

Persons who purchased one or more new cars, SUVs, 4x4s or light or medium commercial vehicles between 18 October 2006 and 6 September 2015 could benefit from a proposed collective settlement.

THIS NOTICE

This is a legal notice published at the direction of the UK Competition Appeal Tribunal (the “**Tribunal**”) which granted a Collective Proceedings Order on 20 May 2022 (“**CPO**”) in favour of Mark McLaren Class Representative Limited (the “**Class Representative**”) to bring proceedings against the following companies, all of whom have been found by the European Commission to have infringed EU competition law in relation to deep sea carriage services for new motor vehicles on routes to/from countries in the European Economic Area (EEA) (the “**Claim**”):

- (1) MOL (Europe Africa) Ltd
- (2) Mitsui O.S.K. Lines Limited
- (3) Nissan Motor Car Carrier Co. Ltd
- (4) Kawasaki Kisen Kaisha Ltd
- (5) Nippon Yusen Kabushiki Kaisha
- (6) Wallenius Wilhelmsen Ocean AS
- (7) EUKOR Car Carriers Inc
- (8) Wallenius Logistics AB
- (9) Wilhelmsen Ships Holding Malta Limited
- (10) Wallenius Lines AB
- (11) Wallenius Wilhelmsen ASA
- (12) Compañía Sud Americana de Vapores S.A.

(together, the “**Defendants**”).

This notice may be relevant to you if you are someone who falls within the class defined in the CPO, i.e.:

“All Persons (other than Excluded Persons) who during the period 18 October 2006 to 6 September 2015 either Purchased or Financed, in the United Kingdom, a New Vehicle or a New Lease Vehicle, other than a New Vehicle or New Lease Vehicle

produced by an Excluded Brand or, in the event such a Person has died on or after 20 February 2020, their Personal Representative.”

Class members who purchased or financed a new car, light or medium commercial vehicles between 18 October 2006 and 6 September 2015 may be entitled to claim additional losses in respect of vehicles purchased between 7 September 2015 and 31 December 2019.

A copy of the CPO, with an explanation of all the capitalised terms in the class definition, can be viewed online at www.cardeliverycharges.com.

This notice relates to an in-principle settlement (the “**Proposed Settlement**”) agreed between the Class Representative and the Sixth to Eleventh Defendants, “**WWL/EUKOR**” (together, the “**Settling Parties**”). In accordance with Rule 94 of the Tribunal Rules 2015 (which can be viewed online at <https://www.catribunal.org.uk/rules-and-guidance>), the Settling Parties are seeking the Tribunal’s approval of the Proposed Settlement. The Tribunal will only approve the Proposed Settlement if it is satisfied that the terms of the Proposed Settlement are “*just and reasonable*”. Therefore, the Settling Parties will file an application by 27 November 2024 (the “**Settlement Application**”), the primary purpose of which is to explain why the Proposed Settlement is “*just and reasonable*”. The Settlement Application will be considered by the Tribunal at a hearing on 5 December 2024, which is expected to last for at least one day and potentially two (the “**Settlement Hearing**”).

This notice is for your information so that you can consider whether you wish to apply to the Tribunal for permission to make submissions regarding the Settlement Application either in writing in advance of, or in person at, the Settlement Hearing.

A full copy of the Settlement Application will be available to view online at www.cardeliverycharges.com from 27 November 2024, along with other information about the claim. This notice gives important information about the Proposed Settlement.

THE PROPOSED SETTLEMENT

Importantly, the Proposed Settlement relates to WWL/EUKOR only and does not settle the claim against the remaining Defendants.

The Tribunal previously approved a settlement between the Class Representative and the Twelfth Defendant (“**CSAV**”) by order dated 6 December 2023.¹ The case against the First to Fifth Defendants is set to proceed in line with the directions of the Tribunal, which provide for a trial commencing on 13 January 2025. The Proposed Settlement is entered into without any admission of liability by WWL/EUKOR.

WWL/EUKOR comprises WWL, which had a market share of 14.8% and EUKOR (majority-owned by Wallenius Wilhelmsen ASA), which had a market share of 18.5% (when considering the number of vessels). On the basis of those market shares, WWL’s share of the total Claim value would be £31.9 million and EUKOR’s share of the total Claim value would be £39.9 million. Together, their share of the total Claim value would be £71.8 million. WWL/EUKOR

¹ The collective settlement approval order is available on the Tribunal website: [here](#).

deny that the conduct found by the European Commission had any impact on EUKOR shipping prices.

With this in mind, the key terms of the Proposed Settlement are as follows:

- (a) **Settlement value:** WWL/EUKOR has agreed to pay £24 million in full and final settlement of the Claim. This will comprise a payment upfront of £17.5 million and a deferred payment of up to £6.5m. In addition, WWL-EUKOR will contribute up to £500,000 to the cost of distributing the settlement to class members.
- (b) **Timing of payment:** WWL/EUKOR is to pay the upfront portion of the settlement sum to the Class Representative within 28 days of the Tribunal making an order approving the Proposed Settlement.
- (c) **Distribution:** Following payment by WWL/EUKOR to the Class Representative, it is proposed that the Class Representative will hold the damages sum in escrow until the Claim has concluded against all Defendants (either through further settlements or a judgment after trial), alongside the settlement sum paid by CSAV in January 2024. As the matter is so close to trial and given the size of the Proposed Settlement relative to the total claim value, it will be more efficient and cost-effective to distribute these monies to Class Members following the conclusion of the case. Following the conclusion of the case, the Class Representative will then distribute the total funds recovered (through settlement or judgment) in a single process, according to the distribution plan that will be approved by the Tribunal. As explained above, this settlement includes a contribution of £500,000 towards the costs of distribution.
- (d) **Guaranteed distribution:** As a condition of the Proposed Settlement, the Class Representative shall distribute a minimum of £8.75 million, directly or indirectly (for example to a charity), to compensate the class (the “**Immediate Damages Sum**”).
- (f) **Further available distribution:** In addition to the Guaranteed Distribution, the deferred payment of a further £6.5 million (the “**Deferred Damages Sum**”) shall be available for distribution if the number of Class Members who claim in the distribution means the sum required to pay them all exceeds the level of the Guaranteed Distribution.
- (d) **Payment of costs, fees and disbursements:** The Claim is funded by a third-party funder, Woodsford Group Limited (“**WGL**”), which has paid the upfront action costs on an ongoing basis. In addition, there is an ‘after-the-event’ insurance policy to ensure the Class Representative can pay the Defendants’ costs if ordered to do so, and the legal team is acting on discounted rates, deferring a proportion of their fees. On success, WGL, the insurers, and the legal team are entitled to their deferred fees and any success fees to reflect the risk that the Claim would be unsuccessful. As part of the settlement sum, WWL/EUKOR has agreed to pay £8.75m towards costs, fees and disbursements, which includes a contribution towards the costs of the litigation incurred to date, insurance premiums and success fees. If there are undistributed funds following distribution, the Class Representative may apply to the Tribunal for up to a further £3.25 million from the Deferred Damages Sum to meet outstanding costs, fees and disbursements.

RIGHT TO BE HEARD AT THE SETTLEMENT HEARING

As set out above, the Tribunal has listed the Settlement Hearing to begin on 5 December 2024. This hearing will take place at the Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP (tel.: 020 7979 7979).

In accordance with Tribunal Rule 94(7), any Class Member may “*make written submissions to the Tribunal in relation to the Proposed Settlement. Any Class Member may also seek permission to make oral submissions at the hearing of the application for a collective settlement approval order by making an application for such permission, with reasons, as part of their written submissions*”. The Tribunal has directed in its Order dated 21 November 2024 that such submissions should be filed with the Tribunal and provided to the Class Representative and WWL-EUKOR by 29 November 2024.

Should any Class Member have questions about its right to be heard, it can contact the Class Representative by email or by post to either of the following addresses info@cardeliverycharges.com or Car Delivery Charges, PO Box 13260, BRAINTREE, CM7 0PL.