



Neutral citation [2025] CAT 82

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

Case No: 1339/7/7/20

BETWEEN:

**MARK MCLAREN CLASS REPRESENTATIVE LIMITED**

Joint Applicant and Class Representative

- v -

- (1) MOL (EUROPE AFRICA) LTD  
(2) MITSUI O.S.K. LINES LIMITED  
(3) NISSAN MOTOR CAR CARRIER CO.LTD  
(5) NIPPON YUSEN KABUSHIKI KAISHA

Joint Applicants and Defendants

- ~~(4) KAWASAKI KISEN KAISHA LTD~~  
~~(6) WALLENIOUS WILHELMSSEN OCEAN AS~~  
~~(7) EUKOR CAR CARRIERS INC~~  
~~(8) WALLENIOUS LOGISTICS AB~~  
~~(9) WILHELMSSEN SHIPS HOLDING MALTA LIMITED~~  
~~(10) WALLENIOUS LINES AV~~  
~~(11) WALLENIOUS WILHELMSSEN ASA~~  
~~(12) COMPANIA SUD AMERICANA DE VAPORES S.A.~~

Defendants (stayed)

- and -

- (1) WOODSFORD GROUP LIMITED  
(2) LITICA LTD  
(3) LAKEHOUSE RISK SERVICES LIMITED  
(4) THE ACCESS TO JUSTICE FOUNDATION

Proposed Interveners

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**REASONED ORDER (INTERVENTION)**

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**UPON** the Class Representative and the First to Third and Fifth Defendants (“**MOL**” and “**NYKK**”, together the “**MN Defendants**”) (the “**Parties**”) entering into a proposed settlement agreement on 27 October 2025 by which they agreed to settle the proceedings between them

**AND UPON** the joint application by the Parties filed on 25 November 2025 for a collective settlement approval order (the “**CSAO Application**”) pursuant to Rule 94 of the Competition Appeal Tribunal Rules 2015 (the “**CAT Rules**”)

**AND UPON** a hearing to determine the CSAO Application being listed on 15 January 2026, with 16 January 2026 held in reserve (the “**CSAO Hearing**”)

**AND UPON** the applications for permission to intervene in the CSAO Hearing pursuant to Rule 16 of the CAT Rules dated: (i) 15 December 2025 by Woodsford Group Limited (“**Woodsford**”) on behalf of the litigation funder in this claim; (ii) 15 December 2025 by the Access to Justice Foundation (the “**Foundation**”); and (iii) 16 December 2025 by Litica Ltd (“**Litica**”) and Lakehouse Risk Services Limited (“**Lakehouse**”) on behalf of the after-the-event insurers in this claim

**AND UPON** reading the letters from the solicitors for the Class Representative and the First to Third Defendants respectively dated 17 December 2025 in relation to the proposed interventions

**IT IS ORDERED THAT:**

1. Woodsford, the Foundation, Litica and Lakehouse (the “**Interveners**”) are granted permission to intervene in the CSAO Hearing pursuant to Rule 16 of the CAT Rules.
2. If so advised, the Interveners shall file their statements of intervention by **4pm on 22 December 2025**.
3. Any evidence relied upon by the Interveners shall be limited to no more than 5 pages and shall be filed by **4pm on 6 January 2026**.
4. Any written submissions filed by the Interveners shall be limited to 15 pages and shall be filed by **12pm on 9 January 2026**.
5. Woodsford, Litica and Lakehouse are granted permission to make oral submissions at the CSAO Hearing, limited to 45 minutes for Woodsford and 15 minutes for Litica and Lakehouse.

**REASONS:**

1. By an application dated 25 November 2025, the Class Representative and the MN Defendants jointly applied to the Tribunal for an order approving their proposed collective settlement (the “**CSAO Application**”). A hearing has been listed to determine the CSAO Application on 15 January 2026, with a half day on 16 January 2026 held in reserve (the “**CSAO Hearing**”). The CSAO Application enclosed a draft collective settlement approval order (the “**Draft CSAO**”).
2. By letters dated 8 and 9 December 2025 (the “**Tribunal Letters**”), the Tribunal directed that any application to intervene by any interested party must be filed and served by 4:00pm on 15 December 2025. A deadline of 4:00pm on 6 January 2026 was set for any evidence which successful interveners proposed to file, and 12:00pm on 9 January 2026 for written submissions in relation to the CSAO Application.
3. On 15 December 2025, the Tribunal received two applications for permission to intervene from: (i) the Class Representative’s funder, Woodsford Group Limited (“**Woodsford**”); and (ii) the Access to Justice Foundation (the “**Foundation**”). On 16 December 2025, the Tribunal received a further application from the Class Representative’s ATE insurers (Litica Ltd acting on behalf of Hiscox Insurance Company Limited, AXA Insurance UK PLC, Markel International Insurance Company Ltd, Brace Lloyd’s Consortium 9642 and a number of Lloyd’s Syndicates, as well as Lakehouse Risk Services Limited on behalf of Axis Speciality Europe SE) (the “**ATE Insurers**”). Although that application was filed late, the Tribunal is prepared to accept it given the tight deadlines that were set and the clear benefit to the Tribunal in receiving submissions from a wide range of stakeholders.
4. The proposed interested parties seek an order, pursuant to Rule 16 of the CAT Rules, permitting them to be heard at the CSAO Hearing and to make submissions and file evidence in advance of that hearing in accordance with the deadlines set out in the Tribunal Letters.
5. None of the applications for permission to intervene were opposed.

**(1) Applicable Legal Principles**

6. Rule 16 of the CAT Rules provides that “any person with *sufficient interest* in the outcome may make a request to the Tribunal for permission to intervene in the proceedings” (emphasis added).
7. The application of Rule 16 was summarised by Roth J in *Justin Gutmann v Govia Thameslink Railway Limited and Ors* [2023] CAT 23 at [7]:

“...In *B&M European Value Retail v CMA* [2019] CAT 8, the Tribunal noted that the rule involves a two-stage process. There is, first, the threshold question whether the applicant has shown a ‘sufficient interest’ in the outcome of the proceedings; if that is satisfied, it is then a question of discretion for the Tribunal as to whether to permit an intervention, having regard to the governing principles set out in rule 4. The Tribunal reiterated this approach in *Sabre Corp v CMA* [2020] CAT 16 at [8].”
8. In short, the Tribunal must first determine whether the proposed intervenor has a “sufficient interest” in the outcome. If so, it then falls to the Tribunal to decide, as a matter of discretion, whether to permit the intervention.

**(2) Applications to intervene**

**(a) Woodsford**

9. Woodsford is the litigation funder of this claim. It has provided funding to the Class Representative in respect of the proceedings against all Defendants (including the MN Defendants and those whose claims have previously settled) pursuant to a Litigation Funding Agreement dated 9 October 2023 (the “LFA”). Pursuant to the LFA, Woodsford has to date advanced over £11.6 million on a non-recourse basis and may be entitled to a funder’s fee in the event of success.
10. The fees due to Woodsford under the LFA form part of the Class Representative’s “costs, fees and disbursements” (“CFDs”) within the meaning of Rule 94(4)(b) of the CAT Rules. Woodsford therefore has a clear and direct financial interest in the outcome of the CSAO Application, which includes consideration of the Class Representative’s recoverable funding costs.

11. In these circumstances, Woodsford plainly satisfies the threshold requirement of sufficient interest for the purposes of Rule 16. Its funding outlay and any claimed entitlement to a funder's fee are directly affected by the Tribunal's assessment of:
- (a) the reasonableness of the sums sought in respect of funders' fees; and
  - (b) the operation of the cost provisions in the Draft CSAO, including the proposed £20 million "CFD Sum" payable to the Class Representative in advance of any distribution to Class Members.

Woodsford is well placed to assist the Tribunal in addressing these matters.

12. Having satisfied the threshold question, the Tribunal is also satisfied that it is appropriate, as a matter of discretion, to permit Woodsford's intervention. The Tribunal will wish to be addressed on: (a) the reasonableness of the agreed CFD Sum; (b) the timing of its payment; (c) what should happen should the Tribunal decide that it is not appropriate to award any part of the CFD sum to the Stakeholders (being the Parties, Woodsford and the ATE Insurers); and (d) the operation of paragraph 5(b) of the Draft CSAO concerning the "CFD Shortfall Amount". Woodsford is able to provide focused and relevant submissions on each of these issues, thereby assisting the Tribunal in its assessment of the Class Representative's costs, fees and disbursements for the purposes of the CSAO Application.
13. In any event, Woodsford has previously been granted permission to intervene in these proceedings, including in relation to the Related Costs Application (judgment dated 12 July 2024: [2024] CAT 47) and the WWL/EUKOR/K-Line CSAO Application (judgment dated 15 January 2025: [2025] CAT 4). Woodsford's interest in the present application is at least as great given the quantum involved and the centrality of its fees to the CSAO Application. This history further supports granting permission to intervene.

***(b) Litica Ltd and Lakehouse Risk Services Limited (on behalf of the ATE Insurers)***

14. Litica Ltd and Lakehouse Risk Services Limited apply on behalf of the Class Representative's ATE Insurers, who have provided after-the-event insurance to protect the Class Representative against adverse costs liability in these proceedings. The ATE Insurers therefore satisfy the threshold requirement of sufficient interest. Their exposure under the relevant ATE policies are substantial, and the Tribunal's assessment of the Class Representative's costs, fees and disbursements, together with the structure and operation of the insurance arrangements under the Draft CSAO, has a direct and significant bearing on the level of their potential return.
15. The ATE Insurers are also well placed to assist the Tribunal in understanding the nature, scope and operation of the Class Representative's insurance arrangements, including the level of cover, the underlying risk assumptions, and the interaction between ATE protections, the funding position and the proposed CFD Sum. Their participation will assist the Tribunal in determining whether the overall package of costs, fees and risk-protection mechanisms is fair, reasonable and in the interests of the class.
16. For these reasons, the ATE Insurers also satisfy the discretionary limb of Rule 16. Their intervention will provide assistance that is directly relevant to the Tribunal's assessment of the CSAO Application.

***(c) The Access to Justice Foundation***

17. The Foundation is responsible for receiving and distributing additional financial resources to support pro bono legal services. It is the statutory recipient of pro bono costs awards under section 194 of the Legal Services Act 2007 and plays an established role in directing funds to organisations that expand access to justice.
18. One of the issues arising on the CSAO Application concerns the allocation of any portion of the Settlement Sum not distributed to Class Members or any CFD Sum not approved by this Tribunal to be paid to the Stakeholders. The Draft CSAO and CSAO Application both expressly identify the possibility of a cy-près distribution to an

approved charity. Paragraph 28(b)(i)(1) of the CSAO Application provides that the “Guaranteed Damages Sum” of £20 million may, subject to the Tribunal’s order, be distributed either to the Class or cy-près to a charity approved by the Tribunal. The Foundation is therefore a potential recipient of the Settlement Sum.

19. In these circumstances, the Foundation satisfies the sufficient interest limb of Rule 16. The Tribunal’s decision on the destination of any undistributed settlement monies falls squarely within the Foundation’s statutory role as the prescribed charity for undistributed damages in opt-out collective proceedings under section 47C(5) of the Competition Act 1998.
20. The Tribunal is also satisfied, as a matter of discretion, that it is appropriate to permit the Foundation to intervene. The Tribunal will need to be addressed on the merits of any proposed cy-près destination, and the existing parties are not necessarily incentivised to advance submissions in favour of the Foundation. The Foundation is uniquely positioned to explain its mission, its grant-making activities, its stewardship of funds, and the broader policy context, including its longstanding role in administering funds from public bodies. This information will assist the Tribunal in determining whether any proposed cy-près arrangement is appropriate, fair and effective.
21. The Foundation therefore satisfies both limbs of the Rule 16 test. Its participation will assist the Tribunal in conducting the careful scrutiny required in the context of the CSAO Application, particularly where alternative potential destinations for undistributed sums must be considered. Permission to intervene is therefore appropriate.
22. The Foundation has previously been granted permission to intervene in similar contexts, including in the 1266/7/7/16 *Merricks* collective proceedings (by Order dated 29 January 2025) and the 1304/7/7/19 *Gutmann (Trains)* settlement approval application ([2025] CAT 38). The Tribunal’s reasoning in those cases supports permitting the intervention here.

### **(3) Conclusion**

23. Woodsford, Litica Ltd and Lakehouse (on behalf of the ATE Insurers), and the Foundation are granted permission to intervene. As previously set out in the Tribunal Letters, statements of intervention shall be filed by 4pm on 22 December 2025. The Tribunal notes that Woodsford does not presently intend to file a separate Statement of Intervention beyond its evidence and submissions unless required by the Tribunal. The Tribunal is content with that approach.
24. Woodsford and the ATE Insurers (but not the Foundation) shall have permission to appear at the CSAO Hearing and may make oral submissions, limited to 45 minutes for Woodsford and 15 minutes for the ATE Insurers.
25. Finally, given the degree of overlap between the issues likely to be raised by Woodsford and the ATE Insurers, and in light of the limited time available for interventions, the Tribunal considers that serious consideration should be given to whether it would be appropriate for both interveners to be represented by the same counsel, subject always to the absence of any conflict of interest.

**Hodge Malek KC**

Chair of the Competition Appeal Tribunal

Made: 17 December 2025

Drawn: 17 December 2025