



May 22, 2015

U.S. Department of Justice

Attn.: William H. Stallings, Chief, Transportation, Energy and Agriculture Section, Antitrust Division  
450 5th Street, N.W., Suite 8000  
Washington, D.C. 20530

**RE: United States and State of New York v. Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., Citysights LLC, City Sights Twin, LLC  
United States District Court for the Southern District of New York, 1:12-cv-08989-ALC-GWG**

Dear Mr. Stallings:

On behalf of Taxi Tours, Inc., dba BigBus ("Big Bus"), we offer the following comments pursuant to 15 U.S.C. § 16(d) with regard to the Proposed Final Judgment (the "PFJ") in the above-captioned matter.

**A. Background On Big Bus And Its Interest In This Matter**

Big Bus offers "hop-on, hop-off" services in New York City. Big Bus is a competitor of Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., Citysights LLC, and City Sights Twin, LLC (collectively, the "Defendants"), in the relevant market. As such, BigBus has a direct, vested interest in that market and in the efficacy of the PFJ.

**B. The PFJ should ensure that equal access is given to ticket vendors in strategic areas to market and sell tickets for competitors of the Defendants.**

The PFJ focuses almost exclusively on the divested bus stop authorizations. However, the Defendants relinquishing the CitySights bus stop authorizations in Manhattan will not remedy the monopoly illegally maintained by the Defendants.

The Defendants exercise their monopoly also by means of preventing competitors from selling their tourist services in certain key areas in Manhattan, such as in the vicinity of landmark buildings, which are strategic for the sale of tourist services. For instance, the street vendors

around the Empire State Building market and sell exclusively the Defendants' tickets and prevent competitors from doing the same.

Even after the Defendants relinquish the CitySights bus stop authorizations in Manhattan to the New York City Department of Transportation ("NYCDOT"), they will still enjoy an unfair competitive advantage over their competitors in the relevant market due to the strategic barrier to entry which creates a monopoly in the ticket distribution in key tourist sites. The PFJ should ensure that equal access is given to ticket vendors in strategic areas to market and sell tickets for competitors of the Defendants.

Furthermore, in the relevant market the Defendants operate with affiliates, including, but not limited to, City Experts, LLC ("City Experts"), a company offering tourist services such as selling tickets to Broadway shows, transportation services through Manhattan and to New York's major airports, dining cruises, and, most importantly, sightseeing bus tours.

Through City Experts, the Defendants conduct a bundling practice by selling combinations of products offered by the Defendants and affiliate entities to consumers through a single point of sale, which has a tendency to restrain competitive access.

Big Bus offers its services by advertising sightseeing tours, among others, in hotels and retail stores in strategic areas in New York City. City Experts serves as an outsourced concierge desk for mid-market hotels. City Experts' representatives target those businesses, outbid competition by overpaying for the licenses, and lock them into exclusive contracts with City Experts. Obtaining exclusive licenses to serve as a concierge service creates the exclusive advantage of offering the Defendants' products and services before any competitor can reach the consumers. City Experts monopolizes the local agent trade network and with its business conduct it deters entry.

As far as "hop-on, hop-off" tours are concerned, City Experts offers tickets for tours provided by Gray Line New York, which is another affiliate of Twin America, LLC. This behavior prevents the Defendants' competitors from effectively competing at the hotel and retail level, and more in general it constitutes a barrier to entry into the relevant market for the Defendants' competitors.

Finally, Twin America is attempting to establish a monopoly in Manhattan by allowing its personnel to attack its competitors' street staff verbally and physically and to damage and subtract private property. The frequency and seriousness of these attacks made it necessary for Big Bus to file police reports against Twin America's staff.

### **C. Significant Ambiguities In The PFJ Must Be Cured To Avoid Further Litigation**

The PFJ does not specifically address the compliance procedures after the PFJ becomes final, nor does it specify a clear process whereby the Defendants' competitors may apply for the divested bus stops. These deficiencies create ambiguity and pose the risk of further litigation.

(i) Application Process: Under the terms of the PFJ, once the CitySights bus stop authorizations are relinquished, they will be available to be assigned to other operators applying with the NYCDOT. However, the PFJ does not define the process of reassignment or reallocation of the divested authorizations to allow other operators to apply for and obtain such divested authorizations. §6.D of the PFJ should define a fair and monitored process of reassignment/reallocation of the divested authorizations to ensure that all competitors in the relevant market have an equal opportunity to apply for the divested stop authorizations.

(ii) Notification Obligations for Affiliates: The PFJ provides that the Defendants will have ongoing reporting obligations and will be required to provide the Government with advance notice, pursuant to the provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a, of any future acquisitions in the New York City hop-on hop-off bus tour services that would otherwise not be reportable by law. However, the PFJ does not specify what happens if Defendants purchase another ongoing "hop-on hop-off" business with its own stop authorizations. The PFJ should specify whether the purchased operation could be transferred with or without its previously obtained bus stop authorizations, and what regulatory oversight the transfer would be subject to.

(iii) Shared Stops: §VI of the PFJ requires that the Defendants relinquish the entire CitySights Bus Stop Authorizations in Manhattan. However, the Defendants share some of the divested stops with related entities currently lacking proper authorizations to operate a "hop-on, hop-off" business. The PFJ should contain a cease-and-desist provision, preventing the Defendants' related entities without authorization from any current or future unauthorized "hop-on, hop-off" operation.

### **D. Affiliate Entities Created After Entry of the PFJ Should Be Subject To The Same Provisions Applying To The Defendants and Their Current Affiliates.**

(i) Reassignment/Reallocation of CitySights Bus Stop Authorizations: The PFJ provides that, for a period of five years after entry of the Final Judgment, the Defendants may not apply for or obtain any bus stop authorizations for hop-on, hop-off bus tours at the locations of the divested CitySights bus stop authorizations. However, the PFJ is silent as to third-party entities related to the Defendants. The PFJ should specify that any related entities formed or acquired after entry of the Final Judgment are also prevented from applying for the divested stop authorizations for the same period of time.

(ii) Reporting Obligations: The PFJ includes, in the definition of each Defendant, their respective successors and assigns, and any subsidiaries, divisions, groups, affiliates, partnerships and joint ventures under its control, and their directors, officers, managers, agents, and employees, presumably at the time of the entry of the Final Judgment. However, the PFJ should specify that any new entities associated with any of the Defendants, even those which were formed or acquired after entry of the PFJ, should be subject to the same reporting obligations in case of acquisitions of “hop-on hop off” businesses in New York. The risk is, in fact, that the Defendants will form new entities to bypass their reporting obligations pursuant to the PFJ.

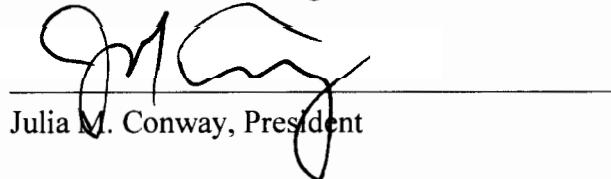
#### **E. Retention of Jurisdiction**

Section XIII of the PFJ provides that “[t]his Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.”

However, this Section should also indicate a process whereby third parties may directly report violations of the Final Judgment by the Defendants.

Very truly yours,

Taxi Tours, Inc. dba Big Bus Tours New York



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Julia M. Conway, President