Dear Sir or Madam,

As liquidator of SeaFrance and to follow up on your provisional findings published on 21 March 2014, I would like to add the following precisions:

The Competition Commission goes back to the detail of the judgments of 9 January 2011 and the specific elements cited on page 19.

“But before completing, it would like to say that the end of the temporary continuation of activity is not the end of the road. From the time of any ruling, the liquidator, under the control of the Bankruptcy judge and the Court, will instigate all necessary discussions with the interested partners. Obviously there must be a compromise between the value of the assets, essentially the vessels, and the continuation of employment contracts.”

This last phrase has no meaning in respect of French law governing insolvency proceedings.

It only responds to a political concern.

The same applies to the following text: “In all cases the proceedings must oversee three lines of action…”, i.e. “find a solution for employees” and “redeployment of the activity…”.

As we have already specified, the insolvency of SeaFrance led to strong turmoil in France and many demonstrations.

This is why the procedure followed by the Court was exceptional in comparison to the usual treatment of companies in difficulty.

The Court firstly placed the company under safeguarding proceedings, while it was already clearly insolvent; this status was artificially hidden by the support of its majority shareholder, the SNCF, but in this instance it was a legal fiction.

Then the safeguarding was converted into receivership, then into compulsory liquidation with continuation of activity until the judgment of 9 January 2012, which finally signed the death warrant of the company.

In total, the Court gave two years to supporting this inevitable end with the most diplomacy possible.

Article L 640-1, which defines the liquidation procedure very clearly, specifies in its 2nd paragraph:

“The liquidation procedure is intended to end the business activity or to sell the debtor’s assets through a general or separate assignment of its interests and property.”

Article L 641-4, last paragraph, of the French Commercial Code stipulates:

“The dismissals made by the liquidator pursuant to the decision instigating or pronouncing the liquidation, where applicable at the end of the temporary continuation of activity authorised by the court, shall be subject to the provisions of Article L 1233-58 of the French Employment Code.”

This article provides that employment contracts binding employees to the employer are to be terminated within 15 days of the judgment pronouncing the liquidation or following expiry of the authorisation to continue trading.

It was on an exceptional basis that AGS, the body guaranteeing the payment of salaries, agreed to extend the timeframe for implementation of dismissals in order to best realise the assets of the company.

Furthermore, I would like to point out that the role of the liquidator is to increase as far as possible the value of the assets of the company in liquidation.

In this specific case, the best offer of valuation was upheld by the Court in order to best compensate the creditors.

Article 642-19 of the French Commercial Code specifies “that the bankruptcy judge shall either order the sale at public auction or allow a private sale of the debtor’s other assets at the price and under the conditions he determines”.

The Bankruptcy Judge made the choice not to sell at public auction because he had them valued in advance by experts.

The valuation of the assets sold is totally unrelated to the jobs lost following the liquidation judgment.

On the specific point of the PSE3, certain precisions should be added.

As liquidator and responsible for negotiation of the plan leading to the mass redundancy of all employees of SeaFrance, I confirm to the Competition Commission that Article 3.3.3 has indeed been negotiated with a view to the employees themselves buying back the vessels.

It is for this reason that I contested the payment when the SCOP summonsed me before the Commercial Court of Paris.

I indeed specified that in the spirit of negotiation, the vessels had to belong to the company to which I would have to pay specific compensation of 25,000 euros.

I confirm, as I indicated during the telephone conversation with Mrs Perrussel and Mrs Reumerman of the Competition Commission, and which was the subject of a written report, that this type of situation is not exceptional and there are company takeovers by employees in other cases.

These are the precisions I wish to add.

Kind regards,

Jacques de Latude

Colleague