

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 951

IN THE MATTER OF:

Served June 4, 1969

Application of the Greyhound)
Corporation to Acquire Stock)
Control of Airport Transport,)
Inc.)

Application No. 541

Docket No. 195

APPEARANCES:

L. C. MAJOR, JR., attorney for the Greyhound Corporation,
applicant.

RAYMOND R. DICKEY, attorney for ITT Corporation, seller.

MANUEL J. DAVIS, attorney for D. C. Transit System,
Inc., and W. V. & M. Coach Company, protestants.

S. HARRISON KAHN, attorney for The Gray Line, pro-
testant, and White House Sightseeing Corporation,
intervenor.

CHARLES A. HORSKY, attorney for Gray Lines of Washington,
protestant.

RENN C. FOWLER, Assistant General Counsel, Washington
Metropolitan Area Transit Commission.

By Application No. 541, dated December 3, 1968, the Greyhound Corporation (Greyhound) seeks authority pursuant to Title II, Article XII, Section 12(a)(2)^{1/} of the Compact, to acquire stock control of Airport Transport, Inc. (ATI) through the purchase of all of the outstanding capital stock of ATI which is now owned by the ITT Consumer Services Corporation. In its Application No. 542, Greyhound sought, and was granted by our Order No. 899, authority to temporarily control, manage, and operate ATI pending determination of the application for permanent control.

Hearings were held on the application for permanent control on February 18, 27, 28, March 3 and 6, 1969. Three protestants appeared: The Gray Line, Inc., D. C. Transit System, Inc., and the W. V. & M. Coach Company. In addition, White House Sightseeing Corporation participated as an intervenor in opposition. The interest of protestants and intervenor lies in the fact that each of them conducts charter and sightseeing operations in the Washington Metropolitan Area Transit District in competition with Washington Sightseeing Tours, Inc., which is owned by Greyhound.^{2/} Generally, they contend that the competitive position of Washington Sightseeing Tours would be greatly enhanced as a result of the acquisition under consideration, to their extreme detriment. They ask that the acquisition not be approved, or in the alternative, if the acquisition is approved that the Commission order, as a condition to that approval, the divestiture by Greyhound of its interest in Washington Sightseeing Tours, Inc.

^{1/} 12.(a) It shall be unlawful, without approval of the Commission in accordance with this section--

* * *

(2) for any carrier which operates in the Metropolitan District or any person controlling, controlled by, or under common control with, such a carrier (i) to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any carrier which operates in such Metropolitan District, or (ii) to acquire control, through ownership of its stock or otherwise, of any carrier which operates in such Metropolitan District.

^{2/} Greyhound Corporation is a holding company. It already owns, in addition to Washington Sightseeing Tours, Inc.: Greyhound Lines, which performs regular route and charter operations within the Transit District and Greyhound Highway Tours, Inc., a tour broker, selling those services in the Transit District.

For many years, ATI had the contract with the Federal Aviation Administration (FAA), the operator of the Washington National and Dulles International Airports, to provide ground transportation serving those two airports. In 1968, this contract came up for renewal for a five-year period commencing January 1, 1969. Several companies, including ATI and Greyhound, bid on the contract and the FAA awarded it to Greyhound. Thereupon, Greyhound undertook to purchase the stock of ATI, thereby mitigating the adverse impact which loss of the contract might have had on it and its employees.

Because Greyhound owns one company, Washington Sightseeing Tours, Inc., which is certificated by this Commission, their acquisition of ATI cannot become final unless and until it is approved by this Commission pursuant to Article XII, Section 12 of the Compact. Under that section, we must approve the acquisition if we find that it is "consistent with the public interest."

There are several aspects of the acquisition which favor the public interest. The first is the prospect of service improvement. As a part of its commitment to the FAA, Greyhound will provide an airport transport service which will constitute a substantial improvement over that which was required of ATI. A new west-side downtown terminal will be operated primarily for the convenience of Dulles passengers in addition to the downtown terminal at 12th and K Streets, Northwest. Greyhound intends to offer new kinds of service: bus service to Washington National; new types of group riding and jitney services; radio dispatched taxicabs. It promises higher equipment and maintenance standards and offers detailed plans for meeting those higher standards. The vehicle fleet will be enlarged and vehicles will be replaced more frequently. New maintenance facilities are planned, along with a stricter maintenance program. Greyhound contemplates an advertising effort to make the public aware of its improved services in order to induce those now using private transportation to move to and from the airports by public means.

We are impressed by Greyhound's plans for improvement of airport transportation service. Its application indicates an awareness of the need for upgrading public transportation facilities to be more competitive with private carriage and an apparent willingness to experiment to that end.

Greyhound has available a depth of experience not only in transportation generally, but specifically in providing airport ground transportation services. It owns companies providing those services at Miami, Florida; Atlanta, Georgia and Detroit, Michigan.

The changes in the airport transportation services that the applicant contemplates will constitute an improved transportation service for the area. Greyhound, by virtue of its transportation management experience and the utilization of personnel already familiar with providing airport transportation in this area, is as likely as anyone, and it seems to us more likely than most, to succeed in accomplishing the goals for improved service that it has outlined in this proceeding. We therefore believe that the public stands to realize tangible transportation benefits from the approval of the acquisition under consideration.

We have also considered the financial factors which bear upon determination of the public interest. We believe that the evidence concerning those factors favors approval of the application. In this connection, the applicant submitted a schedule of projected annual revenues through 1973 for its operations involving both airports, predicting that Greyhound will derive gross revenues of \$45 million over the five-year period, involving an anticipated profit in excess of \$2 million.

These projections show us the data and the assumptions which provided the basis for Greyhound's decision to undertake this operation. They indicate that Greyhound considered, on the basis of data available to it, the financial prospects for this airport service, and concluded that it could be provided on a sound economic basis. These projections were the subject of extensive cross examination by counsel for protestant Gray Line and intervenor White House Tours and on brief they attacked the validity of the projections, contending that they were overstated. The projections, they argued, did not take into account the restrictions on aircraft operations at Washington National, the emergence of improved rail transportation between Washington and New York, the actual experience of ATI, and they further took issue with the Greyhound assumption that fares will remain constant over the five-year period of the Greyhound airport contract. Finally, they drew the

conclusion that Greyhound must have in mind to use its airport transport operation in "new and additional services that have not been disclosed in this record."

We have carefully considered both the record and the arguments of protestants concerning these projections. We have concluded that, for purposes of determining whether the public interest will be served by the acquisition here involved, we do not require a certainty that Greyhound will achieve a certain level of profit or will capture a certain volume of business. The assumptions that are made in developing projections necessarily involve variables and unknowns, particularly where the projections are for periods relatively far into the future, such as in this case.

It is enough for us to know that Greyhound has obtained data from reliable sources, has applied expert analysis to that data, and has concluded that the operation has a sound economic base. If the projections prove wrong, the actual situation can be accommodated by adjusting service to actual demand levels or, if necessary, through the rate-making process. In any event, the substantial financial resources of the parent Greyhound Corporation should enable ATI to meet and accommodate whatever actual conditions develop.

We note further that no rebuttal exhibit was offered to show what would happen to Greyhound's projections if additional or different elements were considered. We are thus left to speculate what, if any, impact they might have. We can conclude that it would be only conjecture to try at this time to anticipate the effect of the fast train between Washington and New York or to try to predict if fares will rise and to what levels. These projections must also be viewed in light of Greyhound's history of conducting successful transportation businesses and weight must be given to the judgment of the management of that company, evidenced by its submission of a bid for the FAA contract, that the Washington airports ground transportation operation can be financially successful.

Finally, we do not accept the argument that these projections indicate an intent on Greyhound's part to achieve revenues from new and additional services not disclosed in the record. Greyhound has presented sworn testimony by the person who made the projections describing the study and its

underlying assumptions in detail. Protestants have offered no countervailing evidence but only inference and innuendo. This record does not justify the conclusion that these projections reveal an intent to use the airport transport operation in unrevealed ways.

These, then, are the factors favoring the public interest with regard to this acquisition: specific plans for significant service improvements, a management with substantial background and experience in the transportation field, and a sound financial basis for the proposed program. We turn now to consideration of factors alleged to militate against the public interest.

Protestants charge that the Greyhound Corporation, through acquisition of ATI, will be in a position to destroy charter and sightseeing competition with its subsidiary, Washington Sightseeing Tours, Inc., and thus destroy the sightseeing and charter industry as it is now constituted in Washington.

Protestants argue that acquisition of the rights held by ATI will provide a missing link which will give its sightseeing subsidiary a decisive competitive advantage. Specifically, they assert that Greyhound's advantage will be three-fold: (1) Greyhound will be able to capitalize on its first contact with the arriving air passengers to secure a larger volume of the charter business from people arriving in Washington by air; (2) having first contact with incoming air passengers will enable Greyhound personnel to direct the air passenger to Washington Sightseeing; and (3) since Greyhound will be in a position to direct air passengers to local hotels through its airport transport operation, hotels may be unduly influenced to provide favored treatment to Washington Sightseeing.

Taking these contentions up in turn, the record shows that most bus charter groups arriving by air have been contacted and arrangements made long before arrival of the groups in Washington. Under those circumstances, we cannot see that Greyhound ownership of the airport ground transport business would provide new inroads into the group charter business at airports. Further, there is no indication in the record that such business constitutes an important segment of the charter business.

We do not have the advantage of precise information on what percentage of people constituting the sightseeing trade arrive in Washington by air. The air traveller has typically not been a tourist but in the majority of cases has come on business usually in regard to a matter involving the federal government. Therefore, we do not believe that the potential exists for Greyhound to use the airport transport operation to capture enough business to allow it to create a monopoly for its subsidiary in the sightseeing field, or that the potential exists for any significant advantage to be worked on behalf of its subsidiary by actively soliciting airport passengers to use the sightseeing service.

Further, this contention, on analysis, comes down to the proposition that ATI may have a competitive advantage with one segment of the potential sightseeing market. However, there is nothing inherently contrary to the public interest in a competitive advantage. Each of the sightseeing companies has some competitive advantage not possessed by the others. For instance, Gray Line has the advantage of its widespread reputation as a sightseeing operator in many cities. D. C. Transit has the advantage of its high visibility on the streets of Washington and a certain volume of business that results from that fact alone. Thus, the mere existence of a competitive advantage does not militate against the public interest. What we must guard against is an undue advantage. There is no present indication in this record that ATI's contact with air passengers would be an undue advantage. However, we will not simply drop the matter here. We will take steps to monitor the situation on a continuing basis. Further, we will reserve the right to attach a condition to the Greyhound certificate if it develops that it can, and does, use its airport transport operation to the special advantage of its sightseeing affiliate in a manner detrimental to a healthy sightseeing industry.

Likewise, it has not been demonstrated to us, nor is it self-evident, that the airport transport operator is able to influence the hotel destinations of any meaningful number of persons, or that it could or would use whatever leverage it might have to induce hotels to give business either on an exclusive basis or on a favored basis, to the Greyhound subsidiary, Washington Sightseeing. However, in order to provide assurances to the protestants and intervenor that

the results they fear will not occur, we will require ATI to submit reports to us on the relations between hotels and motels and Washington Sightseeing, and if it appears that any pressures are being brought on hotels through the airport transport operation for the benefit of Washington Sightseeing, we will take appropriate action.

One other argument of protestants and intervenor requires comment. Much has been said in testimony and in briefs in this proceeding regarding the size and number of the activities controlled by Greyhound Corporation and it has been contended that Greyhound's economic leverage will be used to destroy its competitors. In support of that contention, protestants and intervenor point to the fact that after the acquisition by Greyhound of Washington Sightseeing some three years ago, Washington Sightseeing displaced Gray Line as exclusive offerors of sightseeing tours at some of Washington's more desirable tour-business hotels. We have no basis for concluding from the record before us that these displacements resulted from anything other than normal competitive practices in a highly competitive business, or that the competitive instincts of Greyhound evidenced by these displacements indicate that it is committed to the creation of an anti-competitive environment. Thus, in our view, the issue of Greyhound "greed" and of Greyhound the "octopus", terminology repeatedly employed by protestants and intervenor, simply does not materialize on this record.

We need also to dispose of the question of the relevance of the manner of acquisition by Greyhound of the certificate once owned by Archie B. Davis and now owned by Washington Sightseeing. The essence of this issue is that through a series of steps, Greyhound acquired the certificate through a route that permitted the certificate to pass into Greyhound's hands without the approval of either the Interstate Commerce Commission or this Commission. At the hearing, Chairman Avery excluded evidence on this issue on the ground that it was not relevant in this proceeding. An offer of proof was made by counsel for Gray Line and White House Tours. We affirm the Chairman's ruling on this point. We do not believe that the alleged action complained of, even if proved, is necessarily evidence of bad faith as counsel contended, nor do we believe that this proceeding provides the appropriate context in which to raise the issue.

To sum up, on the one hand, we find that this acquisition will provide substantial benefits in the public interest. On the other hand, we do not believe that the alleged detrimental effects upon competition in the sightseeing business provide any basis for concluding that the acquisition is inconsistent with the public interest. Hence, the acquisition merits our approval.

With respect to the purchase price of \$1,350,000 to be paid by applicant for the ATI stock, we note that according to the financial report of ATI as of December 31, 1968, submitted by applicant, the net worth of ATI is \$750,286.37. The Commission wishes to state now that for future rate purposes the original cost of ATI's equipment and facilities at the time they were first devoted to public use remains unchanged.

CONCLUSION

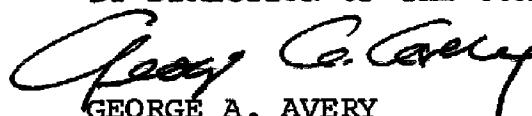
The purchase by the Greyhound Corporation of all of the outstanding stock of Airport Transport, Inc., as described in its application to this Commission, is consistent with the public interest.

THEREFORE, IT IS ORDERED that the application of Greyhound Corporation (Application No. 541) to acquire all of the outstanding capital stock of Airport Transport, Inc., by purchase from ITT Consumer Services Corporation is hereby approved, subject to the following conditions:

(a) Any change in arrangements or agreements, formal or informal, between hotels and motels and their personnel on the one hand and Washington Sightseeing Tours, Inc., and its personnel on the other hand, of whatever nature, shall be reported in writing to this Commission within 10 days of the change.

(b) The Commission reserves the right to impose additional conditions with respect to the use of vehicles and other facilities in the airport transport operation, for the solicitation of business for Washington Sightseeing.

BY DIRECTION OF THE COMMISSION:



GEORGE A. AVERY
Chairman