



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1282/7/7/18
1289/7/7/18

BETWEEN:

UK TRUCKS CLAIM LIMITED

Applicant / Proposed Class Representative

- v -

FIAT CHRYSLER AUTOMOBILES N.V. AND OTHERS

Respondents / Proposed Defendants

- and -

DAF TRUCKS N.V.

DAF TRUCKS DEUTSCHLAND GMBH

MAN TRUCK & BUS AG

VOLVO LASTVAGNAR AKTIEBOLAG

Proposed Interveners in Case 1282

AND BETWEEN:

ROAD HAULAGE ASSOCIATION LIMITED

Applicant / Proposed Class Representative

- v -

MAN SE AND OTHERS

Respondents / Proposed Defendants

- and -

DAIMLER AG

VOLVO LASTVAGNAR AKTIEBOLAG

Proposed Interveners in Case 1289

ORDER

UPON reading the applications of (i) UK Trucks Claim Limited (“UKTC”) filed on 18 May 2018 and (ii) Road Haulage Association Limited (“RHA”) filed on 17 July 2018 for a collective proceedings order pursuant to section 47B of the Competition Act 1998 and Rule 75 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the “Tribunal Rules”) (together, the “CPO Applications”)

AND UPON reading the material submitted by the parties

AND UPON hearing counsel for the parties at a case management conference on 12 December 2018

IT IS ORDERED THAT:

Forum

1. Pursuant to Rules 18, 52 and 74 of the Tribunal Rules, the CPO Applications be treated as proceedings in England and Wales.

Evidence

2. The CPO Applications be heard together, with evidence in one to stand as evidence in the other so far as relevant.

Requests for permission to intervene

3. Subject to paragraphs 4 and 14 below, the requests by the Proposed Interveners, namely: (i) the requests by DAF Trucks N.V., DAF Trucks Deutschland GmbH, MAN Truck & Bus AG and Volvo Lastvagnar Aktiebolag for permission to intervene in Case 1282; and (ii) the requests by Daimler AG and Volvo Lastvagnar Aktiebolag for permission to intervene in Case 1289 be adjourned until after the Tribunal has given judgment on the CPO Applications. For the purpose of this order, the Proposed Interveners shall hereafter be referred to together as the Proposed Objectors.

Service of documents on all parties

4. All documents filed and served to date and in future on or by the Respondents to each CPO Application, including in accordance with this order (such documents to be redacted and/or marked-up, if appropriate, in respect of information over which confidential treatment/privilege is claimed), be filed and served by the serving party on the Proposed Objectors to that CPO Application and on the Applicant, Respondents and Proposed Objectors to the other CPO Application.

Clarification of matters in the UKTC CPO Application

UKTC litigation funding agreement for opt-out proceedings

5. UKTC file and serve a supplemental witness statement attaching a litigation funding agreement for opt-out proceedings by 4pm on 25 January 2019.

Clarification of matters in the RHA CPO Application

RHA permission to amend collective proceedings claim form

6. RHA be permitted to amend paragraphs 6 and 72 of the collective proceedings claim form such that the term “Cartelists” set out in those paragraphs shall read “Settling Cartelists”. Re-service of the Amended Claim Form is not required.

RHA request for confidential treatment of funding documents

7. RHA file and serve a revised bundle of the documents in respect of which it seeks confidential treatment pursuant to Rule 101 of the Tribunal Rules (the “RHA Confidentiality Request”), and any accompanying submission, by 4pm on 21 December 2018.
8. A hearing be listed in the RHA CPO Application for January 2019 before the President sitting alone to consider any outstanding matters in relation to the RHA Confidentiality Request.

UKTC disclosure applications

9. UKTC’s applications for disclosure of (i) the confidential version of the Settlement Decision of the European Commission dated 19 July 2016; and (ii) the confidential version of the OFT Decision dated 27 March 2013 addressed *inter alia* to Daimler AG, and the documents referred to by the OFT in footnotes 175 to 180 of that decision, be adjourned with liberty to apply.

Publicity

10. UKTC and RHA submit to the Tribunal before 1 February 2019 a revised version of the publicity notice jointly agreed by them (the “Joint Publicity Notice”).

11. Subject to the approval by the Tribunal of the Joint Publicity Notice, UKTC and RHA publicise the CPO Applications by 1 February 2019.

MAN / Volvo request for further information from RHA

12. RHA file and serve the following further information in respect of the proposed class members as set out at paragraph 2 of its skeleton argument dated 6 December 2018 by 4pm on 8 March 2019:
 - (a) the number of new trucks versus the number of used trucks; and
 - (b) the number of trucks purchased in the UK versus the number of trucks purchased elsewhere in the European Economic Area.

Responses, objections and replies to the CPO Applications

13. The Respondents file and serve their response(s) to the CPO Application(s) by 4pm on 22 March 2019.
14. The Proposed Objectors file and serve their objection(s) to the CPO Application(s) by 4pm on 12 April 2019.
15. Any other person with an interest (including any member of the proposed class) may object to either or both of the CPO Applications or the authorisation of either or both of the Proposed Class Representatives by writing to the Tribunal stating their reasons for objecting by 4pm on 12 April 2019. Any member of the proposed class may also seek permission to make oral observations at the hearing of the CPO Applications, by making an application for such permission, with reasons, as part of his/her written objections.
16. UKTC and RHA each file and serve any reply to the Respondents' responses by 4pm on 3 May 2019.

Skeleton arguments

17. The parties file and exchange skeleton arguments ten days before the hearing.

Hearing

18. The hearing of the CPO Applications be listed for the first available date after 30 May 2019, with a time estimate of 5 days.
19. A pre-hearing review be listed for one day on a date to be determined once the date for the hearing of the CPO Applications has been fixed, to be vacated if not needed.

General

20. Costs be in the applications.

21. There be liberty to apply.

The Hon Mr Justice Roth

President of the Competition Appeal Tribunal

Made: 12 December 2018

Drawn: 20 December 2018