



Neutral citation [2021] CAT 24

IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1357/5/7/20 (T)

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

26 July 2021

Before:

THE HON. MR JUSTICE JACOBS
(Chairman)

Sitting as a Tribunal in England and Wales

BETWEEN:

- (1) STELLANTIS N.V.
- (2) FCA ITALY S.P.A.
- ~~(3) FCA MELFI S.R.L.~~
- (4) FCA SRBIJA D.O.O.
- (5) FCA POLAND S.A.
- (6) MASERATI S.P.A.
- (7) SEVEL S.P.A.

Claimants

- v -

- (9) NTN CORPORATION
- (10) NTN WALZLAGER (EUROPA) GmbH
- (11) NTN-SNR ROULEMENTS SA

Defendants

RULING (COSTS – DISCLOSURE APPLICATION)

1. Following the Tribunal's ruling of 18 June 2021 in respect of the Defendants' ("NTN") application for specific disclosure, [2021] CAT 15, the parties filed written submissions on costs. Having considered the parties' submissions, sitting alone, I remain of the view that the appropriate order is costs in the case.
2. NTN has succeeded in relation to one category of disclosure sought, in respect of which no offer at all was made in the Claimants' ("FCA") letter dated 21 April 2021. Had NTN accepted that offer, it would not have received the disclosure which it will now receive; since FCA's proposal offered disclosure in relation to other categories, but required NTN not to pursue its remaining requests.
3. In relation to those other categories, the position at the time of the disclosure hearing was that FCA had consented to the relevant mitigation plea, and there was therefore a much firmer foundation for a disclosure request than was ultimately the case after the Tribunal's judgment of 18 June 2021, [2021] CAT 14, striking out the relevant mitigation plea, which was a later development.
4. Each side has enjoyed a measure of success, and NTN's success would likely have been greater but for the later development.
5. I also consider that there is some force in the point made by NTN's solicitors, White & Case LLP, in its letter dated 23 April 2021, that it would have been more efficient if FCA had given the disclosure that it was willing to give on those other categories, with the parties seeking to narrow the remaining disputes thereafter. Where a number of categories of disclosure are sought, and a party is willing to give limited disclosure in relation to certain categories, there is much to be said for the parties seeking to reach agreement on those categories, leaving other categories in dispute and to be resolved by the Tribunal.

The Hon. Mr Justice Jacobs
Chairman

Charles Dhanowa O.B.E., Q.C. (*Hon*)
Registrar

Date: 26 July 2021