B E T W E E N

GROUPE EUROTUNNEL S.A.

Applicant

-v-

COMPETITION COMMISSION

Respondent

- and -

**THE SOCIÉTÉ COOPÉRATIVE DE PRODUCTION SEA FRANCE S.A.
DFDS A/S**

Interveners

ORDER

UPON considering paragraph 4 of the Order of the Chairman made on 24 June 2013 (the "CMC Order"), as amended by the Order of the Chairman made on 28 June 2013 (the "Amendment Order"), requiring the Respondent to disclose to members of a confidentiality ring and file with the Tribunal by 5pm on 1 July 2013 the confidential version of the decision made by the Competition Commission dated 6 June 2013 (the "Decision")

AND UPON considering the redactions listed at paragraph 1 of the Amendment Order, which are to be made to the Decision prior to disclosure

AND UPON considering the further objection to certain parts of the confidential Decision being disclosed pursuant to paragraph 4 of the CMC Order (as amended) received by the Tribunal from a third party on 1 July 2013

AND HAVING REGARD TO the right of any party to apply for the redactions to be removed from the Decision as disclosed by the Respondent

IT IS ORDERED THAT:

1.   For the purposes of this Order, "**the Redactions**" means:

a. those parts of the Decision referred to in the Schedule to this Order; or

b. where only part of a paragraph, table or figure contained in the Decision is to be redacted, the text indicated by the scissor symbol ([✂]) in the Schedule to this Order.

2. Paragraph 4 of the CMC Order (as amended by paragraph 1 of the Amendment Order) be varied to permit the Respondent to make the Redactions to the confidential Decision prior to giving disclosure pursuant to that paragraph.

3. Paragraph 4 of the CMC Order (as amended by paragraph 2 of the Amendment Order) be further varied to extend the deadline for the Respondent to give disclosure to 5pm on 3 July 2013.

4. There be liberty to apply.

Marcus Smith QC   Made: 2 July 2013
Chairman of the Competition Appeal Tribunal   Drawn: 2 July 2013

REDACTIONS TO BE MADE TO THE DECISION PURSUANT TO PARAGRAPH 2 OF THIS ORDER

Relevant Part	Indication of the excised text, where only part is to be redacted
A. Main Report	

Relevant Part	Indication of the excised text, where only part is to be redacted
Table 5	Share of revenue, freight, and passenger traffic on the short sea, January to October 2012. 	Operator	Passenger revenue share	Freight revenue share	Total revenue share	 Dover–Calais (P&O) [✄] [✄] [✄]
Paragraph 3.21(a)	Entire sub paragraph to be redacted
Footnote 99	Entire footnote to be redacted
Paragraph 7.11	Distributors play a relatively more important role for P&O and DFDS than for Eurotunnel—they account for about [✄] per cent of ferry freight volume for both.
Figure 2	Entire figure to be redacted
Paragraph 7.32	Regarding passenger prices, Eurotunnel's premium over ferry prices has been more stable over time. Table 11 shows average yearly prices in GBP for a car trip. Eurotunnel is [✄] per cent more expensive than P&O...
Table 10	Types of accounts by volume, 2007 to 2012
Table 11	Average Freight Prices, 2007 to 2012
Table 12	Average yearly prices per crossing (passenger cars), 2007 to 2012

Table 10 — Types of accounts by volume, 2007 to 2012

Operator	2007	2008	2009	2010	2011	2012 Jan–Oct
P&O						
Negotiated account	[✄]	[✄]	[✄]	[✄]	[✄]	[✄]
Standard rate	[✄]	[✄]	[✄]	[✄]	[✄]	[✄]
Distributor	[✄]	[✄]	[✄]	[✄]	[✄]	[✄]

Table 11 — Average Freight Prices, 2007 to 2012

Operator	2007	2008	2009	2010	2011	2012
P&O	[✄]	[✄]	[✄]	[✄]	[✄]	[✄]

Table 12 — Average yearly prices per crossing (passenger cars), 2007 to 2012

					£	
Operator	2007	2008	2009	2010	2011	2012

Relevant Part	Indication of the excised text, where only part is to be redacted
	Jan–Oct P&O [✂] [✂] [✂] [✂] [✂] [✂]
Paragraph 8.134(b)	Entire sub paragraph to be redacted
B. Appendix C	
Table 2	Average freight prices for one crossing, 2007 to 2012 | Operator	2007	2008	2009	2010	2011	2012 Jan–Oct
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North Sea: P&O	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	
Table 10	Revenue from car traffic as a percentage of total revenue from passenger traffic, 2007 to 2012 | Operator	2007	2008	2009	2010	2011	Jan–Oct 2012
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P&O Dover–Calais	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	
Table 12	Average prices (passengers), 2007 to 2012 | Operator	2007	2008	2009	2010	2011	2012 Jan–Oct
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North Sea: P&O	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	
Figure 3	Entire figure to be redacted
Figure 17	Entire figure to be redacted
C. Appendix D	
Paragraph 13	Figure 4 shows that there is significant premium of Eurotunnel's price when compared with DFDS and P&O ferry prices. In 2009, the premium increased significantly. Eurotunnel's price went up relative to ferry operators in 2009, from a [✂] per cent premium in 2008 to [✂] per cent, and then fell again in 2010, and has remained relatively stable since then.

Relevant Part	Indication of the excised text, where only part is to be redacted
Figure 2	Entire figure to be redacted
Figure 3	Entire figure to be redacted
Figure 4	Entire figure to be redacted
Figure 5	Entire figure to be redacted
Figure 6	Entire figure to be redacted
Figure 7	Entire figure to be redacted
Figure 10	Entire figure to be redacted
Figure 11	Entire figure to be redacted
Figure 13	Entire figure to be redacted
Figure 14	Entire figure to be redacted
Figure 16	Entire figure to be redacted
Figure 17	Entire figure to be redacted
Figure 19	Entire figure to be redacted
Figure 20	Entire figure to be redacted

Table 2 — Types of accounts by volume, 2007 to 2012

Operator	2007	2008	2009	2010	2011	Jan–Oct 2012
P&O						
Negotiated account	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Standard rate	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Distributor	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Table 6 — Average freight prices, GBP, 2007 to 2012

Operator	2007	2008	2009	2010	2011	Jan–Oct 2012
P&O	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Table 7 — Average freight prices, euros, 2007 to 2012

Operator	2007	2008	2009	2010	2011	Jan–Oct

Relevant Part	Indication of the excised text, where only part is to be redacted
	2012 P&O [✂] [✂] [✂] [✂] [✂] [✂]
Table 9	Average freight prices, GBP, 2007 to 2012 *Operator* *2007* *2008* *2009* *2010* *2011* *Jan–Oct 2012* North Sea: P&O [✂] [✂] [✂] [✂] [✂] [✂]
Table 10	Revenue shares of cars in passenger traffic, 2007 to 2012 *Operator* *2007* *2008* *2009* *2010* *2011* *Jan–Oct 2012* P&O [✂] [✂] [✂] [✂] [✂] [✂]
Table 12	Average yearly prices (passenger), car, 2007 to 2012 *Operator* *2007* *2008* *2009* *2010* *2011* *Jan–Oct 2012* P&O [✂] [✂] [✂] [✂] [✂] [✂]
Table 13	Average prices, coach, 2007 to 2012 *Operator* *2007* *2008* *2009* *2010* *2011* *Jan–Oct 2012* P&O [✂] [✂] [✂] [✂] [✂] [✂]
Table 14	Average yearly prices (passenger), car, 2007 to 2012 *Operator* *2007* *2008* *2009* *2010* *2011* *Jan–Oct 2012* P&O [✂] [✂] [✂] [✂] [✂] [✂]
D. Appendix G	
Paragraph 13	We received information from P&O on its operating margins. [✂]
Paragraph 14	P&O and DFDS's data [✂] estimates [✂] margin for a ferry operator than that used by Compass Lexecon in its analysis of MFL. We think that P&O's data is likely to be a reliable source of margin data on the Dover–Calais route, given its long history on this route. We have therefore used P&O data as our primary source of short-run margin data. [✂]
Paragraph 16	P&O provided us with data [✂]
Paragraph 17	We received a board presentation from GET that included revenue forecasts for MFL broken down into cars, coaches, HGVs and onboard sales. [✂] We therefore recalculated the relative value of a sale on MFL using this data. To do

Relevant Part	Indication of the excised text, where only part is to be redacted
	this, we made the conservative assumption that [✂] per cent of onboard sales would be due to cars (passengers, excluding coaches) and, given the [✂] value of onboard sales revenue forecast for MFL, that no additional value would be earned on freight sales. This calculation resulted in the relative value of a passenger sale on the ferry increasing from [✂] to [✂] per cent for MFL after allowing for onboard sales, while the relative value of a freight sale (with no allocation) [✂]. We used these adjusted figures in our GUPPI calculation, as the formula specifically allows for the differing value of sales on a ferry compared with Eurotunnel. We used the same allocation of onboard sales to adjust the margin figures that we had calculated (based on P&O data) [✂]. The adjusted margins were [✂] per cent for passenger traffic on MFL, and [✂] per cent for freight traffic.