



## **INDUSTRY-WIDE TRUCKS CARTEL FACING MASSIVE LEGAL CLAIM IN UK TRIBUNAL**

- UKTC 'opt-out' class action over anti-competitive behaviour leads to industry-wide response
- Damages could be worth £20,000 per truck
- Claim is one of the largest of its kind in UK legal history

### **FOR IMMEDIATE RELEASE**

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British truck owners and lessees could receive compensation totaling £14bn without even having to sign up to a claim, in one of the biggest class actions in UK legal history.

UK Trucks Claim Limited (**UKTC**) has issued proceedings on behalf of owners and lessees of over 600,000 trucks, which were sold by way of unlawful anti-competitive practices undertaken and admitted by a cartel of European truck manufacturers over a 14-year period.

Two years ago, the European Commission fined MAN, Daimler, Volvo/Renault, Iveco and DAF a record €3bn (£2.7bn) for breaking EU competition rules. The European Commission's ruling is considered binding proof of the existence and facts of a cartel in UK courts. The fines imposed by the European Commission do not compensate the victims and the European Commission encourages private enforcement via damages actions in its wake.

As a result, all victims can recover losses caused by the truckmakers' unlawful conduct, including UK victims. Brexit will not affect this claim: this is a claim before a UK court regarding UK registrations of trucks and is based on rights granted by UK legislation.

UKTC, which was formed specifically to represent all affected UK truck owners and lessees, is seeking to be appointed as their class representative to pursue a collective claim for all those affected.

Its application was lodged on 18 May 2018 with the Competition Appeal Tribunal (**CAT**), which has powers to award damages to victims of anti-competitive conduct.



Since filing, UKTC has made significant strides in progressing the claim. The Iveco defendants have been served and the Daimler defendant is in the process of being served. The CAT is expected to list a Case Management Conference for the autumn.

Although UKTC has named only the Iveco and Daimler groups as defendants, other parties to the cartel, Volvo/Renault, DAF and MAN, have also taken steps to participate in the proceedings. And it does not matter which brand of truck was bought or leased because all will be included in UKTC's claim. UKTC's claim therefore includes all purchases or leases of other relevant trucks, for example, MAN, Volvo/Renault, DAF, Scania, Isuzu, and Mitsubishi. MAN and Volvo/Renault have formally applied to the CAT for permission to intervene in the case and DAF has indicated its intention to do likewise.

The UKTC is asking the CAT to grant UKTC's application for an "opt-out" order. Under this special procedure, the CAT would first determine the total amount of damages the defendants are required to pay to UK traders for their overall losses from 1997 to 2011. Individual traders would then be able to claim their fair share from this total fund.

If successful, truck owners and lessees could be in line for compensation averaging £20,000 per truck acquired during the cartel period, according to research consultancy Europe Economics, who estimated the likely total damages suffered by UK truck owners and lessees.

The UKTC is aware of the fact that a second application has now been brought by the Road Haulage Association – however, UKTC understands that this application is narrower in scope and would apply only to purchasers or lessees of trucks who 'opt-in' to the RHA claim. The UKTC remains of the view that its application is clearly the best means of ensuring that all those who have suffered losses arising out of this long-running and wide-ranging cartel have an opportunity to obtain proper compensation for their loss.

**Commenting on the action, His Honour Roger Kaye QC, chairman of the UKTC board, said:**

"We are bringing this landmark action on behalf of all purchasers and lessees of one or more new medium and heavy trucks registered in the UK who suffered loss as a result of the illegal activities of manufacturers. Not only will this be the one of biggest cases of its kind but, crucially, individual traders won't have to sign up to anything until the amount of damages is determined.

"We have assembled a strong team of lawyers, economists and other experts to bring the claim with unrivalled experience, and my co-directors are each industry specialists in their chosen fields, with a broad and deep knowledge of the UK trucks market.



“I am confident that this claim provides the ideal opportunity for the UK victims of the truck cartel to achieve justice and fair compensation”.

**Mike Leonard, chief executive of the Building Alliance and a director of UKTC, added:**

“The team we have brought together will enable all UK truck purchasers and lessees to be represented fairly before the CAT in pursuing the claim for losses suffered by them as a result of the manufacturers’ anti-competitive behaviour”.

The CAT will be listing its first Case Management Conference (**CMC**) in the autumn when directions will be provided for the parties ahead of a full hearing, which will decide whether to grant UKTC permission to pursue its claim.

The CAT’s directions at the CMC will also include whether DAF, MAN and Volvo/Renault can intervene and support Iveco and Daimler in their efforts to prevent UKTC's claim on behalf of victims of the cartel.

UKTC’s legal adviser is Weightmans LLP, a national firm with over 200 partners and 1,200 staff who have a wealth of experience in dealing with group litigation claims and securing favourable outcomes for their clients.

The counsel team comprises three renowned competition law specialists: Rhodri Thompson QC, Adam Aldred and Doug Cochran.

UKTC’s costs are funded by Calunius Capital LLP, investment adviser to some of Europe’s biggest litigation funders and a founding member of the Association of Litigation Funders. Calunius is funding the proceedings so that the persons who purchased or leased these new trucks do not have to do so.

Willis Towers Watson has arranged insurance cover to cover the defendants’ costs, in the unlikely event that UKTC is ordered to do so.

ENDS

**Notes for Editors:**

1. The Claimant is a Special Purpose Vehicle (**SPV**), incorporated specifically to bring this claim for the benefit of all victims who acquired all makes of new medium and heavy trucks registered in the UK during the 14-year period of the anti-competitive conduct.

This is the first time an SPV has been used in this way before any UK court or tribunal. SPVs are specifically mentioned by the Competition Appeal Tribunal (**CAT**) as being capable of being appointed Class Representative.

2. The Defendants are Fiat Chrysler Automobiles N.V., CNH Industrial N.V., Iveco S.p.A., Iveco Magirus AG and Daimler AG. These are the corporate entities behind the “Iveco” and “Mercedes Benz” truck brands. Each is jointly and severally liable to pay all losses suffered by the victims, even if the victims bought or leased trucks from other truck manufacturers, including MAN, Scania, Volvo/Renault, DAF, Isuzu, Mitsubishi, or any other truck brand.
3. The CAT is a specialist tribunal set up in the UK to hear disputes dealing with competition law, including damages claims for breach of EU law. While the CAT has been able to award damages since 2000, its powers were overhauled and greatly expanded on 1 October 2015 by changes made by the Consumer Rights Act 2015.
4. Since 2015, the CAT has been empowered to award aggregated damages to victims of anti-competitive behaviour who were members of the same Class – i.e. shared a number of characteristics. These new powers include the making of an “opt-out” Collective Proceedings Order (opt-out CPO), which means that a representative appointed by the CAT (called the Class Representative) can bring a claim for all Class members without individual victims having to participate directly in the proceedings. If the opt-out CPO is made, as UKTC is requesting, then individual traders would have an opportunity to claim their fair share once the CAT had decided the overall award of damages on a collective basis.
5. UKTC is seeking appointment as the Class Representative for the class of purchasers and lessees of new UK-registered medium and heavy trucks bought or leased between 1997 and 2011.
6. The CAT will provide its preliminary directions at a short hearing to be listed in the autumn, ahead of a longer hearing to determine whether UKTC will be appointed as the representative and permitted to pursue the claim for victims.
7. UKTC is seeking an opt-out CPO to maximize recovery on the simplest possible basis. In the alternative, UKTC is seeking an opt-in CPO, which would mean that individual victims of the cartel would need to let UKTC know that they wish UKTC to represent their interests. The CAT would specify what would need to be done and by when.

For the time being, the victims do not have to do anything as these proceedings have been brought collectively on behalf of all members of the Class.

8. UKTC is seeking an order for all damages suffered by the victims, and includes interest and the run-off effect (a period of time after the end of the cartel period before a true competitive price reemerged).
9. Anyone who purchased or leased new medium and heavy trucks during 1997 to 2011 does not need to do anything. The CAT will in due course decide what action they will need to take, if any.
10. If UKTC is successful in its application, it will be a legal first. This application is an opportunity to demonstrate that the CPO regime works and that the UK has one of – if not the – best means of redress for victims of anti-competitive behavior of any country in Europe, whether they be consumers, sole traders, small- and medium-sized businesses, larger businesses, or local or national government authorities.

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