

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF
ENGLAND AND WALES
COMPETITION LIST (ChD)

MASTER CLARK

21 JANUARY 2020

B E T W E E N

- 1) DS Smith Paper Limited
- 2) DS Smith Logistics Limited
- 3) DS Smith Packaging Limited
- 4) DS Smith Corrugated Packaging Limited
- 5) DS Smith (UK) Limited
- 6) DS Smith Recycling UK Limited

Claimants

and

- 1) MAN SE
- 2) MAN Truck & Bus SE (Formerly MAN Truck & Bus AG)
- 3) MAN Truck & Bus Deutschland GmbH
- 4) AB Volvo (publ)
- 5) Volvo Lastvagnar AB
- 6) Volvo Group Trucks Central Europe GmbH
- 7) Renault Trucks SAS
- 8) Daimler AG
- 9) Fiat Chrysler Automobiles N.V.
- 10) CNH Industrial N.V.
- 11) Iveco S.p.A
- 12) Iveco Magirus AG
- 13) PACCAR Inc
- 14) DAF Trucks N.V.
- 15) DAF Trucks Deutschland GmbH

Defendants

Draft CONSENT ORDER

UPON reading the letters dated 23 December 2019 and 13 January 2020 from the solicitors to the 1st to 3rd Defendants on behalf of the 1st to 7th and 9th to 15th Defendants, the letter dated 23 December 2019 from the solicitors for the 8th Defendant, and the letters dated 7 and 16 January 2020 from the solicitors to the Claimant:

BY CONSENT it is ordered that:

1. Such part of these proceedings as relates to a claim to which section 47A of the Competition Act 1998 applies and such part of the proceedings as relates to an infringement issue (as defined in section 16(6) of the Enterprise Act 2002) are transferred to the Competition Appeal Tribunal ("the Tribunal") upon the earlier of service and filing of any Replies to the Defences or 28 days following the filing and service of the Defences herein for its determination of those issues pursuant to



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section 16(4) of the Enterprise Act 2002 and/or section 16(1) of that Act together with Regulation 2(a) of the Section 16 Enterprise Act 2002 Regulations 2015.

2. The sending of this Order to the parties and the Tribunal shall constitute notice to them for the purposes of paragraph 8.5 and 8.12 of Practice Direction 30 and CPR Rule 30.4(1).
3. For the avoidance of doubt:
 - 3.1 neither this Order giving effect to the said transfer, nor the transfer itself, is intended to alter, limit or exclude in any respect any element of the Claimants' claim as constituted in this court prior to the transfer taking effect. If and to the extent that any element of the Claimants' claim as constituted in this court prior to the transfer taking effect is not capable of falling within the jurisdiction of the Tribunal on a transfer, or would be altered, limited or excluded by this Order or the transfer, it is not subject to this Order and remains within the jurisdiction of the court;
 - 3.2 the proceedings were and shall continue to be regarded as having been commenced in this court. Any further statements of case or amendments to any statements of case shall be made in accordance with the Civil Procedure Rules and not with the Competition Appeal Tribunal Rules 2015;
 - 3.3 any appeal to the Court of Appeal against the determination by the Tribunal of the issues transferred or an order of the court giving effect to that determination shall be governed by the rules in CPR Part 52;
 - 3.4 the 1st to 12th Defendants shall file and serve their Defence by 17 February 2020 and the 13th to 15th Defendants shall file and serve their Defence by 14 February 2020; and
 - 3.5 this court may give such further directions or make such further order as it thinks fit in connection with the transfer and/or with any such element as referred to above.
4. There shall be liberty to apply.
5. This Order shall be served by the Claimants on the Defendants.

Service of the order

The court has provided a sealed copy of this order to the serving party: Fieldfisher LLP at Riverbank House, 2 Swan Lane, London EC4R 3TT.