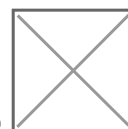


8 November 2012: Maritime transport

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The Autorité de la concurrence clears, subject to conditions, the acquisition of certain SeaFrance assets by the Eurotunnel group

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The Autorité de la concurrence has just cleared, subject to certain commitments, the acquisition of certain **SeaFrance SA** assets by **Groupe Eurotunnel SA** (hereinafter referred to as Eurotunnel).

This acquisition is taking place as part of the SeaFrance liquidation procedure, during which the commercial court of Paris ordered the transfer of certain SeaFrance assets, in particular three vessels. Having received several purchase offers of differing scopes, the commercial court of Paris designated Eurotunnel as the buyer of the SeaFrance assets in a ruling handed down on 11 June 2012.

The companies involved in the operation

Eurotunnel is a Franco-British limited company, concessionaire of the Channel Tunnel. Within this context, it operates the *Shuttle* – a train shuttle service, composed of passenger shuttles (cars and coaches) and lorry shuttles (freight) – as well as the terminals of Folkestone and Coquelles. Eurotunnel also controls Europorte, a port rail infrastructure management company.

The SeaFrance assets purchased as part of the operation are composed of 3 vessels (the Nord-Pas-de-Calais, the Berlioz and the Rodin) and other tangible and intangible assets relating to the operation of these vessels. Before being placed in liquidation, SeaFrance, a subsidiary of the SNCF, was active in the

maritime transport of passengers and freight between France and England, on the Calais to Dover route.

With these assets, Eurotunnel launched a cross-Channel transport service by ferry on 20 August 2012 on the Calais to Dover route, under the name *MyFerryLink* (MFL).

Following its investigation, the Autorité deemed that the operation was liable to pose competition problems in freight transport

The Autorité noted that, for the transport of passengers and freight from Calais and Dunkerque to Dover, the Eurotunnel *Shuttle* was, before the operation, in competition with the ferry links provided by P&O, SeaFrance¹ and DFDS/LD Lines. Following the acquisition of the SeaFrance assets by Eurotunnel, three operators – Eurotunnel, P&O and DFDS/LD Lines – will be active in the market, Eurotunnel being the leader.

To carry out its investigation, the Autorité first examined the extent to which the acquisition of certain assets of a ferry operator could enable Eurotunnel to increase its prices, particularly for the *Shuttle* services, or to reduce the quality of its services for profit by transferring part of the demand to MFL ferries.

The Autorité ruled out this risk, judging that in the event of an increase in the price of Eurotunnel rail transport services, customers could also turn to competing ferry operators, P&O and DFDS/LD Lines, which have excess capacity enabling such a demand to be accommodated.

Furthermore, the Autorité examined whether Eurotunnel would be able to use its strong position on the market, while making use of the acquired vessels, to offer deals combining both modes of transport (ferry and train), in order to encourage the use of MFL services rather than those of another maritime transport provider.

Individual passengers show little interest in purchasing tickets combining both modes of transport: competition risks linked to the transport of passengers have therefore been ruled out.

On the other hand, for the transportation of goods, most carriers use both modes of transport and might therefore be interested in the cost benefits derived from the combined purchase of rail crossings and sea crossings. Since Eurotunnel is the only company able to offer these types of deals (ferry and train), this advantage could discourage its existing or potential competitors. This might ultimately result in a reduction in frequency (meaning a reduction in the choice offered to customers), or even the closure of some routes (especially those that were recently opened).

In order to remedy the competition problems identified, Eurotunnel has proposed some commitments

Eurotunnel has undertaken, with regards to its cross-Channel rail freight transport tariffs, and for a period of 5 years, not to grant reductions subject to the condition that the customer would also have to use the maritime transport offer. In particular, it must not take any account of the volumes of freight transported by MFL when negotiating its annual rail price changes.

Eurotunnel also undertakes, more generally, not to discriminate in any way whatsoever against customers who do not use MFL for their cross-Channel maritime freight transport.

To ensure that these commitments are effective, prices offered to freight customers must be negotiated by different commercial teams for both modes of transport, and will be subject to separate contracts. An independent trustee will be appointed to monitor the implementation of these commitments.

(1) Until November 2011.

> Full text of decision 12-DCC-154 of 7 November 2012 shall be published shortly on the website of the Autorité de la concurrence

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