



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

AMENDED CONSENT ORDER

UPON the Claimants and the Seventeenth to Twentieth Defendants (the "**DAF Defendants**") having consented to the terms of the Order set out below.

BY CONSENT IT IS ORDERED THAT:

By no later than 30 April 2021, the Claimants and the DAF Defendants shall each disclose by list, in respect of any Trucks weighing 6 tonnes or above manufactured by DAF and purchased (or sought to be purchased) by the Claimants during the period ~~4~~ 17 January 1997 to 18 January 2011:

Communications within the DAF Defendants

1. In respect of the DAF Defendants only, any communications between or within any of the DAF Defendants, or between the DAF Defendants and another member of DAF's corporate group, relating to, and any documents recording, any of (a) to (e) below:
 - (a) sales price approvals (including communications regarding the pricing parameters for proposed sales to the Claimants and seeking approval for a sale to the Claimants at a particular price);
 - (b) sales price approvals (including communications regarding the pricing parameters for proposed sales to dealerships and seeking approval for a sale to a dealership at a particular price);
 - (c) intentions in relation to sales prices;
 - (d) elements considered when determining and/or negotiating prices (including list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options and/or complementary products and services (including bodies whether or not manufactured by DAF)); and
 - (e) the calculation of proposed sales prices, sales prices negotiated and/or agreed, or previously or actually charged.

Communications between the DAF Defendants and dealerships

2. In respect of the DAF Defendants only, any communications between the DAF Defendants or other members of DAF's corporate group and Truck dealerships relating to, and any documents recording, any of (a) to (f) below:
 - (a) sales price approvals (including communications regarding the pricing parameters for proposed sales from DAF to dealerships and seeking approval for a sale to a dealership at a particular price);
 - (b) intentions in relation to sales prices;
 - (c) elements considered when determining and/or negotiating prices (including list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options and/or complementary products and services (including bodies whether or not manufactured by DAF));
 - (d) the calculation of proposed sales prices, sales prices negotiated and/or agreed, or previously or actually charged;
 - (e) elements communicated to dealerships when determining and/or recommending prices to dealerships (including list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options and/or complementary products and services (including bodies whether or not manufactured by DAF)) at which Trucks should be sold to end customers (including the Claimants); and
 - (f) pricing parameters afforded to dealerships for proposed sales from dealerships to end customers (including the Claimants).

Communications between the DAF Defendants and the Claimants

3. Any communications between the Claimants and the DAF Defendants in respect of the negotiations between them of the price of Trucks, including in relation to any of (a) to (d) below:
 - (a) sales or purchase price approvals (including communications regarding the pricing parameters for proposed sales to the Claimants and seeking approval for a sale to the Claimants at a particular price, and pricing parameters for proposed purchases from the DAF Defendants and seeking approval for a purchase from the DAF Defendants at a particular price);
 - (b) intentions in relation to sales or purchase prices;
 - (c) elements considered when determining and/or negotiating prices (including list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options and/or complementary products and services (including bodies whether or not manufactured by DAF)); and
 - (d) the calculation of proposed sales or purchase prices, sales or purchase prices negotiated and/or agreed, or previously or actually charged.

Communications between the Claimants and Truck dealerships

4. In respect of the Claimants only, any communications between the Claimants and dealerships in respect of the negotiations between them of the price of Trucks manufactured by the DAF Defendants, including in relation to any of (a) to (d) below:

- (a) purchase price approvals (including communications regarding the pricing parameters for proposed and seeking approval for a purchase from a dealership at a particular price);
- (b) intentions in relation to purchase prices;
- (c) elements considered when determining and/or negotiating prices (including but not limited to list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options and/or complementary products and services (including bodies whether or not manufactured by DAF), the receipt of competing offers by the Claimants); and
- (d) the calculation of proposed purchase prices, purchase prices negotiated and/or agreed, or previously or actually charged to the Claimants.

Communications within the Claimants

- 5. In respect of the Claimants only, in respect of Trucks manufactured by the DAF Defendants, any communications within the Claimants relating to, and any documents recording, any of (a) to (d) below:
 - (a) purchase price approvals (including communications regarding the pricing parameters for proposed purchases from the DAF Defendants and/or dealerships and seeking approval for a purchase from the DAF Defendants and/or a dealership at a particular price);
 - (b) intentions in relation to purchase prices;
 - (c) elements considered when determining and/or negotiating prices (including but not limited to list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options and/or complementary

products and services (including bodies whether or not manufactured by DAF), the receipt of competing offers by the Claimants); and

- (d) the calculation of proposed purchase prices, purchase prices negotiated and/or agreed, or previously or actually charged.

Procurement disclosure

6. By no later than 30 April 2021, the Claimants shall disclose by list:

#	Claimants' disclosure
Scope	<i>All Trucks procured in the UK from January 1997 to September 2017 (inclusive).</i>
Proc1	Policies used by the Claimants in the process of procuring Trucks.
Proc2	NOT USED
Proc3	NOT USED
Proc4	<p>Documents providing the best available evidence of the selection criteria and reasons for selecting a particular Defendant manufacturer's Truck following a procurement process, including but not limited to:</p> <p>(a) evidence of the Claimants' internal consideration/evaluation of prices/terms upon which Trucks should be purchased including details of any bundled purchases;</p> <p>(b) evidence of the Claimants' consideration of and decisions as to whether to purchase a Truck compliant with a new Euro standard before the mandated date; and</p> <p>(c) evidence of consideration of alternative suppliers (including, without limitation, evidence of how the Claimants viewed the UK market for Trucks and the implications of this for the Claimants' approach to negotiations with different suppliers).</p>

Disclosure Statement

7. The Claimants' and DAF Defendants' disclosure pursuant to this order 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.

Costs

8. The costs of the making of this Order shall be in the case.

Hodge Malek QC
Chairman of the Competition Appeal Tribunal

Amended: 26 November 2020