



**IN THE COMPETITION APPEAL TRIBUNAL**

Case Nos: 1339/7/7/20  
1528/5/7/22 (T)

BETWEEN:

**MARK McLAREN CLASS REPRESENTATIVE LIMITED**

Class Representative

- v -

- (1) MOL (EUROPE AFRICA) LTD
- (2) MITSUI O.S.K. LINES LIMITED
- (3) NISSAN MOTOR CAR CARRIER CO. LTD
- (4) KAWASAKI KISEN KAISHA LTD
- (5) NIPPON YUSEN KABUSHIKI KAISHA
- (6) WALLENIOUS WILHELMSSEN OCEAN AS
- (7) EUKOR CAR CARRIERS INC
- (8) WALLENIOUS LOGISTICS AB
- (9) WILHELMSSEN SHIPS HOLDING MALTA LIMITED
- (10) WALLENIOUS LINES AB
- (11) WALLENIOUS WILHELMSSEN ASA
- (12) COMPANIA SUDAMERICANA DE VAPORES S.A.

Defendants

(the “McLaren Proceedings”)

AND BETWEEN:

**VOLKSWAGEN AG & OTHERS**

Claimants

- v -

- (1) MOL (EUROPE AFRICA) LTD
- (7) “K”-LINE HOLDING (EUROPE) LTD

(8) “K”-LINE (EUROPE) LTD  
(9) KAWASAKI KISEN KAISHA, LTD

Defendants / Rule 39 Claimants

(10) MITSUI O.S.K. LINES, LIMITED

Defendant

- and -

NIPPON YUSEN KABUSHIKI KAISHA

Rule 39 Defendant

(the “*Volkswagen* Proceedings”)

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**ORDER**

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**UPON** the Tribunal’s order dated 6 April 2023 giving directions to trial for both the *McLaren* Proceedings and the *Volkswagen* Proceedings (the “**Directions to Trial Order**”)

**AND UPON** the parties to the *Volkswagen* Proceedings having agreed in correspondence to vary certain deadlines for disclosure contained in the Directions to Trial Order (insofar as they affect the parties to the *Volkswagen* Proceedings only) in the form set out in Annex A to a draft Order provided to the Tribunal on 29 September 2023, and the parties to the *McLaren* Proceedings having consented to those deadlines being amended

**AND UPON** the Claimants’ application under Rule 106 of the Competition Appeal Tribunal Rules 2015 (the “**Tribunal Rules**”) to vary the orders in the form agreed by the parties to the *Volkswagen* Proceedings

**AND HAVING REGARD TO** the governing principles pursuant to Rule 4 of the Tribunal Rules and the Tribunal’s powers under Rules 53 and 106 of the Tribunal Rules

**BY CONSENT IT IS ORDERED THAT:**

1. The deadline at paragraph 7 of the Directions to Trial Order is varied such that the Defendants to the *Volkswagen* Proceedings shall file and serve on the Claimants and other Defendants to the *Volkswagen* Proceedings and the other parties to the *McLaren*

Proceedings their respective Third Amended Defences in the Volkswagen Proceedings by 4pm on 17 November 2023.

2. The deadline at paragraph 8 of the Directions to Trial Order is varied such that the Claimants to the *Volkswagen* Proceedings shall file and serve on the Defendants to the *Volkswagen* Proceedings and the other parties to the *McLaren* Proceedings their consolidated Re-Amended Reply in the *Volkswagen* Proceedings by 4pm on 22 December 2023.
3. In respect of the Volkswagen Positive Position Statement directed at paragraph 9 of the Directions to Trial Order, each party to the Volkswagen Proceedings has permission to seek disclosure from any other party of the Volkswagen Proceedings of documentation (including data) that it considers is reasonably necessary and proportionate for the purposes of preparing its Volkswagen Positive Position Statement:
  - (a) Without prejudice to informal discussions between the parties as to disclosure and the production of documentation pursuant to such discussions (which are encouraged), the Requesting Party in the Volkswagen Proceedings shall notify the Receiving Party in the Volkswagen Proceedings of the Disclosure Request by 4pm on 20 December 2023.
  - (b) Subject to sub-paragraphs (c) and (d) below, the Receiving Party in the Volkswagen Proceedings shall comply with the Disclosure Request on a reasonable rolling basis and by 4pm on 23 February, or if further time is required, within such time period as the parties may otherwise agree. Failing agreement as to the date for compliance, the parties may seek a direction from the Tribunal.
  - (c) If the Disclosure Request is considered by the Receiving Party in the Volkswagen Proceedings not to be reasonably necessary or to be disproportionate, it shall have permission to object to the Disclosure Request by 4pm on the date that falls 10 clear business days after the Disclosure Request is made.
  - (d) If the Requesting Party in the Volkswagen Proceedings wishes to maintain its Disclosure Request, it shall seek directions from the Tribunal by 4pm on the date that falls 5 clear business days after the objection was received.
4. Paragraphs 12, 15 and 15(b) of the Directions to Trial Order are amended to include a cross-reference to paragraph 3 of this Order.
5. Paragraph 17 of the Directions to Trial Order is amended to include a cross-reference to subparagraphs 3(b) and 3(d) of this Order.
6. Paragraph 13 of the Directions to Trial Order is amended to read:

“In respect of the *McLaren* and *Volkswagen* Positive Position Statements directed at paragraphs 1 and 9 of this Order, (i) each party to the *McLaren* Proceedings has permission to seek disclosure from any other party of either the *McLaren* or *Volkswagen* Proceedings of documentation (including data) that it considers is reasonably necessary and proportionate for the purposes of preparing its respective Positive Position Statements; and (ii) each party to the *Volkswagen* Proceedings likewise has permission to seek such disclosure from each party to the *McLaren* Proceedings...”

7. The costs of this application are costs in the *Volkswagen* Proceedings.

**Sir Marcus Smith**  
President of the Competition Appeal Tribunal

Made: 19 October 2023  
Drawn: 20 October 2023