Neutral citation [2026] CAT 74

Case No: 1339/7/7/20

IN THE COMPETITION APPEAL TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

23 September 2026

Before:

HODGE MALEK KC
(Chair)

Sitting as a Tribunal in England and Wales

BETWEEN:

MARK MCLAREN CLASS REPRESENTATIVE LIMITED

Class Representative

- v -

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

Defendants

Heard at Salisbury Square House on 17 September 2026

RULING (DISTRIBUTION PLAN)

APPEARANCES

Sarah Ford KC, Nicholas Gibson KC and Sarah O'Keeffe (instructed by Scott + Scott UK LLP) appeared on behalf of the Class Representative.

Mark Brealey KC (instructed by Baker Botts (UK) LLP) appeared on behalf of the Sixth to Eleventh Defendants.

Simon Teasdale appeared on behalf of Woodsford Group Limited.

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A. INTRODUCTION

1. This ruling concerns the application by the Class Representative (**CR**), Mark McLaren Class Representative Limited, for approval of a distribution plan governing the distribution of settlement sums recovered in these collective proceedings (the **Distribution Plan**).

2. The settlements from which the proposed distribution arises were approved by the Tribunal on 6 December 2023, 6 December 2024 and 11 February 2026 (together, the **Settlements**). Through those Settlements, the CR has secured a total recovery of £92.75 million.

3. The nature and history of these proceedings has been described extensively in previous rulings and judgments of the Tribunal, including the certification judgment ([2022] CAT 10), the collective settlement approval judgments relating to the settlements with CSAV ([2023] CAT 75), the WWL/EUKOR and K-Line defendants ([2025] CAT 4), and most recently the judgment approving the settlement with the MOL and NYKK defendants*, Mark McLaren Class Representative Limited v MOL (Europe Africa) Ltd and Others* [2026] CAT 6 (the ***MOL/NYKK CSAO Judgment***). In the *MOL/NYKK CSAO Judgment*, the Tribunal approved the final settlement in these proceedings but emphasised that questions concerning distribution of all Settlement monies remained to be addressed through a subsequent application. The present application therefore seeks the Tribunal's approval of the CR's proposed Distribution Plan.

B. BACKGROUND

4. The nature and history of the proceedings have been set out in detail in the rulings and judgments referred to above. For present purposes, it is sufficient to summarise only those matters necessary to understand the Distribution Plan and the issues arising on this application.

5. The claim was commenced on 20 February 2020 and a collective proceedings Order (**CPO**) was made on 20 May 2022. Trial against the remaining non-settling Defendants took place between 13 January and 13 March 2025.

6. The proceedings arise from the cartel identified in the European Commission's infringement decision dated 21 February 2018 in Case AT.40009 – *Maritime Car Carriers* (the **Decision**). The cartel was found to have operated between 18 October 2006 and 6 September 2012 and concerned horizontal anti-competitive arrangements affecting the intercontinental shipment of motor vehicles in Europe.

7. In broad terms, the CR's case in these proceedings was that cartel overcharges inflated the cost of deep-sea shipping services into Europe, that those increased costs were passed on by vehicle manufacturers through vehicle delivery charges and that the resulting overcharge was ultimately borne by purchasers and lessees of affected vehicles.

8. The CR's economic case was that the overcharge ultimately borne by represented persons depended upon a number of factors, including: (i) the average shipping overcharge attributable to a particular vehicle manufacturer; (ii) the proportion of that manufacturer's vehicles imported into Europe through deep-sea shipping; (iii) the extent to which increased shipping costs were passed on through vehicle delivery charges; and (iv) interest.

9. Drawing upon the aggregate loss estimates advanced in the proceedings, Ankura – the CR's economic expert – estimated the average loss attributable to an affected vehicle. That exercise involved translating the aggregate losses claimed on behalf of consumers and corporate entities respectively into average per-vehicle figures. Ankura's resulting estimates were £12.47 per consumer vehicle and £5.03 per corporate vehicle, inclusive of interest. Having reviewed the evidence, the Tribunal considers that these figures are credible and are reasonable estimates that can be taken into account for the purposes of distribution. It is appreciated that the actual figures will never be adjudicated by the Tribunal as the proceedings were settled prior to judgment.

10. Ankura then considered the extent to which those estimated losses had in fact been successfully recovered through the Settlements in these proceedings. Applying the resulting recovery ratio to the average loss figures produced

settlement-adjusted values of £5.36 per consumer vehicle and £2.16 per corporate vehicle.

11. Accordingly, the figures of £5.36 and £2.16 do not represent Ankura's estimate of the actual loss suffered by consumers and corporates respectively. Rather, they represent Ankura's estimate of the proportion of those losses reflected in the settlement recovery ultimately secured by the CR.

12. As described in greater detail in the Tribunal's previous CSAO judgments in these proceedings, the previous Settlements in these proceedings generated a total recovery of £92.75 million, divided into the following pots:

(1) £34 million of Guaranteed Damages for distribution to Class Members and/or by way of *cy-près* to the Access to Justice Foundation (**AtJF**) (the **Guaranteed Damages Sum**);

(2) £21.87 million for distribution to class members if take-up by class members exceeds the guaranteed minimum (the **Additional Damages Sum**), which if not taken up may then be applied to pay any outstanding costs, fees and disbursements (**CFDs**), be paid to AtJF, or revert to or remain with certain Defendants who settled early. The course adopted in each case will depend on which settlement different parts of the money come from and the Tribunal's determinations;

(3) £34 million for CFDs, of which £16,692,937.41 has already been paid to stakeholders;

(4) £2.5 million allocated towards the costs of distribution (the **Distribution Costs Contribution**); and

(5) £380,000 from the CSAV Settlement for certain *inter partes* costs, of which £361,000 has already been paid to stakeholders.

13. In addition to the above, £1,058,885.50 has accrued in interest on the Settlement monies to date.

14. Grouping the Additional Damages and Guaranteed Damages together results in a damages sum of £55.87 million available for distribution to represented persons (the **Damages Pot**).

15. Against that background, it is necessary to consider those persons who may ultimately benefit from any distribution of the Damages Pot.

16. The class consists, broadly, of persons who purchased or financed qualifying new vehicles in the United Kingdom between 18 October 2006 and 6 September 2015, excluding purchases involving specified excluded brands and excluded persons. It includes both natural persons and businesses.

17. The CR estimates that approximately 25.1 million affected vehicles were purchased or leased by class members during the Claim Period. Approximately 48% of those vehicles were purchased or leased by consumers (including Motability customers), whilst approximately 52% were purchased or leased by corporate entities. The class is therefore both large and heterogeneous, encompassing individual consumers, small and medium-sized enterprises, fleet operators, vehicle rental businesses, local authorities and other public bodies.

18. A significant component of the consumer class comprises Motability customers. The CR estimates that vehicles supplied through the Motability scheme account for approximately 2.34 million affected vehicles, representing approximately 9% of all affected vehicles.

19. The combination of the size of the class, the diversity of represented persons within it and the scale of the Settlement monies available for distribution presents a number of practical challenges. It is against that background that the Tribunal must consider the process by which the Settlement monies should be distributed and the history of the Distribution Plan now before it.

C. PREPARATION OF THE DISTRIBUTION PLAN

20. Under the structure of the Settlements approved by the Tribunal, the Settlement monies were to be held pending a further order of the Tribunal determining the

manner in which those monies should ultimately be distributed amongst represented persons.

21. By the time of the final MOL/NYKK settlement application, the Tribunal had had the benefit of observing the first completed distribution carried out under the opt-out collective proceedings regime, namely *Justin Gutmann v First MTR South Western Trains Limited and Another* (***Boundary Fares***). That process ultimately resulted in approximately £216,485 being distributed from a potential distribution fund of approximately £25 million, with only 7,290 valid claims being submitted. This translates into a take-up of approximately 0.8%.

22. Whilst materially different from the present proceedings, the experience in *Boundary Fares* highlights a number of practical challenges inherent to the distribution of collective settlement monies, including claimant awareness, participation, evidential burdens and take-up. It also demonstrates that the recovery of substantial sums on behalf of a class does not necessarily translate into substantial distributions reaching represented persons.

23. It was against that background, and recognising that the Settlement monies in these proceedings would ultimately be distributed only pursuant to a further order of the Tribunal, that the Tribunal considered it appropriate in the *MOL/NYKK CSAO Judgment* to provide guidance concerning the matters it would expect any future distribution proposal to address. Although the precise terms of any future distribution plan were not yet known at the time, the Tribunal identified a number of likely issues concerning participation, take-up, claimant behaviour, evidential requirements, notice and publicity, and the overall effectiveness of any future distribution process that it considered would be relevant to its eventual assessment of a distribution plan.

24. At §§59–60 of the *MOL/NYKK CSAO Judgment*, the Tribunal emphasised that collective proceedings exist principally for the benefit of represented persons and that the ultimate success of the proceedings should be assessed, at least in part, by reference to the extent to which meaningful compensation ultimately reaches the class. The Tribunal expressly cautioned against an outcome in which

represented persons recovered little or nothing whilst stakeholders became the principal beneficiaries of the proceedings.

25. The Tribunal also stressed the need for future distribution plans to be supported by empirical evidence concerning claimant behaviour and likely take-up. Particular emphasis was placed upon understanding both consumer and business participation, engaging with large fleet operators, developing a clear methodology for compensation and ensuring that any future distribution process was specifically designed to maximise participation: see *MOL/NYKK CSAO Judgment* §§71–72, 107–109 and 130–157.

26. The Tribunal further recognised that participation by consumers might prove difficult given the age of the purchases in question and the relatively modest levels of compensation potentially available to many claimants. Nevertheless, it emphasised the public interest in ensuring that any future distribution process was actively directed towards securing meaningful participation wherever possible: see *MOL/NYKK CSAO Judgment* §§108–109, 134, 150 and 152–153.

27. Following the *MOL/NYKK CSAO Judgment*, the CR undertook a substantial programme of preparation involving claims administrators, economists, communications specialists, survey experts and engagement with corporate claimants.

28. On 10 July 2026, the CR provided the Tribunal with a draft distribution plan. Following consideration of that draft, the Tribunal wrote to the CR on 3 August 2026 identifying a number of issues which, in its preliminary view, required further development before any final application could be determined. These included the evidential basis for projected corporate participation rates, the rationale for the proposed compensation structure, the treatment of accrued interest, the use of updated Driver and Vehicle Licensing Agency (**DVLA**) data, verification requirements for consumers and businesses, arrangements for Motability claimants, the proposed notice and publicity strategy, reporting requirements during the distribution process and the proportionality of the proposed budget.

29. The Tribunal also invited the CR to explore a simplified verification route based on granular DVLA data (where available) and to provide further information regarding projected participation levels.

30. The CR filed its final Distribution Plan on 3 September 2026.

31. The Tribunal wrote to the CR on 9 September 2026, requesting that further information be provided in advance of the Distribution Plan hearing (the **Hearing**), including: (i) an update on the sums paid under each of the Settlements and any expenditures already incurred; (ii) a breakdown of the amounts available for distribution to class members, payment of CFDs and any payments to the AtJF; and (iii) confirmation of the treatment of accrued interest on the settlement funds.

32. The CR responded to the Tribunal's requests on 14 September 2026, and provided further detailed information regarding the operation of the settlement pots and the conduct of the Hearing.

33. Also on 14 September 2026, the Tribunal wrote to the CR to express a concern as to the proposed compensation structure under the Distribution Plan. The Tribunal was concerned that the proposal to pay only £2.50 in respect of the seventh and each subsequent eligible vehicle claimed by the same class member might reduce participation amongst class members with larger claims and would undercompensate those who submitted claims. The Tribunal therefore indicated that it wished to be addressed at the Hearing on a possible alternative approach whereby £2.50 would be paid initially in respect of those vehicles, with the possibility of a subsequent balancing, or top-up, payment of £2.50 per vehicle resulting in a total of £5 per vehicle, which more accurately reflects the actual estimated loss of corporate class members who would typically fall within those class members with seven or more affected vehicles.

34. It is against that background that the present application arises. The Tribunal must determine how the settlement monies should now be distributed and whether the Distribution Plan provides a fair, reasonable and practical mechanism for ensuring that those monies ultimately reach represented persons.

In undertaking that assessment, the Tribunal returns to the concerns identified in the *MOL/NYKK CSAO Judgment* and considers the extent to which they have been addressed by the Distribution Plan now before it.

D. THE DISTRIBUTION PLAN

35. The CR's Distribution Plan proposes a six-month claim period supported by a programme of publicity, notice and claimant engagement directed at both consumer and business members of the class.

36. The proposed class member compensation structure is as follows:

    (1) £25 for the first eligible vehicle;

    (2) £5 for vehicles two to six; and

    (3) £2.50 for the seventh and subsequent vehicles.

37. The CR's position is that those amounts have been selected not merely by reference to estimated losses, but also by reference to evidence concerning claimant behaviour and participation. In particular, the CR submits that a higher payment for the first vehicle is likely to increase participation amongst lower-volume claimants who might otherwise regard the process of making a claim as disproportionate to the compensation likely to be recovered.

38. The Distribution Plan proposes different verification requirements depending upon the scale of the claim. Claims relating to up to six vehicles would be capable of verification through a self-certification process supported by a statement of truth. Claims relating to seven or more vehicles would be subject to enhanced verification procedures, including the use of structured data templates, risk-based verification checks, targeted auditing and, where appropriate, requests for supporting documentary evidence.

39. A significant feature of the Distribution Plan is the proposed use of granular DVLA fleet data. The CR contends that such data enables a materially

simplified verification process for fleet claimants registered with the DVLA and substantially reduces the evidential burden that would otherwise arise when proving ownership or use of vehicles acquired many years ago.

40. The CR proposes that compensation may be received through a range of payment mechanisms, including conventional bank transfer, Open Banking, PayPal, Nectar points, vouchers and charitable donation options.

41. The CR's preferred modelling assumes take-up rates of:

(1) 5% for non-Motability consumers;

(2) 60% for Motability consumers;

(3) 75% for fleet claimants; and

(4) 10% for business claimants.

42. On those assumptions, the CR forecasts that approximately £53.97 million of the £55.87 million Damages Pot would ultimately be paid to represented persons.

43. The Distribution Plan therefore proceeds on the basis that maximising participation requires a combination of appropriate compensation levels, simplified verification procedures, targeted engagement with significant categories of claimant and the reduction of practical barriers to making and receiving claims.

E. APPLICABLE PRINCIPLES

44. The Tribunal must decide whether the Distribution Plan proposed by the CR provides a fair, reasonable and practical mechanism for ensuring that those monies ultimately reach represented persons.

45. In determining that question, the Tribunal's task is not to devise its own distribution mechanism from first principles, nor to identify a theoretically

perfect methodology. Various distribution structures may be capable of satisfying the objectives of the collective proceedings regime. The question is whether the Distribution Plan may properly be regarded by this Tribunal as fair, reasonable and appropriate in the circumstances of these proceedings. It is not simply a question of the Tribunal either accepting or rejecting a distribution plan in the form proposed, the Tribunal can examine it in detail and indicate what changes need to be made or considered before it is to be approved.

46. The Tribunal has particular regard to the observations made in the *MOL/NYKK CSAO Judgment* concerning participation, take-up, claimant behaviour, fleet engagement, evidential burdens and the overall success of any future distribution process. The Tribunal also recognises that there remains limited practical experience concerning the operation of distributions under the opt-out collective proceedings regime. In those circumstances, the lessons emerging from *Boundary Fares* continue to carry significant weight when assessing the adequacy of the Distribution Plan now before the Tribunal.

47. Against that background, I consider that the principal questions arising on this application are:

(1) whether the proposed distribution structure is fair and reasonable having regard to the nature of the claim, the class and the settlement sums available;

(2) whether the proposed compensation amounts appropriately balance the objectives of participation, practicality and fairness;

(3) whether the proposed verification and claims administration mechanisms appropriately balance accessibility and protection against fraud;

(4) whether the proposed notice, publicity and communications strategy is likely to maximise participation amongst represented persons;

(5) whether the proposed payment mechanisms, distribution period and associated administrative arrangements are appropriate;

(6) whether the proposed distribution costs are proportionate;

(7) whether changes should be made to the Distribution Plan; and

(8) whether the Distribution Plan should therefore be approved and, if so, on what terms.

F. ANALYSIS

48. The central question on the present application is whether the Distribution Plan adequately addresses the concerns identified by the Tribunal in the *MOL/NYKK CSAO Judgment* and provides a fair, reasonable and practical mechanism for distributing the settlement monies recovered for represented persons.

49. Those concerns centred principally upon participation. The Tribunal was concerned that, absent a carefully designed distribution process, the age of the relevant purchases, the limited experience of members of the public in dealing with claiming under collective settlements, the modest value of many individuals claims and the practical difficulties associated with historic vehicle records might all operate to depress take-up. The Tribunal therefore emphasised the importance of claimant behaviour, empirical evidence, claimant engagement and the removal and minimisation of unnecessary barriers to class member participation.

50. The Distribution Plan now before the Tribunal represents a substantial attempt to respond to those concerns. It is informed by two phases of survey work, claimant focus groups, engagement with representative organisations, direct engagement with major fleet operators and extensive analysis concerning likely claimant behaviour and participation.

51. Participation rates in an opt-out collective proceedings distribution remain inherently difficult to predict, particularly given the limited domestic experience

of such distributions. Nevertheless, I am satisfied that the CR has undertaken a serious and evidence-based exercise directed towards understanding likely claimant behaviour and participation and that the assumptions adopted for present purposes are supported by the material before the Tribunal.

52. I also attach significant weight to the fact that the final Distribution Plan differs materially from the draft considered by the Tribunal following its letter of 3 August 2026. In several important respects, the final Distribution Plan directly addresses concerns identified by the Tribunal at that stage, most notably through the incorporation of granular DVLA fleet data, the development of simplified verification routes, expanded engagement with fleet claimants and Motability customers, and further consideration of alternative compensation structures and projected take-up levels. Where I consider the Distribution Plan requires modification or improvement, I have indicated that during the course of the Hearing.

53. Against that background, I turn to the key elements of the Distribution Plan.

(a) Corporate Participation and Fleet Claimants

54. The first substantive issue concerns corporate participation, and in particular the participation of fleet claimants. In the *MOL/NYKK CSAO Judgment*, the Tribunal identified fleet participation as likely to be one of the principal determinants of the overall success of any future distribution process. The Tribunal observed that, whilst take-up amongst individual consumers might be expected to be relatively modest, the presence within the class of substantial corporate claimants with sizeable claims offered the possibility of materially increasing the proportion of damages distributed. The Tribunal therefore emphasised the importance of targeted engagement with major fleet operators and indicated that it would expect any future distribution plan to explain, so far as practicable, the extent to which such operators fell within the class definition and were likely to participate in the distribution process.

55. In my view, the Distribution Plan adequately addresses those concerns. The CR has undertaken extensive engagement with fleet operators, vehicle rental

businesses, representative organisations, local authorities and other significant corporate claimants. Particular attention has been directed towards the largest anticipated claimants, including those identified through the DVLA fleet data.

56. In addition, the CR has developed a materially simplified verification process for fleet operators based on the granular DVLA data now available. The significance of that development should not be understated. A recurring theme in the evidence before the Tribunal, and in the engagement undertaken by the CR, was concern amongst corporate claimants regarding the availability of historic records and the burden of reconstructing vehicle ownership data dating back many years. The proposed DVLA-based process for fleet claimants substantially reduces what might otherwise have been a significant barrier to participation and provides a materially stronger evidential basis for the distribution process than was available when the Tribunal considered the MOL/NYKK settlement application.

57. The Tribunal continues to have concerns regarding the evidence required of non-fleet corporate class members with over six vehicles, which will not be able to use the simplified DVLA data verification method, and would instead be subject to relatively onerous and complicated requests to prove the vehicles they purchased in the relevant period. Such class members may be deterred from making claims due to the information that they are being asked to provide, which may not be easily available so they may consider the effort to obtain it is not worth making a claim. This issue was raised with the CR at the Hearing, and the CR will need to bear this in mind when reviewing how in practice such evidential requirements may be modified or waived.

(b) Motability Claimants

58. The Tribunal also identified Motability customers as a potentially significant category of claimant and expressly suggested that a bespoke approach might be required. The evidence now before the Tribunal demonstrates that the CR has devoted substantial attention to that issue. The Distribution Plan contains a detailed analysis of the position of Motability customers within the class, explains the particular registration arrangements applicable to Motability

vehicles, records direct engagement between the CR and Motability, and proposes a targeted communications strategy directed specifically at affected customers. The Tribunal also notes the proposal that Motability assist in identifying eligible customers and communicating the existence of the distribution process to them directly.

59. Whilst the effectiveness of those arrangements can ultimately only be assessed by reference to actual participation rates of Motability customers, I am satisfied that the CR has responded appropriately and proportionately to the concerns previously identified by the Tribunal in relation to this segment of the class.

60. Whilst I consider that good faith efforts have been made in order to devise a distribution plan with the aim of maximising take up, I consider that the actual take up rates for each segment of the class may well be materially lower than assumed in the CR's modelling at paragraph 41 above.

(c) Compensation Structure

61. I turn next to the proposed compensation structure. The CR proposes that represented persons receive £25 in respect of a first eligible vehicle, £5 in respect of vehicles two to six and £2.50 in respect of each subsequent vehicle. Consumers will in the vast majority of cases have fewer than six eligible vehicles, but many will have more than one vehicle, whereas the median average for corporate fleets is 66, i.e., much more than 7 vehicles.

62. In a letter dated 15 September 2026, the Sixth to Eleventh Defendants (**WWL/EUKOR**) wrote to object to various aspects of this proposed structure. In particular, WWL/EUKOR argued that the proposed payment of £25 in respect of a first eligible vehicle would materially overcompensate represented persons when compared with the settlement-adjusted loss estimates of £5.36 per consumer vehicle and £2.16 per corporate vehicle. WWL/EUKOR further contended that the CR's own engagement research suggested that a payment of £15 would be sufficient to maximise participation and that the proposed £25 payment would therefore confer a windfall upon represented persons who would have claimed in any event. WWL/EUKOR accordingly submitted that

the first-vehicle payment should be reduced from £25 to £15 and that corporate claimants should generally receive compensation aligned more closely with Ankura's overcharge estimates. These arguments were also made at the Hearing by Mr Brealey KC.

63. I do not accept those submissions. Whilst Ankura's estimates provide an important evidential benchmark, the Distribution Plan is not intended to operate as a mechanism for precisely reproducing the estimated loss suffered by each represented person. Indeed, the Tribunal expressly recognised in the *MOL/NYKK CSAO Judgment* that one of the principal challenges facing any future distribution exercise would be securing meaningful participation from represented persons. The purpose of the proposed first-vehicle payment is therefore not purely compensatory. It is also intended to encourage represented persons to engage with the distribution process and submit claims.

64. Nor do I accept the suggestion that the proposed £25 payment necessarily results in significant overcompensation when viewed from the perspective of the class as a whole. The evidence before the Tribunal indicates that many represented persons purchased or leased more than one eligible vehicle during the relevant period. The £25 payment is therefore only one component of a broader distribution structure under which subsequent vehicles are compensated at lower rates. In that sense, the proposed structure must be considered as a whole rather than by isolating the payment attributable to a first vehicle. The Tribunal is satisfied that the overall structure represents a practical attempt to balance participation incentives with the underlying loss estimates relied upon by the CR.

65. I am also mindful of the lessons which emerge from *Boundary Fares*. One of the central concerns arising from that experience was that relatively modest recoveries may fail to generate claimant engagement even where represented persons would, in principle, be entitled to compensation. In designing the present Distribution Plan, the CR was therefore entitled to place material weight upon the objective of incentivising participation. In the Tribunal's judgement, the proposed £25 payment falls within the range of approaches reasonably open to the CR in pursuing that objective.

66. I remain concerned, however, about the treatment of the seventh and subsequent eligible vehicles, specifically for corporate entities. Whilst the proposed payment of £2.50 per vehicle broadly reflects Ankura's estimated corporate entity overcharge on a *pro rata* basis (£2.16), it is significantly below Ankura's actual estimated loss per vehicle for corporate entities (£5.03). I consider that fixing compensation definitively at £2.50 per vehicle may reduce participation amongst those represented persons with larger claims and will ultimately result in under-compensation for those who submit claims. The corporate claimants are likely to comprise a significant proportion of take-up in this case and, as recognised in the *MOL/NYKK CSAO Judgment*, their participation may be one of the principal determinants of the overall success of the distribution process. In circumstances where the Distribution Plan is expressly directed towards maximising participation, I consider it appropriate to preserve the possibility of further distributions to that category of claimants.

67. In my judgement, a more appropriate approach is for represented persons to receive an initial payment of £2.50 in respect of the seventh and each subsequent eligible vehicle, coupled with the possibility of a balancing or top-up payment up to a further £2.50 per vehicle following the conclusion of the claims period, should sufficient funds remain available. Such an approach preserves the advantages of the CR's proposed structure and maintains incentives for corporate entities to participate. It also enables any remaining funds to be directed towards those represented persons who have actually come forward and established an entitlement, whilst preserving flexibility pending the Tribunal's assessment of take-up levels and the overall operation of the distribution process.

68. Subject to that modification, I accept the CR's submission that simplicity is itself a significant virtue in the context of a distribution exercise of this scale. The proposed structure is readily understandable to consumers, straightforward to communicate in publicity materials and avoids distinctions based upon matters that are unlikely to be apparent to claimants themselves. The CR considered a number of alternative structures, including alternatives specifically identified by the Tribunal during preparation of the Distribution Plan. The Tribunal also notes that the proposed structure avoids the complexity and

uncertainty inherent in approaches which defer determination of compensation levels until after the expiry of the claims period. Subject to the modification identified above, I am satisfied that the proposed structure is consistent with the overarching objective of securing meaningful participation from represented persons while ensuring that those who actually come forward and establish an entitlement receive a meaningful share of the settlement monies.

(d) Claims administration and verification

69. I turn next to claims administration and verification. The Tribunal raised concerns, both in the *MOL/NYKK CSAO Judgment* and in subsequent correspondence, regarding evidential burdens and the risk that burdensome verification requirements might suppress participation, particularly in circumstances where many potential claimants may no longer retain historic supporting documentation. Many consumers are unlikely to possess proof of vehicle purchases dating back more than a decade and there was evidence before the Tribunal that even substantial corporate claimants may face material difficulties locating historic records.

70. Against that background, the proposed distinction between lower-value claims and larger claims appears proportionate. For claims involving six or fewer vehicles, the CR proposes a self-verification process supported by a statement of truth. For larger claims, a more robust evidence and verification process is proposed, supplemented by risk-based verification and anti-fraud measures.

71. Considered as a whole and noting the Tribunal's concerns as stated above at paragraph 57, the proposed combination of statements of truth, targeted auditing, risk scoring, fraud detection mechanisms and enhanced scrutiny of larger claims strikes an appropriate balance between accessibility and the protection of the integrity of the distribution process. In particular, it responds in part to the Tribunal's concern, repeatedly identified throughout preparation of the Distribution Plan, that the claims process should not itself become a material impediment to participation.

(e) Notice, Publicity and Class Member Awareness

72. I next consider the proposed communications strategy. The experience of *Boundary Fares* demonstrates that even a reasonable distribution methodology may have limited practical effect if awareness amongst potential claimants remains low. Claimant awareness and engagement are therefore integral to the success of any distribution process.

73. The Distribution Plan contains a substantially more ambitious communications strategy than has previously been deployed in collective proceedings distributions. It combines traditional media activity, digital advertising, social media, targeted communications, partnerships with consumer organisations and direct engagement with significant categories of claimant.

74. I attach particular significance to the proposed engagement with Motability, the British Vehicle Rental and Leasing Association, local authorities, Which?, MoneySavingExpert and Nectar. Whilst it is impossible to predict precisely what contribution each initiative will make to participation levels, the overall approach appears carefully constructed and directed towards the challenge repeatedly identified by the Tribunal in its previous judgments, namely ensuring that represented persons are made aware of the opportunity to claim and encouraged to do so.

(f) Distribution Costs

75. Finally, I have considered the costs associated with implementing the Distribution Plan. The proposed expenditure is substantial, but distribution to a class potentially comprising millions of individual entities is itself a significant undertaking. Further, much of the empirical work as well as how the funds are claimed by class members will be instructive for future distributions in other cases.

76. On the evidence presently available, I am satisfied that the proposed expenditure is directed towards legitimate objectives associated with claimant engagement, claims administration and delivery of compensation to represented persons.

77. I also note the proposed arrangements for monitoring expenditure and reporting periodically to the Tribunal. The CR will be providing to the Tribunal a monthly report on how the exercise is progressing and the CR's solicitor will provide a report at the end of the process dealing with how the process worked and any lessons learned. The Tribunal will consider any necessary or appropriate changes in the Distribution Plan as part of the monthly review of progress in the light of the monthly reports.

78. Further, the Tribunal intends to have a short one-to-two-hour virtual hearing once the third monthly review report has been issued in order to discuss and evaluate the effectiveness and progress of the distribution process and make any changes required. The Tribunal does not envisage this short hearing will require a large solicitor and counsel team to attend.

G. CONCLUSION AND DISPOSITION

79. Taking the Distribution Plan as a whole, I am satisfied that it represents a serious, evidence-based and carefully developed response to the issues identified both in the Tribunal's previous judgments and during preparation of the present application.

80. Subject to the modification identified in relation to the treatment of the seventh and subsequent eligible vehicles, and the amendments to the specific parts of the Distribution Plan which I proposed during the Hearing, the Tribunal concludes that the Distribution Plan provides a fair, reasonable and practical mechanism for distributing the settlement monies recovered in these proceedings. The approved version of the Distribution Plan will be annexed to the order accompanying this ruling.

81. The CR is permitted to apply £2.5 million from the settlement monies and £500,000 from the settlement interest towards the costs of preparing the Distribution Plan and the costs of the distribution process. These costs will be reflected in the order accompanying this ruling.

82. I grant liberty for the CR to apply for further directions in the course of or following the distribution process.

Hodge Malek KC
Chair

Charles Dhanowa CBE, KC (*Hon*)
Registrar

Date: 23 September 2026