



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1289/7/7/18

BETWEEN:

ROAD HAULAGE ASSOCIATION LIMITED

Class Representative

-and-

RHA USED TRUCKS LIMITED

Sub-Class Representative

- v -

TRATON SE AND OTHERS

Defendants

- and -

DAIMLER AG AND OTHERS

Objectors

REASONED ORDER

UPON the Tribunal handing down judgment on the Road Haulage Association Limited’s (“RHA”) and UK Trucks Claim Limited’s applications for a collective proceedings order (“CPO”) on 8 June 2022 ([2022] CAT 25) (the “**June 2022 Judgment**”)

AND UPON the Court of Appeal handing down judgment on appeals against the 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)

AND UPON the Tribunal making a CPO on 5 August 2024

AND UPON the RHA’s application by its solicitors’ letter dated 15 November 2024 to vary the CPO so as to extend the deadline for class members to opt in by three months (the “**Application**”)

AND UPON reading the letter from the solicitors for RHA Used Trucks Limited (“RHAUTL”) dated 18 November 2024 confirming the sub-class representative’s support for the Application

AND UPON reading the letter from Herbert Smith Freehills dated 22 November 2024 on behalf of the Defendants opposing the Application

IT IS ORDERED THAT:

1. Paragraph 10 of the CPO is varied such that the opt in period is extended to 28 February 2025.
2. The RHA and, insofar as necessary, RHAUTL, have permission to amend the notice to potential class members accordingly.

REASONS:

1. Although the substantive actions are only now beginning, these proceedings have an exceptionally long history. The claim form was issued as long ago as 17 July 2018. Certification was delayed pending the appeals in *Merricks* which was finally decided by the Supreme Court on 11 December 2020. After consequent amendment, the certification application was then heard in the Tribunal, involving also a carriage dispute, and decided on 8 June 2022. However, the Respondents (as well as UKTC) appealed to the Court of Appeal which gave judgment on 25 July 2023. That required

the RHA to make arrangements for a sub-class representative and establish new representation and funding arrangements, so that the matter came back to the Tribunal in June 2024, leading to the final grant of a CPO on 5 August 2024. In these very unusual circumstances, it is understandable that the RHA has found that the task of engaging with potential class members who had registered their interest in the proceedings many years previously is more arduous than it had anticipated.

2. Although the particular difficulty of making effective contact with potential class members in the busy pre-Christmas period should have been raised when the opt-in period was considered in June-July prior to making the CPO, the Tribunal is concerned to provide effective access to justice for potential class members. Given the practical reality, and the duration of these proceedings to date, an extension to allow engagement after that period is just and appropriate and does not seriously prejudice the Defendants.
3. However, the interests of the potential class members have to be balanced against the need for certainty, both in the interests of the Defendants and of those who have opted in and for whom the proceedings should progress. Given the evidence about the time needed to make effective contact with small businesses in what will be a quieter period, and the time already elapsed, an extension of two months rather than the three months applied for is appropriate.

The Hon. Mr Justice Roth
Acting President of the Competition Appeal Tribunal

Made: 5 December 2024
Drawn: 5 December 2024