



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) STELLANTIS N.V. (FORMERLY 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 paragraph 5 of the Tribunal's Order made in these proceedings on 3 December 2020 directing the parties to file and serve Redfern schedules containing each party's disclosure requests

AND UPON the Claimants' agreement to provide pricing statements in the form described at paragraph 1 of this Order

AND UPON the parties having agreed to the terms of the Order set out below

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

"Claimants" means Ryder Limited and Hill Hire Limited;

"Confidentiality Ring" means the Re-Re-Amended Confidentiality Ring Order dated 4 December 2020;

"Disclosure Statement" has the meaning given to it by CPR Rule 31.10(6)(7) and (9);

"First Claimant" means Ryder Limited;

The **"Relevant Period"** is 1 January 1997 to 30 September 2017 (inclusive);

"Second Claimant" means Hill Hire Limited;

"Trial 2 CMC" means the case management conference of 5 and 6 May 2021.

BY CONSENT IT IS ORDERED THAT:

Pricing Statements

1. The Claimants shall by 30 July 2021 serve one or more statements addressing, on a best endeavours basis, the following facts and matters:
 - (a) A description of the business segments and relevant service lines within each of the Claimant's businesses.
 - (b) For each service line, including where appropriate by reference to the sample of contract packages to be disclosed under disclosure category PO5(d):
 - i. The manner in which customer prices were set by reference to price lists, including:

1. Which functions, committees, or groups were responsible for setting prices, and who had responsibility for agreeing prices with customers.
 2. Information on any authority limits for agreeing prices, including a description of how discounts and rebates were calculated.
 3. How prices were set by reference to costs that the Claimants wished to recover, and the profit margins which they wished to achieve.
 4. How often prices were revised.
- ii. How guidelines and models were used in setting prices, including to the extent appropriate the matters in sub-sub-paragraph (1(b)(i)) above, and how and when the inputs and/or assumptions upon which the models are based are updated.
 - iii. If software or systems were used to calculate any prices, the name of the software or system and the inputs required for the calculation.
 - iv. Where relevant, the process by which contract packages, or other customer contracts, were prepared including by reference to pricing models.
 - v. Factors relevant to the setting of prices to customers, and how such factors were reflected in pricing decisions, including but not limited to:
 1. How prevailing market conditions were assessed for the purpose of setting short-term hire prices and how, and the frequency at which, such information was obtained and updated.
 2. The extent to which depreciation costs and the assumed residual value of trucks were relevant factors to the setting of prices.
2. The statements in paragraph 1 above shall, on a best endeavors basis:

- (a) Cover the period from 1 January 1997 to 31 December 2018, and shall address any material changes to business segments/service lines over that period.
- (b) Cover all relevant methods of sales, including but not limited to sales via individual customer negotiations or via bids for customer contracts.
- (c) Distinguish the process for short-term hire and long-term hire.
- (d) Be signed by a statement of truth.
- (e) Be supported by contemporaneous documents, where available following reasonable and proportionate searches.

Disclosure

- 3. By no later than the dates indicated in the Annex to this Order, the Claimants shall:
 - (a) to the extent not covered by the statement(s) referred to in paragraph 1 above, provide, on a best endeavours basis, the statements listed in the Annex to this Order, supported by statements of truth.
 - (b) disclose, following reasonable and proportionate searches, the documents in their control that are responsive to categories listed in the Annex to this Order. The Claimants shall disclose tranches of responsive documents as and when they become available.
- 4. Where categories set out in the Annex to this Order provide for a sample of documents to be provided, the basis on which the sampling has been determined, and an explanation as to why this is reasonable and proportionate in the circumstances, shall be set out in the Disclosure Statement to be provided pursuant to paragraph 6 of this Order.

Disclosure in the Confidentiality Ring

- 5. The Claimants may choose to disclose documents or provide information into the Confidentiality Ring in accordance with the Re-Re-Amended Confidentiality Ring Order.

Disclosure Statements

6. The Claimants shall provide a single, consolidated Disclosure Statement at the completion of the process set out in paragraph 3 above by an appropriate person which shall (a) set out the extent of the search that has been made in order to locate the documents and/or Data ordered 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.

Inspection and provision of copies

7. Subject to the provisions of the Confidentiality Ring Order, the provisions set out in CPR, rr. 31.3 and 31.15 shall apply in relation to the inspection of documents.

Extension of time limits

8. The parties may agree to extend any time period in this Order for a period of up to 35 days in total without reference to the Tribunal, provided that this does not affect the date given for any case management conference or any other hearing. The parties shall notify the Tribunal in writing of the expiry date of any such extension.

Costs

9. Costs in the case.

Other

10. Liberty to apply.