



COMPETITION APPEAL TRIBUNAL

**NOTICE OF AN APPLICATION TO COMMENCE COLLECTIVE PROCEEDINGS UNDER SECTION 47B OF THE COMPETITION ACT 1998**

**CASE NO. 1282/7/7/18**

Pursuant to rule 76(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of the receipt on 18 May 2018 of an application to commence collective proceedings, under section 47B of the Competition Act 1998 (“the Act”), by UK Trucks Claim Limited (the “Applicant/Proposed Class Representative” or “UKTC”) against Fiat Chrysler Automobiles N.V., CNH Industrial N.V., Iveco S.P.A., Iveco Magirus AG and Daimler AG (together, “the Respondents / Proposed Defendants”). The Applicant/Proposed Class Representative is represented by Weightmans LLP, The Hallmark Building, 105 Fenchurch Street, London, EC3M 5JG (Reference: Tristan Feunteun).

The Applicant/Proposed Class Representative makes an application for a collective proceedings order (“CPO”) permitting it to act as the class representative bringing opt-out collective proceedings, or on an opt-in basis in the alternative (“the Application”).

The proposed collective proceedings would combine follow-on actions for damages arising from a decision of the European Commission (the “Commission”) of 19 July 2016 (Case AT.39824 - Trucks) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union (“TFEU”) and Article 53 of the Agreement on the European Economic Area (“EEA”) (“the Decision”).

In the Decision, the Commission found that, from 17 January 1997 until 18 January 2011, a number of undertakings, including the Respondents/Proposed Defendants, had infringed Article 101 TFEU by colluding on pricing and gross price increases in the EEA for medium and heavy trucks; the timing for the introduction of emission technologies for medium and heavy trucks required by European emissions standards; and the passing on to customers of the costs for such emission technologies.

The proposed class is composed of persons who, between 17 January 1997 and 18 January 2011, acquired one or more new medium or heavy trucks registered in the United Kingdom.

According to the Application, the following common issues arise in respect of the proposed class: (i) did the infringement lead to an overcharge for members of the proposed class? (ii) If so, what was the level of the overcharge? (iii) Did the overcharge have the effect of inflating the retail selling prices or leasing costs of medium and heavy trucks produced by truck manufacturers who were not subject to the cartel during the period of the infringement? (iv) Did the overcharge inflate the retail selling prices or leasing costs of medium and heavy trucks during any run-off period? (v) If so, what was the duration of the run-off period? (vi) What was the impact of the infringement on the timing for the introduction of emission technologies in terms of operational costs or otherwise on the members of the proposed class? (vii) What level of interest should be awarded to reflect the passage of time and/or the increased cost of borrowing since the relevant losses were incurred? and (viii) Should such interest be simple or compound?

The Applicant/Proposed Class Representative submits that it is just and reasonable for it to be appointed as class representative because:

- (a) UKTC, a special purpose vehicle (“SPV”), is a company limited by guarantee which has been established for the purpose of making this application and bringing this claim, should a CPO be granted. Paragraph 6.30 of the Tribunal’s Guide to Proceedings 2015 specifically envisages that SPVs may be appropriate to serve as class representatives for collective proceedings.
- (b) The governance of UKTC has been specifically tailored to suit the needs of the proposed class and to ensure that there is no conflict between its directors and the members of the proposed class.

- (c) UKTC is independent of its third party funder as well as its solicitors. It is able to act in the best interests of members of the proposed class.
- (d) UKTC has a legal team with extensive experience in competition law and competition litigation, including experience with managing group litigation.
- (e) A litigation plan has been prepared in accordance with Rule 78(3)(c) of the Rules.
- (f) UKTC has sufficient funding arrangements in place in order to ensure that the Respondents/Proposed Defendants' recoverable costs will be paid in the event that this action fails.

The Application states that the claims are suitable to be brought in collective proceedings because:

1. The total number of trucks registered in the United Kingdom and purchased or leased between 17 January 1997 and 18 January 2011 can be readily determined using publicly sourced data.
2. The claims and losses are potentially significant for individual claimants but the sums at stake for many individual claimants would be insufficient for it to be cost-effective for individual claimants to bring proceedings.
3. The Respondents/Proposed Defendants have vigorously defended individual claims brought in proceedings instituted by businesses in courts in the United Kingdom and elsewhere in Europe.
4. Accordingly, this proposed action is the best means of potential redress, for businesses and small and medium-sized enterprises and sole traders in particular.
5. Collective proceedings will be a fair and efficient means of resolving the common issues in accordance with the legislative intention of section 47B of the Act.
6. The definition of the proposed class is clear and simple. It should be possible, in reliance on publicly available data sources, to determine without difficulty if a person is a member of the proposed class.
7. The claim is suitable for an aggregate award of damages that is sufficiently large to warrant a detailed economic and legal analysis.
8. The method for attribution of the award of aggregate damages to a member of the proposed class will be capable of determination clearly and simply so as to enable the Tribunal to be confident that members of the proposed class are being compensated for their losses appropriately.

The relief sought in these proceedings is damages, to be assessed on an aggregate basis pursuant to section 47C(2) of the Act, and interest.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at [www.catribunal.org.uk](http://www.catribunal.org.uk). Alternatively, the Tribunal Registry can be contacted by post at Victoria House, Bloomsbury Place, London WC1A 2EB, or by telephone (020 7979 7979), fax (020 7979 7978) or email ([registry@catribunal.org.uk](mailto:registry@catribunal.org.uk)). Please quote the case number mentioned above in all communications.

*Charles Dhanowa OBE, QC (Hon)*  
Registrar  
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