



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

Case No: 1291/5/7/18 (T)

BETWEEN:

- (1) RYDER LIMITED**  
**(2) HILL HIRE LIMITED**

Claimants

- and -

- (1) MAN SE**  
**(2) MAN TRUCK & BUS SE**  
**(3) MAN TRUCK & BUS DEUTSCHLAND GMBH**  
**(4) MAN TRUCK AND BUS UK LIMITED**  
**(5) AB VOLVO (PUBL)**  
**(6) VOLVO LASTVAGNAR AB**  
**(7) VOLVO GROUP TRUCKS CENTRAL EUROPE GMBH**  
**(8) VOLVO GROUP UK LIMITED**  
**(9) RENAULT TRUCKS SAS**  
**(10) DAIMLER AG**  
**(11) MERCEDES BENZ CARS UK LIMITED**  
**(12) FIAT CHRYSLER AUTOMOBILES N.V.**  
**(13) CNH INDUSTRIAL N.V.**  
**(14) IVECO S.P.A.**  
**(15) IVECO MAGIRUS AG**  
**(16) IVECO LIMITED**  
**(17) PACCAR INC.**  
**(18) DAF TRUCKS N.V.**  
**(19) DAF TRUCKS DEUTSCHLAND GMBH**  
**(20) DAF TRUCKS LIMITED**

Defendants

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**CONSENT ORDER**

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**UPON** the Claimants and the First to Fourth Defendants having agreed the terms of the Order set out below

**AND UPON**, in light of this agreement, the Claimants having agreed not to pursue an application against the First to Fourth Defendants at the hearing before the Competition Appeal Tribunal on 29-30 October 2020 for disclosure of documents or data dating from the period 1 January 1994 to 31 December 1996

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

- **“Defendant Disclosure Categories”** means the disclosure categories set out in Annex 4 to the Disclosure Order to the extent that such categories relate to data held in MAN’s AVIS and UK JD Edwards and Kerridge systems
- **“Disclosure Order”** means the Order of Hodge Malek QC drawn on 26 November 2019
- **“MAN”** means the First to Fourth Defendants
- **“Re-Amended Confidentiality Ring Order”** means the Order of Mr Justice Roth made on 30 March 2020

**BY CONSENT IT IS ORDERED THAT:**

1. By no later than 11 December 2020, MAN shall disclose by list the data in their control that are responsive to the Defendant Disclosure Categories, for the period 1 January 1994 to 31 December 1996 (inclusive).
2. The data to be disclosed and made available for inspection pursuant to paragraph 1:
  - (a) are to be limited to data held in MAN’s AVIS and UK JD Edwards and Kerridge systems;
  - (b) may be confined to the best available evidence about the information which is the subject matter of the Defendant Disclosure Categories.

MAN should explain why the evidence it is providing is the “best available evidence” and why further disclosure is not proportionate; and

- (c) if contained in the form of an electronic database or extract therefrom, should be provided in native electronic format or electronic excel format.
3. In the event that the disclosure referred to in paragraph 1 above, in respect of any of the Defendant Disclosure Categories, is considered by MAN to be unreasonable and/or disproportionate, MAN may, in the alternative to giving disclosure, directly provide information on the matters specified, at the same time that it gives disclosure in accordance with paragraph 1. Where information is provided in lieu of disclosure it shall be verified by a statement of truth and supported by a description of the sources from which the information concerned has been compiled and an explanation as to why the disclosure of the underlying data is unreasonable and/or disproportionate.
  4. References in paragraph 1 above to MAN providing disclosure are to be read as requiring MAN to conduct reasonable and proportionate searches for data held in its AVIS and UK JD Edwards and Kerridge systems in the categories concerned. Where MAN considers that providing disclosure responsive to any of the categories is unreasonable and/or disproportionate and it cannot provide information in accordance with paragraph 3 of this Order, MAN is to explain the basis for not giving the disclosure or providing information in the disclosure statement to be provided pursuant to paragraph 6 of this Order.

#### **Disclosure into the Confidentiality Ring**

5. MAN may choose to make disclosure into the Confidentiality Ring in accordance with the Re-Amended Confidentiality Ring Order.

#### **Disclosure Statement**

6. MAN's disclosure by list given pursuant to paragraph 1 shall be accompanied by a disclosure statement by an appropriate person which shall (a) set out the extent of the search that has been made in order to locate the data to be disclosed,

(b) specify the manner in which the search has been limited on reasonableness and proportionality grounds and why, and (c) certify to the best of his knowledge and belief that the disclosure ordered has been provided.

### **Inspection of documents and provision of copies**

7. Requests for inspection of documents disclosed above shall be made within 7 days after service of the lists. Copies of documents requested to be inspected shall be provided within 7 days of making the request.

### **Update on MP1 data system**

8. By no later than 6 November 2020, MAN shall provide an update to the Claimants on its ongoing investigations into the proportionality of providing disclosure of pre-2002 costs data from MAN's MP1 data system.

### **Extension of time limits**

9. 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 any 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.

### **Costs**

10. Costs reserved.

### **Other**

11. There be liberty to apply.

**Hodge Malek QC**  
Chairman of the Competition Appeal Tribunal

Made: 16 October 2020  
Drawn: 16 October 2020