



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1291/5/7/18 (T)

BETWEEN:

- (1) RYDER LIMITED**
(2) HILL HIRE LIMITED

Claimants

- and -

- (1) MAN SE**
(2) MAN TRUCK & BUS AG
(3) MAN TRUCK & BUS DEUTSCHLAND GMBH
(4) MAN TRUCK AND BUS UK LIMITED
(5) AB VOLVO (PUBL)
(6) VOLVO LASTVAGNAR AB
(7) VOLVO GROUP TRUCKS CENTRAL EUROPE GMBH
(8) VOLVO GROUP UK LIMITED
(9) RENAULT TRUCKS SAS
(10) DAIMLER AG
(11) MERCEDES BENZ CARS UK LIMITED
(12) FIAT CHRYSLER AUTOMOBILES N.V.
(13) CNH INDUSTRIAL N.V.
(14) IVECO S.P.A.
(15) IVECO MAGIRUS AG
(16) IVECO LIMITED
(17) PACCAR INC.
(18) DAF TRUCKS N.V.
(19) DAF TRUCKS DEUTSCHLAND GMBH
(20) DAF TRUCKS LIMITED

Defendants

ORDER

UPON hearing Leading Counsel for the Claimants and Leading Counsel for the Defendants at a Case Management Conference on 21 – 22 November 2018 (the "CMC").

AND UPON the following definitions applying for the purposes of this Order:

"Additional Claims" means the Part 20 claims (including by way of contribution notice);

"Commission File" means any document obtained by or submitted to the European Commission which is part of the European Commission's administrative file relating to its investigation in Case AT.39824 – Trucks to which the DAF Decision Addressees were granted access pursuant to the Notice to access to file OJ C 325 of 22 December 2005;

"Confidentiality Ring Order" means the Order of Mr Justice Roth dated 31 July 2018 establishing a confidentiality ring in these proceedings;

"Decision" means the decision of the European Commission dated 19 July 2016 in Case AT.39824 – Trucks;

"DAF" means the 17th to 20th Defendants;

"DAF Decision Addressees" means the 17th to 19th Defendants;

"Daimler" means the 10th to 11th Defendants;

"Defendants" means the Defendants to the Main Claim and the Defendants to the Additional Claims;

"Disclosure Order" means the Order of Mr Justice Roth dated 31 July 2018 for disclosure of certain documents on the Commission File;

"Iveco" means the 12th to 16th Defendants;

"MAN" means the 1st to 4th Defendants;

"Main Claim" means the Part 7 claims;

"Volvo" means the 5th to 9th Defendants;

IT IS ORDERED THAT:

Case management

1. The Main Claim and the Additional Claims shall be case managed together.
2. Insofar as the Additional Claims raise issues regarding the overall loss and damage suffered by the Claimants, or the liability of the Defendants to compensate the Claimants for such loss and damage, such issues shall be tried together with the Main Claim. Insofar as the Additional Claims raise issues regarding the amount or apportionment of contribution which any Defendant

should make to any other Defendant, such issues shall be tried separately from and subsequently to the Main Claim.

Scope of Decision

3. By 4.00 p.m. on 11 January 2019, the following Defendants shall file and serve an explanation as to why, as a matter of fact, they contend that the following vehicles do not fall within the scope of the Decision:
 - (a) Iveco as regards its 'Daily' range;
 - (b) Daimler as regards its 'Sprinter' and 'Vario' ranges; and
 - (c) Volvo/Renault as regards its car transporters and road sweepers.
4. By 4.00 p.m. on 8 February 2019, the Claimants are to file and serve a response stating whether they accept the Defendants' stance and if not why not.

Binding nature of the Decision

5. By 4.00 p.m. on 7 December 2018, the Claimants are to produce a schedule identifying each finding in sections 3, 4 and 7 of the Decision on which they wish to rely as binding on the addressees of the Decision and their basis for contending that it is binding (the "Recital Schedule").
6. By 4.00 p.m. on 15 January 2019, those Defendants who are addressees of the Decision are to respond by identifying, in the Recital Schedule, for each finding:
 - (a) whether they accept that it is binding, and
 - (b) if not, the basis on which they disagree, unless they admit that finding in fact.

Pass on

7. By 4.00 p.m. on 31 January 2019, the Claimants shall file and serve a brief statement summarising the goods or services which they supplied using the trucks which are the subject of their claims.

Liability of non-addressees

8. By 4.00 p.m. on 7 December 2018, the Claimants are to file and serve a pleading setting out the basis on which they contend that each of those Defendants who were not addressees of the Decision are liable for the alleged infringement.

9. By 4.00pm on 9 January 2019, the Defendants are to file and serve a response.

Confidentiality

10. By no later than 21 days prior to the next Case Management Conference, the Defendants shall file and serve a document setting out their positions as to whether documents or categories of documents deriving from the Commission File that have been disclosed to the Claimants, should continue to be afforded confidential treatment and, if so, why.

Disclosure

11. Subject to paragraph 15 below by 4.00 p.m. on 21 December 2018 the DAF Decision Addressees shall provide inspection of all of the documents on the Commission File within categories I, M, N, O and Q described at paragraph 18 of Annex 1 to the DAF Decision Addressees' disclosure statement dated 21 September 2018 and in Schedule 1 to Iveco's disclosure statement dated 21 September 2018.
12. By 4.00 p.m. on 21 December 2018 the DAF Decision Addressees shall provide to the Claimants:
 - (a) the index to the original file that was provided by the Commission to the DAF Decision Addressees, which is referred to at paragraph 18(b) of the Third Witness Statement of Ms Caroline Felicity Edwards dated 14 November 2018; and

all available parent document data relating to the Commission File documents made available for inspection to the Claimants (including all documents that are made available for inspection pursuant to this Order), as referred to at paragraph 18(c) of the Third Witness Statement of Ms Caroline Felicity Edwards dated 14 November 2018.
13. The issue of whether the DAF Decision Addressees should provide inspection of all of the documents on the Commission File falling within category B described at paragraph 18 of Annex 1 to DAF's disclosure statement dated 21 September 2018 and in Schedule 1 to Iveco's disclosure statement dated 21 September 2018 is adjourned with liberty to restore.

14. The Claimants' application for inspection of all OFT and Commission RFIs and associated responses to RFIs on the Commission File falling within any withheld category described at paragraph 18 of Annex 1 to the DAF Addressee Defendants' disclosure statement dated 21 September 2018 and/or Schedule 1 to Iveco's disclosure statement dated 21 September 2018, shall be adjourned with liberty to restore.

Liberty to apply

15. Scania AB and the addressees of the Decision, save for the DAF Decision Addressees and Iveco, have liberty to apply, by 7 December 2018, explaining their reasons for objecting to inspection under paragraph 11 above.

Other issues

16. A further Case Management Conference is to be listed by the Tribunal for two days on dates convenient to the Tribunal and, as far as possible, the parties' counsel.
17. The issue of whether the Claimants should be permitted to discuss the Commission File with Claimants in case 1293/5/7/18 (T); case 1292/5/7/18 (T) and case 1294/5/7/18 (T) is reserved for consideration at the next Case Management Conference.
18. The parties may agree to extend any time period to which the Claims may be subject for a period or periods of up to 28 days in total without reference to the Tribunal, provided that this does not affect the date given for any case or costs management conference or pre-trial review or the date of the trial. The parties shall notify the Tribunal in writing of the expiry date of any such extension.

Costs

19. Costs in the case.

General

20. Save as provided in paragraph 15 above, there is liberty to apply.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 21-22 November 2018
Drawn: 19 December 2018