



COMPETITION APPEAL TRIBUNAL

NOTICE OF A CLAIM UNDER SECTION 47A OF THE COMPETITION ACT 1998

CASE NO. 1296/5/7/18

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648), the Registrar gives notice of the receipt of a claim for damages (“the Claim”) on 23 August 2018, under section 47A of the Competition Act 1998, by (1) Arla Foods amba ; (2) Arla Foods Limited; (3) Arla Foods UK Services Limited; (4) MD Foods amba; (5) Arla Foods Distribution A/S; (6) Arla, ekonomisk förening (7) Arla Foods AB; (8) MUH Arla eG; and (9) Arla Foods Logistics GmbH (“the Claimants”) against (1) Fiat Chrysler Automobiles N.V.; and (2) CNH Industrial N.V. (together, “the Defendants”). The Claimants are represented by Walker Morris LLP, Kings Court, 12 King Street, Leeds, LS1 2HL (Reference: Trudy Feaster-Gee).

The Claim arises from a decision of the European Commission (“the Commission”) of 19 July 2016 (Case AT.39824 – Trucks) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union (“TFEU”) and Article 53 of the Agreement on the European Economic Area (“the EEA Agreement”) (“the Decision”).

In the Decision, the Commission found that, from 17 January 1997 until 18 January 2011 (“the Relevant Period”), a number of undertakings, including the Defendants, had infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating in anti-competitive and collusive arrangements on pricing and gross prices in the EEA for medium and heavy trucks; and the timing and the passing on of costs for the introduction of emission technologies for medium and heavy trucks required by European emissions standards (“the Infringement”).

The first Claimant is a co-operative incorporated in Denmark. The second to ninth Claimants are subsidiaries and/or associated companies and/or co-operatives of the first Claimant. The Claimants are engaged in the production, processing, distribution and/or sale of dairy products in the EEA. The Claimants throughout and after the Relevant Period engaged in the purchase and leasing of medium and heavy trucks for use, inter alia, in the transportation of dairy products within the EEA. As part of their respective businesses, the Claimants purchased and/or leased medium and heavy trucks manufactured by the undertakings subject to the decision, including from the Defendants and/or their subsidiaries active in the production, financing and sale of Iveco trucks.

According to the Claim, the acts of the Defendants and other undertakings set out in the Decision as constituting the Infringement also constituted actionable breaches of duty, being duties which are directly enforceable in proceedings in the UK pursuant to section 2 of the European Communities Act 1972. The Infringement is said to have had the effect of raising the prices of medium and heavy trucks sold to the Claimants during the Relevant Period and any run-off period during which the prices remained higher than would have been the case in the absence of the Defendants’ breaches of duty, thereby causing the Claimants loss and damage.

The Claimants claim:

- (1) Damages;
- (2) Such other consequential orders as the Tribunal thinks fit;
- (3) Interest; and
- (4) Costs.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Victoria House, Bloomsbury Place, London WC1A 2EB, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)
Registrar

Published 5 October 2018