



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case: 1293/5/7/18 (T)

Case: 1292/5/7/18 (T)

Case: 1294/5/7/18 (T)

**(1) – (139) VEOLIA ENVIRONNEMENT S.A. AND OTHERS**

Claimants

**-v-**

**(1) – (15) FIAT CHRYSLER AUTOMOBILES N.V. AND OTHERS**

Defendants

**-and-**

**(1) - (4) PACCAR INC. AND OTHERS**

Third Parties

AND

**(1) – (339) SUEZ GROUPE SAS AND OTHERS**

Claimants

**-v-**

**(1) – (4) FIAT CHRYSLER AUTOMOBILES N.V. AND OTHERS**

Defendants

**-and-**

**(1) - (15) IVECO S.P.A. AND OTHERS**

Third Parties

AND

**(1) – (153) WOLSELEY UK LIMITED AND OTHERS**

Claimants

**-v-**

**(1) - (4) FIAT CHRYSLER AUTOMOBILES N.V. AND OTHERS**

Defendants

**-and-**

**(1) - (15) MAN SE AND OTHERS**

Third Parties

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**DIRECTIONS ORDER**

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**UPON** hearing Leading Counsel for the Claimants and Leading Counsel for the Defendants other than Scania (who was represented by Junior Counsel) at a Case Management Conference on 2 and 3 May 2019 (the “**2<sup>nd</sup> CMC**”).

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

- The “**Confidentiality Ring Orders**” means the confidentiality ring orders made on 31 July 2018 (as amended) which established Inner and Outer Confidentiality Rings;
- “**Inner Confidentiality Rings**” means individuals permitted to access confidential information on the terms set out in Part C of the Schedule to the Confidentiality Ring Orders;
- “**Outer Confidentiality Rings**” means individuals permitted to access confidential information on the terms set out in Part D of the Schedule to the Confidentiality Ring Orders;
- “**DAF**” means the 14th and 15th Defendants and 1st Named Third Party in Case 1293/5/7/18 (T), the 3rd and 4th Defendants and 14th and 15th Named Third Parties in Case 1292/5/7/18 (T) and the 3rd and 4th Defendants and 8th and 9th Named Third Parties in Case 1294/5/7/18 (T);
- “**Iveco**” means the 1st to 4th Defendants in Case 1293/5/7/18 (T), the 1st and 2nd Defendants and 1st and 2nd Named Third Parties in Case 1292/5/7/18 (T) and the 1st and 2nd Defendants and 14th and 15th Named Third Parties in Case 1294/5/7/18 (T);
- “**MAN**” means the 5th to 8th Defendants in Case 1293/5/7/18 (T), the 3rd to 5th Named Third Parties in Case 1292/5/7/18 (T) and the 1st to 3rd Named Third Parties in Case 1294/5/7/18 (T);
- “**Volvo/Renault**” means the 9th to 13th Defendants in Case 1293/5/7/18 (T), the 6th to 9th Named Third Parties in Case 1292/5/7/18 (T) and the 4th to 7th Named Third Parties in Case 1294/5/7/18 (T);
- “**Daimler**” means the 10th Named Third Party in Case 1294/5/7/18;
- “**Scania**” means the 3rd to 5th Named Third Parties in Case 1293/5/7/18 (T), the 11th to 13th Named Third Parties in Case 1292/5/7/18 (T) and the 11th to 13th Named Third Parties in Case 1294/5/7/18 (T);
- “**Main Claims**” means the Part 7 claims;
- “**Claimants**” means the Claimants in the Main Claims;
- “**Additional Claims**” means the Part 20 claims (including by way of contribution notice);
- “**Additional Defendants**” means the defendants in the Additional Claims;
- “**Main Defendants**” means the Defendants to the Main Claims;

- **“Defendants”** means the Main Defendants and the Defendants in the Additional Claims;
- **“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;
- **“1st CMC Order”** means the Order of the Tribunal drawn on 19 December 2018;
- **“Recitals Schedule”** means the schedule produced by the Claimants pursuant to paragraph 10 of the 1st CMC Order;
- The **“Other Trucks Claims”** means the claims in *Cases 1284/5/7/18 (T) (Royal Mail Group Limited v DAF Trucks Limited and Others)*, *1290/5/7/18 (T) (BT Group PLC and Others v DAF Trucks Limited and Others)*, *1291/5/7/18 (T) (Ryder Limited and Another v MAN SE and Others)* and *1295/5/7/18 (T) (Dawsongroup plc and Others v DAF Trucks N.V. and Others)*;
- **“Non-Addressee Defendants”** means Defendants who were not addressees of the Settlement Decision; and
- **“Addressee Defendants”** means Defendants who were addressees of the Settlement Decision, but excluding Scania.

**IT IS ORDERED THAT:**

**Amendments and pleadings**

1. So far as concerns the main pleadings:
  - (a) By 28 June 2019, the Claimants shall provide the Defendants with draft amended Particulars of Claim including:
    - i. further particulars of the infringement which is the subject of their Claim and the alleged resultant loss;
    - ii. particularisation of their case in respect of truck superstructures/bodybuilder trucks, insofar as the Claimants maintain their Claims in respect of such superstructures/bodybuilder trucks in the event that they are not within the scope of the Settlement Decision; and
    - iii. clarification of the geographic scope of their Claims, as set out in correspondence communicated pursuant to paragraph 4 of the 1st CMC

Order.

- (b) The Main Defendants shall confirm by 19 July 2019 whether they consent to the proposed amendments pursuant to CPR 17.1(2)(a). If the Main Defendants (or any of them) do not consent, the Main Defendant(s) shall provide reasons for withholding consent.
  - (c) If the Main Defendants consent to the amendments sought, the Claimants shall file at the Tribunal their amended statements of case within 7 days of receipt of consent.
  - (d) To the extent that the Main Defendants do not consent to the amendments sought, the Claimants may make applications to the Tribunal for permission to amend their statements of case within 14 days of consent being withheld.
  - (e) The Main 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 c. above, within 28 days of the grant by the Tribunal of permission (if it is forthcoming).
  - (f) The Claimants shall (if so advised) file and serve an amended Reply (or Replies, as the case may be) within 28 days of service of the Main Defendants' amended pleadings.
2. So far as concerns pleadings on applicable law:
- (a) By 28 June 2019, the Main Defendants shall (if so advised) provide the Claimants and Additional Defendants with draft pleadings on applicable law.
  - (b) By 26 July 2019, the Additional Defendants shall (if so advised) provide the Main Defendants with draft pleadings on applicable law.
  - (c) By 6 September 2019, the relevant parties shall indicate whether they consent to the draft pleadings identified at a. and b. above, failing which applications may be made to the Tribunal for permission to file their respective pleadings on applicable law within 14 days of consent being withheld.
  - (d) The Claimants shall file and serve responsive pleadings on applicable law by the later of (i) 4 October 2019 or, (ii) if consent is not provided pursuant to c.

above, within 28 days of the grant by the Tribunal of permission (if it is forthcoming).

### **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:
  - (b) The times at which the relevant Defendant was so aware;
  - (c) The identity of the individual(s) who were so aware and the positions they held at the relevant Defendant.

### **Preliminary issue trial**

5. 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. 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.
6. By 31 May 2019, Daimler AG is to update the schedule it filed on 5 February 2019 to set out which of the recitals it:
  - (a) contends are not binding as they do not form an essential basis of the Settlement Decision;
  - (b) admits as a matter of fact or law; and
  - (c) where Daimler AG does not admit all of the facts and matters in a recital,

whether there are any parts of that recital which are admitted.

7. A hearing of the preliminary issue shall be listed for 3, 5 and 6 December 2019. In preparation for the said preliminary issue 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 (in each case specifying whether that is said to be because they form part of the essential basis of the Settlement Decision or on abuse of process grounds) (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 file and serve a pleading or statement as to the legal basis of their case that the recitals or parts thereof as identified in the Table are binding (whether that is said to be because they form part of the essential basis of the Settlement Decision or on abuse of process grounds).
  - (d) By 8 November 2019, the Addressee Defendants shall file and serve a pleading or statement in response to the pleading at c. above.
  - (e) The parties (other than Scania) shall file and serve skeleton arguments by no later than 1 week prior to the said hearing.

### **Confidentiality and disclosure**

8. Once provided to the Claimants in these proceedings, the current Particulars of Claim in cases 1284/5/7/18(T) and 1290/5/7/18(T) (in unredacted form) shall be deemed designated Inner Confidentiality Ring Information (as defined in the Confidentiality

Ring Orders).

9. 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 Ring(s) by 31 May 2019.
  
10. In respect of the Claimants' application for disclosure of certain Trucks Delivery Database Project ("**TDDB**") documents:
  - (a) Subject to (b) below, DAF, Iveco and Scania are to conduct a reasonable and proportionate search for, and disclose copies of, the minutes of the following meetings of the "Trucks Delivery Database Project" and/or its successors (the "**Minutes**") by 28 June 2019 or, to the extent that DAF, Iveco and Scania are notified of the searches referred to in (b) below later than 31 May 2019, then within four weeks of being notified of the outcome of those searches:
    - i. 1993 TDDB/BDDDB meeting apparently hosted by Best & Associés in Roissy;
    - ii. 1994 TDDB/BDDDB meeting apparently hosted by Best & Associés in Hannover;
    - iii. 1995 TDDB/BDDDB meeting apparently hosted by Daimler in Lautenbach Training Center;
    - iv. 1996 TDDB/BDDDB meeting apparently hosted by Volvo in Bokenas;
    - v. 1997 TDDB/BDDDB meeting apparently hosted by RVI in Lyon;
    - vi. 1998 TDDB/BDDDB meeting apparently hosted by Iveco in Turin; and
    - vii. 1999 TDDB/BDDDB meeting(s) apparently hosted by DAF in Eindhoven and Best & Associés in Paris.

DAF, Iveco and Scania shall disclose copies of any Minutes that they locate.

- (b) The order at (a) above is contingent on the outcome of materially identical searches which Volvo/Renault and MAN have voluntarily committed to undertake. To the extent that Volvo/Renault and/or MAN thereby locate and disclose the Minutes or any of them, the other Defendants shall not be required to search for them.
- 11. By 14 June 2019, the Defendants are to conduct reasonable and proportionate searches for the notification of the TDDB arrangements made to the Commission in 1992 and disclose a copy of the same if located. If and to the extent that one Defendant locates and discloses the said document, the other Defendants shall not be required to continue their searches.
- 12. In respect of quantum disclosure:
  - (a) By 26 July 2019, the applicants shall file and serve a Redfern Schedule containing each party's position in relation to any disputed disclosure requests along with a list of categories which are agreed between the parties.
  - (b) The parties are to cooperate in relation to the completion of the said Schedule. Should they be unable to agree the dates by which they shall each complete the Schedule, they shall have liberty to apply.
  - (c) By 6 September 2019, the parties shall file and exchange witness statements in support of their respective positions on the issues of quantum disclosure in dispute, limited to:
    - i. One statement from a solicitor per party (or group of parties where they are represented by the same firm of solicitors).
    - ii. One statement from an expert economist per party (or group of parties where they are represented by the same firm of solicitors).
  - (d) By 13 September 2019, the parties shall file and serve skeleton arguments for the hearing.
  - (e) There shall be a hearing on the issues of quantum disclosure in dispute on 19



and 20 September 2019.

**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 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 26 of the Order of 21-22 November 2018 is revoked.

**Costs**

15. The costs of the 2<sup>nd</sup> CMC are in the cases.

**Other**

16. Liberty to apply.

**The Hon Mr Justice Roth**  
President of the Competition Appeal Tribunal

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