

**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](http://www.cardeliverycharges.com).

This notice relates to a proposed settlement (the “**Proposed Settlement**”) agreed between the Class Representative and the Fourth Defendant, (“**K** Line”) (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*”. On 14 November 2024, the Class Representative agreed an in-principle settlement with the Sixth to Eleventh Defendants (“**WWL/EUKOR**”) (the “**WWL/EUKOR Settlement**”), subject to the Tribunal’s approval. The Settlement Application, together with the settlement application in relation to the WWL/EUKOR Settlement, will be considered by the Tribunal at a hearing on 5 December 2024, which is expected to last for one day (the “**Joint 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 Joint Settlement Hearing.

A full copy of the Settlement Application will be available to view online at [www.cardeliverycharges.com](http://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 “K” Line 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.<sup>1</sup>

On 14 November 2024, the Class Representative agreed an in-principle settlement with WWL/EUKOR, also subject to the Tribunal’s approval. More information about the WWL/EUKOR Settlement, including the equivalent legal notice in respect of the WWL/EUKOR Settlement is available at [www.cardeliverycharges.com](http://www.cardeliverycharges.com).

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<sup>1</sup> The collective settlement approval order is available on the Tribunal website: <https://www.catribunal.org.uk/cases/13397720-mark-mclaren-class-representative-limited>

The case against the First to Third and 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 “K” Line.

The Class Representative’s position is that “K” Line had a market share of 17.3% (when considering the capacity of its vessels). On the basis of this market share, “K” Line’s share of the total Claim value would be £37.25 million. “K” Line does not admit that the conduct found by the European Commission had any impact on “K” Line’s shipping prices, and denies that class members are entitled to the relief sought.

The key terms of the Proposed Settlement are as follows:

- (a) **Settlement value:** “K” Line has agreed to pay up to £12.75 million in full and final settlement of the Claim. This will comprise an up-front payment of £12.25 million. In addition, “K” Line will contribute up to £500,000 to the cost of distributing the settlement to class members.
- (b) **Timing of payment:** “K” Line is to pay the up--front 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 “K” Line 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 and any sums received from WWL/EUKOR. 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 from “K” Line of up to £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 £5.25 million, directly or indirectly (for example to a charity), to compensate the class (the “**Guaranteed Damages Sum**”).
- (e) **Further available distribution:** In addition to the Guaranteed Distribution, a further £1.75 million (the “**Additional 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 plus any sums available for distribution following any other settlement(s) or final judgment. The Additional Damages Sum will otherwise be available for payment of costs, fees and disbursements (if required) or will be repaid to “K” Line.
- (f) **Payment of costs, fees and disbursements:** The Claim is funded by a third-party funder, Woodsford Group Limited (“**WGL**”), which has paid the up-front 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 (subject to oversight from the Tribunal) to reflect the risk that the Claim would be unsuccessful. As part of the settlement sum, "K" Line has agreed to pay £5.25 million towards costs, fees and disbursements, which includes a contribution towards the costs of the litigation incurred to date, insurance premiums and success fees.

## **RIGHT TO BE HEARD AT THE SETTLEMENT HEARING**

As set out above, the Tribunal has listed the Joint 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 "K" Line 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](mailto:info@cardeliverycharges.com) or Car Delivery Charges, PO Box 13260, BRAINTREE, CM7 0PL.