



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1289/7/7/18

B E T W E E N:

ROAD HAULAGE ASSOCIATION LIMITED

Applicant/Proposed Class Representative

-v-

- (1) MAN SE
(2) MAN TRUCK & BUS AG
(3) MAN TRUCK & BUS DEUTSCHLAND GMBH
(4) FIAT CHRYSLER AUTOMOBILES N.V.
(5) CNH INDUSTRIAL N.V.
(6) IVECO S.P.A
(7) IVECO MAGIRUS AG
(8) PACCAR INC
(9) DAF TRUCKS N.V.
(10) DAF DEUTSCHLAND GMBH

Respondents/Proposed Defendants

ORDER

UPON reading the Proposed Class Representative's application made on 17 July 2018 under rule 31(2) of the Competition Appeal Tribunal Rules 2015 (the "Tribunal Rules") for permission to serve the collective proceedings claim form (and supporting documents) outside the jurisdiction on the Eighth Proposed Defendant

IT IS ORDERED THAT:

1. The Proposed Class Representative be permitted to serve the Eighth Proposed Defendant outside the jurisdiction.
2. This order is without prejudice to the rights of the Eighth Proposed Defendant to apply pursuant to rule 34 of the Tribunal Rules to dispute the jurisdiction.

REASONS

1. The claims which the Proposed Class Representative seeks to combine in collective proceedings are for damages for loss alleged to have been suffered by medium and heavy truck operators in the United Kingdom over the period 17 January 1997 to (at least) 18 January 2011. There is a reasonable prospect of success in the substantive claims against the Proposed Eighth Defendant in that the claims sought to be combined in collective proceedings are follow-on claims based on the settlement decision of the European Commission of 19 July 2016 in case AT.39824 – Trucks (the “Decision”) of which all Proposed Defendants were addressees, and the damages are said to result from the infringement established by the Decision.
2. It appears likely that, as the Proposed Class Representative submits, the proceedings will be treated as taking place in England and Wales under rule 18 of the Tribunal Rules.
3. The Proposed Class Representative is serving the collective proceedings claim form (and supporting documents) on the First to Seventh, Ninth and Tenth Proposed Defendants (the “UK and EU Domiciled Proposed Defendants) pursuant to rule 31(1) of the Tribunal Rules, for which no permission is required.
4. I am satisfied that there is between the Proposed Class Representative and the UK and EU Domiciled Proposed Defendants a real issue to try and that the Eighth Proposed Defendant is a necessary and proper party to the follow-on claims being pursued against the UK and EU Domiciled Proposed Defendants in that (a) the Eighth Proposed Defendant is an addressee of the Decision and was found liable as parent company for the conduct of its subsidiaries, the Ninth Proposed Defendant and the Tenth Proposed Defendant; and (b) the Proposed Class Representative alleges that the Proposed Defendants are jointly and severally liable for breaches of the proposed class members’ directly effective rights and/or of statutory duty.