



REGISTERED AT THE COMPETITION APPEAL
TRIBUNAL
UNDER NUMBER: 20537
DATE: 05/08/24

**IN THE COMPETITION
APPEAL TRIBUNAL**

Case Nos: 1282/7/7/18
1289/7/7/18

BETWEEN:

UK TRUCKS CLAIM LIMITED

Applicant

- v -

STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILIES N.V.)

AND OTHERS

Respondents

-and-

DAF TRUCKS N.V. AND OTHERS

Objectors in Case 1282

ROAD HAULAGE ASSOCIATION LIMITED

Class Representative

- v -

TRATON SE AND OTHERS

Defendants

- and -

DAIMLER AG

VOLVO LASTVAGNAR AKTIEBOLAG

Objectors in Case 1289

COLLECTIVE PROCEEDINGS ORDER

UPON UK Trucks Claim Limited's application for a collective proceedings order ("**UKTC CPO Application**") pursuant to section 47B of the Competition Act 1998 ("**CA98**") and Rule 75 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the "**Tribunal Rules**" and each a "**Rule**")

AND UPON the Road Haulage Association Limited's application for a collective proceedings order pursuant to section 47B of the CA98 and Rule 75 ("**RHA CPO Application**")

AND UPON receipt of UK Trucks Claim Limited's collective proceedings claim form on 18 May 2018 (amended pursuant to the Tribunal's letter of 27 January 2021)

AND UPON receipt of the Road Haulage Association Limited's collective proceedings claim form on 17 July 2018 (amended pursuant to Rule 32 on 20 September 2018, re-amended pursuant to the Tribunal's Order of 12 December 2018 and letter of 27 January 2021, re-re-amended pursuant to the Tribunal's in-hearing direction of 20 and 21 April 2021, and re-re-re-amended pursuant to the Tribunal's direction on 2 August 2024) (the "**Collective Proceedings Claim Form**")

AND UPON the Tribunal handing down judgment on 28 October 2019 ([2019] CAT 26) on certain preliminary funding issues raised by the RHA and UKTC CPO Applications after hearing counsel for the parties on 4-6 June 2019

AND UPON the Tribunal handing down judgment on the RHA and UKTC CPO Applications on 8 June 2022 ([2022] CAT 25) after hearing counsel for the parties on 19-21 and 26-27 April 2021 (the "**8 June 2022 Judgment**")

AND UPON the Court of Appeal handing down judgment on appeals against the 8 June 2022 Judgment on 25 July 2023 ([2023] EWCA Civ 875) and remitting certain matters to the Tribunal (the "**Remitted Matters**")

AND UPON the Tribunal handing down judgment on the Remitted Matters on 2 August 2024 ([2024] CAT 51) after hearing counsel for the parties on 4-5 June 2024 and on 18 July 2024

AND UPON the Road Haulage Association setting out at paragraphs 33 and 34 of its 15 July 2024 skeleton argument the clauses of the applicable Litigation Funding Agreements that will be waived to entitle class members (“**CMs**”) who signed up to the RHA’s proposed collective proceedings prior to the granting of the collective proceedings order (“**CPO**”) (the “**Signed-up CMs**”) not to opt in to the collective proceedings

AND UPON the Road Haulage Association acknowledging the following in respect of binding offers of settlement being made by any of the Defendants and Objectors: (a) the Defendants and Objectors are at any time entitled to make binding offers of settlement to CMs prior to their opting in, including to Signed-up CMs; (b) Signed-up CMs are contractually required to inform the RHA if they receive an offer of settlement, including the fact of settlement and its terms; (c) the RHA is entitled to contact CMs to comment on any offers of settlement made by the Defendants and Objectors; and (d) any binding offers of settlement accepted by any Signed-up CM (including any binding agreement to settle in the future) prior to the three-month termination notice period under the applicable Litigation Management Agreements (“**LMA**”) will form part of the Priorities Agreement “waterfall” to be paid to Therium, the insurer, and the CMs (including Signed-up CMs who have settled) at the conclusion of the collective proceedings; but (e) where a Signed-up CM does not opt in and terminates its agreement with the RHA (i.e. the LMA), the RHA, RHA Used Trucks Limited, the insurer and Therium (as parties to the relevant Litigation Funding Agreements (the “**LFAs**”) and Priorities Agreement, respectively) agree that notwithstanding any provisions of the LMA, LFAs or the Priorities Agreement the Signed-up CMs may enter into settlements of their claims, including any binding settlement offers that were made during the opt-in period that are accepted by Signed-up CMs following termination of the LMA and, provided acceptance of the settlement offer was made after expiry of the three-month notice period, receive any settlement proceeds after termination of its agreement with the RHA free of any obligations under the LMA, LFAs or Priorities Agreement including without limitation any obligation to hold such settlement proceeds on trust for any other party, to pay such settlement proceeds to any other party or otherwise to be subject to the “waterfall” provisions of the Priorities Agreement. Any Signed-up CMs that settle in such

circumstances will otherwise remain liable to pay only a proportionate share of the costs of the protective High Court proceedings to Therium.

IT IS ORDERED THAT

Dismissal of UK Trucks Claim Limited's application for a collective proceedings order

1. The UKTC CPO Application is dismissed.

Authorisation of the Road Haulage Association Limited as Class Representative

2. Pursuant to section 47B CA98 and Rules 77 and 80, the Road Haulage Association Limited is authorised to act as the Class Representative and to continue collective proceedings on an opt-in basis.
3. The Road Haulage Association Limited's address for service is Backhouse Jones Solicitors (for the attention of: Steven Meyerhoff/James Lomax), The Printworks, Hey Road, Clitheroe, Lancashire, BB7 9WD.

Authorisation of RHA Used Trucks Limited as Sub-Class Representative

4. Pursuant to section 47B CA98 and Rules 77 and 80, RHA Used Trucks Limited is authorised to act as the Sub-Class Representative in these collective proceedings.
5. RHA Used Trucks Limited's address for service is Jowett Kennedy Fidler LLP trading as Tyr Law (for the attention of: Matthew Fidler), 2 The Embankment, Sovereign Street, Leeds, LS1 4BA).

Claims being certified

6. The claims certified to be combined in the collective proceedings, pursuant to section 47B CA98 and Rules 79 and 80, are claims for loss and damages suffered by the Class (as defined below), as a result of an infringement of competition law determined in the infringement decisions adopted by the European Commission on 19 July 2016 and 27 September 2017 in Case AT.39824 – Trucks (the “**Decisions**”).

The Class

7. The class shall be defined as follows (hereafter the “**Class**” and the “**Class Definition**”):

“All **Persons** (other than **Excluded Persons**) who (a) between 17 January 1997 and 31 January 2014 entered into a contract for the **Purchase** or **Lease** of a new **Relevant Truck** registered in the United Kingdom for use in **Road Haulage Operations** and/or (b) between 17 January 1997 and 31 January 2015 entered into a contract for the **Purchase** or **Lease** of a pre-owned **Relevant Truck** registered in the United Kingdom for use in **Road Haulage Operations** (or in respect of a person falling within (a) or (b) who died on or after 17 July 2018, their **Personal Representative**)”, the words in bold having the following meanings:

Excluded Persons means:

- (a) All truck manufacturers and persons within their group of companies, at any time since 17 January 1997;
- (b) Officers, directors, or employees of any of the companies referred to in (a) above, at any time since 17 January 1997;
- (c) All members of the legal teams, experts, and other professional advisers involved in these proceedings;
- (d) All members of the Tribunal panel assigned to these proceedings and any judge hearing any appeal in these proceedings;
- (e) Any person who has already brought a claim in connection with the European Commission’s decisions in Case AT.39824 in respect of any Relevant Truck falling within the Class Definition unless such person discontinues or applies to stay or sist their individual claim on or before 31 January 2023;

- (f) Any person engaged in Road Haulage Operations exclusively on an **Open Book/Cost Plus** (defined below) basis; and
- (g) Any natural person who died before 17 July 2018.

Lease means any form of operating lease, contract hire, finance lease, rental, and spot hire.

Open Book/Cost Plus means supplying Road Haulage Operations through a cost-plus contract whereby the entirety of the cost of Purchasing or Leasing the applicable Relevant Trucks is paid for by the customer directly receiving the Road Haulage Operations.

Personal Representative means the executor or administrator of an estate.

Persons means all persons, whether legal or natural.

Purchase means purchasing outright and purchasing on finance, including hire purchase and lease purchase.

Relevant Truck means any truck of any make weighing between six tonnes and 16 tonnes (medium trucks) or any truck weighing over 16 tonnes (heavy trucks).

Road Haulage Operations means the operations of a Person providing carriage for hire and reward and/or on an own-account basis where: (1) the operator uses a UK standard national licence; or (2) where the operator would require such a licence but for the fact that they fall within an exemption or exception to the applicable licensing regime.

The Sub-Classes

- 8. The first of two sub-classes, which shall be represented by RHA Used Trucks Limited, shall be defined as follows (hereafter the “**Used Truck Sub-Class**”):

“All members of the **Class** (other than **Excluded Persons**) who (a) between 17

January 1997 and 31 January 2015 entered into a contract for the **Purchase** or **Lease** of a pre-owned **Relevant Truck** registered in the United Kingdom for use in **Road Haulage Operations** [and/or (b) between 17 January 1997 and 31 January 2015 entered into a contract for the **Lease** of a **Relevant Truck** registered in the United Kingdom for use in **Road Haulage Operations** (except if the **Lease** was the first **Lease** of a new **Relevant Truck** unless on a spot-hire basis)] (or in respect of a person [falling within (a) or (b)] who died on or after 17 July 2018, their **Personal Representative**)”,

The words in bold having the meanings given at paragraph 7 of this Order above.

9. The second of two sub-classes, which shall be represented by the RHA, shall be defined as follows (hereafter the “**New Truck Sub-Class**”):

“All members of the **Class** (other than **Excluded Persons**) who (a) between 17 January 1997 and 31 January 2014 entered into a contract for the **Purchase** of a new **Relevant Truck** registered in the United Kingdom for use in **Road Haulage Operations** [and/or (b) between 17 January 1997 and 31 January 2014 entered into a contract for the first **Lease** of a new **Relevant Truck** (unless on a spot-hire basis) registered in the United Kingdom] (or in respect of a person [falling within (a) or (b)] who died on or after 17 July 2018, their **Personal Representative**)

The words in bold having the meanings given at paragraph 7 of this Order above.

Opting in

10. Any Person who satisfies the Class Definition and has already entered into the Litigation Management Agreement with the Road Haulage Association in respect of these collective proceedings by the date of this Order will not be treated as having opted in to the collective proceedings as at 31 December 2024 unless such a person following receipt of the Rule 81 Notice referred to in paragraph 13 below either (a) gives notice by 31 December 2024 that they still wish to be part of the collective proceedings according to the process set out at question 29 of the Rule 81 Notice or (b) signs equivalent hard-copy documents. The hard-copy documents must be signed

on or before 31 December 2024 and the signed original copies must be sent by Royal Mail Special Delivery or equivalent to Backhouse Jones, The Printworks, Hey Road, Clitheroe, BB7 9WD and must reach Backhouse Jones by 10 January 2025. Further instructions are available on www.truckcartellegalaction.com.

11. Any Person who satisfies the Class Definition but has not yet entered into the Litigation Management Agreement with the Road Haulage Association and wishes to join these collective proceedings must either (a) complete the registration and sign-up process online at www.truckcartellegalaction.com by 31 December 2024 at the latest or (b) sign equivalent hard-copy documents. The hard-copy documents must be signed on or before 31 December 2024 and the signed original copies must be sent by Royal Mail Special Delivery or equivalent to Backhouse Jones, The Printworks, Hey Road, Clitheroe, BB7 9WD and must reach Backhouse Jones by 10 January 2025. Further instructions are available on www.truckcartellegalaction.com.

Forum

12. The Collective Proceedings shall be treated as taking place in England.

Notification

13. The Class Representative and Sub-Class Representative shall publicise this Order in accordance with Rule 81 of the Tribunal's Rules. It shall be publicised using the Notice approved by the Tribunal and in accordance with the proposal for publication set out in paragraphs 23 and 24 of the Litigation Plan exhibited to Richard Burnett's First Witness Statement.

General

14. There be liberty to apply.



The Honourable Mr Justice Roth

Chair of the Competition Appeal Tribunal

Made: 5 August 2024

Drawn: 5 August 2024