



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1339/7/7/20

BETWEEN:

**MARK McLAREN CLASS REPRESENTATIVE LIMITED**

Applicant/  
Proposed Class Representative

- v -

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

Respondents/  
Proposed Defendants

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**ORDER**

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**UPON** reading the Proposed Class Representative’s application made on 20 February 2020 pursuant to Rule 31(2) of the Competition Appeal Tribunal Rules 2015 (“the 2015 Rules”) for permission to serve the collective proceedings claim form out of the jurisdiction (the “Rule 31(2) Application”)

**AND UPON** reading correspondence from the solicitors to the Proposed Class Representative enclosing communications from the legal representatives of the Third to Fifth, Seventh and Twelfth Proposed Defendants

## **IT IS ORDERED THAT:**

1. The Proposed Class Representative be permitted to serve the Third to Fifth, Seventh and Twelfth Proposed Defendants outside the jurisdiction.
2. This Order is without prejudice to the rights of the Third to Fifth, Seventh and Twelfth Proposed Defendants to apply pursuant to Rule 34 of the 2015 Rules to dispute the jurisdiction.

## **REASONS**

1. The claims which the Proposed Class Representative proposes to combine in collective proceedings are for damages for loss alleged to have been suffered by specified classes of persons who between 18 October 2006 and 6 September 2015 purchased or financed in the UK certain brands of new cars or light-medium weight commercial vehicles. There is a reasonable prospect of success in the substantive claims against the Third to Fifth, Seventh and Twelfth Proposed Defendants in that the claims sought to be combined in collective proceedings are follow-on claims based on the settlement decision of the European Commission of 21 February 2018 in case AT.40009 – Maritime Car Carriers (the “Decision”), which has not been appealed. Each of the Proposed Defendants is an addressee of the Decision, and the damages are said to result from the infringement established by the Decision.
2. It appears likely that, as the Proposed Class Representative submits, the proceedings will be treated as taking place in England and Wales under Rule 18 of the 2015 Rules.
3. The Proposed Class Representative is serving the collective proceedings claim form (and supporting documents) on the First, Second, Sixth and Eighth to Eleventh Proposed Defendants (the “UK and EU/EEA Proposed Defendants”) in respect of which the Tribunal’s permission to serve out of the jurisdiction is not required.
4. I am satisfied that there is between the Proposed Class Representative and the UK and EU/EEA Proposed Defendants a real issue to try and that the Third to Fifth, Seventh and Twelfth Proposed Defendants are necessary and proper parties to the follow-on claims being pursued against the UK and EU/EEA

Proposed Defendants in that (a) the Third to Fifth, Seventh and Twelfth Proposed Defendants are addressees of the Decision; and (b) the Proposed Class Representative alleges that the Proposed Defendants are jointly and severally liable for loss suffered in the UK by the proposed class members from breaches of statutory duty. Further, if the claims against the Third to Fifth, Seventh and Twelfth Proposed Defendants were raised in separate proceedings elsewhere from those against the UK and EU/EEA Proposed Defendants, those proceedings would be likely to involve substantially the same disclosure, witnesses, experts and issues as in the proceedings against the UK and EU/EEA Proposed Defendants.

5. I am satisfied that the Tribunal is the proper place in which to bring the claims.

**The Hon Mr Justice Roth**  
President of the Competition Appeal Tribunal

Made: 30 March 2020  
Drawn: 30 March 2020