



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1284/5/7/18 (T)
1290/5/7/18 (T)

BETWEEN

ROYAL MAIL GROUP LIMITED

Claimant

-and-

- (1) DAF TRUCKS LIMITED**
- (2) DAF TRUCKS N.V.**
- (3) DAF TRUCKS DEUTSCHLAND GMBH**
- (4) PACCAR INC**
- (5) PACCAR FINANCIAL PLC**
- (6) LEYLAND TRUCKS LIMITED**

Defendants

AND BETWEEN

- (1) BT GROUP PLC**
- (2) BRITISH TELECOMMUNICATIONS PUBLIC LIMITED COMPANY**
- (3) BT FLEET LIMITED**

Claimants

-and-

- (1) DAF TRUCKS LIMITED**
- (2) DAF TRUCKS N.V.**
- (3) DAF TRUCKS DEUTSCHLAND GMBH**
- (4) PACCAR INC**

Defendants

DIRECTIONS ORDER

UPON hearing Leading Counsel for the Claimants and Leading Counsel for the Defendants at a Case Management Conference on 2 and 3 May 2019 (the “CMC”)

AND UPON the following definitions applying for the purposes of this Order:

- **“Applicant”** means Claimants or Defendants.
- The **“Royal Mail Proceedings”** means the claim bearing case number 1284/5/7/18(T). References to **“Royal Mail”** are to the Claimant and references to the **“Royal Mail Defendants”** are to the defendants in that claim;
- The **“BT Proceedings”** means the claim bearing case number 1290/5/7/18(T). References to **“BT”** are to the Claimants and references to the **“BT Defendants”** are to the defendants in that claim;
- **“Confidentiality Ring Orders”** means the Orders of Mr Justice Roth in the Royal Mail Proceedings and the BT Proceedings, each dated 18 December 2018;
- **“The Claimants”** means Royal Mail and BT and **“The Defendants”** means the Royal Mail Defendants and the BT Defendants;
- The **“Defence Documents”** means the documents which are specifically relied upon in support of the factual averments or denials made by: (A) the Royal Mail Defendants in their Re-Amended Defence in the Royal Mail Proceedings; and/or (B) the BT Defendants in their Amended Defence in the BT Proceedings and which are readily available to the applicable Defendants;
- **“Settlement Decision”** means the European Commission’s Decision dated 19 July 2016 in Case AT.39824 – Trucks;
- **“Scania Decision”** means the European Commission’s Decision dated 27 September 2017 in Case AT.39824 – Trucks;
- **“Recitals Schedule”** means the schedule produced by the Claimants pursuant to paragraph 10 of the Order of the Tribunal dated 19 December 2018;
- The **“Other Trucks Claims”** means the claims in Cases 1291/5/7/18 (T) (*Ryder Limited and Another v MAN SE and Others*), 1293/5/7/18 (T) (*Veolia Environment S.A. and Others v Fiat Chrysler Automobiles N.V. and Others*), 1292/5/7/18 (T) (*Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others*), 1294/5/7/18 (T) (*Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others*) and 1295/5/7/18 (T) (*Dawsongroup plc and Others v DAF Trucks N.V. and Others*).
- **“Outer Confidentiality Rings”** means individuals permitted to access Outer Confidentiality Ring Information on the terms set out in Part C of the Schedule to the Confidentiality Ring Orders.
- **“VSW Confidentiality Ring Orders”** means the confidentiality ring orders in cases 1293/5/7/18 (T) and 1292/5/7 (T) dated 18 April 2019 and in case 1294/5/7/18 (T) dated 18 December 2018 (each as amended).

- **"VSW Inner Confidentiality Rings"** means the confidentiality rings constituted of individuals permitted to access confidential information pursuant to, and on the terms set out in Part C of the Schedule to, the VSW Confidentiality Ring Orders.

IT IS ORDERED THAT

Disclosure of the Scania Decision

1. Scania shall prepare a consolidated provisional non-confidential version of the Scania Decision incorporating the redactions of each of the Addressee Defendants and disclose it into the Outer Confidentiality Rings by 31 May 2019.

Disclosure and identification of documents by the Defendants

2. By no later than 31 May 2019 the Defendants shall in the case of the Defence Documents:
 - (a) Identify the Defence Documents by disclosure identification number (as applicable);
 - (b) Disclose the Defence Documents which have not so far been disclosed in the Royal Mail Proceedings and the BT Proceedings and which are readily available to the applicable Defendants; and
 - (c) When providing the document identification numbers in paragraph 2(a) above and the disclosure in paragraph 2(b) above, the applicable Defendants will provide an explanation as to which of the paragraphs of the Re-Amended Defence in the Royal Mail Proceedings and the Amended Defence in the BT Proceedings each of the document identification numbers and disclosed documents relates to.

Liability of Non-Addressee Defendants

3. By 31 May 2019, the Defendants may (if so advised) file and serve amended versions of their pleadings on the liability of Non-Addressee Defendants.
4. To the extent that any Non-Addressee Defendant has admitted that it was aware of the fact of some or all of the infringement admitted by the Addressee Defendants, such Defendant(s) shall by 31 May 2019 file and serve amended versions of their pleadings on the liability of Non-Addressee Defendants particularising the basis of any such plea (if not already provided) including:
 - (a) The times at which the relevant Defendant was so aware;
 - (b) The identity of the individual(s) who were so aware and the positions they held at the relevant Defendant.

Amendments to statements of case

5. By 28 June 2019 the Claimants shall, if so advised, provide the Defendants with BT's draft Re-Amended Particulars of Claim and Royal Mail's draft Re-Re-Amended

Particulars of Claim (as applicable) in light of the disclosed version of the Scania Decision (the “**Draft Further Amended Particulars of Claim**”).

6. If the Claimants provide the Defendants with the Draft Further Amended Particulars of Claim:
 - (a) By 19 July 2019, the Defendants shall confirm whether they consent to the proposed amendments pursuant to CPR 17.1(2)(a). If the Defendants (or any of them) do not consent, the Defendant(s) shall provide reasons for withholding consent.
 - (b) If the Defendants consent to the amendments sought, the Claimants shall file at the Tribunal their Further Amended Particulars of Claim within 7 days of receipt of consent.
 - (c) To the extent that the Defendants do not consent to the amendments sought, the Claimants may make an application to the Tribunal for permission to amend their Particulars of Claim within 14 days of consent being withheld.
 - (d) The Defendants shall make any consequential amendments to their pleadings by the later of: (i) 4 October 2019, or (ii) if they do not provide consent pursuant to paragraph 6(a) above, within 28 days of the grant by the Tribunal of permission (if it is forthcoming).
 - (e) The Claimants shall each (if so advised) file and serve a Re-Amended Reply (or Amended Replies, as they case may be) within 28 days of service of the Defendants’ amended pleadings.

Preliminary Issue

7. There shall be a trial (in these claims together with the Other Trucks Claims) of the preliminary issue relating to the binding nature of certain recitals in sections 3, 4 and 7 of the Settlement Decision.
8. The parties shall write to the Tribunal by 31 May 2019 to set out:
 - (a) if agreed between the parties, the precise wording on the preliminary issue;
 - (b) if not agreed between the parties, the precise wording on the preliminary issue sought by each of the parties.
9. A hearing of the preliminary issue shall be listed for 3, 5 and 6 December 2019. In preparation for the said preliminary issues trial:
 - (a) By 19 July 2019, the Claimants, together with the claimants in the Other Truck Claims shall file and serve a table of recitals or parts of recitals, in the Settlement Decision upon which they wish to rely, which are not admitted by one or more Addressee Defendants, and which they contend are binding on the Addressee Defendants (the “**Table**”). That said table shall contain columns corresponding to each Addressee Defendant (or, where appropriate, each

group thereof) in which the said Defendants can set out their own positions (the “**Defendant Columns**”).

- (b) By 20 September 2019, the Addressee Defendants shall file and serve a version of the Table in which the Addressee Defendants set out in the Defendant Columns their respective positions on whether each Recital or part of Recital included in the Table is binding on them.
- (c) By 18 October 2019, the Claimants shall be at liberty to file and serve a pleading pertaining to the preliminary issue.
- (d) By 8 November 2019, the Addressee Defendants shall file and serve a pleading in response to the pleading at paragraph 9(c) above.
- (e) The parties shall file and serve skeleton arguments by no later than 1 week prior to the said hearing.

Confidentiality

- 10. By 3 May 2019, Royal Mail shall provide to representatives of the claimants in cases 1293/5/7/18 (T), 1292/5/7 (T) and 1294/5/7/18 (T) (“**VSW**”) who are within the VSW Inner Confidentiality Rings a copy of Royal Mail’s current Particulars of Claim.
- 11. By 10 May 2019, the Defendants shall provide the Claimants with a list of documents referred to in the Claimants’ respective current Particulars of Claim which should retain the protection of confidentiality provided by the terms of the Confidentiality Ring Orders.
- 12. The Claimants shall be at liberty to provide VSW and the claimants in case 1291/5/7/18(T) with copies of their respective current Particulars of Claim which have been redacted to the extent necessary to protect the confidential information identified by the Defendants in accordance with paragraph 11 above.

Further case management conference

- 13. A further Case Management Conference is to be listed for 6 and 7 February 2020.

Extension of time limits

- 14. The parties may agree to extend any time period in this Order for a period or periods of up to 28 days in total without reference to the Tribunal, provided that this does not affect the date given for any case or costs management conference or other court hearing or pre-trial review or the date of the trial. The parties shall notify the Tribunal in writing of the expiry date of any such extension. Paragraph 34 of the Order of 21-22 November 2018 is revoked.

Costs

- 15. The Defendants shall pay Royal Mail and BTs’ costs arising from and occasioned by the Defendants’ pleading concerning applicable foreign law, to be assessed if not agreed.

16. Aside from the matters covered by paragraph 15 above, the costs of the remaining matters covered by this Order shall be costs in the case.

OTHER

17. Liberty to apply.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 2-3 May 2019
Drawn: 13 June 2019