



JF6445

Secretary of State for Trade and Industry

a 10

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET

Telephone (Direct dialling) 01-215 5422

GTN 215

(Switchboard) 215 7877

(O) May 1984

CONFIDENTIAL AND
MARKET SENSITIVE

Andrew Turnbull Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Dear Andrew,

Your letter of 12 April enclosing one from Mr Siddle of European Ferries seeking release from an undertaking not to acquire Sealink, was passed to this Department for reply, since undertakings under the Fair Trading Act are given to our Secretary of State.

2 The Secretary of State has decided, in accordance with the advice of the Director-General of Fair Trading, not to release European Ferries from its undertaking. The company will be informed shortly and I suggest that the Prime Minister's reply should go out after that. I will let you know when the company has been informed.

3 For your own information, the reasons for refusing European Ferries' application are competition-based, and are the same as those which led to the blocking of the original proposal to acquire Sealink, following an adverse Monopolies and Mergers Commission report in 1981. The acquisition of Sealink by European Ferries would produce a dominant company on the Channel routes with a share of at least 50 per cent, and in some cases very much more, in all main sectors of the market. Mr Siddle mentions the need to beat off foreign competition, but there is also the effect on UK competitors (only P & O and hovercraft services would remain, with far smaller shares) to be considered.

4 The then Secretary of State took the decision to block the bid in 1981 in the knowledge that the exclusion of one buyer might affect the price obtained for Sealink. The Secretary of State for Transport has informed British Rail that he will wish

to ...



to take into account competition considerations in granting his consent to the acquisition of Sealink. He does not support European Ferries' application for release from its undertaking; a number of potential bidders for Sealink are currently being considered, many of whom would be unlikely to raise problems as regards competition.

... 5 A draft reply for the Prime Minister to send to Mr Siddle is attached.

6 I am copying this letter to Andrew Melville (Department of Transport).

Yours ever,

A handwritten signature in cursive script, appearing to read 'Ruth'.

RUTH THOMPSON
Private Secretary

Encl

DRAFT

GA RTYPE to PM signature

AS

Keith Siddle Esq
Chairman
European Ferries plc
Enterprise House
Avebury Avenue
Tonbridge
Kent TN9 1TH

Thank you for your letter of 12 April about the undertaking given by European Ferries not to acquire Sealink.

You will by now be aware that the Secretary of State for Trade and Industry has decided not to release European Ferries from its undertaking. I understand that in reaching his decision he took into account the points you made to me, as well as all other relevant factors.

PRIME MINISTER

ECON PBL: Privatisation

pe 9

European Ferries Plc

Enterprise House, Avebury Avenue
Tonbridge, Kent TN9 1TH
Telephone: (0732) 366066
Telex: 957488 Ferrys G

31st May, 1984.

PRIVATE AND CONFIDENTIAL

The Rt. Hon. Norman Tebbit, M.P.,
Secretary of State for Trade and Industry,
1 Victoria Street,
London, S.W.1.

Dear Secretary of State,

Sealink U.K. Privatisation

We have received formal confirmation from the Office of Fair Trading that you have decided against releasing European Ferries PLC from the undertaking given by us in 1982 not to acquire Sealink U.K. Ltd. We are very disappointed that you have made this decision.

I have, however, been asked by my Board to raise with you the following three points as a matter of urgency:-

(i) Reasons for your decision

We are surprised in the particular circumstances of the privatisation of Sealink U.K. that we have received no indication whatever as to the reasons for our exclusion from the auction. I feel sure that you will understand that it is incumbent on me and my colleagues to explain to our employees and shareholders why European Ferries is to be denied the opportunity of bidding for Sealink U.K.

(ii) Revised Proposal

We feel that the Office of Fair Trading may not have fully understood the nature of our offer to consider any alternative solution to meet the problems regarded as inherent in an acquisition by European Ferries of Sealink U.K. in its entirety. We are keen to discuss as soon as possible and in a constructive and specific manner any matters of concern to the Office of Fair Trading and, in particular, the revised proposal set

European Ferries Plc

Enterprise House, Avebury Avenue
Tonbridge, Kent TN9 1TH
Telephone: (0732) 366066
Telex: 957488 Ferrys G

- 2 -

out below. Whilst we have, in the past, canvassed the possibility of European Ferries acquiring the ferries operations but not the ports of Sealink U.K., we have never put forward detailed proposals to acquire, as an alternative, the ports and dispose of the shipping operations. A proposal upon which I now invite your consideration is the acquisition by European Ferries of Sealink U.K.'s ferries and ports (so ensuring that European Ferries makes an unconditional bid, consistent with the terms on which the auction is being conducted, for the whole of Sealink U.K.), and, immediately after that acquisition to divest itself of the entire Sealink ferries operations. As a condition of our retaining the ports operation of Sealink U.K., we would be prepared to undertake to you as Secretary of State that:-

- (a) all operators providing or intending to provide ferry services which compete directly or indirectly with those of European Ferries would be granted access without unjustified obstruction or delay to any port under the current ownership of Sealink U.K.;
- (b) Sealink U.K. would be entitled, as far as the existing Sealink U.K. ports are concerned, for a period from the date of the undertaking, to select the slot cycle or cycles of its choice before European Ferries, or any other operator, is given an opportunity to select its cycle.

It will be appreciated that under this proposal Sealink U.K. would remain a major competitor of European Ferries in respect of ferries operations; the undertakings would ensure full and unfettered access to the ports by all our competitors. I am, of course, ready to consider any additional undertaking that might be thought necessary as a condition of obtaining your approval to this proposal.

(iii) Sealink U.K.'s preferential borrowing arrangements

Of particular concern to us at European Ferries and, I am sure, to other operators is the question of Sealink U.K.'s present borrowing arrangements with the British Railways Board. In our view, if these arrangements are continued in such a form as to favour a purchaser, or if

European Ferries Plc

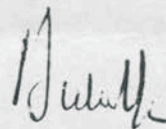
Enterprise House, Avebury Avenue
Tonbridge, Kent TN9 1TH
Telephone: (0732) 366066
Telex: 957488 Ferrys G

- 3 -

the debts are to any extent written off, there will be a form of subsidy which thereby becomes permanent, so raising the question of a possible breach of Article 92, EEC Treaty. No indication has yet been given as to what is to happen with Sealink U.K.'s present borrowing arrangements in the course of the privatisation, and I hope that it will be clear to both us and the tax-payers that no breach of Article 92 has in fact occurred or is in contemplation.

If our revised proposal could enable European Ferries to be released from its undertaking I believe there would be clear benefits to be derived by the public from European Ferries being permitted to participate in the Sealink U.K. auction. The benefits resulting from our participation could include the prospects of a higher price being obtained for Sealink U.K. (and being seen to be obtained), and good prospects for the subsequent reduction (in the region of 15-20%) in fare tariffs. I would welcome your comments on the three issues raised above, and would be happy to attend a meeting with you at your convenience.

Yours sincerely,



Chairman.



10 DOWNING STREET

THE PRIME MINISTER

16 May 1984

Dear Mr. Siddle,

Thank you for your letter of 12 April about the undertaking given by European Ferries not to acquire Sealink.

You will by now be aware that the Secretary of State for Trade and Industry has decided not to release European Ferries from its undertaking. I understand that in reaching his decision he took into account the points you made to me, as well as all other relevant factors.

Yours sincerely
Raymond Stait

K. Siddle, Esq.

085

Press Notice

File

Department of Trade and Industry

1 Victoria Street, SW1H 0ET Press Office: 01-215 3919/3789 Ref: 275
Out of hours: 01-215 7877

May 15, 1984

10.30

PROPOSED BIDS FOR SEALINK UK LTD

A number of proposals to acquire Sealink have emerged in response to a request for offers on behalf of the British Railways Board (BRB).

The Secretary of State for Trade and Industry, Mr Norman Tebbit, has now considered advice from the Director-General of Fair Trading on whether these proposals should be referred to the Monopolies and Mergers Commission. In accordance with the Director-General's advice, he has decided not to refer proposals to acquire Sealink by the following potential bidders:

The "Sealink Consortium"
Trafalgar House PLC
Sea Containers Limited
Ellerman Lines PLC

The Director-General considered that the proposed acquisition of Sealink by P & O raised issues which merited investigation, and should not be allowed to proceed in the absence of a full investigation and report by the Monopolies and Mergers Commission. The Secretary of State agreed with this advice. BRB informed potential buyers of the terms for the sale to implement the policy agreed between Government and BRB for the disposal of Sealink, and in particular, made clear that all bids would have to be unconditional in all respects. Since the time required for an MMC investigation would mean that P & O would be unable to provide an unconditional bid on the timetable envisaged for completion of the sale, the Secretary of State understands that BRB will inform the company that BRB cannot consider a proposal by P & O to acquire Sealink. In that event, as P & O's proposed acquisition could not proceed, the Secretary of State would not envisage that it would be necessary for him to refer it to the Monopolies and Mergers Commission.

In accordance with the advice of the Director-General, European Ferries PLC is not to be released from its undertakings not to acquire Sealink.

File

①

PRIME MINISTER

cc: Mr. Owen

SEA LINK

You have seen the papers reporting the discussion between Mr. Tebbit, Mr. Ridley and the Chancellor on the sale of Sea Link. The Chancellor has now minuted - Flag A - supporting the pressing on with the sale.

Flag C Mr. Tebbit has accepted this and will be issuing a press notice tomorrow saying:

- (i) Four companies will not be referred to the MMC
- (ii) P&O will be and will thereby be put out of the running for Sea Link
- (iii) European Ferries will not be released from their undertaking not to acquire Sea Link

From the standpoint of competition this is satisfactory as it ensures that Sea Link will not go to one of the existing operators on the main cross Channel routes.

AT
[Signature]

ANDREW TURNBULL



Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET

Telephone (Direct dialling) 01-215 5422
GTN 215
(Switchboard) 215 7877

10 May 1984

CONFIDENTIAL AND
MARKET SENSITIVE

The Rt Hon Nicholas Ridley MP
Secretary of State for Transport
Department of Transport
2 Marsham Street
London SW1P 3EB

Copies to:
PS/PUSS (CCA)
Sir Anthony Rawlinson
Mr Caines Dep Sec
Mr Wright Hd/GP
Mr Wollman Hd/Sols A
Mr Bradbury Hd/Ec2C
M vide cp.

D. Nicholas

SEALINK

As you know, I have received advice from the Director General of Fair Trading on whether European Ferries should be allowed to bid for Sealink and on whether bids by a number of others should be referred for investigation by the MMC. This is to confirm what I said to you on the telephone this morning.

European Ferries

2 Although I believe there are arguments in favour of a strong UK force to challenge Continental competition, I accept that European Ferries should not be released from its undertakings and allowed to bid.

Sealink Consortium; Trafalgar House; Sea Containers; Ellerman

3 I agree with the Director General that there are no grounds for a reference of bids by these companies.

P & O

4 I agree with the Director General that there are good grounds for a reference to the MMC of P & O's wish to acquire Sealink. As the Minister responsible for administering the Fair Trading Act, and having made it clear that I am disposed to accept the advice of the Director General on merger references, I could not allow P & O to bid for Sealink without a reference to the MMC. A decision to refer is of course a decision to investigate, not a decision that the proposed merger would on balance be against the public interest. But it is, in my view, vital that that investigation should be made by an independent body; and it would be quite inappropriate for Ministers, or this Department, to take on the

JH1ABM



role.

5 The MMC could complete a report within four months. It is for you to decide whether you can extend your timetable for selling Sealink to accommodate a report and thus enable P & O to bid. If P & O as well as European Ferries were excluded from the chance to bid I would expect considerable criticism that two of the most likely acquirers were being ruled out, in the case of P & O without a proper hearing. What is more, it could well be claimed that the taxpayer would have secured a better price for Sealink if these bids had been considered. But I can understand that you have other considerations to bear in mind, and the decision on who may and may not bid is, of course, one for you.

6 It is the normal practice to announce decisions on references to the MMC. In this case, our respective positions on P & O will have to be made clear at the same time. This will require very careful presentation and I would be grateful if your officials could be in touch with mine about that aspect.

7 I am copying this letter to the Prime Minister, the Chancellor of the Exchequer and the Secretary of State for Defence.

NORMAN TEBBIT

Eron Pol : Privatizacija
pt 9

Noted AT 16/4



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 3434

PK

Andrew Turnbull Esq
Private Secretary
10 Downing Street
LONDON SW1

M 13 April 1984

Dear Mr Turnbull

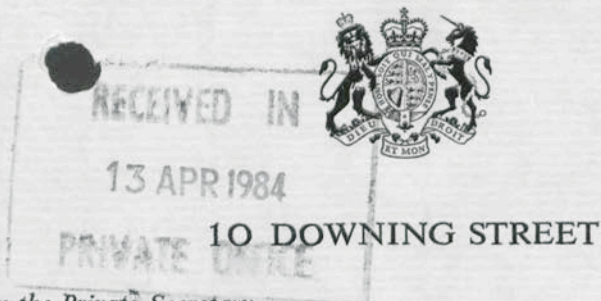
Thank you for your letter of 12 April to Dinah Nichols enclosing one from Mr Siddle of European Ferries about the privatisation of Sealink.

Although we are in the lead on this, the specific question of whether European Ferries should be released from their undertaking under the Fair Trading Act is for the Department of Trade and Industry, to whom I am transferring this correspondence.

Yours sincerely
Andrew Melville

ANDREW MELVILLE
Private Secretary

Transfer DTI



~~Mr Miles
advise please
Box No 10~~

From the Private Secretary

12 April 1984

Dear Dinah,

The Prime Minister has received the attached letter from Mr K Siddle, Chairman of European Ferries PLC.

I should be grateful if you could provide any advice together with a draft reply for the Prime Minister's signature, to reach me by Thursday 26 April.

I am copying this letter and enclosure to Andrew Lansley (Department of Trade and Industry).

Yours sincerely
Andrew Turnbull

Andrew Turnbull

Miss Dinah Nichols
Department of Transport

European Ferries Plc

Enterprise House, Avebury Avenue
Tonbridge, Kent TN9 1TH
Telephone: (0732) 366066
Telex: 957488 Ferrys G

KS/LW

BY HAND

12th April 1984.

Ack 12/4

PRIVATE & CONFIDENTIAL

The Rt. Hon. Mrs. Margaret H. Thatcher,
10 Downing Street,
London, S.W.1.

Dear Prime Minister,

Sealink UK - Privatisation

Sealink UK is being privatised. We welcome that decision and we feel that we should be able to join the auction. However, we cannot do so because the Monopolies and Mergers Commission imposed, by virtue of the Fair Trading Act 1973, an undertaking upon us which precludes us from making a bid.

We feel that, paradoxically, the 1973 Act will not operate, in this instance, for the benefit of the consumer, that it places us at a grossly unfair disadvantage and that it could substantially reduce the price which the taxpayer would otherwise receive from the sale. Our reasons are as follows:

- (i) The acquisition of Sealink UK would enable us to beat off the unfair "competition" from the State-subsidised continental operators. As a result of that acquisition, we could make larger fare reductions than any other operator or potential purchaser. Those reductions would be not less than 15 per cent. and could be as much as 20 per cent. or even more.

/Contd.

European Ferries Plc

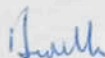
Enterprise House, Avebury Avenue
Tonbridge, Kent TN9 1TH
Telephone: (0732) 366066
Telex: 957488 Ferrys G

* 2 *

- (ii) We have demonstrated over many years that we can succeed at times when others fail. We do not ask for favours but we do ask that we should not be treated unfairly. Given an equal opportunity with other bidders, we are confident that we can build greatly on our success and create further wealth and employment opportunities within the U.K.
- (iii) Our inclusion in the auction will ensure that the British Railways Board will not only obtain, but will be seen to obtain, the best possible price - whether from European Ferries or another (higher) bidder - from the sale of Sealink UK.

Speaking for us all at European Ferries, I do hope that you will see fit to allow us to bid for Sealink UK. Naturally, if you feel that a meeting would be of assistance, I will be pleased to come to see you at any time and entirely at your convenience.

Yours sincerely,



K. Siddle,
Chairman.