



COMPETITION APPEAL TRIBUNAL

NOTICE OF A CLAIM UNDER SECTION 47A OF THE COMPETITION ACT 1998

CASE NO 1347/5/7/20

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of the receipt of a claim for damages (“the Claim”) on 30 April 2020, under section 47A of the Competition Act 1998 (“the Act”), by (1) Jaguar Land Rover Ltd; (2) Jaguar E Land Rover Brasil Indústria e Comércio de Veículos; (3) Jaguar Land Rover (China) Investment Co., Ltd.; (4) Jaguar Land Rover (South Africa) (Pty) Limited; (5) Jaguar Land Rover Australia Pty Ltd; (6) Jaguar Land Rover Austria GmbH; (7) Jaguar Land Rover Belux NV; (8) Jaguar Land Rover Canada, ULC; (9) Jaguar Land Rover Classic Deutschland GmbH; (10) Jaguar Land Rover Espana SL; (11) Jaguar Land Rover France S.A.S.; (12) Jaguar Land Rover Italia SpA; (13) Jaguar Land Rover Japan Limited; (14) Jaguar Land Rover Korea Co., Ltd; (15) Jaguar Land Rover Nederland BV; (16) Jaguar Land Rover North America, LLC; (17) Jaguar Land Rover Portugal-Veiculos E Pecas, Lda; and (18) Limited Liability Company "Jaguar Land Rover" (Russia) (“the Claimants”) against (1) MOL (Europe Africa) Ltd; (2) Wallenius Wilhelmsen ASA; (3) Walleniusrederierna AB; (4) Wallenius Wilhelmsen Ocean AS; (5) Wallenius Logistics AB; (6) Wilhelmsen Ships Holding Malta Ltd; (7) EUKOR Car Carriers Inc.; (8) Kawasaki Kisen Kaisha, Ltd.; and (9) Compania Sudamericana de Vapores S.A. (“the Defendants”). The Claimants are represented by Hausfeld & Co LLP, 12 Gough Square, London EC4A 3DW (reference: Andrew Bullion).

The Claim arises from a settlement decision of the European Commission (“the Commission”) dated 21 February 2018 (Case AT.40009 – Maritime Car Carriers) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union (“TFEU”) and Article 53 of the Agreement on the European Economic Area (“the EEA Agreement”) (“the Decision”).

In the Decision, the Commission found that five named undertakings participated in a single and continuous infringement of Article 101 of the TFEU and Article 53 of the EEA Agreement, in particular by (i) co-ordinating prices; (ii) rigging bids; (iii) allocating customers; (iv) restricting capacity and (v) sharing commercially sensitive pricing information regarding international shipping services for roll-on, roll-off cargo (“RoRo Services”) on various routes to and from the EEA from 18 October 2006 to 6 September 2012, save that the undertaking which the First Defendant forms part of a single economic unit ended its participation on 24 May 2012.

The First Claimant is incorporated under English law and the Second to Eighteenth Claimants are wholly-owned subsidiaries of the First Claimant. The Claimants are companies within the Jaguar Land Rover group of companies, which manufacture cars at manufacturing plants in the United Kingdom and sell and commercialise them worldwide. The cars were transported by suppliers of RoRo Services from the United Kingdom to foreign ports.

Each of the Defendants was engaged or involved in the provision of RoRo Services on routes to and from the EEA and is an addressee of the Decision.

According to the Claim, RoRo Services were typically provided under framework agreements with carriers following a tendering process, which invited carriers competitively to bid to provide RoRo Services. The framework agreements typically provided that for the term of the agreement, the carrier would procure the carriage of an agreed capacity of vehicles, on agreed routes at agreed rates and specify the terms of the contracts of carriage that would be entered into for this purpose. The framework agreements thus generally determined the prices payable for the provision of the RoRo Services and the essential terms upon which those services would be provided. The First Claimant, as well as another company on the First Claimant’s behalf, invited carriers competitively to bid to provide RoRo Services and the First Claimant, or another company on the First Claimant’s behalf, paid for the RoRo Services provided under the framework agreements. The Second to

Eighteenth Claimants may have borne the cost of some of those services under a transfer pricing arrangement for freight.

The Claimants allege that the Defendants infringed the Claimants' directly effective rights under the TFEU and EEA Agreement and breached their statutory duties under the European Communities Act 1972, which caused (i) overcharge losses to the First Claimant, which paid inflated prices and consequently inflated import duties and taxes for RoRo Services; and (ii) loss of profit and/or increased borrowing costs suffered by the First Claimant as a result of such inflated prices, import duties and taxes. According to the Claim, the Defendants are jointly and severally liable for the Claimants' losses.

The Claimants claim:

1. Damages;
2. Compound interest, alternatively statutory interest;
3. Costs; and
4. Further or other relief.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)
Registrar

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