



IN THE COMPETITION
APPEL TRIBUNAL

Case Nos: 1289/7/7/18

BETWEEN:

ROAD HAULAGE ASSOCIATION LIMITED

Respondent / Proposed Class Representative

- v -

MAN SE AND OTHERS

Proposed Defendants

- and -

DAIMLER AG

Objector

- and -

UK TRUCKS CLAIM LIMITED

Applicant

ORDER (APPLICATION TO INTERVENE)

UPON the applications for a Collective Proceedings Order (“**CPO**”) brought by UK Trucks Claim Limited on 18 May 2018 (the “**UKTC Application**”) and the Road Haulage Association Limited on 17 July 2018 (the “**RHA Application**”)

AND UPON the judgment of the Tribunal of 8 June 2022 determining that the UKTC Application should be dismissed and the RHA Application should be granted subject to amendment (the “**CAT Judgment**”)

AND UPON the Court of Appeal having handed down its judgment on 25 July 2023 on the appeal by, inter alia, UKTC against the CAT Judgment (the “**CoA Judgment**”)

AND UPON the Court of Appeal Order dated 28 September 2023 *inter alia*: (i) dismissing grounds 1 and 2 of the appeal by UK Trucks Claim Ltd (“UKTC”) and refusing UKTC permission to appeal on ground 3 of its appeal; (ii) remitting the matter to the Tribunal for it to give directions in relation to the separate representation and separate teams within the Road Haulage Association Ltd (“RHA”) and separate funding for the two sub-classes in relation to the issue of resale pass-on, and for it to approve the form of CPO Notice under Rule 81 of the Competition Appeal Tribunal Rules 2015, all in accordance with the guidance in the CoA Judgment (the “**Remitted Matters**”); and (iii) staying the UKTC Application pending the Tribunal’s determination of the Remitted Matters and the RHA revising its funding arrangements (the “**CoA Order**”)

AND UPON the Tribunal’s Order of 20 December 2023 (i) refusing the application by UKTC dated 27 October 2023 to stay further proceedings in the RHA Application; (ii) making no order on UKTC’s application to stay further proceedings on the UKTC Application; and (iii) directing that the Remitted Matters and any outstanding questions concerning the RHA’s funding be heard on the first available date on or after 4 June 2024 (the “**Remittal Hearing**”)

AND UPON the decision of the Supreme Court of 8 January 2024 refusing UKTC permission to appeal against the CoA Order

AND UPON reading the application by UKTC dated 5 January 2024 for permission to be heard in the Remittal Hearing, the letter dated 10 January 2024 from the solicitors to the RHA, and the email on behalf of the Proposed Defendants and Objector indicating that they adopt a neutral position

IT IS ORDERED THAT:

UKTC’s application for permission to make written and oral submissions in the Remittal Hearing is refused.

REASONS

1. UKTC’s application to make written and oral submissions at the Remittal Hearing is, in effect, an application to intervene, pursuant to rule 16 (along with rules 50(1) and 74) of the Tribunal Rules.
2. The UKTC Application (for a CPO) has been stayed by the CoA Order.

3. UKTC has no involvement in the issues arising from the Remitted Matters or as between the RHA and the Proposed Defendants and Objector. Its real interest, as shown by its solicitors' letter of 5 January 2024, is to seek to further the UKTC Application and frustrate the RHA Application by contending that the Tribunal should not accept the RHA's proposals as regards the Remitted Matters and so refuse to make a CPO in respect of the RHA Application, thereby enabling the stay of the UKTC Application pursuant to the CoA Order to fall away. That is the only basis on which the UKTC Application was stayed and not dismissed altogether: see the CoA judgment at [106]. I do not regard that as a legitimate interest for the purpose of an application to intervene: cp *Gutmann v First MTR South Western Trains Ltd (Intervention)* [2023] CAT 23.
4. Further, the Proposed Defendants and Objector can be expected to put forward any reasons why the RHA Application should be refused, as they did at the substantive hearing before the Tribunal. Proposed class members (individually or jointly) will also be able to apply to the Tribunal pursuant to rule 79(5) to make submissions at the Remittal Hearing. The UKTC is not constituted as a spokesperson for proposed members of the class covered by the RHA Application who bought only new trucks. UKTC's class includes also dealers in new trucks and businesses that rent out new trucks, who are not within the RHA class at all: see the CAT Judgment at [9(6)] and [200]-[201]; and as its solicitors' letter makes clear, UKTC is concerned to promote the interests also of those members of its class. Accordingly, as a matter of discretion, even if UKTC had a sufficient, legitimate interest, its application should be refused.
5. The suggestion in the letter from the solicitors to UKTC that persons falling outside the scope of the RHA class would now "have the right to be heard" at the hearing of the Remitted Matters is not accepted. The question of the scope of the RHA class was fully argued at the hearing leading to the CAT Judgment and is determined by the CAT Judgment. Whether that class should extend still further is not part of the Remitted Matters and such persons do not fall within rule 79(5).