



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1291/5/7/18 (T)  
1295/5/7/18 (T)

BETWEEN:

- (1) RYDER LIMITED**  
**(2) HILL HIRE LIMITED**

The “Ryder Claimants”

- and -

- (1) MAN SE**  
**(2) MAN TRUCK & BUS AG**  
**(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

AND BETWEEN

- (1) DAWSONGROUP PLC**  
**(2) DAWSONGROUP UK LIMITED**  
**(3) DAWSONGROUP TRUCK AND TRAILER LIMITED**  
**(4) DAWSONGROUP MATERIAL HANDLING LIMITED**  
**(5) DAWSONGROUP SWEEPERS LIMITED**

The “Dawsongroup Claimants”

-and-

- (1) DAF TRUCKS N.V.**  
**(2) DAF TRUCKS DEUTSCHLAND GMBH**

- (3) PACCAR INC  
(4) DAF TRUCKS LIMITED  
(5) DAIMLER AG  
(6) MERCEDES-BENZ CARS UK LIMITED  
(7) AKTIEBOLAGET VOLVO (PUBL)  
(8) VOLVO LASTVAGNAR AB  
(9) VOLVO GROUP TRUCKS CENTRAL EUROPE GMBH  
(10) RENAULT TRUCKS SAS  
(11) VOLVO GROUP UK LIMITED

Defendants

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**CONSENT ORDER**

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UPON the Ryder Claimants' and Dawsongroup Claimants' (together, as appropriate, the "**Claimants**") applications for disclosure dated 9 October 2020 (the "**Application**")

UPON part-hearing Leading Counsel for each of the Claimants and Leading Counsel for the Defendants at a hearing on 30 October 2020

AND UPON the Dawsongroup Claimants and the Fifth Defendant (Daimler AG) and Sixth Defendant (MBUK) (together, the "**Daimler Defendants**") having consented to the terms of the Order set out below

AND UPON the Ryder Claimants and the Tenth Defendant (Daimler AG) and Eleventh Defendant (MBUK) having consented to the terms of the Order set out below

**BY CONSENT IT IS ORDERED THAT:**

**Communication Disclosure**

1. By 30 April 2021, the Claimants and the Daimler Defendants shall, in each action, subject to paragraphs 6, 7 and 8 of this order, each disclose by list, documents of the description set out in paragraphs 2 to 4 inclusive in respect of any Trucks (as that term is defined at recital 5 of the decision of the European Commission dated 19 July 2016 in Case AT.39824) manufactured by Daimler AG and purchased (or sought to be purchased) by the Claimants between 17 January 1997 and 18 January 2011.

**Communications within the Daimler Defendants**

2. In respect of the Daimler Defendants only, any communications between or within any of the Daimler Defendants relating to, and any documents recording, any of (a) to (d) below:
  - (a) Trucks sales price approvals (including 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 the Claimants;
  - (c) elements considered when determining and/or negotiating prices (including list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options to the extent applicable) and the receipt of competing offers for Trucks manufactured by other manufacturers that were provided to the Daimler Defendants by the Claimants; and
  - (d) the calculation of proposed sales prices, sales prices negotiated and/or agreed, or previously or actually charged.

**Communications involving the Daimler Defendants and the Claimants**

3. Any communications involving the Claimants and any of the Daimler Defendants in respect of the negotiations between them regarding the price of Trucks, including in relation to any of (a) to (c) below:
  - (a) sales or purchase prices (including communications regarding the pricing parameters for proposed sales to, and/or purchases by, the Claimants);
  - (b) elements considered when determining and/or negotiating prices (including 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 for Trucks manufactured by other manufacturers that were provided to the Daimler Defendants by the Claimants; and
  - (c) the calculation of proposed sales prices, sales prices negotiated and/or agreed, or previously or actually charged.

## Communications within the Claimants

4. In respect of the Claimants only, in respect of Trucks manufactured by Daimler AG, any communications within the Claimants relating to, and any documents recording, any of (a) to (d) below:
- (a) purchase price approvals (including communications regarding the pricing parameters for actual or proposed purchases from the Daimler Defendants and seeking approval for a purchase from the Daimler Defendants at a particular price);
  - (b) intentions in relation to purchase prices;
  - (c) elements considered when determining and/or negotiating prices (including list prices, other price lists, costs of new technology/features (including Euro 3 to 6 standards), warranties, repair and maintenance provisions, buyback options to the extent applicable) and the receipt of competing offers for Trucks manufactured by other manufacturers; and
  - (d) the calculation of proposed purchase prices, purchase prices negotiated and/or agreed, or previously or actually charged.

## Procurement disclosure

5. By no later than 30 April 2021, the Claimants shall disclose by list:

#	Claimants' disclosure
Scope	<i>All Trucks procured by them in the UK from January 1997 to September 2017 (inclusive).</i>
Proc1	Policies used by the Claimants in the process of procuring Trucks.
Proc2	NOT USED
Proc3	NOT USED
Proc4	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:

	<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.</p>
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**Scope of searches**

6. The searches to be undertaken by the Daimler Defendants in respect of paragraphs 2 and 3 shall be reasonable and proportionate searches of the current and former employees of MBUK identified at Annex A of this Order, and the current and former employees of Daimler AG identified at Annex B of this Order.
7. If, in conducting reasonable and proportionate searches in respect of the individuals identified in Annexes A and B, it appears that any other current or former employees of the Daimler Defendants may have relevant documents, then the Daimler Defendants shall also conduct reasonable and proportionate searches of such employees and disclose any relevant documents.
8. Searches shall be limited to the relevant custodians' documents that are held electronically.

**Disclosure statement**

9. The Claimants’ and Daimler 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 their knowledge and belief that the disclosure ordered has been provided.

**Costs**

10. Costs in the case.

**Other**

11. Liberty to apply.

**Hodge Malek QC**  
Chairman of the Competition Appeal Tribunal

Made: 27 November 2020  
Drawn: 27 November 2020