



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 SE
(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

CONSENT ORDER

UPON the Claimants and the 12th to 16th Defendants (the “**Iveco Defendants**”) having consented to the terms of the Order set out below

BY CONSENT IT IS ORDERED THAT:

By no later than 26 February 2021, the Claimants and the Iveco Defendants shall each disclose by list, in respect of any Trucks weighing 6 tonnes or above manufactured by the Iveco corporate group and purchased (or sought to be purchased) from the Iveco Defendants or relevant dealerships by the Claimants between 17 January 1997 and 18 January 2011, documents held in the United Kingdom of the following description:

Communications within the Iveco Defendants

1. In respect of the Iveco Defendants only, any communications between or within any of the Iveco Defendants, or between the Iveco Defendants and another member of Iveco's corporate group, relating to, and any documents recording, any of (a) to (e) below:
 - (a) sales price approvals (including but not limited to communications regarding the pricing parameters for proposed sales to the Claimants and seeking approval for a sale to the Claimants at a particular price);
 - (b) sales price approvals (including communications regarding the pricing parameters for proposed sales to dealerships and seeking approval for a sale to a dealership at a particular price);
 - (c) intentions in relation to sales prices to be proposed to the Claimants;
 - (d) elements considered when determining and/or negotiating prices with the Claimants (including but not limited to list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options); and
 - (e) the calculation of proposed sales prices, sales prices negotiated and/or agreed, or previously or actually charged to the Claimants.

Communications between the Iveco Defendants and dealerships

2. In respect of the Iveco Defendants only, any communications between the Iveco Defendants and Truck dealerships relating to, and any documents recording, any of (a) to (f) below:
 - (a) sales price approvals (including but not limited to communications regarding the pricing parameters for proposed sales to the Claimants and seeking approval for a sale to the Claimants at a particular price);
 - (b) intentions in relation to sales prices to be proposed to the Claimants;
 - (c) elements considered when determining and/or negotiating prices with the Claimants (including but not limited to list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options);
 - (d) the calculation of proposed sales prices, sales prices negotiated and/or agreed, or previously or actually charged to the Claimants;
 - (e) elements communicated to dealerships when determining and/or recommending prices to dealerships (including list prices, other price lists, costs of new technology/features (including Euro 3 to 6 emissions standards), and buyback options), at which Trucks should be sold to the Claimants; and
 - (f) pricing parameters afforded to dealerships for proposed sales from dealerships to the Claimants.

Communications between the Iveco Defendants and the Claimants

3. Any communications between the Claimants and the Iveco Defendants in respect of the negotiations between them of the price of Trucks, including in relation to any of (a) to (d) below;
 - (a) sales or purchase price approvals (including but not limited to communications regarding the pricing parameters for proposed sales to the Claimants and seeking approval for a sale to the Claimants at a

particular price, and pricing parameters for proposed purchases from the Iveco Defendants and seeking approval for a purchase from the Iveco Defendants at a particular price);

- (b) intentions in relation to sales or purchase prices (as appropriate);
- (c) elements considered when determining and/or negotiating prices (including but not limited to list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options); and
- (d) the calculation of proposed sales or purchase prices, sales or purchase prices negotiated and/or agreed, or previously or actually charged to the Claimants.

Communications between the Claimants and Truck dealerships

4. In respect of the Claimants only, any communications between the Claimants and Truck dealerships in respect of the negotiations between them of the price of Trucks manufactured by the Iveco Defendants, including in relation to any of (a) to (d) below:

- (a) purchase price approvals (including but not limited to communications regarding the pricing parameters for proposed purchases from the Iveco Defendants and seeking approval for a purchase from the Iveco Defendants at a particular price);
- (b) intentions in relation to purchase prices from the Iveco Defendants;
- (c) elements considered when determining and/or negotiating prices with the Iveco Defendants (including but not limited to list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options, and the receipt of competing offers by the Claimants); and

- (d) the calculation of proposed purchase prices, purchase prices negotiated and/or agreed, or previously or actually charged to the Claimants.

Communications within the Claimants

- 5. In respect of the Claimants only, any communications within the Claimants relating to, and any documents recording, any of (a) to (d) below:
 - (a) purchase price approvals (including but not limited to communications regarding the pricing parameters for proposed purchases from the Iveco Defendants and seeking approval for a purchase from the Iveco Defendants at a particular price);
 - (b) intentions in relation to purchase prices from the Iveco Defendants;
 - (c) elements considered when determining and/or negotiating prices with the Iveco Defendants (including but not limited to list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options, and the receipt of competing offers by the Claimants); and
 - (d) the calculation of proposed purchase prices, purchase prices negotiated and/or agreed, or previously or actually charged to the Claimants.

Procurement disclosure

- 6. By no later than 26 February 2021, the Claimants shall disclose by list:

#	Claimants' disclosure
Scope	<i>All Trucks procured in the UK from January 1997 to September 2017 (inclusive).</i>
Procl	Policies used by the Claimants in the process of procuring Trucks.

Proc2	NOT USED
Proc3	NOT USED
Proc4	<p>Documents providing the best available evidence of the selection criteria and reasons for selecting a particular Defendant manufacturer's Truck following a procurement process, including but not limited to:</p> <p>(a) evidence of the Claimants' internal consideration/evaluation of prices/terms upon which Trucks should be purchased including details of any bundled purchases;</p> <p>(b) evidence of the Claimants' consideration of and decisions as to whether to purchase a Truck compliant with a new Euro standard before the mandated date; and</p> <p>(c) evidence of consideration of alternative suppliers (including, without limitation, evidence of how the Claimants viewed the UK market for Trucks and the implications of this for the Claimants' approach to negotiations with different suppliers).</p>

Disclosure Statement

7. The Claimants' and Iveco Defendants' disclosure pursuant to this order shall be accompanied by a disclosure statement by an appropriate person which shall (a) set out the extent of the search that has been made in order to locate the data to be disclosed, (b) specify the manner in which the search has been limited on reasonableness and proportionality grounds and why, and (c) certify to the best of his knowledge and belief that the disclosure ordered has been provided.

Costs

8. The costs of the making of this Order shall be in the case.

Hodge Malek QC
Chairman of the Competition Appeal Tribunal

Made: 30 October 2020
Drawn: 30 October 2020