



**IN THE COMPETITION  
APPEAL TRIBUNAL**

**Case No: 1173/5/7/10**

BETWEEN:

**13) DB SCHENKER RAIL (UK) LTD  
14) LOADHAUL LIMITED  
15) MAINLINE FREIGHT LIMITED  
16) RAIL EXPRESS SYSTEMS LIMITED  
17) DB SCHENKER RAIL INTERNATIONAL LIMITED  
(formerly ENGLISH WELSH & SCOTTISH RAILWAY  
INTERNATIONAL LIMITED)**

**Claimants**

**-v-**

**2) SCHUNK GMBH  
3) SCHUNK KOHLENSTOFFTECHNIK GMBH  
4) SGL CARBON SE (formerly SGL CARBON AG)  
5) MERSEN SA (formerly LE CARBONE-LORRAINE SA)  
6) HOFFMANN & CO ELEKTROKOHLE AG**

**Defendants**

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**ORDER OF THE CHAIRMAN  
(UK CLAIMS: CONFIDENTIALITY RING)**

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**UPON** considering the joint statement filed, pursuant to paragraph 5 of the Order of 25 November 2013 ([2013] CAT 28), by the 13<sup>th</sup>-17<sup>th</sup> Claimants (the “UK Claimants”) and the 2<sup>nd</sup>-6<sup>th</sup> Defendants (the “Defendants”) on 15 January 2014, and the skeleton arguments filed by those parties on 17 January 2014

**AND UPON** hearing counsel for the UK Claimants and for the Defendants at a case management conference on 20 January 2014

**AND UPON** it being agreed that a confidentiality ring be established in these proceedings

**AND HAVING REGARD TO** the Order made in these proceedings on 20 January 2014 and drawn on 27 January 2014 ([2014] CAT 2)

**IT IS ORDERED THAT:**

1. This Order becomes effective in respect of each of the persons named in Part A of the Schedule to this Order only upon receipt by the Tribunal of a signed undertaking in the terms of Part B of the Schedule to this Order.
2. For the purposes of this Order:
  - a. “**Confidential Information**” means information justifying confidential treatment by the Tribunal in accordance with rule 53 of the Competition Appeal Tribunal Rules 2003, which is contained in any documents served, disclosed or produced for the purposes of the claims by the UK Claimants against the Defendants (the “UK Claims”); and
  - b. “**Relevant Advisers**” are those persons:
    - i. listed in Part A of the Schedule to this Order; or
    - ii. authorised by the Tribunal upon further application.
3. A party shall disclose documents relevant to the UK Claims that are considered to contain Confidential Information only to the Relevant Advisers, who shall treat such documents in accordance with the terms of the undertaking each of them has given.
4. Any document served, disclosed or produced for the purposes of the UK Claims may initially, if it is necessary in the interests of time, be disclosed only to Relevant Advisers, provided that each such document shall be reviewed and a decision taken by the disclosing party (which may be subject to review by the Tribunal on application by another party), not later than four weeks after the date on which that document was first served, disclosed or produced, as to whether that document contains Confidential Information.
5. Following a review conducted in accordance with paragraph 4 above, a document that is determined not to contain Confidential Information shall be disclosed to, and may be reviewed by, the parties and any professional advisers in addition to their Relevant Advisers.
6. Any document considered to contain Confidential Information must, by not later than the date for review determined in accordance with paragraph 4 above, be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 13.22 of the Tribunal’s Guide to Proceedings (October 2005).

7. If any party considers it necessary to add any additional person as a Relevant Adviser for the purposes of paragraph 2.b. of this Order, they shall apply to the Tribunal, indicating whether each of the other parties consents or does not consent to the addition of that person.
8. Costs be reserved.
9. There be liberty to apply.

**Marcus Smith Q.C.**  
Chairman of the Competition Appeal Tribunal

Made: 27 January 2014  
Drawn: 27 January 2014

## **SCHEDULE**

### **PART A**

This part contains the names, for each party, of Relevant Advisers:

#### **The UK Claimants**

##### *External Counsel*

Jon Turner QC (of Monckton Chambers)  
Sara Masters QC (of 20 Essex Street Chambers)  
Rob Williams (of Monckton Chambers)

##### *External Solicitors and Legal Advisors*

Lianne Craig  
Anthony John Maton  
Brian Ratner  
Sascha Hindmarch  
Lesley Jane Hannah  
Tomas Robert George Bolster  
Styliani Gartagani  
Aimee Leanne Brookes  
Albert Kofi Dankwa  
Charles Alexandre Laporte-Bisquit  
Laura Jane Sambridge (all of Hausfeld & Co LLP)

Paul Anthony Hitchings  
Andrea Tel  
María Cecilia Páez Montero  
Marco Vedovatti  
Luis Loras Oteo  
José Maria de Avila Rodriguez  
Anabel Moreno Perogil (all of Cuatrecasas, Gonçalves Pereira)

##### *External Experts*

James Kavanagh  
Dr. Michael Scheidgen  
Michele Granatstein  
Remi Martins-Tonks  
Aline Blankertz  
Paul Armstrong (all of Oxera)

#### **The Second, Third and Sixth Defendants**

##### *External Solicitors (including foreign lawyers, trainee solicitors and paralegals)*

Kim Dietzel  
Matthew Weiniger  
Jennifer Hartzler

Suzy Campbell  
Sophie Matthiesson  
Matthew Cartwright  
Felicity Ewing  
Victoria O'Dea  
Jimena Mansilla (all of Herbert Smith Freehills LLP)

Simon Hirsbrunner (of Heuking Kühn Lüer Wojtek)

### **The Fourth Defendant**

#### *External Counsel*

Mark Hoskins QC (of Brick Court Chambers)

#### *External Solicitors (including trainee solicitors, paralegals and support staff)*

Jon Lawrence  
Mark Sansom  
Andrew Jones  
Kerstin Blau-Hansen  
James Hain-Cole  
Lauren Deane  
Rebecca Taylor  
Sandy Bunting  
Toni Herrell (all of Freshfields Bruckhaus Deringer LLP)

#### *External Experts*

Zoltan Biro  
Chris Newton (both of Frontier Economics)

### **The Fifth Defendant**

#### *External Counsel*

Daniel Beard QC (of Monckton Chambers)  
Sarah Ford (of Brick Court Chambers)

#### *External Solicitors (including trainee solicitors, paralegals and support staff)*

Nicholas Heaton  
Helen Bignall  
Robert Shoesmith  
Rich Akers  
Sarah Moreton  
Fran Bunyan  
Elizabeth Murtagh (all of Hogan Lovells International LLP)

#### *External Experts*

Jean-François Laborde (of Minds & Hearts)  
Jérôme Kelber (of Neofocus)

## **PART B**

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser undertakes that they will comply with the following requirements in the following terms:

I, [NAME] of [FIRM, COMPANY OR ESTABLISHMENT] being [LEGAL OR OTHER QUALIFICATION] and regulated so far as my professional conduct is concerned by [REGULATORY BODY, IF ANY] undertake to the Tribunal and each of the parties as follows:

1. I have read a copy of the Tribunal's Order of 27 January 2014 ("the Tribunal's Order") and understand the implications of that Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal, I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Adviser (as defined in the Tribunal's Order) without the express consent of the party originally disclosing the information or the permission of the Tribunal.
3. I have read, and understand the implications of, Civil Procedure Rule 31.22, which applies to these proceedings by virtue of paragraph 2 of the Order made in these proceedings on 20 January 2014 (drawn 27 January 2014 ([2014] CAT 2)), and will use the Confidential Information only in accordance with that Rule.
4. The pleadings and documents containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
5. The production of further copies by me of the documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers for the purpose of these proceedings and shall be held in accordance with paragraph 4 of this undertaking.
6. Any and all copies of the pleadings and documents in paper form containing the Confidential Information will be returned to the party originally disclosing the pleading or documents at the conclusion of the present proceedings unless they contain Confidential Information from more than one party, in which case they shall be destroyed; any copies of the pleadings and documents containing the Confidential Information in electronic form will, where possible, be returned or where that is not possible will be rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not available to any person.

7. Save that none of the requirements listed at paragraphs 2 to 5 above shall prevent Relevant Advisers from disclosing to a person advised by them Confidential Information which such person has already legitimately seen.

Signed:

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Name

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Date