

News

UK SUPREME COURT RULES IN FAVOUR OF BCLP CLIENTS ROYAL MAIL AND BT IN TRUCKS LITIGATION

Aug 07, 2024

On 27 June 2024, the Supreme Court made a ruling refusing defendant DAF Trucks permission to appeal a judgment of the Court of Appeal in favour of BCLP's clients, claimants Royal Mail and BT. The Supreme Court's decision followed DAF's unsuccessful attempt to appeal an earlier trial judgment of the Competition Appeal Tribunal (CAT).

BCLP represented Royal Mail and BT in landmark damages claims before the CAT against DAF Trucks for its participation in the Trucks Cartel, for which the participating truck manufacturers were fined almost EUR 4 billion by the European Commission in infringement decisions made in 2016 and 2017 – at the time these were the highest fines imposed for cartel conduct.

The claims went to trial in April 2022 for a period of 9 weeks and were the first claims concerning the Trucks Cartel to reach trial in the UK. On 7 February 2023, the CAT delivered a decisive judgment in favour of Royal Mail and BT. The CAT found that the cartel caused the claimants loss in the form of material overcharges on their purchases of trucks, criticized DAF's argument that it was *"implausible"* that its cartel conduct caused harm to the claimants, and rejected DAF's various defences, including its argument that the claimants had 'passed on' any overcharges to their own customers. The CAT awarded the claimants damages and interest totalling £38.5 million and ordered DAF to pay the claimants' costs.

DAF subsequently appealed the CAT's judgment to the Court of Appeal on four grounds, and in February 2024, the Court of Appeal handed down a judgment in which it found emphatically in favour of Royal Mail and BT, dismissing DAF's appeal on all grounds.

In the Court of Appeal's judgment, on DAF's appeal of the overcharge award, it held that it was *"inconceivable that [DAF] would have participated in the cartel for [14 years] with all the financial, regulatory and reputational risk that that entailed, unless it was gaining significant financial benefit from that participation"*. Against that background, it considered that DAF's expert's conclusion that there was a zero overcharge *"lacked credibility"*. The Court of Appeal labelled DAF's appeal in respect of the dismissal of its 'pass on' defence as an *"attack"* on the *"evaluative judgment"* of the specialist CAT. The Court also held that DAF had adopted an *"extreme position"* in its appeal of the

CAT's substantial award of compound interest to Royal Mail (which represented just over half of the total award).

The BCLP team won Litigation Team of the Year at The Lawyer's 2023 Awards in recognition of its work on this case, and was nominated for Litigation Team of the Year and Competition Team of the Year at the British Legal Awards.

The BCLP team working on the appeals included Edward Coulson, Ben Blacklock, Andrew Hockley, Andrew Leitch, Alexandra Hildyard, Graeme Thomas and Sam Brown.

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