

CLdN Shipping S.A.

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Competition Commission

Att. Mr. Peter Baker

Inquiry Coordinator

- by e-mail only -

Luxembourg, 4 December 2012

Dear Sirs,

EUROTUNNEL / SEAFRANCE MERGER INQUIRY

1. The CLdN group ('CLdN') provides roll-on roll-off freight ferry transport services in the North Sea market and on routes to Ireland, Sweden and Denmark. Through its 2 operational subsidiaries, Luxembourg based **CLdN ro-ro SA** and Belgian based **Cobelfret Ferries NV**, CLdN operates an owned fleet of 25 freight ro-ro vessels offering liner services between continental terminals in Zeebrugge (B), Flushing (NL) and Rotterdam (NL) and U.K. terminals at Purfleet and Killingholme/Immingham. Other routes depart from the continental ports of Zeebrugge and Rotterdam to Dublin (Ireland), Gothenburg (Sweden) and Esbjerg (Denmark).

CLdN does not offer services to passengers, except that up to 12 drivers per sailing can accompany their freight lorry. For more details please visit www.cldn.com

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2. In answer to the invitation to comment sent by the Competition Commission to CLdN in the abovementioned matter, CLdN is of the opinion that the **acquisition of the former SeaFrance assets by Eurotunnel will have a detrimental effect on competition in the Short Sea area** and by extension in the North Sea market.

Eurotunnel today already is the dominant operator on the Anglo/Continental market. Its market share exceeds by far that of even its nearest ferry operating competitors. **Eurotunnel will increase its control over market share even further** when it controls the former Sea France assets deployed in the Channel market.

CLdN believes this **transaction will have a distortive effect** on the normal competitive functioning of the Channel market for unitized freight services.

Eurotunnel will become more dominant than before the transaction because it will be able to control alongside its current offering of very high frequency short rail crossings of the Dover Straits/Short French Sea (where it has a monopoly) a broader range of services to its

customers, i.e. it will be able to influence offering services that currently are restricted from using the Channel Tunnel, e.g. transportation of dangerous goods and loads with a special width or weight requirement or offer services to customers that make a deliberate choice to use ferry services in view of longer crossing times, e.g. in view of drivers' rest regulations.

There is a **clear risk that Eurotunnel will tie these customers** that require access to its monopoly rail crossing service to its shipping service on the Short Sea route for their other requirements, thereby distorting the normal competitive functioning of that market. It will not be necessary for Eurotunnel to do this by way of exclusivity agreements; it might well be sufficient to offer certain customers discounts based on 'overall volume' taking into one account both types of services used.

As part of the transaction under investigation MyFerryLink – a newly formed cooperative company that is formally standalone - has entered into a very substantial lease contract with Eurotunnel for vessels and other assets on presumed arm's length terms. This is a **creative yet not credible setup** that CLdN believes is unable to function longer term. **MyFerryLink is not a truly independent business** as from a very weak starting position it entirely relies on Eurotunnel as the sole lessor of its vital operating assets and therefore as its main creditor. CLdN believes that **economically Eurotunnel will ultimately only take a rational approach to the MyFerryLink situation** and it is beyond much doubt that **MyFerryLink is being steered and directed from Eurotunnel's headquarters**.

CLdN is very skeptical about this corporate and transactional structure that has been put in place only to make a restart of the failed SeaFrance possible. Markets, consumers and authorities alike are clearly being fooled into this '*solution franco-française pour les besoins de la cause*'.

Also, **Eurotunnel has failed to sufficiently explain why its strategy expanded overnight** for it to also become a pure ship owner focusing on the pure chartering out of vessels.

Furthermore Eurotunnel's rail tunnel asset has been constructed using public funds that are no longer fully accounted for in Eurotunnel present operating costs ('sunken cost'). There is a **risk that Eurotunnel will subsidize its shipping activities** in the Short Sea market from revenues earned on an asset that has not been invested in on a normal private commercial basis. Such cross subsidy will be at the detriment of the other shipping competitors in the Short Sea market and will have a further distortive effect. It will allow Eurotunnel to drive out competitors of market share (or the market altogether) using profits that should not exist in a normal arm's length invested private business. The move by Eurotunnel for the Sea France assets might be a further step in such strategy.

In addition, Eurotunnel for its energy needs does not rely on marine fuel oils but on electricity the supply of which is regulated and most likely based on "base load pricing", e.g. using nuclear electricity generation. It is **questionable whether Eurotunnel is therefore on normal level market terms with shipping operators**, especially in view of the EU emissions directive, which will become applicable from 2015: today 30% to 50% of the end user price of the shipping service is fuel (not accounting the 2015 estimated 30% increase hereof). In the extremely price sensitive Channel market Eurotunnel might therefore be in a position in 2015 and thereafter to **squeeze out its closest competitors** out of (parts of) its market.

In summary, **CLdN is of the opinion that the Competition Commission should fully reject the proposed acquisition by Eurotunnel of the former SeaFrance assets.**

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3. By way of general background CLdN encloses a recent analyst report from Nordea bank, appropriately entitled ' The Battle of Calais '. It provides a useful insight in some key players, assets and figures of the Channel market and the stakes at play in the Eurotunnel / SeaFrance transaction the Competition Commission is currently investigating.

We have obtained this report ourselves directly from Nordea (who send similar public reports to us on a regular basis courtesy of CLdN being one of their customers) so we feel we have no restriction in providing the Competition Commission with this report.

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CLdN remains at your disposal for any further questions or comments in this matter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Joost Rubens', is written over a faint, light blue grid background.

Joost RUBENS
Trango NV
General Counsel
CLdN group