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CARTEL COMPENSATION

On 19 July 2016 the European Commission issued European truck manufacturers Volvo (Volvo and Renault Trucks), Daimler, Mercedes-Benz, Iveco and DAF with record fines totalling £2.5 billion. This followed their operation of a cartel between 1997 and 2011 which involved three key elements. The cartel included MAN, which avoided a fine as the company alerted the EC to the existence of the cartel in 2011.

First, the OEMs co-ordinated factory prices (gross list) for medium- and heavy-duty trucks throughout Europe. Second, they agreed on timing for the introduction of new emissions technology (Euro 3 to the current Euro 6). And third, they colluded on passing on costs for emissions equipment.

Operators affected by the cartel are entitled to bring an action for loss and damage against the truck OEMs. Anyone who purchased medium- or heavy-duty trucks between 1997 and 2011 (over 600,000 trucks were purchased in the UK alone) anywhere in the European

Economic Area is likely to have been affected, whether they purchased trucks from the OEMs or through other means.

They may be entitled to recover any difference between what they paid and what they would have paid had there been no cartel. The level of overcharge is unclear at this stage. However, a study undertaken for the EC suggests cartels typically result in overcharges of 10–40%.

REGULATORY

Verification of container weights

Legally effective from 1 July 2016, IMO (International Maritime Organisation) has amended the SOLAS (Safety of Life at Sea) convention, requiring that every packed container loaded onto a ship must have a verified gross weight.

Shippers are responsible for providing the information, which is the certified cargo weight (including packing material) plus container tare weight. Weighing equipment must meet national standards.

The purpose of these regulations is to safeguard

against improperly declared weights. Under-declared weights leading to unsafe loading has contributed to serious truck accidents and implicated in the sinking of several vessels.

AEBS and LDWS introduction

Under EC Regulation 661/2009, since 1 November 2015, newly registered HGVs over 7.5 tonnes have been required to have Level 1 AEBS (autonomous emergency braking systems) and LDWS (lane departure warning systems) fitted. Level 2 AEBS will become mandatory for new types from 1 November 2016 and all new vehicles from 1 November 2018.

Weight increase for efficient trucks

Trucks that carry equipment designed to cut emissions, such as aerodynamic flaps, will soon be allowed to run up to 45 tonnes. This is due to an updated EU weights and dimensions directive due to come into effect on 7 May 2017. There are no dates for implementation into UK law: this may be impacted by Brexit. The EC says payload must not be increased.

EMPLOYMENT LAW

Diabetic drivers

Changes to DVLA licence

renewals for diabetic drivers follow approval from the Secretary of State for Transport's Honorary Medical Advisory Panel. They now require a GP examination for every other renewal, with only a self-declaration and independent diabetologist examination every year. The rules surrounding driving with diabetes are complex. It is important that drivers are transparent with the DVLA.

Licence form guide

DVLA has developed a guide to help vocational driving licence applicants complete the vocational application forms D2 and D4. The guide has been produced to give an overview of how the licensing system works. It is an attempt to streamline the application process and decrease delays and rejections from DVLA.

Smoking at work

Smoking is not allowed in any enclosed workplace, public building or on public transport. Businesses must ensure they have 'no smoking' signs in all workplaces and vehicles, and make sure that people do not smoke in work premises or shared vehicles. Business can be fined up to £2,500 if they do not stop people smoking in the workplace, or up to £1,000 if they do not display 'no smoking' signs.