



Neutral citation [2026] CAT 2

**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No: 1289/7/7/18

BETWEEN:

ROAD HAULAGE ASSOCIATION LIMITED

Class Representative

-and-

RHA USED TRUCKS LIMITED

Sub-Class Representative

- v -

TRATON SE AND OTHERS

Defendants

- and -

DAIMLER AG AND OTHERS

Objectors

REASONED ORDER

UPON the Tribunal handing down judgment on the Road Haulage Association Ltd's ("RHA") and UK Trucks Claim Ltd's applications for a collective proceedings order ("CPO") on 8 June 2022 ([2022] CAT 25) (the "June 2022 Judgment")

AND UPON the Court of Appeal handing down judgment on appeals against the June 2022 Judgment on 25 July 2023 ([2023] EWCA Civ 875) and remitting certain matters to the Tribunal (the “**Remitted Matters**”)

AND UPON the Tribunal handing down judgment on the Remitted Matters on 2 August 2024 ([2024] CAT 51)

AND UPON the Tribunal making a CPO on 5 August 2024 which provided that any class member (“**CM**”) wishing to opt-in to the proceedings should do so by 31 December 2024

AND UPON the Reasoned Order dated 5 December 2024 extending the opt-in period to 28 February 2025

AND UPON the application by the RHA dated 4 September 2025 requesting permission for 21 Claimants (the “**Relevant Claimants**”) to be given the opportunity to opt-in to the proceedings after the expiry of the opt-in deadline (the “**RHA Application**”)

AND UPON reading the Defendants’ solicitors’ letter dated 19 September 2025 and the further letters from the RHA’s solicitors dated 24 October, 10 November and 14 November 2025 (two letters) and the enclosures thereto

AND UPON the application by Deben Transport Ltd (in liquidation) (“**DTL**”) dated 3 December 2025 requesting permission to opt-in to the proceedings after the opt-in deadline (the “**DTL Application**”)

AND UPON reading the witness statement of Mark Upton, the Defendants’ solicitors’ letter of 22 December 2025 and the letter from the solicitors to the liquidators of DTL dated 15 January 2026

IT IS ORDERED THAT:

1. Pursuant to rule 82(2) of the Competition Appeal Tribunal Rules 2015 (the “**CAT Rules**”), Mr Michael Roderick and Mr Kenneth S Marshall are permitted to opt-in to the collective proceedings and their names are to be recorded on the class register under rule 83 by 31 January 2026.

2. Save as aforesaid, the RHA Application and the DTL Application are dismissed.
3. The RHA shall pay 90% of the Defendants' costs of opposing the RHA Application and DTL shall pay the Defendants' costs of opposing the DTL Application. Those costs are summarily assessed in the amount of £7000 and £6000 respectively, and the payments of £6300 (by the RHA) and £6000 (by the liquidators) shall be made within 21 days of the date of this order.

REASONS:

1. In determining whether to allow a CM to opt-in after the expiry of the deadline, the Tribunal must consider all the circumstances, including whether the delay was caused by the fault of that CM and whether the delay would cause prejudice to the Defendants: rule 82(3) of the CAT Rules.
2. The deadline for opting-in was originally fixed by the CPO as 31 December 2024. However, in response to the application from the RHA, made also on behalf of the Sub-Class Representative, it was extended to 28 February 2025. As explained in the Order of 5 December 2025, this was to balance the interests of CMs with the need for certainty in the interests of both the Defendants and those CMs that had opted-in. Presumably the RHA (and Sub-Class Representative) will have sought to contact all those who originally registered interest and were part of the parallel High Court proceedings informing them of the extended deadline. CMs therefore had a total period of 6 months to opt-in.
3. A CM who seeks permission to opt-in after the specified deadline is expected to explain why they failed to do so by the specified time and the further time taken to make their application. Such an explanation is necessary for the Tribunal to consider to what extent the delay is the fault of the CM. Moreover, to allow a CM to opt-in after the expiry of the time specified in the Tribunal's order, without any justification for the delay, would deprive the specification of a deadline of any real effect. That was indeed recognised by the RHA: the RHA Application states (at para 6) that in correspondence with the Relevant Claimants they were asked to give the reason why they had not opted in previously since this was likely to be required by the Tribunal. The fact that many

CMs are sole traders or small businesses was the reason for the previous extension of the deadline and is not, without more, a sufficient reason to allow an application to opt-in many months after that deadline expired.

4. Only 7 of the 21 Relevant Claimants made any response to the communication from the RHA, and of those 7, Rodbers of Richmond Ltd did not provide any reason for its failure to opt-in in time. I do not consider it appropriate to grant permission to opt-in to a CM who puts forward no reason for having failed to opt-in in time.
5. Of the other 6 Relevant Claimants, Mr Michael Roderick had problems with the old email account being used by the RHA for communication with him and promptly sought to opt-in when he was able to access those emails. Given the exceptional length of time since the start of these proceedings, it is not unreasonable that a CM will have changed their email address and did not regularly check an old email account. On balance, I regard this as sufficient explanation and consider that Mr Roderick was not seriously at fault.
6. Mr Kenneth S Marshall (trading as KS Marshall Transport) explained that he was on the original list of parties signed up to protective High Court proceedings issued by the RHA, that he tried to re-apply to opt-in August 2024 when informed of the CPO but was repeatedly unable to access the link that he was sent, and that he contacted the RHA at the time to point this out and ask that he be included. Although it is unclear why in those circumstances his name was not included, I consider that there was no serious fault on his part.
7. Although in my view there was some delay in issuing the RHA Application, I recognise that the RHA had to correspond with and coordinate responses from a large number of small businesses to establish the position in each case.
8. Further, the inclusion of these two CMs with relatively small claims at a time when the substantive proceedings are only getting under way will not, in my view, cause serious prejudice to the Defendants.

9. As regards the other Relevant Claimants, Mr Mohammed Younis states simply: “I was away and forgot”. MAP Plant Ltd states that they were “waiting for our company solicitor to read through the paperwork.” And Mr Andrew Fowler states that he could not get clear clarification that he would not be liable for any legal costs. These responses in my view show that the fault was entirely that of the Relevant Claimant or their representative. Any solicitor would be expected to appreciate the deadline set by the Tribunal for opting in, and the costs position could have been readily clarified with the RHA. K&M (Hauliers) Ltd stated that they believed that they had opted in. However, no basis was provided for that belief, which was evidently mistaken, and the RHA’s solicitors have confirmed that there was no opt-in under any alternative spelling of their name (i.e. with full stops after the initials). Therefore I do not consider that there is justification to grant the RHA Application in respect of those Relevant Claimants.
10. As regards the DTL Application, the liquidators were appointed on 25 March 2021 and are members of a firm of professional accountants. The solicitors acting for the joint liquidators (who were previously the joint administrators) have been providing them with periodic updates on the collective proceedings, and in August 2024 very properly notified the case handler at the liquidators’ firm dealing with this case that the opt-in window had been opened and that the deadline for opting-in was the end of 2024. Mr Upton, the joint liquidator, simply says in his witness statement that this notification in August 2024 “was unfortunately not actioned on our side”. No other explanation is put forward save that there had previously been changes in personnel at the liquidators’ firm; however it is not suggested that there were any changes after August 2024. Furthermore, the solicitors should have informed the joint liquidators of the extension of the opt-in period to 28 February 2025 and no explanation is given as to why again no action was taken.
11. In addition, although Mr Upton states that the failure to meet the deadline was noticed in May 2025, a further six months elapsed before the DTL Application was issued. The only explanation given is that the liquidators sought legal advice and sought to establish the number of trucks leased during the claim period. I consider that any application to opt-in after the date specified by the Tribunal should be made promptly. Here, the joint liquidators had the assistance of solicitors with regard to DTL’s potential claim since

the start of the liquidation. As DTL's claim was significant, that was all the more reason why it should have been given priority. In all the circumstances I do not consider that there is any valid reason for the delay in making the DTL Application.

12. Since the RHA Application has largely failed and the DTL Application has failed completely the respective applicants should be liable for the Defendants' resulting costs. As regards the DTL Application, although DTL is not a party to the proceedings, the Tribunal has power to order costs against a non-party and it is clear that the DTL Application was brought by DTL (in liquidation) and not by the RHA. Whether or not the liquidators should account to DTL for those costs is a matter to be determined in the liquidation. However, the Defendants' opposition to the applications comprised one letter in each case. It would be disproportionate and only give rise to further costs to invite separate submissions on costs, and it is therefore preferable to assess the costs, without more, at a very modest amount.

Sir Peter Roth
Chair of the Competition Appeal Tribunal

Made: 22 January 2026
Drawn: 22 January 2026