should be. We wanted to know the concerns of the industry **as it affected the participants**. But as a result the prescriptions suggested were often conflicting, eg. new entrant vs established operator, operator vs regional council, etc.

2.3 Submission Summary and Analysis

A summary of each submission has been prepared, in tabular form (this runs to c.50 pages, and is available separately).

This summary sets out, for each submission:

- The concerns/problems/issues raised by the submitter

- The changes/solutions suggested by the submitter to ameliorate these concerns/problems
- Categorisation of each concern/problem (see below)
- Initial consultant comments on the concerns/problems and suggested changes/solutions.

The concerns/problems/issues raised have been categorised broadly into:

- (A) General (fundamental) issues re transport law reform system, PT funding, Government/TNZ policies for PT etc.
- (B) Issues on specific points/clauses in the CPPs.
- (C) Issues on RC interpretation or application of the CPPs.

The next two chapters of this paper set out our summary and appraisal of the concerns raised. Chapter 3 covers category (A) above, the general/fundamental concerns. Chapter 4 covers the concerns relating to the specific aspects of the CPPs and the RCs application of the CPPs in the tendering/contracting process.

CHAPTER 3 SUMMARY AND APPRAISAL OF INDUSTRY CONCERNS - GENERAL/POLICY ISSUES

3.1 Overview

This chapter provides a summary of industry concerns and our appraisal of these concerns, relating to aspects of the NZ passenger transport system other than the CPPs and their application by regional councils.

Our approach to the summary and appraisal task was as follows, with regard to each point raised by submitters (in some cases the same or very similar point is made in more than one submission):

- To clarify and **summarise** the concern, problem or issue raised.
- To **categorise** the concern etc, ie. whether it relates to general/policy issues, to specific points in the CPPs (and to identify the CPP clause in this case), or to RC interpretation or application of the CPPs.
- To identify the underlying **cause** of the concern etc (where this is not obvious).
- To assess the **validity** of the concern etc. This assessment has primarily addressed whether the concern is valid (in our judgement) in the context of the Government's general objectives for passenger transport and, where appropriate, the specific objectives laid down for CPPs (refer Section 1.4). It has also checked whether there is any factual basis to the concern and has commented on the validity of the concern in relation to the interests and viewpoint of the submitter.
- To assess the **importance and/or extent** of the concern (if valid). Assuming the concern is valid, it is helpful to know how important the problem/deficiency is in hindering achievement of the stated objectives.
- To identify **possible solution(s) or changes(s)** to the present system/procedures which will ameliorate the defined concern/problem. The solutions/changes identified are primarily the views of the consultants as to what might be effective in addressing the concerns/problems expressed by the submitters. However, many of the submitters have themselves suggested solutions/changes, and we have borrowed from and built on these in developing the solutions/changes proposed.
- To describe the main **implications** of the proposed solutions/changes.
- To make **recommendations** on means of addressing the concern/problem, if appropriate at this stage of the review process.

In regard to the general/policy issues covered in this chapter, the Review was required to outline potential solutions and their implications in broad terms only, and was not in general expected to make specific recommendations at this stage. It was recognised that further work might subsequently be required to develop and assess in more detail any potential changes outside the present legislative system and the existing CPP framework.

The appraisal approach summarised above has been couched in terms of a point-by-point analysis. However, in practice this has its limitations and is not on its own appropriate. In many cases there is not a simple 1:1 correspondence between concerns/problems and solutions/changes. Typically submitters perceive a number of concerns/problems with the present system which are best addressed in total rather than in isolation, through an alternative "package" of measures which may be more successful than the present system in meeting the submitter's perception of desirable objectives. "Solutions" thus often cannot be considered as a set of isolated components, but rather as an integrated, consistent "package" of measures which together attempt to follow a certain philosophy or policy direction for PT service provision.

Thus in regard to a number of types of concerns raised in the following sections of this chapter, "packages" of solutions have been formulated to address groups of concerns rather than addressing each concern in isolation.

The Research Brief for the Review noted four specific areas of concern voiced by operators and regional councils that had been identified prior to the start of the Review. These are dealt with in the next section, below. Following this, the other general/policy concerns are dealt with in the subsequent sections of this chapter.

3.2 The Original Concerns

Four specific areas of concern raised by operators and regional councils prior to the start of the Review were identified in the Research Brief:

- (A) potential formation of bus company monopolies
- (B) lack of investment in the industry
- (C) lack of incentives for operators to improve services
- (D) declining patronage.

Appendix B (Table B1) summarises the responses of each submitter relating specifically to these four areas of concern. It should be noted that:

- Most written submissions did not address these four areas specifically, but some did so.
- In some interviews, submitters were asked for their views on these four areas, even if not specifically covered in their written submissions.

Table 3.1 summarises in numerical terms the responses relating to these four areas. It may be noted that in each case 50-70% of the respondents did not raise the issue specifically, suggesting (*prima facie*) that it was not of prime concern to them.

The following sub-sections cover each of the four concerns in turn, summarising the industry views, our appraisal of them and a discussion of potential solutions addressing the concerns. Table 3.2 provides an overview of the four concerns and our appraisal of them.

3.2.1 Potential Formation of Bus Company Monopolies

This was not seen as a prime concern by most submitters, although there were concerns, particularly from smaller operators, about the dangers of the market being dominated by few large operators. In summary, the response was:

- Operators - two of the smaller operators gave this as a major concern, while larger operators considered it little or no problem.
- Regional councils - not generally seen as a substantial concern, although aware of predatory behaviour by dominant operators.
- Others - Wellington CC/Cable Car saw this as a major concern (in the Wellington region).

Local area monopolies could come about from two factors:

- (1) Present practices in some regions which tend to favour the incumbent may lead to reductions in contestability (the threat of competition) to the point where incumbent operators may effectively become local monopolies. This monopoly position will enable the incumbent to generate "super profits", hence making it even better able to defend its monopoly and to drive up contract prices.

- (2) There is a view that local area monopolies are the "natural" state of the urban bus industry, given the underlying economics of the industry and the services it provides (in terms of economies of scope, route density etc). The total cost (operator plus user plus administration) of a given level of service is likely to be lower with only one operator². This would indicate a natural tendency towards a monopoly supplier in any area.

There is a range of potential measures aimed at enhancing contestability, which would discourage any tendency to area monopolies. Many aspects of the present CPPs are directed at this objective, as are other recommendations elsewhere in this report. It might be expected to be in the interests of individual regional councils to pursue such approaches, as public funding requirements would be reduced. However to date, some regional councils appear in practice to have tended to favour maintaining the status quo rather than encouraging contestability.

An alternative approach to discouraging local monopolies would be to impose a market share limitation for any one operator in any area/region. This is not recommended, as:

- Measures designed to enhance contestability should discourage the formation of local monopolies and should achieve the efficiency and competition objectives of the TNZ Act.
- It would be an inferior way of achieving such objectives.
- It may contravene the Commerce Act (a legal opinion would be required).

If it were accepted that local area monopolies are the "natural" state of the industry and should therefore be encouraged and catered for, this would suggest adoption of an area franchise system: one operator would be granted monopoly rights in a defined area for a fixed period of time, with some periodic review (perhaps through a competitive tendering process) of the choice of operator and the funding arrangements. Area franchises are addressed in a subsequent section.

Our conclusions relating to this single concern are:

- It is a valid concern, inasmuch as there seems a substantial possibility of it occurring and, if so, it may well lead to significant increases in public funding requirements.
- It is therefore potentially important.
- It is best addressed through a range of measures to enhance contestability, which would be consistent with the efficiency and competition objectives of the TNZ Act.
- A number of recommendations in this report are directed at maintaining or enhancing contestability, through the CPP process. RCs should also adopt practices which are consistent with this thrust (as discussed in Chapter 4).
- While limitations on market share could help to overcome the problem, these would be inferior means (in terms of efficiency objectives etc) of ensuring an effective competitive market. They are therefore not recommended.
- The establishment of a local area franchise system, instead of the present contract system, could formalise any tendencies to formation of area monopolies. Such an option is discussed further, in a later section of this chapter.

3.2.2 Lack of Industry Investment

Lack of investment under the present system was seen as a substantial concern by operators.

² Provided the one operator is no less efficient as a result.

In summary the response was:

- Operators - a substantial proportion of operators see this as a major concern, although they recognise that the problem is being somewhat ameliorated by the introduction of vehicle quality standards (VQS).
- Regional councils - do not see as a major concern, and consider it is being largely resolved through the introduction of VQS.
- Others - no specific responses.

Operators recognised that the investment "problem" may be ameliorated by the introduction of VQS. However, the general view remained that uncertainties inherent in the present system (eg. relating to commercial service notifications, length of contracts, possibilities of early contract termination, etc) do not provide a confident climate for investment.

Existing operators, who see themselves in the business in the long term, are naturally anxious to see tender prices provide sufficient margin to enable them to maintain a fleet replacement programme, and are wary of the dangers of others winning services from them by under-pricing, as a result of allowing inadequate provision for reinvestment.

The CPPs do not explicitly address the investment issue, but merely provide a framework within which regional councils may adopt vehicle standards or age criteria, provided they are not unduly restrictive of competition.

Most regional councils are now adopting VQS, as mandatory minimum fleet standards for contracted services. The VQS cover vehicle age (the most important single component in the standards) and other customer-oriented vehicle features (eg. step height): to an extent vehicle age appears to be used as a proxy for other customer-oriented features which are difficult to quantify directly. There is no doubt that the VQS are having some effects in reducing competition (by eliminating from the market some smaller operators of older fleets), in enhancing vehicle standards and increasing vehicle investment over what otherwise would have occurred, and probably increasing contract prices over the medium term.

However, it is important to recognise that investment should only be regarded as a means to an end - in this case to provide cost-effective services attractive to potential users. Under the previous regime there may have been a tendency for operators to over-invest in standard "city" buses, rather than focus on offering a range of services attuned to user needs (ie. a tendency to adopt a production focus rather than a customer focus).

In the current funding climate, it is important that investment is justified in terms of reduced operating costs, higher revenue or both. The current VQS tend to give undue weighting to vehicle age criteria (which is the main trigger for new investment), partially at the expense of other customer-oriented vehicle features, which might be better reflected directly in the standards: age may not necessarily be a good proxy for such customer-oriented vehicle features. The emphasis on vehicle age may unnecessarily increase the industry's costs. If investment needs to be driven through mandatory VQS, this raises the question as to whether the investment would otherwise be warranted and whether operators are being faced with the right incentive signals in relation to new investment.

Measures other than VQS which could provide further encouragement for operator investment include:

- Contracts of longer duration (eg. 7-10 years for buses), closer to the economic life of vehicles. While this may somewhat improve the investment climate, it also seems likely

- to reduce competition and thereby may increase public funding requirements.
- Measures to increase the proportion of commercial services, so that operators are more "in control of their own destiny" and are therefore more likely to reinvest. The merits of such an approach are discussed later.
- Reintroduction of a non-contestable area monopoly situation (perhaps similar to pre-1991), with specific capital funding provisions (new bus grants etc.). The removal of any form of contestability would undoubtedly lead to higher funding levels, and not necessarily any improvement in service quality: such a solution is therefore not recommended.
- Adoption of some form of output-based funding (eg. on a per passenger kilometre basis) for contracts, to better approximate to a commercial incentive structure for the operator. This would give contracted operators greater incentive to adopt the optimum type of vehicles and to upgrade their fleet where justified by the market response.

We doubt whether any of these measures is justified primarily to address the investment issue. We would recommend that:

- No changes be made to the CPP mandatory provisions specifically to address the investment issue.
- More flexibility in contract length be allowed, with the expectation that this will increase average contract periods.
- Regional councils should be encouraged to adopt VQS, which encourage provision of reasonably customer-oriented vehicles (and wherever possible reflect this customer-orientation directly rather than through vehicle age).
- The merits of adopting some form of output-based funding for contract payments be further explored, in a wider context.
- The possibilities of adopting a more commercially-based system be further explored (refer later section on alternative regulatory systems).

3.2.3 Lack of Operator Incentives to Improve Services

Of the four original nominated areas of concern, this issue appeared to be of most concern to submitters, particularly among operators. In summary, the response was:

- Operators - strong views that this is a major concern: operators currently have little incentive in terms of service planning, innovation or service quality.
- Regional councils - largely agree with operators (although may not accept operator view that some of the fault lies with the RCs).
- Others - no specific responses.

We believe that the concerns are largely valid, and that this is one of the most important issues in providing an effective public transport system. Market responsiveness and innovation were regarded as important objectives to be achieved through the transport law reform process, but in our view these have not been achieved to any substantial extent.

The concerns arise at four different levels:

- i. On account of the low proportion of commercial services. Operators have a large measure of control over commercial services, and have the incentives to modify them in accordance with normal commercial signals. However, they have much lesser control and incentive in relation to contract services. The case for going towards a system with a higher proportion of "commercial" services is addressed later.

- ii. In the development of specifications for contract services. Current practice is generally for the initial service specification to be largely done by the regional council. However, operators consider it vital that they have the major role in detailed planning of services (whether commercial or contract), as they consider they are much closer to customer needs than the regulatory authority and also able to optimise their operational efficiency. However, some regional councils are less convinced about how "close to the market" many operators are in practice, and are (understandably) more comfortable with their current role.
- iii. At the tender bid stage. Because of the prime emphasis on lowest price conforming tenders, operators have generally little incentive to offer better than the minimum specified service in their tender bids.
- iv. During the life of a contract. As average fare revenue typically covers in the order of 50% of gross costs, operators will have very limited incentive to increase levels of service unless they are able to negotiate increased contract payments. (In some cases the regional council has been prepared to vary contract payments for increased services proposed by the operator.)

In a normal commercial market, the providers of the product/service are responsible for designing the service they are to provide. It would be reasonable to expect that operators, faced with the right commercial incentives, would be better able to plan optimum services than a regulatory authority lacking the commercial incentives and with less knowledge of operational aspects. However, the practical evidence on this point is not conclusive. In the UK since 1986, the bus services planned by the regulatory authority in London appear to have been more successful in retaining patronage than those commercial services developed by operators in the rest of the UK, although commercial services have been notably successful in some areas. In the NZ context, it might be expected to take some time for operators used to the pre-1991 situation to develop commercially-oriented service planning skills.

A crucial point in relation to this issue is that appropriate incentive structures are necessary if operators are to be more proactive in expanding and innovating services where warranted. As noted under points iii) and iv) above, current payment structures do not provide appropriate incentives. One promising approach would be to adopt output-related payment structures for contracts (eg. relating to passenger kilometres), as described in the previous section. The effect of such output-related funding could be to establish a quasi-commercial market, which would enable the regional councils to leave a greater responsibility for service planning to the operator.

We consider that output-based funding for contracts could be introduced by regional councils within the present CPPs, and that it could do much to improve the market responsiveness of passenger transport services.

However, there is little point in operators having the incentive unless they are also given the scope and responsibility to properly optimise services, rather than just make marginal changes. This suggests the case for giving operators wider responsibility for developing services over an extended area, rather than on a single route or narrow corridor. This is the Area Franchise concept, where a single operator is typically responsible for planning and operating all services in a defined area, subject only to broad service guidelines. An output-based payment structure could be appropriate under such a system. Area franchises are discussed in more detail later.

Our main recommendations here to provide better incentives to operators to achieve improved services are:

- To pursue the concept of output-related contract payments. These could be applied within the existing CPPs, and should be examined further by TNZ and regional councils.
- For regional councils to liaise closely with operators (incumbent and other) in the development of RFT service specifications; and to be willing to consider adjustments of contract payments to encourage service improvements during the life of the contract. (This practice already occurs in some regions.)

The merits of an area franchise system or of a system having a greater emphasis on "commercial" services, as a means of increasing commercially-oriented incentives, are discussed later.

3.2.4 Declining Patronage

Most submitters did not consider that declining patronage was a substantial concern, or at least not a concern related to the present regulatory system. The dominant view expressed was that declining patronage was largely a result of underlying economic trends, rather than the TLR system. However it was noted that the changes and publicity associated with TLR did have an adverse effect on patronage, and that any changes and uncertainty about services are likely to have adverse effects.

Earlier concerns about patronage declines have recently reduced, in the light of the reduced rate of decline and some increases over the last 1-2 years. Some views were expressed that patronage was now increasing at a healthy rate, and that there would need to be very good reason to "rock the boat" in this situation.

Our views are that:

- The single largest influence on patronage trends over the last 5-10 years has been the underlying economic situation, with its effect on CBD employment in particular.
- In some centres patronage was adversely affected (in some cases substantially) by the uncertainty, service/operator changes and bad publicity associated with the introduction of TLR - rather than by any actual changes in service levels or quality.
- It is unclear whether present overall patronage levels are higher or lower than they would have been if the pre-1991 system had been continued.

What is important is that services be market-responsive in order to ensure that their usage is encouraged. As a broad generalisation, it might be said that they were relatively unresponsive under the pre-1991 regime and remain so now. There are a number of means of achieving a more market-responsive system, as discussed above in the previous section. A further requirement is for reasonable stability of services. The recommendations of the previous section essentially also apply to this issue.

3.3 Other General/Policy Concerns

3.3.1 Overview

This section covers those significant concerns raised of a general/policy nature, additional to the four original concerns discussed in the previous section.

Appendix B sets out, in Table B2, the main general/policy points raised by the individual submitters, and includes the solutions/changes to meet these concerns which were put forward in many cases.

Table 3.3 provides a summary of these concerns and suggested solutions/changes grouped by issue category. (It does not include the four original concerns which were covered in the previous section.) For each area of concern, Table 3.3 covers:

- its apparent cause
- our assessment of its validity
- our assessment of its extent/importance
- some possible solutions
- implications arising from these solutions.

There are obvious difficulties in trying to assess the relative importance of different issues. However, it appears that the most important/strongest concerns (from the viewpoint of submitters) are as summarised in Table 3.4.

A number of the concerns noted in Tables 3.3, 3.4 result from the nature of the present system of economic regulation being adopted for passenger transport (broadly, a commercial service system in conjunction with competitive tendering). To the extent that these concerns are valid, cannot be accommodated within the present regulatory system and CPP framework, and are to be addressed, then this is best done by changes to the regulatory system. Some potential such changes are described in Section 3.4 following.

Other concerns set out in Table 3.3 would clearly not require changes to the overall system of economic regulation. Some suggested solutions to the most important concerns identified in this category are included in Table 3.4.

The following sub-sections address each of the strongest areas of concern (as in Table 3.4), and summarise our views on the validity of the concerns expressed, on possible solutions and their implications and on consequent recommendations. They need to be read in conjunction with Tables 3.3, 3.4. As appropriate, reference is made to other sections of the report, where the issues are more fully addressed.

3.3.2 National Public Transport Policy and Funding Issues

There was a call, particularly from operators, for a clear statement of national policy relating to the role and funding of public transport. The absence of clear national objectives and policies was seen as symptomatic of the lack of Central Government commitment to public transport.

We believe that government intervention in the provision of public passenger transport may be warranted on three main grounds:

- **Economies of scale.** There are strong economies of scale in the total (operator plus user) costs of public transport³. Where there are economies of scale, the average cost (which would be charged in a commercial market) is higher than the marginal cost (which is the price which should be charged to maximise social and economic benefits). Therefore a fully commercial market would provide less than the social optimum level of service.

³ If the value of the time spent accessing (walking and waiting) and travelling on public transport is included, these user costs are a significant proportion of the total social cost of travel. Increasing the number of people using the system leads to increased frequencies, or route coverage, which reduces the access cost for existing users.

There is thus a case for public subsidy on economic efficiency grounds, to maximise economic benefits.

- **Congestion.** Where roads are congested, the motorist does not currently pay the full social cost associated with his/her use of the road. The optimum solution to this deficiency would be a more economically efficient road pricing system, including a component of congestion pricing on motorists (such a system may result from the current Land Transport Pricing Study). In the absence of such a system, a "second-best" solution is to subsidise public transport in congested situations, in order to attract potential motorists and thus reduce total resource costs of the transport system.
- **Transport disadvantaged.** The almost universal availability of the motorcar has greatly enhanced the mobility of most of the population, but has led to changes in the social infrastructure (closure of local shops, etc). Public transport services have declined with declining patronage, yet transport is more important than ever to gain access to the necessities of life. This has left those without access to a car doubly disadvantaged, and indicates a case for subsidy on social/equity grounds.

In addition to these three grounds, there are also arguments for government promoting public transport and its use, for its contribution to sustainability goals and to environmental (global and local) and safety goals.

We believe it would be desirable for a clear statement at the national level of the desired future role of public transport, of the way in which it might contribute to national objectives, and of the basis of national funding to help achieve these objectives. This statement would need to be framed in the light of the findings from the Land Transport Pricing Study. The proposed National Land Transport Strategy would seem the appropriate place for such a statement.

It should of course be recognised that national policies will provide no more than a broad policy and funding framework for the provision of local public transport services. Within such a framework, each regional council would continue to be responsible for setting its own regional objectives and priorities, for determining the appropriate types and level of service to best meet these objectives, and for raising the major part of any public funding required.

A further benefit of adoption of a clear funding policy for public transport at the national level would be to remove or reduce the risk of operator contracts being cancelled due to lack of government funding. This risk in existing contracts was of substantial concern to some operators and seems likely to inhibit competition and maybe increase tender prices. We make a number of suggestions as to how this problem may be overcome, involving guarantee of continued funding over the life of existing contracts, from TNZ/national government and/or regional councils. This issue is discussed further in Chapter 4.

It is recognised that work is currently in progress on the preparation of a National Land Transport Strategy and on the development of Government funding policy for passenger transport: the concerns covered in this section may be met when this work comes to fruition.

3.3.3 Nature of the Transport Law Reform System

A number of operators voiced the view that the TLR system produces an excessive focus on the tendering/contracting process and on cost minimisation, to the detriment of service

quality and user orientation. It was suggested that the system has been successful in reducing unit costs but might now have outlived its usefulness. It was not clear whether the criticisms are primarily directed at the CPPs, or at the wider TLR system.

In our view the concerns are only partly valid:

- The CPPs are the means only of procuring services and are only one part of the overall TLR package. The major responsibility for service quality etc lies with regional councils, through their approach to service specification.
- The competitive tendering system has undoubtedly placed a greater focus than previously on cost minimisation, but this is within whatever service specification and standards are stipulated by the regional council. However, it is probably fair to comment that regional councils have been somewhat cautious in encouraging tenders that provide better than the minimum service requirement.
- There is no doubt that the tendering process and issues associated with it (eg. commercial service tactics) have tended to take up substantial time of both regional council staff and operator managements, maybe to the detriment of developing more attractive services. This problem is likely to remain, but may become less severe now all parties have become familiar with the tendering process.

The overall issue is about striking the optimum balance between:

- maintaining a competitive market and continuing pressures on costs, through offering services for competitive tendering with reasonable frequency; and
- achieving stability/continuity of services, for both operators and users, through less frequent tendering procedures and longer/larger contracts; and providing an appropriate framework and incentives for regional councils and operators to provide attractive user-oriented services.

We make a number of recommendations elsewhere in the report which impinge on this issue, particularly:

- Further investigation of the scope for introducing output-based funding, either within the existing regulatory/CPP system or within an alternative system. This should provide improved incentive structures for operators, thus encouraging service innovation and quality improvements (refer Section 3.2.2).
- Introduce more flexibility in terms of contract lengths, which is likely to increase average contract durations and reduce the extent of retendering.
- Investigate alternative regulatory systems, including area franchise systems: this could result in larger and longer contracts, with increased operator responsibility for service planning and a reduction of resources involved in the tendering process.

3.3.4 Nature of CPPs

A number of operators and regional councils criticised the CPPs in general terms, principally for being too inflexible or prescriptive. Others criticised the CPPs on the grounds that:

- They were too prescriptive in some respects, not sufficiently prescriptive in others.

- They were not prescriptive enough, effectively resulting in very different tendering procedures in different regions.
- They were too limited, focusing almost entirely on competition objectives at the expense of the other CPP requirements of the TNZ Act.

Not unexpectedly, the view that the CPPs are too prescriptive came largely from regional councils. To the extent that operators also took this view, it was not clear whether their criticism was of the CPPs themselves, or the overall tender/contract package offered by the regional council concerned.

In our view, the main issue here is the extent to which TNZ should define mandatory national procedures rather than leave the determination of procedures to the discretion of each regional council (provided, under the existing legislation, that these procedures are consistent with TNZ Act S19). Our suggested approach on this issue is described in Chapter 4. Recommended elements in this approach include:

- Ensure that the mandatory CPP requirements focus on the key aspects needed to meet the objectives of the TNZ Act (Section 19). Other aspects would be generally covered by CPP Guidelines.
- Encourage regional councils to take a flexible approach towards service improvements at all stages, ie. in service specification at the pre-tender stage, in tender evaluation and during the life of the contract.
- Investigate improved operator incentive structures, such as through output-based funding.
- Clarify that TNZ will consider alternative CPPs submitted by regional councils, provided they are consistent with the requirements of the TNZ Act.

3.3.5 Commercial Service Issues

The general issue raised under this heading was that the present regulatory system involving two types of services, commercial and contracted, does not work very successfully in practice. Problems stem both from the legislation itself and the practices applied by the regional councils. The main problems arise at the interface between commercial and contracted services:

- In many cases, operators resort to "tactical" notifications of commercial services, to protect their market share. But these are very liable to be withdrawn. The result may be continual service changes and high administrative costs for those services that are at the margin of being commercially viable.
- A particular case of this problem is the practice of regional councils encouraging commercial notifications following the selection of a preferred tenderer but before contract award. This particular problem is discussed in more detail in Chapter 4 and not covered further here.

These problems were raised by a number of submitters, particularly the larger regional councils. We would also comment on other problems relating to commercial services (which were not given much prominence in the submissions). These relate primarily to the lack of direct influence of regional councils over such services, which has a number of aspects and implications:

- Regional councils cannot control service or vehicle standards for commercial services. However they can indirectly influence these by threatening to "contract over" if they

- consider the standards inadequate.
- Similarly, regional councils cannot control fares on commercial services: again they may "contract over". In practice, given the overall dominance of contract services in most centres, the prevailing fares are effectively those set by the regional council for contract services, and these are broadly followed by commercial services.
- Operators are not obliged to provide any information on the performance of commercial services, other than that required for registration purposes (timetables, fares etc). This means, inter alia, that no comprehensive information is available to regional councils or TNZ on patronage within each region.

These deficiencies inherent in the present "mixed" system are, in our view, of some significance. They suggest the case for changing to an alternative regulatory system which reduces or eliminates the distinction between the two types of service. Possible alternatives are a system with a much higher proportion of "commercial" services, or a system under which all services are contracted. Alternative regulatory systems of this type are discussed in the next main section (3.4).

3.3.6 Service Planning and Innovation Issues

The issues here are that:

- Operators are being given little responsibility for detailed service planning: this has been largely taken over by regional councils, with the result (in the view of operators) that services are less responsive to the market and provided less efficiently.
- The development of new and/or innovative services is difficult under the present contracting and funding procedures, as these lack sufficient flexibility.

These concerns primarily, but not solely, come from operators. The original concern about "lack of operator incentives to improve services" relates to these issues, and the discussion/recommendations relating to this original concern also apply in this case (refer S3.2.3).

3.3.7 Treatment of High Capital/Fixed Asset Modes

The main issues arising under this heading were:

- The difficulties of achieving a reasonable level of contestability in the case of a monopoly supplier (eg. NZ Rail Ltd in terms of urban rail services). Some submitters claimed that the "Sole Supplier" CPP does not constitute a proper competitive process; while others opposed any policies protecting the rail services from bus competition.
- The difficulties of procuring in an efficient manner services which involve substantial fixed assets and with a long asset life.

We consider that the concerns expressed are largely valid. There are major difficulties in this area and it could certainly be claimed that the "Sole Supplier" CPP process only has limited elements of contestability. Further review of the best approach in this area would be warranted (the issues were not given great prominence in the submissions). At this stage our conclusions/recommendations for high capital/long asset life modes relate to:

- The importance in any arrangement of retaining competitive pressures on costs.
- Further exploration of the merits of contracting infrastructure and/or rollingstock on separate (longer) contracts than for operations, and possibly of changing the legislation

to allow regional councils to own such assets.

3.3.8 Concessionary Fares Issues

The main issue under this heading was that the present concession fares procedures (CPP Chapter 4) are unsatisfactory and cumbersome, and that concession fares should be determined by regional councils along with other fares. We agree that the present procedures are unsatisfactory in administrative terms, and are dubious of the competitive nature of the process involved. However, we recognise that they were added to the original CPPs in response to a legislative amendment (originally concession fares were to be exempt from CPP requirements).

In our view, the preferred approach would be to delete the present concessionary fare provisions (involving the concessionary fares committee requirement), and allow regional councils to determine concession fares (and reimbursement arrangements) along with other fares. The commercial service process would be taken as constituting the competitive pricing procedure as required under the existing legislation: however legal advice would need to be sought as to the acceptability of this approach. If it is not acceptable, then we suggest the possibility of a legislative change should be examined.

3.4 Alternative Economic Regulatory Systems

3.4.1 Features of Economic Regulatory Systems

The system of economic regulation adopted is concerned with the issues of allocative efficiency (the type and level of services provided) and productive efficiency (minimising the costs of a given level of service). Economic regulation may involve price control, output (service level) restrictions and entry control.

Allocative efficiency relates to the services and fares that are provided. A key issue here is how the appropriate services/fares are determined and who is responsible for decisions on this. Two broad approaches are possible:

- Decisions on services/fares are largely made through the commercial market, ie. any (approved) operator can offer whatever services at whatever fares they like, on a commercial basis (ie. no public funding is usually involved).
- Decisions on services/fares are largely made by a public regulatory body (the RCs in NZ), and these services are then secured from operators by some process.

It is the policy adopted in this area of service/fare determination that primarily characterises the different economic regulatory models. The present NZ system combines elements of both the above approaches to service/fare determination: commercial services are first determined by operators, and the remaining services required are then largely defined by the RCs (with maybe some operator input) and secured through the competitive tendering process.

Productive efficiency is concerned with minimising the costs of the defined level (and quality) of services. World-wide experience is that competition, or the threat of it, is the key feature needed to help achieve productive efficiency.

Competition may occur through either or both of the following approaches:

- Competition in the market (on the road). This occurs when operators provide competing services on the road, directly competing for passengers. Such services would normally be provided on a commercial basis, but this is not essential. The UK (outside London) provides the major example of such a policy. In practice, the extent of direct "head-to-head" competition in UK has been modest, but there is always a threat of competition under this "deregulated" system.
- Competition for the market. This is when operators compete for some sort of contract to provide services. Such competition would normally be through a competitive tendering process, although in some cases productive efficiency has been sought more through the application of industry standards or benchmarks (sometimes known as "benchmark contestability"), maybe accompanied by the threat of tendering, rather than through an actual competitive tendering process. Competitive tendering processes are characterised by several key features:
 - how the service is defined, and by which party
 - the basis of selection of the preferred operator
 - the basis of determining payments to the operator.

3.4.2 The Present NZ System

The system of economic regulation introduced in NZ under the transport law reform legislation may be described broadly as a deregulated system (commercial services) supplemented by a system of competitive tendering for "gap-filling" contracts.

The NZ system is superficially similar to the UK (outside London) model of "deregulation" or "service competition". However, there are a number of features of both the NZ environment and the way that the NZ system has been specified (through the legislation and the regulations) and applied in practice (by the RCs) that make the resultant system very significantly different from that applying in the UK.⁴

The present NZ system is radically different from the pre-1991 system in NZ, particularly through the following features:

- Clear separation of regulatory policy (TNZ and RCs) from provision of services (corporatised or private operators).
- Introduction of competition (or threat of it) for all services, by replacement of the previous monopoly area franchises with the new deregulated/contracted system.
- Introduction of "commercial" services, over which regulatory authorities have limited influence.
- Introduction of CPPs to provide a framework for the competitive tendering process for all services involving public funding.

The legal framework for the current system is principally covered by the Transit New Zealand Act (1989) and the Transport Services Licensing Act (1989), and their subsequent amendments.

3.4.3 Concerns Relating to the Present NZ System

The general/policy concerns with the present system raised by submitters have already been summarised - in Tables 3.2, 3.3 and 3.4 in particular. From this earlier appraisal, a number

⁴ Note that this is not to suggest that the NZ system is inherently better or worse than the UK system, or indeed that the differences make it inherently deficient.

of concerns/issues have been identified which in our view:

- are valid, in whole or part
- are of some relevance and importance
- might be addressed/ameliorated by changes in the present system of economic regulation (or in some cases possibly by changes to the present CPPs and adoption of a more innovative approach without amending the current legislation).

These concerns are in summary as follows:

- There is excessive focus on the tendering process and cost minimisation, at the expense of orientation of services to meet the needs of users.
- Regional Councils are inefficient and not sufficiently market-oriented in service planning.
- Operators lack incentives to develop/improve services.
- The current system discourages industry investment.
- Service integration is difficult under the current system.
- The present regulatory system is unsuccessful, particularly at the interface between commercial and tendered services.
- Funding requirements for different services are not transparent.

A number of submitters who expressed one or more of the above concerns (and some who did not) made suggestions for major modifications to the existing regulatory system, or for adoption of a specified alternative system. Several submitters considered the present NZ regulatory system as an uncomfortable and unsatisfactory hybrid between the "full deregulation" model (as adopted in the UK, outside London) on the one side, and the "full contract" system (as adopted in London) or the "area franchise" system (as adopted for private operators in Sydney) on the other side. However, it is perhaps notable that, for any given concern, there was a considerable range of views on the preferred alternative system which would best ameliorate that concern.

3.4.4 Alternative Regulatory Systems

As noted above, the existing NZ system involves components of "deregulation" (service provision on a full commercial basis) and of competitive tendering on a route basis for publicly-funded services. Starting from this position, two very different directions for change have been identified (from our own appraisal and the views of submitters): to a "deregulated/commercial"-oriented system, or to an "all contract" or "area franchise" system. The present system and these alternatives are summarised diagrammatically in Figure 3.1.

An overview of these alternatives is as follows:

- **"Commercial" System.** The main thrust of this system would be to maximise the extent of provision of "commercial" services, ie. services for which operators could cover their costs without bidding for subsidy funds (but which may involve measures to "artificially" inflate revenues and reduce costs). A range of measures could be adopted to achieve this (see diagram). The system would become "market driven" rather than "contract driven" (eg. in terms of price-setting), and the powers of RCs to restrict/discourage commercial services would be much more limited than now. Operators would be responsible for planning most of the services, although some residual contracted services might still be expected. (The system would be generally similar to the present UK (outside London) system.)
- **"All Contract" or "Area Franchise" Systems.** These systems move away from the present system in the opposite direction, ie. to abolish the concept of commercial services

and to make all services subject to tendering/ contracting procedures. Contracts could be negative (ie the operator pays a fee to the tendering authority) or subsidised (as now).

Under the "**All Contract**" system, the form of contracts could be kept very much as now, with gross cost or net subsidy bidding and funding. Service planning would be largely left to the RCs, although (as now) greater or lesser latitude could be given to operators. (This is similar to the present London model, which has hitherto involved gross cost contracts, but is to be converted to net subsidy contracts.)

A variant of this is the "**Area Franchise**" system. This essentially brings a number of geographically adjacent services together into a single area contract. Establishment of an area monopoly for a specified operator (at least for the contract duration) gives more scope for the operator to plan services in the area in an integrated manner (within broad service guidelines defined by the RC). Typically area franchise systems are characterised by longer duration contracts than route-based systems and maybe a lesser degree of contestability, although this does not have to be so. Contestability may be achieved by benchmarking procedures (with the threat of competition in cases of poor performance) and/or by periodic direct competition for the franchise. Payment may be on various bases: on a lump sum basis, or on an output (passenger kms etc) basis, or there may be no explicit subsidy. (The present Sydney private operator system is of an area franchise type, but with a very limited degree of contestability.)

This description and that in Figure 3.1 summarise the features typical of each of the alternative regulatory systems. Perhaps the key features which characterise any system are as follows:

- Role of commercial services.
- Extent and manner of contestability.
- Basis of service and fare determination.
- Scope of contracts (size; area v route).
- Basis of contract evaluation and payment.

However, it needs to be recognised that, in practice, a wide range of hybrid systems are possible (and exist in some places), combining features of the different models. For instance, long duration contracts might be applied in the "All Contract" system, just as in the "Area Franchise" system; or regional councils might retain prime responsibility for service planning under the "Area Franchise" system, just as in the "All Contract" system. It is clearly important in any debate about alternative systems that the proposed system characteristics are carefully specified.

3.4.5 System Characteristics and Impacts

Table 3.5 provides a summary of the key features of the existing regulatory system and each of the three alternative regulatory systems illustrated in Figure 3.1. The table presents information for the four systems, in comparative form, relating to:

- Basic characteristics of the system
- System performance in relation to amelioration of the four original industry concerns and of other concerns arising in the consultations.
- System performance in relation to the two main CPP-related objectives of the TNZ Act, ie. encouragement of competition and efficient use of public funds (in terms of both productive efficiency and allocative efficiency).

In interpreting this table, it is necessary to bear in mind:

- The previous caveat about the need to specify system characteristics carefully before

- drawing any conclusions about system performance.
- That the results are of a preliminary nature only, and that it is outside the scope of this project to provide a detailed assessment of the merits of alternative regulatory systems.

Examination of the Table 3.5 results (subject to these caveats) indicates the relative performance of the alternative systems in terms of the TNZ Act objectives and the industry concerns identified in the project. It is apparent that no one system is clearly superior to others in regard to addressing these objectives and concerns: a particular alternative system will be better than the existing on certain aspects, worse on other aspects.

This highlights that the overall merits of moving to an alternative regulatory system will depend on the trade-offs judged appropriate between different objectives and concerns: there is no one "best" solution unless these trade-offs are determined.

A number of the submitters themselves advocated a change to a specified alternative system of economic regulation, as a means of better meeting their concerns overall. These are noted in Figure 3.1:

- Of the operators, four advocated the "Commercial" system. Three of these indicated the "Area Franchise" system as an alternative. Another operator advocated this system as its first preference.
- Of the RCs, two advocated either an "All Contract" system or an "Area Franchise" system. A third advocated the "All Contract" system.

Other submitters suggested that the present regulatory system was operating reasonably satisfactorily, and that a clear-cut case needed to be made to justify any radical change.

There is a clear tendency in the views expressed for operators to prefer systems which give them greater control over decisions on services etc and which reduce their uncertainty; while RCs prefer systems which involve some form of contract with operators, which enables them to have a considerable degree of control over service specifications etc.

3.4.6 Conclusions to Date and Further Issues

The above appraisal indicates that there is not a clear-cut case for moving to an alternative regulatory system, either in order to ameliorate industry concerns or to better meet the CPP requirements of the TNZ Act. Whether an alternative system would be "better" in overall terms depends very much on the relative priorities to be given to specific issues and objectives: these are not fully defined at this stage.

Further work would therefore be necessary, both to define the most promising alternative systems and to evaluate their merits on a consistent basis against clearly-defined objectives, before any definitive view could be formed. It would also need to be examined whether any change in regulatory system should be mandatory (ie. would have to be applied in all regions), or permissive (ie. could be applied at the discretion of each regional council).

Furthermore, it is likely that legislative changes would be required (or, at least, desirable) in order to move towards any of the three regulatory alternatives defined:

- In the case of the "Commercial" system, the TNZ Act is likely to need to be changed to allow cost rebates (or revenue top-ups) to operators without requiring some competitive pricing process to determine the quantum of these.

- In the case of the ‘All Contract’ and ‘Area Franchise’ systems, the TSLA is likely to need to be changed to remove the concept of commercial services (or at least to allow regional councils to abandon this concept if they wish to pursue these systems). While it may be possible for a regional council to pursue an Area Franchise policy (for instance) without legislative amendment (but maybe requiring some CPP changes re contract size etc), such an approach may well face legal challenge.

In addition, our appraisal of CPP-related issues (in Chapter 4) suggests that many of the concerns expressed can be at least partly met by changes to the CPP Manual, within the existing legislation.

These factors lead us to recommend a two-pronged approach as most appropriate:

- In the short term (the next few months), to pursue amendments to the CPP Manual, within the existing legislation, to overcome or ameliorate many of the concerns expressed.
- In parallel, to further investigate the merits of alternative regulatory systems. This investigation would essentially compare the alternative systems with this improved existing system, in terms of their ability to meet the industry concerns and the objectives of the TNZ Act.

FIGURE 3.1: FUNDAMENTAL OPTIONS FOR ECONOMIC REGULATORY SYSTEM

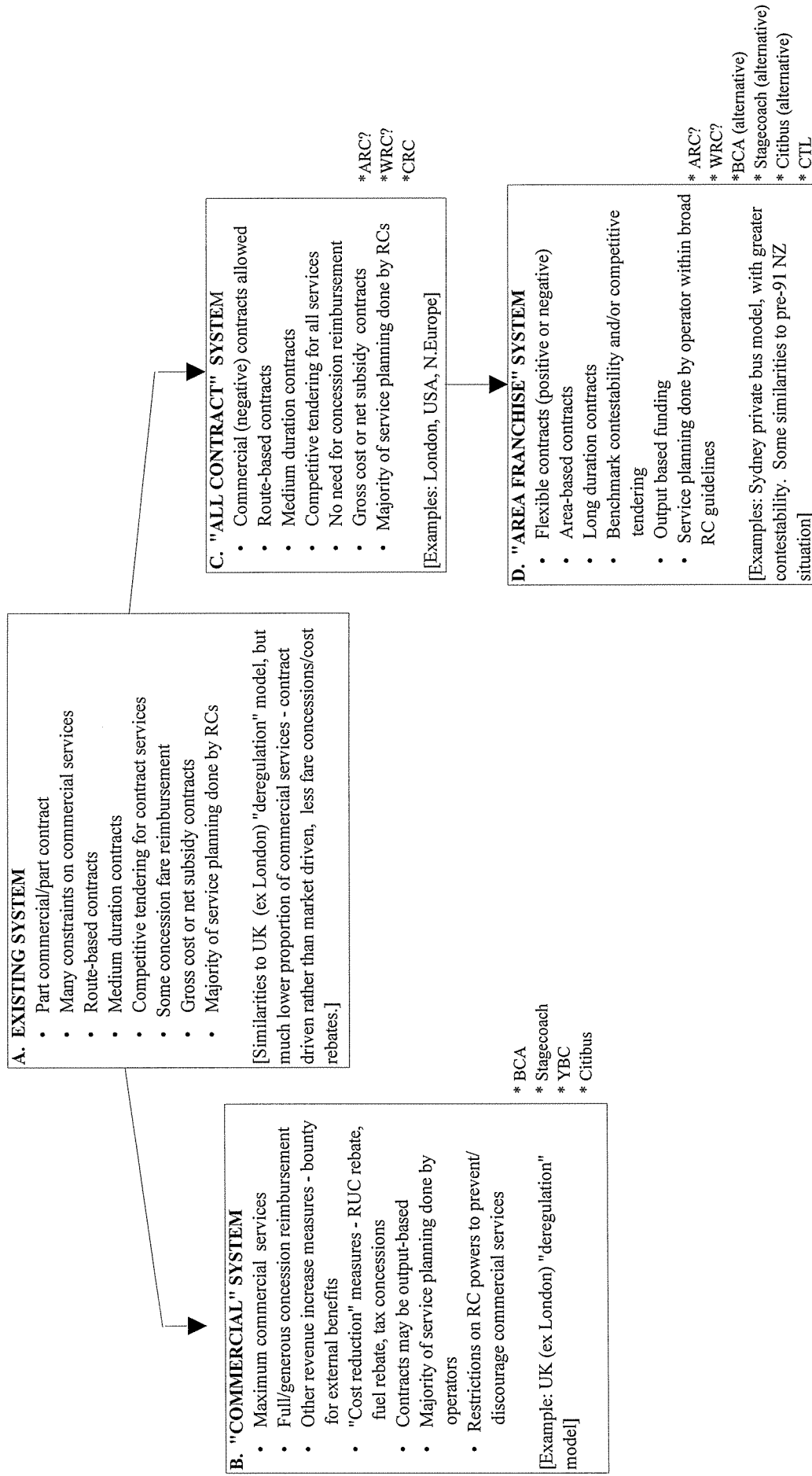


TABLE 3.1: ORIGINAL CONCERNS - ANALYSIS OF RESPONSES

Area of Concern	Extent of Concern	No. of Responses			Total
		PT Operators	Regional Councils	Other	
(A) Formation of Bus Coy. Monopolies	Major	2	-	1	3
	Moderate	2	1	-	3
	Little/none	3	2	-	5
	No view	10	4	6	20
	Total	17	7	7	31
(B) Lack of Investment	Major	6	-	-	6
	Moderate	1	-	-	1
	Little/none	1	3	-	4
	No view	9	-	7	16
	Total	17	7	7	31
(C) Lack of Operator Incentives re Services	Major	6	3	-	9
	Moderate	4	-	-	4
	Little/none	-	-	-	-
	No view	7	4	7	18
	Total	17	7	7	31
(D) Declining Patronage	Major	1	-	-	1
	Moderate	4	1	-	5
	Little/none	2	1	-	3
	No view	10	5	7	22
	Total	17	7	7	31

TABLE 3.2: ORIGINAL CONCERNS - APPRAISAL

Concern/Problem	Cause	Validity	Extent/Importance	Solutions	Implications
(A) Potential Formation of Bus Company Monopolies	<ul style="list-style-type: none"> RC tendering/contracting practices which tend to discourage competition eg. larger tenders, VQS, encouraging commercial registrations after announcement of preferred tenderer Suggestions of retaliatory behaviour by dominant operators if other operators compete with them Operator take-over of potential competitors. 	Valid concern, from viewpoint of smaller operators and authorities.	Not seen as a major concern by submitters. Potentially important if present type of CT system is to continue. Likely to lead (already leading?) to "monopoly" operators raising contract prices and thus increasing funding requirements.	<p>(A) Individual RCs to change practices within present CPPs to give greater attention to fostering a competitive market over the medium term (eg. tender size, commercial registration practices).</p> <p>(B) Add maximum market share limitations to CPPs</p> <p>(C) Disallow RCs from registering commercial services after closing date for tenders</p> <p>(D) Introduce area franchise system, with proper degree of contestability, to formalise the "area monopoly" concept.</p>	<p>(A) Up to RCs</p> <p>(B) Needs CPP revision, appropriate to individual regions CPPs</p> <p>(C) Leave to RCs or modify CPPs</p> <p>(D) Refer Section 3.4.</p>
(B) Lack of Industry Investment	<ul style="list-style-type: none"> New regulatory regime, with corresponding uncertain "settling in" period Lack of adequate standards in RFTs to require asset renewal/upgrading Emphasis on lowest price in tender evaluation Short contract duration relative to typical bus life. 	Generally valid, although problem being reduced by RC adoption of VQS. However, the continuing uncertainty for operators still does not provide a confident climate for reinvestment.	Regarded as a major concern by operators. Consider that it is important, but becoming somewhat less so with VQS adoption.	<p>(A) Development and adoption of VQS by each RC</p> <p>(B) Longer contracts</p> <p>(C) Reintroduce non-contestable monopoly situation, maybe with specific capital funding arrangements.</p>	<p>(A) Likely to increase PT funding levels over what would otherwise be required. In general seems unlikely that costs for higher VQS will be offset by increased patronage and revenue. Also may discourage competition</p> <p>(B) Not clear that marginal increases in contract duration will have much impact on investment; and may reduce competition</p> <p>(C) May solve investment problem; but likely to lead to higher costs; poorer service quality etc.</p>
(C) Lack of Operator Incentives to Improve Services	<ul style="list-style-type: none"> Contracted services largely specified by RCs, leaving little flexibility for operator Tender evaluation usually does not give recognition to higher standards/levels of service Even under net contracts, operator incentive is small, as any revenue gain will only accrue for duration of contract No ready mechanism for service innovation/trial by RC and operator in partnership. 	Valid concern. However in many respects the current situation is no worse than pre-1991.	Major concern of submitters. We consider that it is very important. Most effective means of achieving market-responsive services likely to be by service providers with a strong financial incentive.	<p>(A) Output-based funding of contracts, with more flexibility in RFT service specification and for varying services during contract</p> <p>(B) Increase proportion of commercial services by range of measures (refer Section 3.4)</p> <p>(C) Adopt area franchise system with output-based funding</p> <p>(D) Introduce procurement and funding procedures for development of trial/innovative services, by RC/operator partnership.</p>	<p>(A) Possible under existing CPPs</p> <p>(B) Refer Section 3.4</p> <p>(C) Refer Section 3.4</p> <p>(D) Require CPP change.</p>
(D) Declining Patronage	<ul style="list-style-type: none"> Underlying economic trends Adverse publicity relating to establishments of new system (1991) Perceptions of deterioration in service quality (old vehicles etc) Almost any change may have adverse patronage effect in short term. 	Some validity. Continual changes under new system likely to have adverse patronage effects.	General view from submitters that not very major/important problem. However, in medium/long term, lack of operator investment and of incentives to improve services (B, C above) will result in lower patronage than otherwise.	<p>(A) Ensure services are market-responsive (refer Concern (C) above)</p> <p>(B) Secure adequate investment in the industry (refer Concern (B) above)</p> <p>(C) Adopt all-contract system (ie. abolish commercial service system), to ensure greater stability of services.</p>	<p>(A) Refer Concern (C) above</p> <p>(B) Refer Concern (B) above</p> <p>(C) Refer Section 3.4.</p>

TABLE 3.3: GENERAL/POLICY CONCERNS - SUMMARY OF RESPONSES

Submitter (Reference)	Concern/Problem	Cause	Validity	Extent/Importance/Relevance	Solutions	Implications
(E) General PT Policy, Funding and Organisational Issues						
BCA (1,2), CTL(2)	<ul style="list-style-type: none"> TLR objectives not clear and appear not to have been achieved; appears to be undue emphasis in practice on cost reduction. 	<ul style="list-style-type: none"> Absence of comprehensive document setting out TLR objectives in any detail. Lack of national policy statement on PT role, funding etc. 	Some validity re clarity of objectives. Certainly appears that not all TLR objectives have been achieved. CPPs have major focus on competition and costs, but they are only a component of TLR system.	Important to have clear objectives and policies.	<ul style="list-style-type: none"> Clear Government statement on PT objectives, policies and funding. May be partly provided through proposed National Land Transport Strategy (further work on funding policy still required). 	<ul style="list-style-type: none"> Provide firmer base for policy development. However, national policies will still need to leave considerable discretion to RCs.
BCA (8)	<ul style="list-style-type: none"> Need to review PT funding levels, acknowledging external benefits of PT system. 	<ul style="list-style-type: none"> Lack of clear MoT/TNZ policy on PT funding criteria. 	Valid concern. TNZ needs to develop firmer basis for PT funding, including PT v roading etc trade-offs. This then needs to be accepted at political level.	Important issue for Govt/TNZ. However will not necessarily result in greater PT funding overall. Not relevant to CPPs.	<ul style="list-style-type: none"> Further research on benefits of PT (through TNZ, Land Transport Pricing Study etc), together with TNZ being allowed to implement an optimal funding assistance policy. 	<ul style="list-style-type: none"> May increase overall level of PT funding.
WCC (2)	<ul style="list-style-type: none"> Need for closer monitoring by TNZ of RC practices (even if TNZ PT funding role is reduced). 	<ul style="list-style-type: none"> RCs seen as not always acting to provide best value for money in service provision/procurement. 	Some validity. Present monitoring largely confined to conformity of procedures with CPPs.	Very relevant to the frustrations being expressed: the system adopted by some RCs leaves itself open to manipulation and criticism of "the system"; often by those who are manipulating it.	<ul style="list-style-type: none"> Introduce a national system of monitoring value for money of PT services (currently under development by TNZ). Maybe extend CPP monitoring to cover conformity of RC practices with intent of TNZ Act (S19). 	
(F) The TLR System						
BCA (4), Stagecoach (6), Citibus (1), CTL (3)	<ul style="list-style-type: none"> The system produces an excessive focus on tendering/contracting issues, and cost minimisation, rather than on providing high quality, user-oriented services. 	<ul style="list-style-type: none"> Too much tendering. Inadequate incentive structures. Tendering system encourages "lower price conforming tender" approach, rather than service innovation, improvement etc. 	Some validity. Much of problem relates to RC service specification, rather than CPPs; but CPP approach is a contributor to problem.	Considerable/relevance/ importance in achieving high standard services.	<ul style="list-style-type: none"> Partial solution within present CPP framework through improved tendering procedures, regulations, monitoring and enforcement by RCs. Improvement of incentive structure, through output-based funding etc. 	
CTL (9)	<ul style="list-style-type: none"> TLR system has produced efficiency gains, but may have outlived its usefulness. 		May be valid. Not obvious that there are still big savings to be rung out of industry through reduced input costs (except perhaps in Auckland). Now savings largely achieved, may merit in reducing extent of continued price testing in favour of increased emphasis on service effectiveness issues.	Important issue: the continued testing/uncertainty goes to the crux of the dissatisfaction with the TLR regime.	<ul style="list-style-type: none"> Longer duration and maybe larger contracts. Area franchises with infrequent or indirect contestability. 	<ul style="list-style-type: none"> May reduce extent of competition, with adverse effect on funding requirements.

TABLE 3.3: GENERAL/POLICY CONCERNS - SUMMARY OF RESPONSES/contd.

Submitter (Reference)	Concern/Problem	Cause	Validity	Extent/Importance/Relevance	Solutions	Implications
Whenuapai	<ul style="list-style-type: none"> Need for review of whole PT legislative framework (not just CPPs). 	Various: danger of monopolies; lack of operator incentives, etc.	Difficult to establish validity from reasons given.	Most concerns appear able to be addressed within the thrust of the existing legislation, albeit with selective minor amendments (eg RC ability to decline commercial notifications on wider grounds)	Outcome of this project may lead to review of legislative aspects.	
(G) Nature of/Responsibilities for CPPs						
ARC (1), WRC (2), ORC (16), SRC (1), NSCC (1), BCA (13) CTL (4), ALL (4), Citibus (1)	<ul style="list-style-type: none"> CPPs too prescriptive/inflexible. 		RCs able to seek amendments or to have their own alternative CPPs approved. Few have sought this though, which seems to weaken this argument.	The system needs to be able to accommodate legitimate situations which differ from the norm. The current (main) CPPs do not offer this flexibility. Indeed CPPs are input oriented, rather than being output focused. Improved monitoring of RC performance may permit more relaxed CPPs.	<ul style="list-style-type: none"> Encourage RCs to submit alternative CPPs to overcome perceived difficulties. Reduce mandatory requirements in present CPPs, transfer material to guidelines. Change present (TNZ) CPPs to broad guidelines/code of practice (as in UK), and leave details to RC. 	
BOP RC (1)	<ul style="list-style-type: none"> CPPs too prescriptive in some areas, too general in others. 	Almost inevitable with a document applying to wide range of situations.	Some validity: relates back to individual RC circumstances.	Would not be important if TNZ more inclined to approve alternative CPPs (provided that the likely outcome was in accord with S19 of TNZ Act).	As above.	
WRC (1)	<ul style="list-style-type: none"> CPPs too limited - focus on competition objectives only, rather than other requirements of TNZ Act (S19). 	Basis on which CPPs were developed	Not valid. Main focus of CPPs is on competition and cost efficiency issues, but this is consistent with Act S.19. Service quality etc is to be achieved through RC policies and CPPs.	Seems unlikely that additional focus on other aspects of S19 of the Act would have any real impact on reducing criticism of the resultant CPPs.	<ul style="list-style-type: none"> Reduce emphasis on "lowest price conforming tender" by some word changes, revised CPP guidelines etc. Provide improved incentive structures in tendering etc process. 	
Cesta (1)	<ul style="list-style-type: none"> Operators discouraged from tendering in different regions because of differences in tendering procedures between regions 	Tendering/contracting rules in each region largely at discretion of individual RCs.	Limited validity. However main reason operators don't tender in other areas is because they are wedded to their home patch and/or do not want to attract competition themselves.	Minor importance.	<ul style="list-style-type: none"> Problem only solved if adopt uniform national tendering/contracting procedures. This would go against other requirements and is not recommended. 	

TABLE 3.3: GENERAL/POLICY CONCERNS - SUMMARY OF RESPONSES/contd.

Submitter (Reference)	Concern/Problem	Cause	Validity	Extent/Importance/Relevance	Solutions	Implications
(H) Commercial Services Issues						
ARC (11), WRC (7), CRC (2), YBC (1)	<ul style="list-style-type: none"> Mixed system of commercial and contracted services is not successful. Operators are forced into tactical commercial notifications to protect their business 	<ul style="list-style-type: none"> Present hybrid (commercial/contract) system. 	Valid. Mixture of contracted and commercial services, at NZ ratios, seems to be a poor arrangement: "tactical games" at interface between commercial and contracted systems appear not to be in public interest.	Important issue, very relevant to merits of changing to different regulatory system. Present system is an unsatisfactory hybrid between two alternative "pure" systems, and its advantages over these "pure" systems are dubious.	<ul style="list-style-type: none"> Change to more "commercial" system. Change to "all contract" system (refer S3.4). 	See S3.4.
NSSC (2), Cesta (7), CFC (1)	<ul style="list-style-type: none"> Practice of accepting commercial service notifications in the middle of the tendering process gives substantial problems. 		Valid. Practice disrupts the tendering process and discourages competition.	Important. This practice destroys the integrity of the process and favours larger operators over smaller operators.	<ul style="list-style-type: none"> Refer Chapter 4. 	
(J) Service Planning Issues						
BCA (5-7), Stagecoach (6), Akarua (1), YBC (5), Citibus (4,5)	<ul style="list-style-type: none"> Excessive involvement of RCs in service planning: they are not close to the market, and produce poor solutions 	<ul style="list-style-type: none"> Large proportion of contracted services. Route-based contracts adopted by all Res RC tendency to specify services in detail - control, easier tender evaluation 	Probably valid. Operators should be closer to the market than RCs, but not clear in practice whether they produce better solutions.	Highly relevant/important. Key issue in selection of regulatory system is responsibilities for service planning. Fundamental choice is whether operators should be responsible (with appropriate incentives), or whether should be left to RC.	<ul style="list-style-type: none"> Need for appropriate incentive structures, and alignment of service planning responsibilities with incentives. Preferred solution probably for operator to plan services within general RC guidelines. This could be assisted by area franchise system, or by largely commercial system. 	
ARC	<ul style="list-style-type: none"> Difficult to achieve service integration. 	<ul style="list-style-type: none"> Range of operators, mixed commercial/contract system. 	Valid. Service integration may be important in some situations (though sometimes pursued by RCs when it does not necessarily provide the most cost-effective solution). Lack of control over commercial services complicates the integration task, when integration of contracted services (and ticketing) is hard enough already.	Important, although should not dominate other considerations.	<ul style="list-style-type: none"> All contract or area franchise system, with RCs specifying integration requirements. 	
(K) Service Innovation						
CRC	<ul style="list-style-type: none"> Lack of any incentives to develop innovative services 		Valid	Important.	<ul style="list-style-type: none"> Allow RCs to have limited funding (outside CPPs) to be allocated to such projects in partnership with operator. 	

TABLE 3.3: GENERAL/POLICY CONCERNS - SUMMARY OF RESPONSES/contd.

Submitter (Reference)	Concern/Problem	Cause	Validity	Extent/Importance/Relevance	Solutions	Implications
ALL (2)	<ul style="list-style-type: none"> Need flexibility in contract procedures so as to encourage private sector promotion/development of PT projects. 	Valid. Contract procedures are needed that recognise previous investment in development of project - otherwise the private sector will not invest (eg. LRT projects)	Likely to be very relevant/important in terms of private sector involvement in major new projects (eg. LRT) and in service innovation generally (see above).	<ul style="list-style-type: none"> Allow negotiation with preferred operator in such cases. Allow tender evaluation procedures to be modified to take account of past investment on the project. 		
(L) Form of Contract						
YBC (1)	<ul style="list-style-type: none"> Difficult to identify levels of funding and value for money for different services/user groups. 	<ul style="list-style-type: none"> Payments are input-related (not output-related), so patronage data largely not available. 	Largely valid. However, likely to be only partially overcome by alternative systems.	Some importance/relevance.	<ul style="list-style-type: none"> TNZ to establish standard approach to assessing service value-for-money nationally. Encourage/introduce output-based funding for contract services, together with full concession reimbursement scheme on commercial services. 	
(M) High Capital/Fixed Asset Modes						
ARC (10)	<ul style="list-style-type: none"> Standard CPPs not appropriate for high capital/rail modes. 	<ul style="list-style-type: none"> Need to determine mode on strategic grounds. 5 year contracts too short relative to asset lives. 	Valid. Need different procedures (within CPP system or separately). These are already in use.	Significant importance/extent. At present overcome with "sole supplier" CPPs.	<ul style="list-style-type: none"> Present "sole supplier" CPP solution. 	<ul style="list-style-type: none"> Not entirely satisfactory: little different from pre 1991 service agreements, and does not induce sufficient cost efficiency pressures Result may be similar to now, under another name
EBC (1)	<ul style="list-style-type: none"> Sole supplier CPPs are anti-competitive. 	<ul style="list-style-type: none"> Only one owner of rollingstock etc for train (or trolley) services 	True, by definition: if there is only one supplier then there cannot be competition for the supply of that commodity	Significant importance/relevance. Present procedures adopted for rail (AKL, WLG) prevent trade-off between train and bus services, and hence make it difficult to exert pressures on rail costs.	<ul style="list-style-type: none"> Exclude rail etc from CPP and set up separate procedures. Separate infrastructure/rollingstock provision (initial tendering process) from operating contract Require RCs to seek tenders from both bus and rail operators, and make trade-off in tender evaluation (rather than resorting to "strategic" considerations). 	
WRC (3,4)	<ul style="list-style-type: none"> RCs are funding private operator acquisition of assets through the contract process 	<ul style="list-style-type: none"> In short contracts, operator endeavours to recover full asset cost over contract life, which is much shorter than asset life. 	Valid generally, for longer-life assets. Principally a problem with non-competitive (sole supplier) contracts.	Relevant to long-life assets/sole supplier contracts.	<ul style="list-style-type: none"> Contract infrastructure/rollingstock separately from operations (as above). Allow joint venture arrangements RC plus operator. 	<ul style="list-style-type: none"> Change legislation to allow RC to own infrastructure rolling stock etc.

TABLE 3.3: GENERAL/POLICY CONCERNS - SUMMARY OF RESPONSES/contd.

Submitter (Reference)	Concern/Problem	Cause	Validity	Extent/Importance/Relevance	Solutions	Implications
ALL (3)	<ul style="list-style-type: none"> Contract duration needs to be related to asset lives. 		Some validity, principally for fixed assets and assets with limited market (eg. rail units).	Only relevant to the extent that the asset is non-transferable at the end of a contract and before the end of its economic life. (Note introduction of VQS and the mandatory need to invest).	<ul style="list-style-type: none"> Contract infrastructure/rollingstock separately from operations (as above) 	
ALL (1)	<ul style="list-style-type: none"> Need for fair procedures for other companies to negotiate operating rights on NZRL tracks. 	<ul style="list-style-type: none"> NZRL currently sole rail track owner and sole rail operator in NZ. 	Valid.	May be important. Clarify position under existing legislation	<ul style="list-style-type: none"> Not clear: not properly addressed when NZRL offered for sale?? 	
(N) Tender Evaluation Procedures						
CTL (8)	<ul style="list-style-type: none"> CPPs have excessive emphasis on lowest price in tender evaluation. 	<ul style="list-style-type: none"> Partly result of CPP specification, partly RC application. 	Some validity. However CPPs only a framework within which more detailed procedures are developed by RC.	Lowest price issue is an important consideration, but there is nothing to stop any RC from taking into account other factors.	<ul style="list-style-type: none"> Largely up to RC Provide improved guidelines in CPP Manual. 	
CFC (1)	<ul style="list-style-type: none"> Practice (WRC) of favouring incumbent operator in tender evaluation is undesirable. 		Valid, but no longer practised.	Some importance: incumbent should not be unfairly advantaged.		
(P) Concessionary Fares Issues						
WRC (14), ORC (15), BCA(17), Stagecoach (7),	<ul style="list-style-type: none"> Present concession fares arrangements unsatisfactory. 	<ul style="list-style-type: none"> Concession fares determined through different process from other fares. 	Valid (CFS arrangements were added to the CPP Manual following a legislative amendment to prevent abuse of CFS provisions.)	Important.	<ul style="list-style-type: none"> Delete CPP Ch 4. RC to determine concession fares and reimbursement arrangements as part of its normal fare policy role. Operators of commercial services would be required/allowed to provide concession fares. (The reimbursement funding is then effectively subject to a competitive process, as commercial service provision is contestable). 	
YBC (2), Citibus (8).	<ul style="list-style-type: none"> Concession fares part of the TLR intentions has never been fully implemented. 		Dubious. Not clear that was any firm intention to introduce a full concession fare system (as UK) in the original legislation.	Should this be a national policy matter or a regional matter?	<ul style="list-style-type: none"> Could introduce national scheme, with appropriate reimbursement procedures (as UK). 	
(Q) CPP Enforcement						
Cesta (2), Whenuapai (1)	<ul style="list-style-type: none"> CPP system undermined by lack of rigorous enforcement by TNZ. 	<ul style="list-style-type: none"> Lack of redress resulting from TNZ findings on cases brought by aggrieved operators. 	Some validity	Important to system integrity		

TABLE 3.4 GENERAL/POLICY CONCERNS: SUMMARY OF MOST IMPORTANT CONCERNS AND POSSIBLE SOLUTIONS

Area of Concern/Validity	Possible Solutions/Implications
<p>(E) General PT Policy and Funding Issues</p> <ul style="list-style-type: none"> Need for a clear statement of Government policy, objectives and funding for PT, to provide a firmer basis for CPPs, RC policies etc. (Mainly an operator view: largely valid.) 	<ul style="list-style-type: none"> TNZ to complete development of PT funding assistance policy, and then be allowed by Government to implement this (including road v PT trade-offs as appropriate). Proposed National Land Transport Strategy should clearly set out guidelines on the role and funding of PT. Introduce national system of monitoring value for money from PT services (currently under development by TNZ).
<p>(F) The Transport Law Reform (TLR) System</p> <ul style="list-style-type: none"> System has excessive focus on tendering/contracting and cost minimisation, rather than service quality. (Not always clear whether this criticism is directed at the CPPs, or the wider TLR system: mainly an operator view). (Some validity, but CPPs are only one part of overall system). 	<ul style="list-style-type: none"> Criticism only partly valid. Large part of responsibility for service quality etc is with RCs, in terms of service specification etc. Situation may be ameliorated with improved operator incentive structures, such as output-based funding.
<p>(G) Nature of/Responsibilities for CPPs</p> <ul style="list-style-type: none"> CPP system is too prescriptive and inflexible (operator and RC view). (Some validity, but RCs allowed to propose own CPPs at present.) 	<ul style="list-style-type: none"> RCs should be allowed to prepare their own CPPs, either: <ul style="list-style-type: none"> for approval by TNZ (possible at present); or without requiring TNZ approval (involve a change in legislation).
<p>(H) Commercial Service Issues</p> <ul style="list-style-type: none"> Mixed commercial/contract system does not work successfully - because of both the legislation and the way it is applied by RCs in practice. (Largely valid). 	<ul style="list-style-type: none"> Improve procedures at interface between commercial and contract services (eg. refuse commercial notifications during tendering process). Measures to maximise the proportion of commercial services (see Section 3.4). Change to all contract system (Section 3.4).
<p>(J) Service Planning Issues</p> <ul style="list-style-type: none"> RCs have become excessively involved in detailed service planning: this should be left to the operators, who are closer to the market (operator view). (Probably valid, although no clear evidence with present system). 	<ul style="list-style-type: none"> Require appropriate incentive structures for operators if to have greater service planning responsibilities. Measures to maximise the proportion of commercial services (see Section 3.4). Adopt an area franchise system, within which operator would define services within broad RC service guidelines.
<p>(K) Service Innovation</p> <ul style="list-style-type: none"> Need for more flexibility in contracting and funding procedures so as to encourage new/innovative services. (Valid). 	<ul style="list-style-type: none"> Need modified contracting and funding procedures to encourage service innovation, private sector promotion of services etc
<p>(M) High Capital/Fixed Asset Modes</p> <ul style="list-style-type: none"> These modes are not handled well through CPP process: need to be dealt with outside CPPs, or CPP process modified. (Some validity). 	<ul style="list-style-type: none"> To be dealt with outside the CPPs, acknowledging that the scope for competitive procedures is limited (involve legislative change). Contract infrastructure/ rollingstock separately from operations (possible legislative change to allow RCs to own assets).
<p>(P) Concessionary Fares Issues</p> <ul style="list-style-type: none"> Present concession fare procedures are unsatisfactory: concession fares are treated differently to other fares. (Valid). TLR intentions re concession fares have never been properly implemented. (Doubtful if valid.) 	<ul style="list-style-type: none"> Delete CPP Chapter 4. RCs to determine concession fares/ reimbursement arrangements along with other fares. RCs to require/allow operators of commercial services to provide concession fares (the commercial service process will constitute a competitive pricing procedure). (May be necessary to put limitations on concession fare funding to prevent abuse). Could introduce national concession fare policy/reimbursement arrangements (as part of policy of encouraging commercial services). But may be best left up to regions.

TABLE 3-5: ALTERNATIVE ECONOMIC REGULATORY SYSTEMS - OVERVIEW OF CHARACTERISTICS AND PERFORMANCE (PRELIMINARY)^(b)

Item	Regulatory System			
	A. Existing	B. "Commercial"	C. All Contract	D. Area Franchise
System Characteristics				
1. Role of commercial services	Considerable constraints on commercial services. Minority of services in practice.	Maximised - by cost rebates and revenue augmentation.	None (have negative contracts).	None (have cross-subsidy between services in area).
2. Scope of contracts	Route-based, restricted maximum size.	As existing (but fewer services contracted).	As Existing.	Area-based: exclusive rights to one operator for the area (but problems of through services).
3. Duration of contracts	1-5 years.	As Existing.	As Existing.	Longer contracts may be appropriate.
4. Basis of contract award/payments	Gross cost or net subsidy, for well-defined service but could be output-based.	As Existing.	As Existing.	Award on some combination of service levels, fares, subsidy levels, etc. Payments on some combination of lump sum and passenger output.
5. Basis of service determination	RCs for majority (contract) services, operator for commercial services.	Operator for majority (commercial) services, RCs for contract services.	RCs.	Operators, within broad service guidelines defined by RCs.
6. Service and fare coordination	Some difficulties as result of hybrid system, especially with commercial services.	May be increased difficulties.	More easily achievable (under control of RC)	More easily achievable within area, but possible difficulties between areas.
7. Extent/manner of contestability	Commercial services: open entry. Contract services: periodic competition through tendering process.	As Existing.	As Existing for contracted services.	Periodic contestability, but less opportunity for entry than other systems (probably longer and fewer contracts). May use benchmark contestability before open competition.
Performance related to Original Concerns and Other Issues				
8. Formation of monopolies	Some concerns.	Concerns may be increased, because of reduced contract opportunities.	Concerns may be reduced somewhat (depending on RC policies).	Concerns likely to increase and larger operators likely to dominate market.
9. Lack of industry investment	Some difficulties because of future uncertainties and limited operator control.	May be somewhat better than Existing, because of increased operator control.	As Existing.	Improvement over Existing, resulting from larger contracts and increased operator control.

TABLE 3.5: ALTERNATIVE ECONOMIC REGULATORY SYSTEMS - OVERVIEW OF CHARACTERISTICS AND PERFORMANCE (PRELIMINARY)⁽¹⁾/contd.

Item	Regulatory System			
	A. Existing	B. "Commercial"	C. All Contract	D. Area Franchise
10. Lack of operator incentives to develop services and encourage patronage	Problem with contract services.	Reduced problem, as more services commercial.	As Existing or worse, unless quasi-commercial incentives (eg. output-based funding) introduced.	Problem largely overcome, provided appropriate contract award/payment structure.
11. Market orientation of services	Moderate/poor: much depends on skills of RC service planners. Hybrid system causes difficulties.	Should be somewhat improved. Hybrid system would still cause difficulties.	May be better than Existing hybrid system: much depends on skills of RC planners.	Should be somewhat improved: depends on operator planning skills. May be difficulties between franchise areas.
12. Stability of service provision	Moderate.	Less stability likely.	Greater stability likely.	Greater stability likely.
Performance related to TNZ Act Section 19(3)				
13. Extent of contestability/encouragement of competition	Existing.	May be reduced in practice.	Slightly increased.	Likely to result in fewer operators in market, but larger average size.
14. Efficient use of public funds:				
(a) Productive efficiency	Existing.	May be marginally reduced.	As Existing.	Some tendency to reduce: much depends on contract award/payment structure and manner of contestability.
(b) Allocative efficiency	Existing.	Better than Existing.	May be better than Existing.	Better than Existing.

Notes: (1) Preliminary appraisal only. Much depends on detailed definition and operation of alternative systems.

CHAPTER 4 SUMMARY AND APPRAISAL OF INDUSTRY CONCERNS - CPP-RELATED ISSUES

4.1 Introduction

This chapter provides a summary of industry concerns and our appraisal of these concerns, relating to the contract procurement process in general and the CPPs in particular.

Our approach to the summary and appraisal task followed similar lines to that outlined in Chapter 3 (Section 3.1). As noted there, whilst we have attempted to appraise each concern individually, the nature of the topic is such that solutions to one concern may well have impacts on other concerns and solutions. Therefore a holistic approach is needed to derive a package solution which achieves the best overall result, but which inevitably involves trade-offs between different objectives and requirements.

The chapter is structured as follows:

- Section 4.2 outlines the status of the Competitive Pricing Procedures, to provide a context for the following sections.
- Section 4.3 provides an overview of our proposed approach to addressing the various concerns, and in particular suggests the appropriate roles for TNZ (through the CPPs) and the regional councils in the procurement process.
- Section 4.4 summarises and appraises the main concerns raised by the tendering authorities (regional councils) relating to the procurement process and the CPPs.
- Section 4.5 provides a similar summary and appraisal relating to the concerns raised by operators.
- Section 4.6 draws together our main recommendations relating to changes to the procurement process, either through changes to specific CPP clauses or through other means.

4.2 Status of CPPs

Given the sometimes considerable criticism of the procurement process in general and the CPPs in particular, it is important to appreciate the status of the current approved CPPs for passenger transport.

S.19 of the Transit New Zealand Act (1989) gives the Authority (ie Transit New Zealand) the power to “*approve from time to time a competitive pricing procedure for each project or class of project*”. In approving a competitive pricing procedure TNZ is required to have regard to the requirements of S.19(3) of the Act (refer Section 1.4.4).

The main point to note from this is that TNZ is not **required** to develop CPPs itself. (In 1990, TNZ did in fact both develop and approve competitive pricing procedures for public transport to ensure as smooth as possible transition to the new regulatory environment within the limited time available.)

TNZ’s approval role, with respect to competitive pricing procedures, is noted in the present “standard”⁵ CPPs, which state (S.1.5.2) “*Tendering authorities may submit alternative competitive pricing procedures to TNZ for approval which vary or replace sections of this*

⁵ As distinct from the “Sole Supplier” CPPs.

manual but which are in conformance with section 19(3) of the Act”.

To date, the alternative CPPs approved by TNZ fall into two main categories - those which involve major variations from the "standard" CPPs, and those which involve minor variations. There have so far been few major variations submitted for approval, the main ones being the “Sole Supplier” CPPs for rail and trolley bus contracts (these were developed very much between TNZ and the relevant regional councils working in conjunction). There have been more, but still comparatively few, minor variations submitted for approval.

Given that most regional councils have some criticism of the present CPPs, it is perhaps surprising that, since the CPP system was introduced, no regional council has attempted to submit for approval a comprehensive alternative CPP to overcome its perceptions of the deficiencies in the present CPPs with respect to tendering for “mainstream” (ie typical diesel bus) passenger transport services.

Irrespective of the recommendations and outcome of this project, there would seem almost certainly to be a continuing need for some form of procurement/competitive tendering procedures for passenger transport, to ensure efficient use of public funds: this need would remain, whether or not the TNZ Act is modified. While in the medium term it is conceivable that a fundamentally different regulatory system would be adopted and the present CPPs would thereby need to be heavily modified or abandoned, this seems most unlikely in the short term. Thus we consider it is important to examine the range of concerns expressed relating to the CPPs, and then to develop proposals for CPP changes that would address these concerns and that would appear to have overall merits against the requirements of the TNZ Act (Section 19(3)).

4.3 Industry Concerns and Appraisal Approach - Overview

Many of the submissions focused on concerns with the present "standard" CPPs, in some cases in general terms but more often in relation to specific CPP clauses. In many cases, the criticisms made of the detailed operation of the service procurement process related more to the practices adopted by individual regional councils than to the CPPs themselves (although this distinction was not normally made by submitters). A number of submitters also put forward specific proposals for changes to the "standard" CPPs, sometimes going as far as setting out proposed new wording for clauses. In some cases, there appeared to be no clear relationship between the concerns expressed and the changes proposed.

Given the range of issues covered and views expressed, it is difficult to summarise the main thrust of the industry concerns, and on many issues different submitters put forward opposing views. Our general comments are as follows:

- Tendering authorities (regional councils) tended to the view that the CPPs were too prescriptive for their particular circumstances, and that more latitude should be given to the regions to determine their own procedures.
- Tendering authorities also found the CPPs unclear in a number of areas, and wanted clarification through improvements in wording, further guidelines etc.
- Operators generally regarded the CPP/procurement system as having an excessive focus on lowest price in tender evaluation and being too open to manipulation by tendering authorities. These concerns appear not to relate primarily to the CPPs themselves, but more to the specific policies and practices of regional councils.
- Operators expressed little concern about the degree of prescription of the CPPs themselves. Indeed some suggested measures to make them more prescriptive, in order

to increase the consistency of procedures across the different regions and to restrict what were seen as undesirable practices by regional councils.

For each concern expressed about the CPPs or other aspects of the present procurement system, we have undertaken a comprehensive appraisal of its validity, its importance, its causes, possible solutions to the concern and the implications of these solutions. This appraisal is presented in full in Appendix C: Table C1 covers general concerns related to the procurement/CPP system, while Table C2 covers concerns relating to specific CPP clauses.

The concerns expressed and the case for changes to the present CPPs/procurement system have been considered in the light of the responsibilities for and developments of the CPP system to date, and in particular (as described above):

- TNZ's responsibility is to approve CPPs, not necessarily to formulate them itself.
- "Non-standard" CPPs have already been developed for a variety of situations (especially the "sole supplier" CPPs for urban rail and trolley bus services).
- No regional council has so far attempted to get approval from TNZ for a comprehensive alternative CPP for "standard" (ie. diesel bus) services.

Where the concerns expressed in submissions have been judged valid and significant, our first approach has been to assess whether they could be ameliorated by changes to the "standard" CPPs. In practical terms, such a solution will be easier to achieve than other approaches, which would involve more fundamental changes to the regulatory system and/or legislative amendments. However in considering CPP changes, it has been recognised that:

- The present CPPs, both in general and in terms of specific clauses, represent a compromise between the different objectives of the TNZ Act (S19(3)). Any CPP changes are therefore likely to involve trade-offs between the different objectives, and are unlikely to satisfy the full range of interest groups involved.
- Given this and given the complexity of the issues involved, the CPP provisions and changes to them need to be considered as components of an overall package of measures, rather than individually in isolation.

As noted above, many of the concerns expressed, particularly by operators, relate more to regional council policies and practices than to the CPPs themselves. Various approaches are possible to address such concerns (to the extent that they are valid):

- (A) Draw the concerns to the notice of the relevant regional councils, but take no further action.
- (B) Expand/modify the CPP Guidelines to advise regional councils of suggested practices that would be best to address these concerns.
- (C) Introduce more mandatory requirements in the CPPs, to require regional councils to follow practices that address the concerns.

In general, we suggest that TNZ should pursue approach (B). It should focus on the principal procedures which will help to achieve the CPP requirements of the TNZ Act, and should incorporate these procedures in the mandatory sections of the CPPs: it should not attempt to prescribe for every eventuality, but should provide CPP Guidelines on good practice to guide tendering authorities in relation to the less critical aspects.

Broad aspects on which TNZ should place emphasis include (in no particular order):

- Ensure the tender process and also (to the extent it is able) the commercial registration process are managed in such a way as to encourage competition, minimise the scope for

- anti-competitive activity and ensure efficient use of public funds.
- Assist in fostering a competitive market, through ensuring that potential tenderers have adequate information and are able to compete on an equal footing.
- Encourage operators to remain in and invest in the industry, by providing a reasonably stable environment for operators.
- Encourage both operators and regional councils to provide services responsive to the needs of the market, through the most appropriate arrangement of incentives and responsibilities.

Consistent with this broad approach, the next two sections describe the main concerns raised by tendering authorities and operators, and outline our suggested solutions to them.

4.4 Tendering Authority Concerns

In the broad the main concern of tendering authorities (regional councils) was that the CPPs were too prescriptive: they wanted more latitude to determine procedures that they considered best suited their particular situation. The regional councils also appeared to have difficulty in understanding and interpreting the CPPs in some areas: they wanted clarification, improved wording, or further guidance - but in the form of guidelines rather than mandatory procedures.

Further comment follows, on one particular issue and on the broader issue of the degree of prescription of the CPPs.

4.4.1 Commercial Registrations during the Tendering Process

A substantial concern raised in submissions was the practice of operators notifying commercial services immediately after being advised they were unsuccessful in the tendering process covering those services, and these notifications being accepted by the regional council. This concern was raised by several submitters, including both regional councils and operators.

Some regional councils (eg. Wellington) encourage this practice, by publishing the names of preferred tenderers following the tender evaluation process and inviting commercial notifications prior to any contract award. Presumably this approach is adopted on the assumption that it will result in reduced funding costs to the regional council (and it may well do so in the short term). It may be because of this approach that WRC is perceived by some submitters as encouraging the establishment of local area monopolies, and it may also be a significant contributory factor behind the present low number of bids submitted for most RFTs in the Wellington region.

In Auckland, the recent North Shore tendering round was frustrated by commercial notifications following announcement of the preferred tenderers, which were then registered by the tendering authority. Tenders were then published for revised services: some of the original tenderers chose not to retender because there was no certainty that, even if successful in the tender round, the same type of commercial notification/registration process would not again be employed.

In other regions, councils have managed the process to discourage or prevent commercial notifications after selection of the preferred tenderer. Otago Regional Council states in its RPTP that any such notifications will only be considered after contract award (in the light of the then-contracted service). This approach appears justifiable within the TSLA

legislation, but has not been legally tested. Canterbury RC advises the preferred tenderer in confidence and then allows a very short time by which a contract has to be agreed: there is thus little or no opportunity for commercial notifications to be made prior to contract award.

In our view the practice of encouraging commercial notifications between announcement of the preferred tenderer and the award of contract is undesirable. It frustrates the tendering process, discourages competition, advantages incumbent operators over potential entrants, and tends to advantage larger operators over smaller operators. While the practice may provide some short-term cost savings to regional councils, it seems likely to result in less competition and higher contract prices in the medium/long term.

Given these likely impacts of the practice on competition and efficiency requirements for CPPs under the TNZ Act, we consider that regional councils should use the powers available to them under TSLA (S49) to decline such notifications. This appears possible (but subject to legal advice) provided that the regional council is able to enter into a contract in less than 21 days after receiving the notification: it may then assess any notification in the light of the contracted service.

We recommend that TNZ should issue guidelines to support regional councils in this policy, suggesting they adopt procedures for each tender round along the following lines:

- 1) Review the services in consultation with contract and commercial operators, user groups and other interested parties.
- (2) Publish the proposed minimum service requirements, and invite commercial notifications. Register all notifications (unless contrary to traffic management or environmental policies).
- (3) Advertise non-commercial services for tender. Register further commercial notifications up until the tender closing date. Advise operators who have registered an interest of any commercial registrations, but do not necessarily change any requests for tender. (The RFTs can be cancelled or varied to take account of all commercial registrations once all tenders are received.)
- (4) Hold any commercial notifications received after tender closing date, and do not action them until contracts have been signed. They may then be considered subject to TSLA S49.

This approach requires the time taken between tender closing date and contract signing to be under 21 days (in practice, the critical dates are between advice of the preferred tenderer and contract signing). We believe this timing will generally be adequate. (If the time proves to be insufficient, consideration could be given to a change in the TSLA to allow a "stand-down" period between close of tenders and contract award during which commercial notifications would not be permitted or not considered.)

4.4.2 Prescriptive Nature of the CPPs

Regional councils generally considered the CPPs to be too prescriptive and / or unclear for their own particular circumstances. Issues raised which we consider have some validity included:

- RFT / contract size (maximum size too small for larger regions, particularly Auckland). CPPs unclear (group and combined tenders, alternative tenders and optional evaluation factors).
- CPPs excessively bureaucratic (advertising and publication requirements, pre-tender meeting requirements).
- Inability to seek clarification after opening of Part B envelope.
- Inability to negotiate (with preferred tenderer) when there is more than one tenderer.
- Service planning difficulties associated with staggering contract end dates throughout the year.
- Particular difficulties for smaller regions attempting to apply the CPPs (Otago, staggered end dates; Southland, maximum contract size).
- Some tendering authorities also sought additional guidelines to assist in a number of areas.

The resolution of some of the concerns expressed (eg. in relation to maximum tender size) may have significant impacts on contestability, and would need to be treated cautiously. However, most of the concerns in this group could be resolved by fairly minor amendments to the CPP wording, without significant detrimental impacts on achieving the CPP requirements of the TNZ Act. In such cases, we propose changes to the CPPs: our recommendations are brought together in the last section of this chapter.

4.5 Operator Concerns

Operators generally regarded the CPP/procurement system as having an excessive emphasis on lowest price, being too open to manipulation by tendering authorities, and offering inadequate contract security. There was also an additional group of concerns raised by smaller operators, who considered that some tendering authorities adopted practices which disadvantaged smaller or less-established operators. The main groups of concerns are covered in the following sub-sections.

4.5.1 Emphasis on Lowest Price

The CPPs were frequently criticised for having an excessive emphasis on lowest price. In our view this criticism is generally unsustainable. The CPPs set out a process within which tendering authorities may procure the required services; tendering authorities are expected to develop their own detailed tendering and tender evaluation process within these CPPs. The CPPs do not require acceptance of the lowest priced tender but do require a preference for the tender which offers the "best value for money", after allowing for any optional evaluation factors or features specified by the tendering authority. Consequently it is up to each tendering authority what weighting it chooses to accord to non-price features. Some tendering authorities have accorded greater weight to non-price attributes than have others. In our view this is entirely reasonable since it allows each tendering authority to identify and specify non-price matters it considers important.

We do not consider that any fundamental change to the CPPs is necessary in light of this criticism. However there may be merit in incorporating additional commentary in the guidelines to further advise tendering authorities that they are able to incorporate non-price attributes in tender evaluation.

4.5.2 Manipulation by Tendering Authorities

In our view it is likely that any system which allows a degree of flexibility will allow a degree of manipulation and may thereby be open to criticism on this score. However, a

system which allows no flexibility is unlikely to be workable. The issue then is striking the right balance between flexibility and prescription. The original (January 1991) CPPs were generally more prescriptive than the current (January 1992) CPPs.

As outlined earlier (Section 4.3) we advocate an approach under which the mandatory requirements of the CPPs focus on these key procedures which will assist in achieving the CPP requirements of the TNZ Act; while other less important procedures and advice would be placed in the CPP Guidelines. Overall, this will tend to make the CPPs less prescriptive than they are now, but they will also provide improved guidance in some areas.

Taking this approach, there is obviously no clear dividing line between issues that should be covered by the mandatory procedures and those that should be confined to the guidelines: a judgement has to be made, based on the expected impacts on the CPP requirements of the TNZ Act. We have noted earlier some aspects where we believe the mandatory requirements should be strengthened, eg. in relation to the provision of patronage information for net contracts. But in other areas, we believe that the mandatory requirements could be relaxed: some recommendations to this effect are given in the following section.

4.5.3 Security of Contract Tenure

A number of operators expressed concern about the possibility that their contracts could be cancelled at short notice as a result of lack of adequate funds for payment. While all potential bidders for a contract are in the same position, some are better able to cover the risk than others: in particular, potential new entrants who would need to purchase vehicles might be discouraged from bidding because of the risks involved and the difficulty of securing finance.

One solution to this concern would be for the tendering authorities to guarantee funding for the duration of the contract, and/or to pay liquidated damages to the operators if the contract has to be terminated. Various approaches are possible to help achieve this solution:

- Limit contract durations to the period over which funding is certain. This would result in short (one year) contracts. This is clearly unsatisfactory, resulting in greater concerns than it would resolve.
- For the Government and TNZ to agree to guarantee to each region the TNZ share of public transport funding relating to the outstanding value of all contracts. For instance, in a region with 25% of contracts expiring each year, the TNZ future commitment would be 75% of its current expenditure level in year 2, 50% in year 3 and 25% in year 4. Despite the difficulties which have arisen in the past with securing a long-term Government funding commitment to passenger transport, it may be possible to achieve such a guarantee: this would still leave Government/TNZ with sufficient flexibility to review its future funding policies and phase any changes in over a reasonable period.
- For the tendering authority (regional council) to continue the contract by making up any funding shortfall from TNZ through its own means, eg. increasing fares, reducing service levels, increasing local authority rates.
- By the tendering authority agreeing to pay liquidated damages to the operator in the event of contract cancellation (the funds for these damages may need to come from the same sources as above).

We would suggest that the concerns expressed would be best met by amending the CPP Guidelines to encourage tendering authorities to guarantee funding for the full duration of the contract, or to pay liquidated damages in case of contract cancellation because of lack of funding. Along with this, we recommend that TNZ/Government pursue the possibility of guaranteeing the TNZ share of funding relating to the outstanding value of contracts.

While it is uncertain whether adoption of such a policy would significantly reduce tender prices (given the nature of the competitive situation), it should help to encourage competition, particularly from smaller operators.

4.5.4 Preference to Incumbent Operators

A significant concern expressed by some smaller/newer operators related to the claimed practice of some regional councils of favouring the incumbent operator in the tender evaluation process, even when other bidder(s) submitted lower prices. It appears that some regional councils have used the "optional feature" provisions in the CPPs to effectively give advantage to incumbents.

There may be legitimate reasons for favouring incumbent operators in determining the award of contracts. These might include lower administration costs, lower social and financial costs of redundancy/redeployment, and service stability for users. If appropriate, the CPPs could be modified (perhaps through an appropriate guideline) to clarify that regional councils could take such factors into account in the tender evaluation process.

However, incumbents already have significant advantages in the tendering process (better market knowledge, absence of set-up costs etc), and any substantial preference expressed for incumbent operators in tender evaluation is likely to deter competition - as in the initial tender round in Auckland. On balance, therefore, we consider that no particular preference should be given to incumbent operators. Guidelines should be included in the CPPs to clarify this intention.

4.5.5 Other Practices Disadvantaging Smaller Operators

The common theme in a number of submissions from smaller operators was that the CPPs were being used in an unfair way by tendering authorities to the disadvantage of smaller and less established operators. However most points were made by only one or two submitters and tended to be specifically related to an individual tendering authority's actions. As such, these criticisms are focused more on specific tendering authority actions than on the CPPs themselves.

Examples of perceived unfairness include:

- Commercial notifications registered by tendering authorities during the tendering process (see Section 4.4.1).
- A tendering authority liaising "too closely" over service design issues with one incumbent operator to the disadvantage of other potential tenderers.
- A tendering authority contracting over, or threatening to contract over, a commercial service on the grounds that the commercial fares were too high.
- Incumbent operators colluding, leading to low levels of competition and higher than otherwise contract prices.
- A tendering authority adopting a policy of preferring incumbent operators over new-entrant operators, for other than legitimate factors covered through the tender evaluation process (as discussed in the previous section).

- Need for final approval of contract award at the political level to ensure that officers are faithfully following tendering authority policy.

Whilst these concerns may be valid in the specific circumstances, they appear not to be common to most or all tendering authorities. In general, they would not be best dealt with by making the CPP mandatory requirements more prescriptive. In some cases, it would be appropriate to expand the CPP Guidelines to describe preferred practice on these issues. Additionally, the audit process can be used to check that regional council practices comply with the CPPs and with the council's own policy statements, tendering documents etc.

4.6 Summary of CPP-Related Recommendations

Given our suggested general approach in relation to procurement procedures and the role of the CPPs (Section 4.3), we have identified a number of specific changes to the present "standard" CPPs which will go some way towards addressing the concerns expressed in this Review.

These changes are set out in Table 4.1, which gives our recommendations and provides brief comments on issues and implications relating to these. Most, but not all, of these recommendations relate to changes to the mandatory sections of the CPPs. These recommendations will need to be further developed into revised CPP clauses.

Table 4.1 also notes some specific CPP issues on which valid concerns were expressed but for which, on balance, no change to present procedures is recommended. It comments on the concerns and the arguments for and against change to the present procedures.

While the recommended changes individually appear to be quite minor, we consider that taken together they will give regional councils greater flexibility in meeting their own individual objectives through the procurement system, while still satisfying Section 19 of the TNZ Act. The introduction of further/amended CPP Guidelines will also help regional councils to adopt best practice on certain aspects, and thereby reduce some of the concerns expressed by operators.

If any regional council still believes the modified "standard" CPPs are inappropriate for its needs, given the requirements of the TNZ Act, it will still have the option of submitting an alternative CPP to TNZ for approval. The introductory wording of the "standard" CPPs should be redrafted to clarify that this option is open to regional councils.

TABLE 4.1 SPECIFIC CPP-RELATED RECOMMENDATIONS - SUMMARY			
Issue	CPP Reference	Recommendation	Comments
Alternative CPPs	1.5.1	Clarify that RCs may submit alternative CPPs to TNZ, and that these will be considered consistent with TNZ Act S19(3).	<ul style="list-style-type: none"> • Already possible, but clarification desirable. • TNZ should consider any submitted alternative CPPs on their merits, against the TNZ Act requirements.
Advertising requirements - small contracts	2.2.1	Reduce advertising requirements to one newspaper of wide circulation within region concerned.	<ul style="list-style-type: none"> • Present procedures require advertising outside region in case of smaller regions. • This additional cost not justified, certainly in case of smaller contracts.
Pre-tender meetings	2.2.2	Modify pre-tender meeting requirements to make clear meeting is not necessary if not required by potential tenderers.	<ul style="list-style-type: none"> • No point in holding meeting if no one wants it. • Would reduce administration costs.
Conforming tender requirement	2.5.2, 3.3.1	Remove requirement to submit conforming tender when alternative tender submitted.	<ul style="list-style-type: none"> • Unnecessary: additional work for RCs and operators; discourages innovation.
Optional evaluation factors/alternative tenders	2.6, 2.7	Clarify wording regarding tender evaluation for optional features and alternative tenders.	<ul style="list-style-type: none"> • There appeared to be confusion amongst operators and RCs (which may discourage innovation and competition).
Tender clarification	2.6.1	No change to present procedures (ie. any clarifications of part A tender have to be undertaken before part B envelope opened).	<ul style="list-style-type: none"> • Concerns expressed about extra admin costs for detailed inspection/clarification of all part A tenders if they are not price-competitive. • However, this needs to be offset by advantages of present procedures in ensuring that preferred tenderer meets all mandatory requirements.
Allowance for non-tendered costs	2.7.2	Clarify that tender evaluation process is not to take account of any costs outside the tender bid, that might favour one particular operator (usually the incumbent).	<ul style="list-style-type: none"> • Reported that some RCs have been favouring incumbent when not lowest price. • Non-tendered cost differences may relate to passenger information provision, admin costs of change of operator etc. • May sometimes be short-term cost savings in favouring incumbent operators, as reduces costs of change to both RCs and users. • However, this has to be offset by likely impact on level of competition.
Ability to negotiate	2.8	No change (ie. RCs only allowed to negotiate when only one tenderer).	<ul style="list-style-type: none"> • Alternative of allowing negotiation when there is more than one tenderer would have some advantages (reduce admin costs, may reduce contract costs). • However, it would need to be subject to constraints and there would be danger of undermining the integrity of the tendering process. It is not the norm in tendering procedures generally. • Whether one or more tenders is involved, the tendering process may still be regarded as competitive.
Patronage information	3.3	Require RCs to provide patronage information to potential tenderers if net tenders are required.	<ul style="list-style-type: none"> • This is an important provision to encourage efficient pricing and competition in the case of net tenders. • Left to discretion of RC whether patronage information is obtained from incumbent operator or through separate survey. • Any information may need to be provided with disclaimers about accuracy, responsibility etc.
Contract size	3.4.1	Allow larger contract sizes where necessary to cover a single route (maybe with safeguards to encourage competition).	<ul style="list-style-type: none"> • Would reduce potential passenger confusion and additional costs (timetables etc) from two operators on a single route. • Appropriate to have mix of contract sizes matched to mix of sizes of potential bidders. • Only marginal effect on overall levels of competition if restricted to large routes. • More reliable process than relying on combined/group bids to achieve single operator. • Could require that larger contracts can be awarded only if more than one tenderer.

TABLE 4.1 SPECIFIC CPP-RELATED RECOMMENDATIONS - SUMMARY/contd ...

Issue	CPP Reference	Recommendation	Comments
Combined tenders	3.5	Allow combined RFTs to cover more than a single route (amend current Guideline).	<ul style="list-style-type: none"> • Present CPPs restrict a combined RFT to covering a single route only, although this restriction is only a Guideline. • However, group bids (at the initiative of the tenderer) can cover multiple routes. • Interpretation of Guideline is subject to definition of "a single route". • Appropriate to either omit restriction (as proposed) or to convert to mandatory requirement. • Needs to be reviewed in conjunction with any changes to procedures on group bids.
Contract duration/roll-over	3.7	Allow roll-over provisions in contracts, to permit extension under limited conditions.	<ul style="list-style-type: none"> • Suggest maximum 2 years roll-over, and retain 5 years maximum length (including roll-over). • Provides more flexibility for service planning: could be used to coordinate end dates, extend trial services etc. • Also help to reduce administration costs. • RC may wish to impose conditions on roll-overs, reward good performance etc. • Necessary for roll-over conditions to be stated in the RFT. • Need to check legal position.
Minimum contract duration	3.7.1	Allow contracts of less than one year.	<ul style="list-style-type: none"> • Present restriction unnecessary. • Useful in case of school contracts etc.
Spacing of contract expiry dates	3.7.4	Allow greater flexibility in spacing of contract expiry dates, especially with regard to spacing throughout year.	<ul style="list-style-type: none"> • Change will facilitate coordinated service planning. • However, reasonable staggering of expiry dates in larger centres still desirable to maintain contestability.
Service level variations	3.8.1	Allow greater service level variations within contracts.	<ul style="list-style-type: none"> • Present $\pm 25\%$ variation is too restrictive in practice, particularly for smaller contracts. • Could be potentially anti-competitive if allow too great an upward variation in contract size. • Maybe allow -100% to +50% variations with agreement of the operator.
Price adjustment for service changes	3.8.2, 3.9.3	Allow greater flexibility for price adjustments in case of changes in service levels.	<ul style="list-style-type: none"> • For net cost contracts may not be possible to sensibly specify in advance method for adjusting revenue allowance when service levels change. • Maybe sufficiently covered under present CPP 3.9.2?
Concessionary fare scheme requirements	4.1 - 4.6 etc	Delete CPP Chap. 4. Allow RCs to determine concession fares/reimbursement arrangements along with other fares, and abolish the need for the separate concessionary fare committee.	<ul style="list-style-type: none"> • Current process is unsatisfactory, but legal opinion required as to whether recommendation achievable (otherwise could consider law change). • May be necessary to put limitations on concession fare funding, so as to prevent abuse. • See further discussion (Section 3.3.8).
Wheelchair hoists	4.8	Clarify principles and mechanisms for funding of wheelchair hoists.	<ul style="list-style-type: none"> • Present means of funding additional wheelchair hoists not clear to RCs involved. • Need for review/establishment of principles and clarification of wording.

APPENDIX A List of Submitters

TABLE A1: LIST OF SUBMISSIONS

Organisation	Name	Submission Date	Response Date	Discussions etc	Draft to check	Response
Regional Councils						
R.AKL	Auckland Regional Council	08.04.94	11.04.94	Mtg 27.5.94 (AKL)	15.6	
R.WLG	Wellington Regional Council	30.03.94	06.04.94	Mtg 19.5.94 (WLG)	26.5	16.6
R.BOP	Environment B.O.P. ^(b)	11.04.94	11.04.94	No		
R.OTA	Otago Regional Council	6/8/14.04/3/25.5		Mtg 20.5.94 (DUN)	27.6	
R.CAN	Canterbury Regional Council	18.04/06.05.94	27.04.94	Phone 26.5.94	27.6	
R.WAI	Waikato Regional Council	22.04.94	27.04.94	Mtg 18.5.94 (WLG)	26.5	
R.SOU	Southland Regional Council	29.04.94	02.05.94	No		
District Councils						
D.WCC	Wellington City Council/Wellington Cable Car Ltd	03.06.94	10.6.94	No		
D.HUT	Hutt City Council	30.03.94	05.04.94	No		
D.NSH	North Shore City Council	29.04.94	02.05.94	No (but phone)		
PT Operators						
P.BCA	Bus & Coach Association (NZ) Ltd	21.04.94	28.04.94	Mtg 10.5.94 (WLG)	17.6	24.6
P.NEW	Newlands Coach Service	19.04.94	27.04.94	No		
P.STA	Stagecoach Wellington	27.04/2.05.94	28.04.94	Mtg 25.5.94 (WLG)	15.6/27.6	17.6
P.CCS	Community Coach Services Ltd (WLG)	07.04.94	11.04.94	No		
P.EBC	Easibourne Bus Co (WLG)	08.04.94	11.04.94	No (but phone)		
P.HAM	Wally Hammond's Wgtn City Scenic Tours Ltd (WLG)	08.04.94	11.04.94	No (but phone)		
P.FGF	Fullers/Gulf Ferries Ltd (AKL)	08/13.04.94	11.04.94	No		
P.FNO	Fullers Northland (NOR)	22.03.94	23.03.94	No		
P.DAR	DART (Dial A Ride Transport) (AKL)	05.04.94	11.04.94	No		
P.AKA	Akaroa Shuttle (CAN)	26.03.94	06.04.94	No		
P.INV	Invercargill PT Ltd (SOU)	02.04.94	11.04.94	No		
P.YBC	Yellow Bus Coy (AKL)	19.04.94	28.04.94	Mtg 27.5.94 (AKL)	15.6	
P.CES	Cesta Travel (OTA)	18.04.94	19.04.94	Mtg 20.5.94 (DUN)	26.5	30.5
P.CIT	Citibus Dunedin (OTA)	13.04.94	19.04.94	Mtg 20.5.94 (DUN)	26.5	
P.CTL	Christchurch Transport Ltd (CAN)	22.04.94	26.04.94	Mtg 06.5.94 (WLG)	26.5	30.5
P.WHE	Whenuapai Bus Travel Ltd	06.05.94		Yes ?		
P.STR	Kimloch Strathmore Ltd	27.06.94				
Others						
M.CFC	Calvi-Freeman Consulting (Wgtn)	08.04.94	11.04.94	Optional (phone)		
M.DEC	Dunedin Environment Centre	06.04.94	11.04.94	Optional (no)		
M.BUS	Bus Watch Committee (CHC)	22.04.94		No		
M.ALL	Auckland LRT Ltd	20.06.94	23.06.94			
Letters Sent (not submissions)						
	Masterton District Council	31.03.94	N/A	No		
	Main Coachlines	30.03.94	N/A	Yes (phone ?)		
Notes:				Total		
(1) Not an official Council submission						31

APPENDIX B Summary of General/Policy Concerns by Submitter

Table B1: Listing of Original Concerns (by Submitter)

Table B2: Main General/Policy Points of Each Submission

TABLE B1: LISTING OF ORIGINAL CONCERNS (BY SUBMITTER)

Submitter	Ref	Specific Concerns	Suggested Solutions/Changes
(A) POTENTIAL FORMATION OF BUS COMPANY MONOPOLIES			
Regional Councils			
AKL RC	14	• Not a problem as such. But problem of dominant operators applying threats of retaliation or predatory practices	
WLG RC	12	• A problem - current/anticipated	• Area franchise
CAN RC	2	• Not a substantial problem at present, although some future dangers. (Area monopolies also have benefits)	
District Councils			
Wgn CC/Cable Car Ltd	1	• Yes, in Wgn region, given WRC policy	
Operators			
Stagecoach Wgn	2	• Not a problem. (Low entry barriers; Commerce Commission provisions; always danger of competition for contracts, and from other modes)	
Wally Hammond Tours	1	• Yes, in Wgn region, given WRC policy	• Range of measures to ensure level playing field and encourage smaller operators.
Invercargill Pass Tpt	1	• A problem: smaller operators vulnerable to market power of larger operators	
Yellow Bus Coy	19	• Not a substantial problem. (Low barriers to entry, Commerce Commission provisions.)	
Christchurch Transport	1	• Not a real concern: a perceived, rather than actual problem	
Whenuapai Bus Travel	2	• Some (?) concern. Monopoly situations generally cyclic, but likely in system of lowest price conforming tenders.	
Kinloch Strathmore	1	• Over-regulation by RC will deter competitors and lead to monopoly situation.	• Encourage commercial services and restrict ability of Rcs to interfere with these.

TABLE B1: LISTING OF ORIGINAL CONCERNS (BY SUBMITTER)

Submitter	Ref	Specific Concerns	Suggested Solutions/Changes
(B) LACK OF INVESTMENT IN THE INDUSTRY			
Regional Councils			
AKL RC	15	<ul style="list-style-type: none"> Not seen as major ongoing problem: to date been the result of uncertain situation; partially resolved by VQS policies. 	
OTA RC	14	<ul style="list-style-type: none"> Not a major problem: VQS should assist in encouraging investment. 	
CAN RC	3	<ul style="list-style-type: none"> Has occurred to date, but not yet a major problem. VQS should assist in overcoming 	
District Councils			
Operators			
BCA	10	<ul style="list-style-type: none"> A significant problem, as a result of short contracts, uncertainty, danger of commercial services etc. Will be somewhat reduced by VQS 	
Stagecoach Wgn	3	<ul style="list-style-type: none"> Not a problem generally. VQS should assist 	
Fullers Northland	1	<ul style="list-style-type: none"> A problem: standard of assets has deteriorated since TLR because of emphasis on minimum costs. 	<ul style="list-style-type: none"> Set maximum vehicle age criteria
Invercargill Pass Tpt	2	<ul style="list-style-type: none"> A problem: system encourages operators to use cheapest possible fleet. 	
Yellow Bus Coy	20	<ul style="list-style-type: none"> A problem: very little investment since 1991. Reasons: emphasis on lowest price; uncertainty of new system; operators do not feel in control of the market or their future. 	<ul style="list-style-type: none"> Package of proposals to maximise commercial services, give operators responsibility for detailed service planning, and have output-based contract pricing
Citibus (Dunedin)	2, 6	<ul style="list-style-type: none"> A substantial concern: national fleet has deteriorated in age and quality over last 3 years. Short-term contract system discourages investment. Introduction of VQS will mean tenderers need to make a generous allowance for risks in tender pricing 	<ul style="list-style-type: none"> Longer contracts Eliminate RC ability to cancel contracts due to lack of funding Area franchise system.
Christchurch Transport	1, 6	<ul style="list-style-type: none"> A substantial concern: no incentive to undertake other than the minimum investment required to meet VQS. 	
Whenuapai Bus Travel	2	<ul style="list-style-type: none"> Some (?) concern. Lack of investment to date largely result of new system still settling down, with longer-term future uncertain. VQS will increase investment, but danger of substantially increased costs with little passenger benefits. 	

TABLE B1: LISTING OF ORIGINAL CONCERNS (BY SUBMITTER)

Submitter	Ref	Specific Concerns	Suggested Solutions/Changes
(C) LACK OF OPERATOR INCENTIVES TO IMPROVE SERVICES			
Regional Councils			
AKL RC	16	• Yes. Little incentive, but no worse than pre-91	
WLG RC	9	• Yes.	• Area franchise
CAN RC	4	• Yes.	• Need to develop appropriate incentives
District Councils			
Operators			
BCA	6,9,10	• Yes. RCs have taken over service planning; no incentives for operators to develop innovative services.	• Encourage commercial services; alternatively adopt area franchise approach.
Stagecoach Wgn	4	• Somewhat a problem.	• Need for further incentives - more commercial services, extend concession fare schemes etc.
Dial-a-Ride Tpt (AKL)	1	• Yes. CPP system encourages lowest acceptable standard of service.	• Allow preference to existing operator in tendering process, subject to good service record.
Invercargill Pass Tpt	3	• Yes. Operators have no incentives to provide better than minimum service quality.	
Yellow Bus Coy	1, 21	• Yes. No incentives for operators.	• Package of proposals to maximise commercial services, give operators responsibility for detailed service planning, and have output-based contract pricing.
Cesta Travel	9	• Some concern. RC practice of tightly specifying service requirements in RFT discourages service innovation.	
Citibus (Dunedin)	4	• Yes. No encouragement to innovate under present system; ORC tender evaluation process give no credit to offering better than minimum service.	• Consider area franchise system
Christchurch Transport	1, 5	• Substantial concern: no incentives for operators to innovate or improve service quality.	
Whenuapai Bus Travel	4	• Some (?) concern. Probably more result of the legislation rather than the CPPs. RFTs tend to be too prescriptive, and operators have no incentive to improve quality of contracted services.	• Make RFT's less prescriptive.
Kinloch Strathmore	2	• RC restrictions/over-regulation results in excessive constraints on provision of commercial services.	• Restrict RC ability to interfere in provision of commercial services.

TABLE B1: LISTING OF ORIGINAL CONCERNS (BY SUBMITTER)

Submitter	Ref	Specific Concerns	Suggested Solutions/Changes
(D) DECLINING PATRONAGE			
Regional Councils			
AKL RC	17	<ul style="list-style-type: none"> No. Not a problem inherent in present system, although change period may have had adverse effect. 	
CAN RC	5	<ul style="list-style-type: none"> Some concern. Change to new system had adverse effect. Also deterioration in vehicle quality and use of small (10 seater) vehicles 	
District Councils			
Operators			
BCA	12	<ul style="list-style-type: none"> Concern in some locations, where have been continual service changes (short contracts, commercial notifications etc) 	
Stagecoach Wgn	5	<ul style="list-style-type: none"> No. Service quality has not deteriorated since 1991 (in Wgn). Patronage now increasing. 	
Invercargill Pass Tpt	4	<ul style="list-style-type: none"> Concern, in general terms relating to Govt/local council policy, rather than to TLR. 	
Yellow Bus Coy	22	<ul style="list-style-type: none"> Some concern. Mostly the result of outside influences, but concern that any service changes are likely to result in patronage loss 	<ul style="list-style-type: none"> Package of proposals to maximise commercial services, give operators responsibility for detailed service planning, and have output-based contract pricing.
Cesta Travel	8	<ul style="list-style-type: none"> No. Patronage declines largely result of economic trends, not of TLR/CPPs. 	
Christchurch Transport	1, 5	<ul style="list-style-type: none"> Major concern: no incentives for operators to increase patronage. 	
Whenuapai Bus Travel	5	<ul style="list-style-type: none"> Some (?) concern. No evidence that CPPs have influenced patronage, although patronage fall in lead-up to TLR because of bad press. RC involvement in detailed planning not conducive to effective PT network, which would encourage patronage. 	

TABLE B2: MAIN GENERAL/POLICY POINTS OF EACH SUBMISSION

Submitter	Category	Ref	Concerns/Problems	Solutions/Changes
REGIONAL COUNCILS				
AKL RC	Fundamental	1	• National CPPs too inflexible	<ul style="list-style-type: none"> • Allow RCs to prepare own CPPs, without need for TNZ approval • Establish separate procedures outside CPPs; or modify CPPs and allow strategic considerations • Modify TSLA: have "commercial contracts" or require all services to conform with RPTP. • Area franchises, without commercial services
		10	• Rail/high capital modes - standard CPPs not appropriate	
		11	• Commercial services system not successful	
		12	• Difficulties of service integration	
		CPP Details	• Various points	
WLG RC	Fundamental	1	• CPPS too limited - focus only on competition objectives	<ul style="list-style-type: none"> • Fundamental review of CPPs • Allow RCs to prepare their own CPPs • Allow JV companies RC/operator • Delete rail from CPP system • Modify TSLA: allow "commercial contracts" • Area franchise policy • Remove Conc. Fares from CPP, treat as other fares
		2	• National CPPs too inflexible	
		3,4	• RCs are funding private operator investment in assets through contract process (especially rail)	
		7	• Commercial services system not successful	
		9,12,13	• Potential formation of area monopolies	
			• Lack of operator incentives to improve services	
		14	• Concession fares arrangements unsatisfactory	
		CPP Details	• Various points	
BOP RC	Fundamental	1	• CPPs too prescriptive in some aspects, too general in others	
		CPP Details	• Various	
OTA RC	Fundamental	15	• Conc. fares arrangements unsatisfactory	<ul style="list-style-type: none"> • Remove Conc. Fares from CPP, treat as other fares • Allow RCs to prepare own CPPs, without need for TNZ approval.
		16	• National CPPs too prescriptive/detailed	
		CPP Details	• Various	
CAN RC	Fundamental	1	• Innovation - no incentives at present	<ul style="list-style-type: none"> • Proportion of funds outside CPPs which can be applied for innovative services • Modify TSLA: have "commercial contracts" or require all services to conform with RPTP.
		2	• Commercial services system not successful	
		CPP Details	• Various	
WAI RC	CPP Details		• Various	
SOU RC	Fundamental	1	• CPPs are too prescriptive/detailed, given TNZ contributes only minority of PT funding.	

TABLE B2: MAIN GENERAL/POLICY POINTS OF EACH SUBMISSION/contd.

Submitter	Category	Ref	Concerns/Problems	Solutions/Changes
DISTRICT COUNCILS				
WGN CC/ Cable Car Ltd	RC Policy	1	• WRC policies discourage competition and will lead to near-monopoly situations	• TNZ should define clear national objectives and monitor RC performance.
		2	• TNZ need to play enhanced role on PT issues, to ensure RCs provide value-for-money.	
Hutt CC				
North Shore CC	Fundamental RC Policy	1	• CPPs too inflexible/prescriptive	• Allow RCs to prepare own CPPs for TNZ approval.
		2	• Commercial service notifications should not be accepted in middle of tendering process	• Restrict operator ability to notify commercial services (RC policy rather than CPPs)
	CPP Details		• Various	
OPERATORS				
BCA	Fundamental	1,2	• TLR objectives appear to focus primarily on cost reduction. Other objectives not clear and have not been achieved.	• Clear Govt statement on PT policy objectives and funding
		3,17	• TLR has implemented only part of promised system, and hence few commercial services.	• Introduce concession fare reimbursement on all services, plus other measures
		4	• Excessive focus on tendering system, rather than on providing good services for passengers.	• Encourage commercial services: concession fares policy, RUC rebate, etc
		5,6,7	• Excessive involvement of RCs in route and service planning, resulting in inefficiency and loss of touch with market.	• Confine RC role to policy areas. Encourage commercial services and output-based funding. Detailed service planning to be left to operators.
		8	• PT requires adequate funding, recognising its external benefits.	• Larger contracts, rollover provisions and protection for operators who develop new services.
		9,10	• Operators have no incentive to be } innovative. }	
		10	• Lack of investment by the industry }	
		13	• CPPs too inflexible, to } accommodate differences between } regions, service patterns etc.	
19		• As alternative to encouraging commercial services etc, adopt area franchise system.		
Newlands			Endorse BCA & YBC views	
Stagecoach WGN	Fundamental	6-10	• Inefficient for RCs to do most of } service planning } • Too much focus on competing for } tenders, rather than satisfying } passengers } • Contract system discourage } investment in the industry }	• Encourage greater proportion of commercial services, through more generous concession fare reimbursements; RUC exemptions; passenger-related bounty; accelerated depreciation on buses.
		12	• Trend towards reduced competition (in WGN), may indicate area monopolies are the natural state for urban bus operations	• Maybe adopt area franchises (with suitable contestability provisions).

TABLE B2: MAIN GENERAL/POLICY POINTS OF EACH SUBMISSION/contd..

Submitter	Category	Ref	Concerns/Problems	Solutions/Changes
Community Coach Services	RC Policy		<ul style="list-style-type: none"> • Various 	
Eastbourne Bus Coy	Fundamental	1	<ul style="list-style-type: none"> • Sole supplier CPPs are anti-competitive 	<ul style="list-style-type: none"> • Ensure all PT funding goes through a proper competitive process.
	RC Policy		<ul style="list-style-type: none"> • Various 	
Wally Hammond Tours	RC Policy	2-9	<ul style="list-style-type: none"> • WRC has adopted variety of tactics to discourage competition, especially from smaller operators: allowing commercial registrations during tendering process; high performance bonds; accepting combined/group tenders; ETM requirements; favouring incumbent operators in evaluation process, etc. 	<ul style="list-style-type: none"> • CPP need to be more prescriptive in a number of these areas.
Fullers/Gulf Ferries	RC Policy	1-3	<ul style="list-style-type: none"> • Ferry tendering procedures deficient, with resulting service unreliability, vessel unavailable etc. 	<ul style="list-style-type: none"> • Ferries need different tendering process from bus services.
			<ul style="list-style-type: none"> • Various 	
Dial-a-Ride Tpt (AKL)	RC Policy	1	<ul style="list-style-type: none"> • System encourages lowest acceptable standard of service. 	<ul style="list-style-type: none"> • Give preference to existing operator, where has good record of quality service.
Akaroa Shuttle	RC Policy	1	<ul style="list-style-type: none"> • RC not close enough to market for detailed planning of contract services. 	<ul style="list-style-type: none"> • Need for RC to consult with users, and give more weight to non-price factors in tender evaluation.
Invercargill Pass Tpt Coy	RC Policy		<ul style="list-style-type: none"> • Various comments on four original concerns. 	
Yellow Bus Coy	Fundamental	1-3, 5-7, 12	<ul style="list-style-type: none"> • RCs are inefficient and not sufficiently market-oriented in service planning process 	<ul style="list-style-type: none"> • National concession fare scheme. • Rebate of RUCs • RCs confined to policy and monitoring issues (operators do service planning, as mostly commercial services). • Tenders to use output-based pricing • RCs able to negotiate with operators to provide add-ons to commercial services • Group tenders to be allowed.
			<ul style="list-style-type: none"> • Emphasis on lowest price discourages investment in new buses 	
			<ul style="list-style-type: none"> • No incentives for operators to provide high quality/innovative services and encourage patronage 	
			<ul style="list-style-type: none"> • Established operators forced into tactical commercial notifications to protect their business 	
			<ul style="list-style-type: none"> • Difficult to identify what funding goes to social services. 	

TABLE B2: MAIN GENERAL/POLICY OF EACH SUBMISSION/contd.

Submitter	Category	Ref	Concerns/Problems	Solutions/Changes
OPERATORS (contd)				
Cesta Travel Ltd	Fundamental	1	• Operators discouraged from tendering in different regions because of variations in procedures between different RCs.	• Make CPPs more prescriptive in some aspects.
		2	• CPP concept undermined by lack of rigorous enforcement by TNZ.	• CPPs need to include an enforcement code, which TNZ then needs to follow.
		7	• Commercial service notifications should not be accepted in middle of tendering process.	• Restrict RC ability to accept commercial notifications during the tendering process.
	CPP Details		• Various.	
Citibus (Dunedin)	Fundamental	1	• System has too much emphasis on cost minimisation and conformity with CPP/RFT requirements, at expense of service quality and user benefits: CPPs too prescriptive; ORC is specifying very rigid tendering requirements.	• Longer contracts • Eliminate funding uncertainty from contracts • Encourage commercial services through full concession fare reimbursement, RUC rebate
		2	• Industry investment discouraged, due to short-term contracts and funding uncertainties	• Alternatively pursue area franchise arrangement, with operator and RC in partnership.
		4,5	• RC is doing too detailed service planning, rather than leaving initiative to operator.	
Christchurch Transport	Fundamental		• Support BCA Submission, and its proposed outline of solutions.	
		2	• Government policies towards PT are not clearly defined.	• Clarify Government goals/objectives/policies and revise procedures to match.
		3	• CPP system focuses on cost and competition aspects only, with no consideration of quality of output.	
		4	• CPPs are too prescriptive	• Define overall objectives for CPP system fully, then cut out much of CPP detail.
		8	• CPPs have excessive emphasis on lowest price in selecting preferred tenderer.	• Introduce operator pre-qualification system, with focus on operator reputation, credit rating, innovative approach, investment strategy etc.
		5	• Lack of incentives for operators to improve service quality or increase patronage	
		9	• System introduced by TLR has achieved efficiency gains, but may now have outlived its usefulness.	• Suggest pursue an area franchise system.

TABLE B2: MAIN GENERAL/POLICY OF EACH SUBMISSION/contd..

Submitter	Category	Ref	Concerns/Problems	Solutions/Changes
OPERATORS (contd)				
Whenuapai Bus Travel	Fundamental	1	• Need for review of whole PT legislative framework, not just CPPs	
		1	• Need for TNZ to better enforce the rules it has made.	
OTHERS				
Calvi-Freeman Consulting	RC Policies	1	• Commercial service notifications should not be accepted in middle of tendering process	• Review effects of this on competition. Then either amend CPPs or TSLA.
		1	• Practice (WRC) of favouring incumbent operators in tendering process is undesirable.	• Impose strict limits on this.
Dunedin Env't Centre				
Bus Watch (CHCH)				
Auckland LRT Ltd	Fundamental	4	• CPPs too prescriptive	• Simplify CPP content and language.
		2	• Need flexibility of contract procedures so as to encourage private promotion of PT projects	• Range of options possible, involving negotiation or modified tendering procedures
		3	• For high capital/long life assets, contract duration needs to be related to asset lives.	• Modify maximum contract duration; or separate out asset purchase contract from PT operation contract.
		1	• Need proper procedures for other companies to negotiate operating rights on NZRL tracks.	

APPENDIX C Summary of CPP-Related Concerns

Table C1: Other CPP-Related Concerns

Table C2: CPP Specific Concerns

TABLE C1 OTHER CPP-RELATED CONCERNS									
CPP Title/Ref	Submitter	Concern	Validity	Extent / Importance	Causes	Solutions	Implications	Recommendations	
Commercial Registrations during Tendering Period	ORC, NSH, CES, CFC	Undermines integrity of tendering process. Provides unfair advantage to large operators.	Very valid; contrary to most S.19(3) objectives and TA wider PT objectives.	Important: tendering process becomes complicated, drawn-out and discourages competition.	Legislation which makes it difficult for TAs to decline commercial notifications. TAs which encourage/do not discourage this tactic.	Amend TSL. Act to give TAs greater powers to decline commercial notifications. TAs to clarify policy on this matter.	In short term: public funding of services that some operators would operate without funding. In long term: increased competition keener contract prices.		
CPP Amendments	YRC	CPP amendments should be clearly marked.	Valid	Minor importance		Date each page, highlight changes	Positive only.		
Vehicle Size	SRC	CPPs too inflexible to allow trial of smaller-than-RFT-specified vehicles.	Probably not valid	Minor importance	TA may not have fully explored contract variation /trial service options	No change required	None		
Contracting Over	EBC	TAs should not be allowed to do so on grounds that commercial fares are too high.	Not valid, would restrict TA ability to achieve wider PT objectives. Likely to have minimal impact on funding requirements.	Important point; otherwise TAs lose ability to achieve common fare structures and integrated ticketing.		1. No change, or 2. Give TAs power to withdraw commercial registration if operator does not adhere to RFTP-specified fare levels.	1. None effectively equivalent to over-contracting (though ability to withdraw a commercial registration would be a less cumbersome approach).		
Service Quality Standards	EBC	TAs do not apply meaningful sanctions for non-performance.	Not proven.					None	
Competition	EBC	CPPs anti-competitive, even more so with latest (January 1992) changes.	Partially valid	Important, since CPPs are intended to ensure competition in PT procurement.	Deletion of need for publication of patronage information for net tenders	Reinstate earlier clause requiring patronage information for net tenders	More competition. Increase in number of gross contracts. Increased dissatisfaction by incumbent operators.	TNZ to provide policy guideline advice to TAs.	

TABLE C1 OTHER CPP-RELATED CONCERNS/cont'd.

CPP Title/Ref	Submitter	Concern	Validity	Extent / Importance	Causes	Solutions	Implications	Recommendations
Monopolies	HAM WHE	WRC is encouraging area monopolies. Monopolies to be avoided but almost inevitable.	Not proven	Only important if entry into monopoly's area is difficult.	<ul style="list-style-type: none"> TA policy (if proven) Note, in UK there is also a trend towards fewer and larger operators. 	If impacts on price could consider imposing market share restriction (may be contrary to Commerce Act).	Not clear.	TNZ to provide policy guideline advice to TAs.
Sole Supplier CPP	HAM	WRC funding of trolley bus overhauls is anti-competitive.	Not true, trolley bus contract negotiated/funded as a Sole Supplier CPP. By definition, there is no other party who could provide this service. TA entitled to be disinterested in who actually undertakes the overhauls.					None.
Unfair Influence	HAM	WRC has amended RFTs to take account of views expressed by one particular operator.	Valid, if this advantages that operator over other operators, but not proven.	Important, if advantages that operator over other operators.	Seems reasonable for TAs to liaise with operators regarding service planning issues.	TA to adopt policy that service planning should not be designed to advantage any one operator over another. Amend CPPs to require such an approach.	More prescriptive CPPs, but unlikely to cause a problem for TAs which adopt a neutral stance between operators.	TNZ to provide policy guideline advice to TAs.
Benchmarking	HAM	TAs need to be able to estimate reasonable tender prices to know when to negotiate.	Valid, otherwise TAs do not know whether they are receiving cost effective services.	Important; otherwise no rational basis for negotiation.	TAs have generally not carried out benchmarking work.	Amend CPPs so that TAs can only negotiate where they have already established benchmark contracts prices.	Probably positive only, implies that TAs could only negotiate down to the benchmark level and not lower.	?

TABLE C1 OTHER CPP-RELATED CONCERNS/contid.

CPP Title/Ref	Submitter	Concern	Validity	Extent / Importance	Causes	Solutions	Implications	Recommendations
Collusion	HAM	Recent WRC tender results suggest operator collusion.	Maybe, depending an interpretation of results. Not proven.					None (but covered by TNZ policy g'line re competition).
Vehicle Quality	FNO, AKA	Cost cutting has caused deterioration in vehicle quality.	True, but not a valid criticism of CPPs		TAs able to include VQS in tender evaluation			None.
Delegated Authority	CES	Officers do not always act in accordance with TA policy	May be valid, but TA delegated authorities beyond scope of this project.	May be important if officers acting contrary to TA policy.	May suggest inappropriate delegation procedures by TA.	Preferred tenderer choice could be subject to political approval.	May result in PT tender process being different from other tender procedures.	None.
Multi-Operator Routes	CES	Cause passenger confusion, especially in absence of integrated ticketing.	Valid, advantages larger operators, likely to discourage competition.	Important, may lead to reduced patronage (contrary to TA wider PT objectives).	CPP limit on RFT size.	Amend CPPs to allow larger RFTs where necessary to cover a single route.	Probably none; potential for reduced competition for larger contracts probably no worse than actual competition for smaller un-integrated contracts on the one route. Larger contracts can effectively be achieved, but through the less simple combined/group tenders.	Larger contract sizes, more flexible combined tender provisions.
Patronage and Revenue Information	CES	Net tenders without publication of revenue figures is anti-competitive.	Valid, does discourage competition, does add to tenderer risks and hence tender prices for new entrants, advantages incumbent operators.	Important, gives incumbent operators a significant advantage.	TA policies in conjunction with CPPs which were amended in January 1992 to eliminate this requirement.	Reinstate previous CPP requirement to publish patronage information for net tenders.	More competition. Increase in number of gross contracts. Increased dissatisfaction by incumbent operators. Less stability. Lower contract prices.	TNZ policy g'line.

TABLE C1 OTHER CPP-RELATED CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent / Importance	Causes	Solutions	Implications	Recommendations
Funding / Investment uncertainty	CIT	Current investment levels unsustainable.	Valid, but being reduced by VQS	Becoming less important in practice	TAs only now addressing this issue	None required; being addressed	Higher than otherwise VQS and contract prices	None.
Responsibility for Service Planning	CTL	TAs too distant from the market to do this task effectively.	Not proven.	Important if so. Common sense suggests that service planning should be undertaken cooperatively by operators and TAs.	High ratio of contracted: commercial services, and hence significant need for public funding/TA involvement. Method of RFT specification; most RFTs include base timetable (but most also allow for alternatives to be submitted).	<ul style="list-style-type: none"> Encourage more commercial (operator planned) services (funding/pax km) Improved TA/operator liaison. 	<ul style="list-style-type: none"> Likely to reduce competition Positive only but may elicit claims of TAs favouring certain operators. 	None; able to be accommodated under present CPPs.
TA Autonomy	STR	CPPs leave too much power in hands of TAs	May be a valid concern in some specific cases, but not generally valid.			<ul style="list-style-type: none"> Improved Ta procedures More prescriptive CPPs. 	<ul style="list-style-type: none"> Positive only Highly undesirable for TAs to have less autonomy than at present.e 	None.
Preference for Incumbent Operator	CFC	WRC policy undesirable because it discourages competition.	Would be valid if true, but WRC has no such policy.					None.

TABLE C2 CPP SPECIFIC CONCERNS

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
1.5 Alternative CPPs	ARC, CRC	National CPPs not flexible enough to accommodate regional differences.	May be Valid.	Note that TAs are permitted to submit alternative CPPs for approval, subject to S19(3) of TNZ Act.	Any single national CPP unlikely to accommodate all regional differences	Invite submittal by TAs of alternative CPPs for approval, approve if comply with requirements of S.19(3) of TNZ Act.	Increase in number of approved CPPs, improved accommodation of regional differences.	CPPs to be made more flexible, submissions for alternative CPPs to be invited by TNZ.
1.8 Alternative Tenders	CRC	Confusion between optional features and alternative tenders.	Valid, may discourage TAs from allowing alternative (innovative) tenders.	Important, confuses RFT specification and tender evaluation.	CPP wording.	Revise wording, give examples.	Improved procedures.	Clarify CPP wording.
1.8 Combined Tenders	BOP	Limiting combined RFTs to a single route means process cannot be used to combine two or more routes.	Valid, may lead to resource inefficient tender packages.	Quite important, unnecessarily prescriptive.	CPP wording.	Revise wording of CPPs to: <ul style="list-style-type: none"> Allow combined RFTs to cover more than one route Permit larger RFTs 	A combined RFT could include services on more than one route. Could lead to increase in tender size.	Allow more flexible combined tender procedures, permit larger RFTs.
2.2.1 Advertising	YRC	Advertising requirements for small contracts excessive.	Valid, may unnecessarily increase administration costs.	Minor issue	CPP wording	Amend expedited tender wording or add de minimis provisions	Positive only.	Simplify advertising requirements for small contracts.
2.2.2 Pre-Tender Meeting	ORC, Citibus	Literal interpretation is a farce	Valid	Minor issue	CPP wording.	Amend CPP wording; if no parties want to attend, don't hold one.	Reduced bureaucracy.	More flexible pre-tender meeting requirements.
2.3 Expedited Tenders, Small Contracts	ARC, YRC	Confusing, need to cover small contracts.	Valid	Important for smaller regions.	CPP wording.	Amend expedited tender wording or add de minimis provisions	Positive only.	Allow contracts of less than 1 year and simplify advertising requirements for small contracts.

TABLE C2 CPP SPECIFIC CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
2.4 Trial Services	YRC NSH CRC	Unclear / Confusing. Too restrictive. 14 months often too short for trial services, should not be limited to gross contracts.	Valid	Important, may discourage trial services.	CPP wording.	Amend wording.	Positive only.	Covered by recommendations for 2.2.1 and 2.3 above.
2.5 Two-Envelope System	FNO	Tender evaluation should take into account non-price features before price considered.	Valid but already provided for in CPPs.	Important that non-price features should be considered in tender evaluation.	No change	But note Quality/Price Trade-Off CPP method may be useful mechanism.	No change.	None.
2.5.2 Conforming Tender	ARC	Unnecessary costs/work involved in having to submit a conforming tender in order to then be able to submit an alternative tender.	Valid, difficult to see how this requirement assists in achieving S.19(3) or other PT objectives.	Minor issue.	CPP wording	Amend CPP wording; eliminate mandatory need for conforming tender prior to submittal of alternative tender.	Probably positive only.	Amend CPP wording.
2.6.1 Part A Clarification	YRC	Can be a need to clarify Part A items after Part B opened. Excessive work in having to carefully check every tender detail when most, by definition, will clearly fail on price.	Valid; seems unreasonable to have to thoroughly check tender details for all tenders when some will be clearly uncompetitive on price grounds; causes unnecessary administration costs.	Can be important, particularly if matters requiring clarification arise after Part B envelope has been opened.	CPP wording	Amend CPP wording to allow clarification after Part B envelope has been opened.	More flexible tender evaluation procedure, but may be able to be abused if extent of clarification is significant/ contrived to achieve sought after result.	More flexible clarifications procedures.
2.6.2 Optional Evaluation Factors	ORC	Application should be at TA's discretion.	Valid, and already is.	Important	No change	No change required.	No change.	None.

TABLE C2 CPP SPECIFIC CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
2.6.3. Lowest Price	CTL, ARC	Excessive emphasis on lowest price.	Not true, CPPs only require lowest price for a given service level/quality after price adjustment for optional evaluation features. Individual TAs able to develop their own optional evaluation features so that price becomes just one element in tender evaluation.	Important issue, arguably the crux of criticism with present CPPs from operator perspective.	Competitive environment.	TAs can take into account a whole range of non-price factors in tender evaluation. Difficult to see why lowest price tender of a given standard should not be the preferred tenderer. Could reward CPPs to make non-price factors mandatory (ie CPPs more prescriptive).	More prescriptive CPPs unlikely to be generally attractive.	None.
2.7/3.2 Tender Evaluation	HUT	Should allow trade-offs with other wider issues.	Not a valid criticism of CPPs, CPPs do allow other factors to be taken into account.	Important that this should be allowed.	TA policies	No solution required.	No change.	None.
	HUT	TA specification of vehicle size not cost effective.	May be valid, but not directly related to CPPs themselves.	Important if specification leads to inefficiencies /wastage.	TA actions	Amend CPPs to be more prescriptive.	Unlikely to be generally popular.	
2.7.2	WRC	Tender evaluation too prescriptive, hard to favour incumbent when prices are close.	Not a valid criticism of CPPs; TAs could include suitable methodology in published tender evaluation procedures.	Important not to favour incumbent simply on grounds that that operator's the incumbent; but reasonable to include allowance for 'dislocation' costs in tender evaluation (eg. t/table printing, etc).	TA have generally not addressed this issue.	TA could assess and publish maximum margin by which it is not cost effective to change operators.	Probably positive only.	Preference for incumbent may be permissible where justifiable on quantifiable grounds.

TABLE C2 CPP SPECIFIC CONCERNS/contd.									
CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations	
2.8 Tender Negotiation	NSH, WRC, BOP, ARC, CRC WRC	Inability to negotiate where there is more than one tenderer is inefficient/illogical. Negotiation largely ineffective	Valid, contrary to S.19(3) "efficient use of fund" objective. Valid, but not directly related to CPPs themselves.	Important, can lead to inefficient use of funds. May be important where tender prices are high and threat of competition is low.	CPP wording No established basis for negotiation, low levels of completion.	Amend CPP wording. TA could undertake benchmarking project; adopt policies to encourage more competition.	Risk that TA monopoly purchaser position will allow them to negotiate price down to an unreasonably low level.	TAs to be able to negotiate when there is more than 1 tenderer.	
	STA,HAM ,ORC	Ability to negotiate when there is only one tenderer is reasonable.	Not valid; see above.	See above.	See above.	See above.	See above.	See above.	
2.9.2 Publication	ORC YRC	Excessive work involved in having to include summary of tender evaluation in notice of contract award. Should only have to publish successful tender price and tenderer name.	Very doubtful; little extra work involved. May be valid,	Minor issue Minor issue	CPP wording. CPP wording	Amend CPP wording Amend CPP wording	Lack of transparency when other than lowest priced tenderer awarded contract. Lack of transparency in how other than lowest priced tenderer awarded contract.	None.	

TABLE C2: CPP SPECIFIC CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
2.11 Contract Lead Time	ARC, YRC	4-month lead time guideline often not achievable.	Valid comment, may discourage competition and/or lead to higher tender prices from potential new entrants.	Important, to allow start up and wind down time.	Tendering process frustrated by commercial notifications and registrations.	<p>a. Delete lead time guideline.</p> <p>b. Achieve lead time by declining to register "frustrating" commercial notifications.</p>	<p>a. Lead times may become excessively short / anti-competitive/contrary to S.19(3) objectives.</p> <p>b. Likely to require legislative change, likely to encourage competition.</p> <p>Likely to increase costs in the short term, greater competition and lower costs in long term.</p> <p>But what happens when, despite best efforts, lead times still not achieved?</p> <p>Likely to require legislative change to assist TAs in meeting mandatory lead times.</p>	None, but also covered by TNZ guideline re commercial registrations and minimising scope for anti-competitive practices.
3.2 Tender Price Basis	EBC, CES	Lead times sometimes too short, (make 4-6 months mandatory).	Valid comment, see above.	See above.	See above.	Amend CPP wording to make lead times mandatory.	<p>But what happens when, despite best efforts, lead times still not achieved?</p> <p>Likely to require legislative change to assist TAs in meeting mandatory lead times.</p>	See above.
3.2.1 Proposal Shell	YRC	Simply tendering an annual price means public funding is not clearly targeted. (Should be able to tender on a rate per passenger (or per passenger kilometre)).	True, but not clear that tendering on a per passenger (passenger/km) basis would improve transparency. Not a valid criticism of CPPs which do not prohibit that type of contract payment method.	Important, no good reason to prohibit such a thing.	TA actions, could be done within present CPPs.	TA could adopt that method.	In principle would clarify funding costs between user groups; in practice though operators still likely to internally cross-subsidise, thus potentially losing this benefit.	None, could be done within current CPPs.
		Include example proposal shell in guidelines.	Maybe	Minor issue		Include shell in guidelines.	Suggests a national / TNZ preferred approach.	None.

TABLE C2 CPP SPECIFIC CONCERNS/cont'd.									
CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations	
3.2.2 Conformance Requirements/ Financial Credentials	YRC	TA should be able to check operator's financial soundness.	Not valid, assumes that TA has better knowledge of costs etc than tenderer.	Important that TA should not exclude tenderers on these grounds.		Amend CPP wording, or/ Adopt output rather than input approach by specifying performance bonds.	TAs may become arbiter of whether an operator has the financial ability. Are they best / able to judge?	None.	
3.3.1 Alternative Tenders.	ORC	Wording inconsistent with group and combined tender wording.	Valid.	Minor importance.	CPP wording.	Amend CPP wording.	None.	Clarify wording re: alternative tenders.	
3.3.4 Specifications Which Limit Competition	YBC HAM, EBC DAR	Should be able to specify minimum no. of buses as prerequisite to bidding VQS phase-in too short, anti-competitive, encourages investment rather than better service Tender evaluation should favour incumbent operator.	Not valid, only existing bus owners would be able to tender, would reduce competition. Valid concern, if unreasonably limits competition. Not valid, contrary to S.19(3) objectives.	Important Important Important, could be highly anti-competitive.	TA policies re VQS. CPPs do not permit this.	Make CPPs more prescriptive (if concern shown to be correct) Amend CPPs to say that preference for incumbent is permitted where the cost of change is greater than any saving achieved.	More prescriptive CPPs to ensure competition not unreasonably limited. Probably positive only.	None specifically, but covered by proposed TNZ guidelines re anti-competitive matters. Preference for incumbent may be permissible where justifiable on quantifiable grounds.	

TABLE C2 CPP SPECIFIC CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Resolutions
3.3.5 Performance Bonds	HAM, CES	Too high, anti-competitive, seldom actually forfeited, tie up capital.	Valid if too high, but not clear that this is so.	No evidence to show that concerns are in fact causing problems.	TA policies	Make CPPs more prescriptive; define "correct" or maximum level for performance bonds.	More prescriptive CPPs, likely criticism from other quarters.	None.
3.3.5 Contract Tenure	YBC	30 days notice provides insufficient contract tenure.	Valid	Important in principle, but not clear what effect this uncertainty has on competition/tender price.	Short-term government funding cycles. Contracts that extend beyond guaranteed funding.	<ul style="list-style-type: none"> a. Obtain long-term government funding commitment. b. Adopt short duration contracts c. Live with the problem. d. TA to commit to longer term funding 	<ul style="list-style-type: none"> a. Unlikely to be achievable. b. Probably presents even greater problems. c. Pragmatic approach. d. TA could increase rates to maintain contracts if government funding reduced. 	TAs to enter into "back-to-back" funding contract with TNZ to give greater security of tenure against funding crises.
3.4 Area Monopolies	WCC	Large contracts lead to area monopolies and higher prices.	Valid only if contracts too large to attract competition and leads to increase in contract costs.	Not clear that it is the size of the contract, per se, which is discouraging inter-operator competition in Wellington.	Operator tendering strategies/desire to compete with one another.	<ul style="list-style-type: none"> a. Amend CPPs to specify maximum market share per operator. (May be contrary to Commerce Act). b. Restrict maximum contract size. 	<ul style="list-style-type: none"> a. Would eliminate from competition an operator already at / close to maximum market share in that region. May force competition between larger operators in different regions. b. Contrary to other more flexible approaches. 	TNZ guideline on minimising scope for anti-competitive activity. (NB. A large efficient operator minimising a large number of contracts at a competitive price does not automatically equate to a monopoly).

TABLE C2 CPP SPECIFIC CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
3.4.1 Tender Size	EBC, ORC, CRC, BCA, ARC.	Tender size should reflect size of likely competitors; arbitrary maximum size is inappropriate.	Valid, if competition is to be encouraged.	Important.	CPP wording which specifies maximum contract size.	Amend CPP wording to allow larger RFTs.	A greater range of contract sizes more suitable to achieving competition.	Allow larger contract sizes.
3.5/3.6 Combined & Group Tenders	HAM YRC BCA	Such tenders favour incumbents and are anti-competitive Confusing issues/concepts Restrictions on group bids inhibit efficient and user oriented services	Potentially valid, not clear that this is so in practice. Possibly Valid, provided there is competition for individual components.	Important, if so. Important (to avoid confusion)	TA actions TA interpretation, CPP wording TA policies; CPPs permit group bids, leave details to TAs.	Amend CPP wording. Amend CPP wording Probably no change needed.	But contrary to "horses for courses" contract size approach (see above). Positive only	TNZ to issue policy guidelines regarding minimising the scope for anti-competitive activity.
3.6 Group Tenders	CRC, ORC	TAs should be able to impose own special conditions	Agreed, but not a valid criticism since can do so within present CPPs			No change needed.		None.
3.7 Contract Duration	BCA	Short contracts are a disincentive to investment/innovation.	Valid; short contracts likely to attract less competition than longer contracts, less time to develop innovative services. But note present CPPs allow for 5 year contracts.	Important.	TA policies	No change needed, unless 5 years is still considered too short. If so, could consider longer contracts / roll-over provisions.	Difficult to look that far ahead when tendering; may require negotiation on issues throughout contract. May "lock-out" unsuccessful tenderer for longer period.	Allow longer contracts, possibly involving contract roll-over provisions.

TABLE C2 CPP SPECIFIC CONCERNS/contid.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
	YBC	Contracts should only be for 3 years (assuming 80% of service provided commercially)	Not clear why this should be so.			No change needed, can be done within present CPPs.		
3.7.1 Minimum Contract Duration	YRC, NSH	Contracts of less than 1 year should be allowed (eg school contracts).	Valid, in some cases shorter contracts may better meet S.19(3) objectives.	Minor importance	CPP wording.	Amend CPP wording.	Potential increase in number of short term contracts.	Allow contracts of less than 1 year.
3.7.3 Maximum Contract Duration	ALL	Contract duration should have regard to asset life.	Valid, particularly where assets not readily redeployable.	Important (but note already provisions for longer rail contracts / sole supplier CPPs).	CPP wording.	Amend CPP wording to allow longer contracts.	Likely to lead to calls for longer contracts which employ lower unit capital cost / more readily redeployable assets (ie. buses)	Allow longer contracts, possibly involving contract roll-over provisions.
	ARC	Contract duration should be set to coincide with service review dates.	May be valid, but not clear how this may be valid in terms of helping achieve a TAs wider PT objectives.	Not clear.	CPP wording requiring staggered contract expiries within each year.	Amend CPP wording to allow TAs greater flexibility re: contract end dates.	May lead to lesser number, but larger, tendering rounds.	Allow greater flexibility regarding timing of contract end dates.

TABLE C2 CPP SPECIFIC CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
3.7.3 Continued	YRC	Maximum duration too short.	Not considered particularly valid; CPPs allow 5 year contracts which is considered adequate to meet S.19(3) objectives, and also likely to meet other Ta PT objectives.		TA which adopt excessively short contract durations.	<p>a. CPPs could permit longer contracts/contract roll-over.</p> <p>b. TAs could adopt (say) 5 year contracts as the norm.</p> <p>c. CPPs could increase minimum contract duration.</p>	<p>a. Reduce competition and encourage higher level of investment by operator.</p> <p>b. But unsuccessful tenders "locked-out" for longer duration.</p> <p>c. More prescriCPPs unlikely to find favourable</p>	As above.
3.7.3 Frequency of Tendering	WRC	Tendering process repeated too frequently, increases administrative costs.	May be valid, but TA and operator costs of tendering need to be offset by reductions in contract prices.	Important to strike sensible balance between administration costs and contract prices.	CPP wording.	Amend CPP wording, fewer contract rounds each year and/or longer term (5 yr) contracts.	Likely to lead to more intensive and fewer contracting opportunities.	None specifically, but note proposed contract duration and expiry date changes.
3.7.4 Expiry Dates Throughout the Year	ORC ARC	Not optimum for contracts to expire throughout the year. There should be common expiry dates for all contracts within an integrated area.	Valid; particularly for pre-existing small contracts where limitation forces a separate and new contract. May be valid, see above.	Important, particularly in smaller centres (where contracts will tend to be smaller). May be important to ensure co-ordination/improve opportunities for integrated service changes.	CPP wording. CPP wording	Amend CPP wording to allow greater flexibility. Amend CPP wording to allow greater flexibility	Fewer and more intensive tendering rounds each year. Fewer and more intensive tendering rounds each year.	Allow greater flexibility regarding timing of contract and dates.
3.8.1 25% Service Level Variation	YRC,CRC , YBC	Present scope for service level variations is too limiting.	Valid, particularly for pre-existing small contracts where limitation forces a separate and new contract.	Important, particularly in smaller centres (where contracts will tend to be smaller).	CPP wording.	Amend CPP wording to allow greater scope for variations.	Greater number of service changes achieved by way of variation rather than tendering.	Allow greater scope for service level variations, including greater flexibility for price adjustments.

TABLE C2 CPP SPECIFIC CONCERNS/contid.									
CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations	
	CRC	Prices for variations should be negotiable	Valid (since TAs do not take variable rates into consideration in tender evaluation anyway).	Important, to permit cost effective service flexibility post contract award.	CPP wording.	Amend CPP wording to allow price negotiation for contract variations.	May encourage arguments in favour of negotiation on base contract price.		
	YRC, NSH	Unclear how the 25% is measured.	Valid	Important in principle, less important in practice	CPP wording unclear.	Amend CPP wording.	Positive only.		
	YRC	Not clear how revenue impacts of service level variations should be treated.	Valid.	Important in principle, less important in practice.	CPP wording, TA policies.	a. Make CPPs more prescriptive. b. Amend guidelines. c. TAs could clarify their own policies	a. Unlikely to be widely popular. b. Assist where necessary without adding to degree of prescription. c. Solutions b and c preferable.	Allow greater scope for service level variations, including greater flexibility for price adjustments.	
3.9.5 Contract Price Indexation	ORC	Considers that indexation should not be mandatory.	Not valid; most longer term contracts in other sectors allow for contract inflation indexation.	Probably of minor importance in practice (low inflation, etc).		No change, operators should not be expected to take risk on inflation.	Mandatory indexation for contracts exceeding 12 months duration.	None.	

TABLE C2 CPP SPECIFIC CONCERNS/contd.									
CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations	
4. CFS	YBC	Current mix of commercial and contracted services unwieldy.	Valid, but not clear that this works contrary to S.19(3) of TNZ Act or need be a serious impediment to TAs achieving wider PT objectives.	Important.	Low cost recovery through fares, coupled with legislation which distinguishes between commercial and contracted services.	<p>a. Increase scope for "commercial" services by national /regional rate per passenger or per passenger kilometre.</p> <p>b. Adopt area franchise approach, likely to require legislative changes.</p>	<p>a. Competition would switch from "for the contract" to "on the street". Likely to be less actual competition.</p> <p>b. Reduces competition, improves security for incumbents, fraught with practical difficulties.</p>	None (in CPP). Addressed elsewhere in report (alternative regulatory models).	
4. Concessionary Fare Scheme	WRC	Present CF Committee arrangement not satisfactory.	Valid; a cumbersome procedure.	Important, considerable expenditure made by way of CF schemes.	CPP wording.	Delete need for CF Committee from CPPs, treat as follows: <ol style="list-style-type: none"> 1. TA defines all fares 2. TA defines maximum fares on commercial services to avoid risk of contracting over. 3. Contracted services operate at TA specified fares. 4. All commercial operators eligible for CF reimbursement at standard formula. 	Positive only.	Abolish requirements for CF Committee, subject to investigation of legal alternatives.	
	BOP	CFS do not recognise child, concession and paratransit fares separately.	Valid (true), but not precluded by present CFS within present CPPs.	Not considered important.		<p>a. TA adopt improved procedures within CPPs.</p> <p>b. Delete CFS from CPPs.</p>	<p>a. Probably positive only.</p> <p>b. Probably positive only.</p>		

TABLE C2 CPP SPECIFIC CONCERNS/contd.

CPP Title/Ref	Submitter	Concern	Validity	Extent/Importance	Causes	Solutions	Implications	Recommendations
4. Wheelchair Hoists	WRC, YRC NSH	Not clear how these can be funded. Determination of number should be by CF Committee, not just representatives of disabled.	Valid; not clear how this issue can be handled within CPP. Valid in terms of current CPPs, but not clear that CF Committee is itself warranted.	Important, if TA wishes to.	CPP wording.	Amend CPP wording to clarify.	Positive only.	Clarify CPP wording.