



**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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**CONSENT ORDER**

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

- **“DAF”** means the 14<sup>th</sup> and 15<sup>th</sup> Defendants in Case 1293/5/7/18 (T), the 3<sup>rd</sup> and 4<sup>th</sup> Defendants and 15<sup>th</sup> Third Party in Case 1292/5/7/18 (T) and the 3<sup>rd</sup> and 4<sup>th</sup> Defendants and 9<sup>th</sup> Third Party in Case 1294/5/7/18 (T);
- **“MAN”** means the 5<sup>th</sup> to 8<sup>th</sup> Defendants in Case 1293/5/7/18 (T), the 3<sup>rd</sup> to 5<sup>th</sup> Third Parties in Case 1292/5/7/18 (T) and the 1<sup>st</sup> to 3<sup>rd</sup> Third Parties in Case 1294/5/7/18 (T);
- **“VT”** means the 9<sup>th</sup> to 11<sup>th</sup> Defendants in Case 1293/5/7/18 (T), the 6<sup>th</sup> to 8<sup>th</sup> Third Parties in Case 1292/5/7/18 (T) and the 4<sup>th</sup> to 6<sup>th</sup> Third Parties in Case 1294/5/7/18 (T);
- **“RT”** means the 12<sup>th</sup> to 13<sup>th</sup> Defendants in Case 1293/5/7/18 (T), the 9<sup>th</sup> Third Party in Case 1292/5/7/18 (T) and the 7<sup>th</sup> Third Party in Case 1294/5/7/18 (T);
- **“Scania”** means the 2<sup>nd</sup> to 4<sup>th</sup> Third Parties in Case 1293/5/7/18 (T), the 11<sup>th</sup> to 13<sup>th</sup> Third Parties in Case 1292/5/7/18 (T) and the 11<sup>th</sup> to 13<sup>th</sup> Third Parties in Case 1294/5/7/18 (T);
- **“VSW Proceedings”** means the claims bearing case numbers 1293/5/7/18 (T), 1292/5/7/18 (T) and 1294/5/7/18 (T);
- **“Claimants”** means the Claimants in the VSW Proceedings;
- **“Disclosing Defendants”** means DAF, MAN, VT/RT and Scania;
- **“Disclosing Parties”** means the Claimants and the Disclosing Defendants;
- **“Claimant Group”** means the Claimants forming part of the Veolia Group, Suez Group, Wolseley Group, Metro Group, Brakes Group, NWF Group, Dairycrest Group and CM Downton respectively;
- **“Claimants’ Redfern”** means the Redfern Schedule of Claimant disclosure requests filed by the Claimants on 31 July 2019;
- **“Core Markets”** means-
  - in respect of MAN and VT/RT: the United Kingdom, France and Germany;

- in respect of Scania: the United Kingdom, France and Sweden; and
  - in respect of DAF: the United Kingdom and France.
- **“Defendants’ Redfern”** means the Redfern Schedule of defendant disclosure requests filed by the Defendants on 31 July 2019;
  - **“Market Wide”** means all trucks sold by the Disclosing Parties in the specified market(s);
  - **“Non-Core Markets”** means Belgium, the Netherlands, Sweden (except for Scania), Luxembourg, Czech Republic, Slovakia, Poland, Ireland and Spain and, in respect of DAF and Scania, Germany, but, in respect of each Disclosing Party, only to the extent that, as at the date of this order, the Claimants have claimed in the VSW Proceedings for a truck which was purchased or leased from the relevant Disclosing Party in that market;
  - **“VOC”** means value of commerce.

**AND UPON** the Disclosing Parties having agreed to disclose by consent a first phase of quantum disclosure, to be given in multiple tranches

**AND UPON**, in light of this agreement, the Disclosing Parties having agreed not to pursue at the hearing before the Competition Appeal Tribunal on 19/20 September 2019 as against each other any of the quantum disclosure requests detailed in the Claimants’ Redfern or the Defendants’ Redfern

**AND UPON** the Disclosing Parties having agreed that they each retain the right to seek additional quantum disclosure from the other Disclosing Parties at a time after the hearing before the Competition Appeal Tribunal on 19/20 September 2019

**BY CONSENT IT IS ORDERED THAT:**

**Quantum Disclosure**

*First Tranche*

1. By 4pm on 4 October 2019, DAF shall disclose the data/documents referred to in paragraph 1 of Tranche 1 in Annex 5, with inspection to be provided to any parties that

request inspection 7 days thereafter.

2. By 4pm on 29 November 2019:
  - (a) the Claimants shall disclose and provide inspection of the information referred to under the heading Tranche 1 in Annex 1;
  - (b) DAF shall disclose the data/documents referred to in paragraphs 2 and 3 of Tranche 1 in Annex 5, with inspection to be provided to any parties that request inspection 7 days thereafter; and
  - (c) the Disclosing Defendants other than DAF shall disclose and provide inspection of the data/documents referred to under the heading Tranche 1 in Annexes 2 to 4 (as applicable to them).

*Subsequent Tranche(s)*

3. By 4pm on 4 October 2019, DAF, Scania and VT/RT shall each endeavour to agree with the Claimants a date or dates to disclose and provide inspection of the data/documents referred to under the heading Second Tranche or Subsequent Tranche(s) as relevant in Annexes 2, 3 and 5 and shall inform the Tribunal accordingly.
4. By 4pm on 4 October 2019, MAN shall endeavour to agree with the Claimants the data/documents which will form the second tranche of its disclosure, such disclosure to be limited to the data/documents referred to under the heading Subsequent Tranche(s) in Annex 4, and a date to disclose and provide inspection of that second tranche of disclosure and shall inform the Tribunal accordingly.
5. Should MAN's second tranche of disclosure not comprise all the data/documents referred to under the heading Subsequent Tranche(s) in Annex 4, by 4pm on 11 October 2019, MAN and the Claimants shall endeavour to agree a date by which disclosure and inspection will be provided of the remaining data/documents referred to under the heading Subsequent Tranche(s) in Annex 4 and shall inform the Tribunal accordingly.
6. The Disclosing Parties agree that the data/documents to be disclosed pursuant to paragraph 1, 2, 3, 4 and 5 above:
  - (a) should be sufficient in volume and content to allow the Disclosing Parties to make material progress in developing their econometric analysis in the key areas

of dispute in the VSW Proceedings;

- (b) are confined to information and data reasonably readily available to the Disclosing Parties;
- (c) if contained in the form of an electronic database or extract therefrom, should be provided in their native electronic format or electronic excel format, together with (i) a statement setting out how the relevant information has been compiled for the database (including details of any data cleaning exercise conducted before disclosing the data), (ii) if appropriate, guidance on how the data is to be examined or any other explanatory notes or material which would assist the Disclosing Parties' expert economists in analysing the disclosed information; and
- (d) may be confined to what is believed by the relevant Disclosing Party giving disclosure to be the best available evidence about the information which is the subject matter of the agreed categories.

**Liberty to apply**

- 7. The Disclosing Parties shall have liberty to apply. Without prejudice to the generality of the foregoing, this liberty to apply includes where the relevant Disclosing Parties fail to agree the matters detailed at paragraphs 3, 4 and 5.

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

Made: 6 September 2019  
Drawn: 6 September 2019