



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) STELLANTIS N.V. (FORMERLY 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

CONSENT ORDER

UPON HEARING Leading Counsel for the Claimants and Leading Counsel for the Defendants at the Case Management Conference held on 11 and 12 October 2021

IT IS ORDERED THAT:

1. The parties will use best endeavours to produce a series of consolidated data sets combining the best available data from the Claimants with the best available data from each of the Defendants in relation to the Trucks included in the Claimants' claims.
2. In producing the consolidated data sets the parties should seek to:
 - (a) agree, so far as possible, the specific Trucks which are the subject of the Claimants' claim (the "**Scope Issue**");
 - (b) identify any Trucks in respect of which the Scope Issue is not agreed and state the reason(s) why it is not agreed;
 - (c) agree, so far as possible, the price for each specific Truck within the scope of the Claimants' claim, including any methodologies required to estimate or calculate the same (the "**Price Issue**"); and
 - (d) identify any Trucks in respect of which the Price Issue is not agreed and state the reason(s) why it is not agreed.
3. In any instance where any party does not agree with the data or information provided by another party, it shall state the reasons for the disagreement, provide details of the alternative data or information that it considers to be more appropriate, and state the reasons why it considers that data or information is to be preferred.

The Scope Issue

4. By 10 December 2021, the Claimants shall consider the comments provided by the Defendants on 27 and 31 August 2021 and produce a response to the Defendants' comments in respect of the Scope Issue (the "**Scope Response**").

5. By 4 February 2022, the Defendants shall provide their comments on the Scope Response.
6. The parties shall then engage constructively to attempt to agree any outstanding issues in respect of any Trucks where the Scope Issue is not agreed.
7. By 18 March 2022, the parties shall jointly write to the Tribunal to provide an update on the Scope Issue and each party shall set out what (if any) further directions it considers may be needed to assist in producing the consolidated data sets in relation to the Scope Issue.
8. By 15 April 2022, the Defendants shall provide their response to the Claimants' comments of 4 March 2022. The parties shall continue to engage constructively thereafter to agree any outstanding issues in respect of the Scope Issue.
9. By 29 April 2022, the parties shall jointly write to the Tribunal to provide an update on the Scope Issue and each party shall set out what (if any) further directions it considers necessary in order to agree the Scope Issue.

The Price Issue

10. By 17 December 2021, the Claimants will provide, on a best endeavours basis, an explanation of the source of the Claimants' price for each Truck and how it has been derived (the "**Price Explanation**").
11. By 18 March 2022, the non-DAF Defendants shall consider the Price Explanation provided by the Claimants and (save in respect of any Trucks for which the Scope Issue is not agreed) provide a response in respect of the Price Issue (the "**Price Response**"). The Price Response shall state:
 - (a) whether the non-DAF Defendant agrees with the Claimants' price for each Truck;
 - (b) insofar as they do not agree, the reasons why they do not agree; and

- (c) insofar as they do not agree, provide their own, alternative price (to the extent available from their own records) and state how that Truck price has been derived together with the reasons why they consider that alternative price is to be preferred.
12. By 1 April 2022, the DAF Defendants shall consider the Price Explanation provided by the Claimants (save in respect of any Trucks for which the Scope Issue is not agreed) and provide, on a best endeavours basis, a Price Response in the form described at paragraph 11 above.
13. Following service of the Price Response, the parties shall engage constructively to attempt to agree any outstanding issues in respect of any Trucks where the Price Issue is not agreed.
14. By 29 April 2022, the Claimants shall propose a methodology by which they estimate the price of Trucks within the scope of their claim for which there is no price in the data (the "**Price Estimation Methodology**").
15. By 13 May 2022, the parties shall jointly write to the Tribunal to provide an update on the Price Issue and each party shall set out what (if any) further directions it considers may be needed to assist in producing the consolidated data sets in relation to the Price Issue.

Volume discounts and rebates

16. By 24 December 2021, the Claimants shall produce, on a best endeavours basis, a schedule explaining what volume discounts or rebates were available to the Claimants from the Defendants in relation to the Trucks which are the subject of the proceedings in the period 1997 to 2011, and (where applicable) for what period those volume discounts or rebates applied (the "**Volume Discounts and Rebates Schedule**").
17. By 18 March 2022, the Defendants shall, on a best endeavours basis, provide their response to the Volume Discounts and Rebates Schedule.

18. Following service of the Defendants' response to the Volume Discounts and Rebates Schedule, the parties shall engage constructively to attempt to agree any outstanding issues in respect of the volume discounts or rebates which they consider should be accounted for in the consolidated data sets.
19. By 13 May 2022, the parties shall jointly write to the Tribunal to provide an update regarding the Volume Discounts and Rebates Schedule and setting out any areas in dispute and what (if any) further directions each party considers are necessary to address volume discounts and rebates.

Costs

20. Costs in the case.

Other

21. The parties may agree to extend any time period in this Order for a period of up to 35 days in total without reference to the Tribunal, provided that this does not affect the date given for any case management conference or any other hearing. The parties shall notify the Tribunal in writing of the expiry date of any such extension.
22. Liberty to apply.

Hodge Malek QC
Chairman of the Competition Appeal Tribunal

Made: 10 May 2022
Drawn: 10 May 2022