

All major European truck manufacturers participated in a cartel. Victims of the cartel are entitled to compensation. The Trucks Cartel Compensation Foundation has decided to organise and manage a European collective action against the truck manufacturers. This document contains basic information about this collective action.

Background of the Claim

In the period 1997 – 2011, all major European truck manufacturers participated in a cartel relating to price fixing, concerted delays of introducing new emission technologies, and the passing on to customers of compliance costs for stricter emission standards.

The following manufacturers of medium (6-16 tons) and heavy trucks (weighing over 16 tons) participated in the cartel: Volvo/Renault, MAN, Daimler (Mercedes), Iveco, DAF and Scania, collectively 99% of the European market.

The cartel was created at meetings between senior managers, at trade fairs or other events. Information was exchanged by phone and e-mail.

“It is not acceptable that MAN, Volvo/Renault, Daimler, Iveco and DAF ... were part of a cartel instead of competing with each other. For 14 years they colluded on the pricing and on passing on the costs for meeting environmental standards to customers.”

MARGRETHE VESTAGER - EU COMMISSIONER FOR COMPETITION

On 19 July 2016 and 27 September 2017, the European Commission issued press releases in which it announced record fines totalling EUR 3,81 billion for the cartel relating to:

- *coordinating prices at “gross list” level for medium and heavy trucks in the European Economic Area. The “gross list” price level relates to the factory price of trucks, as set by each manufacturer. Generally, these gross list prices are the basis for pricing in the trucks industry. The final price paid by buyers is then based on further adjustments, done at national and local level, to these gross list prices;*
- *the timing for the introduction of emission technologies for medium and heavy trucks to comply with the increasingly strict European emissions standards (from Euro III through to the currently applicable Euro VI);*
- *the passing on to customers of the costs for the emissions technologies required to comply with the increasingly strict European emissions standards (from Euro III through to the currently applicable Euro VI).*

In addition to the fines, the European Commission encourages “victims” of the cartel to seek compensation from the cartel participants for their damage incurred. Buyers and lessees of trucks potentially have significantly overpaid for a total period of 14 years. Such overpayment, or “overcharge”, can be claimed back.

Procedure and Structure

Filing a successful action against defendants who have deep pockets and are legally sophisticated entails high costs and risks, that European claimants alone may not be prepared to bear. It is for this reason that the Trucks Cartel Compensation Foundation (the “Foundation”) has decided to organise and manage a European collective action against the truck manufacturers.

The aim is to obtain full compensation for the damage incurred by buyers and lessees of trucks. To attain this objective, the Foundation has filed suit in the jurisdiction of the Netherlands, which is internationally recognised as efficient and favourable to European competition law damage claims. By appointing the best lawyers, economists and other experts in this matter, the Foundation has maximised the potential for a successful recovery of damages.

By joining our initiative, claimants assign their claims for damages against the trucks cartel to the Foundation against a deferred purchase price. The Foundation functions as a central entity to claim damages incurred by all parties that have assigned their claim to it. Among other things, the assignment model ensures process efficiency and group strength, while keeping your company’s name as much as possible away from publicity. The Foundation is managed and funded by Omni Bridgeway, who instructs and pays for the best experts and lawyers.

Based on our cartel litigation experience, a settlement that does justice to the actual loss incurred can only be reached if a very solidly prepared and documented legal case is brought in an appropriate court. For that purpose, the Foundation has retained the full-service law firm Brande & Verheij LLP, a top tier firm with multidisciplinary advisers. Our team at Brande & Verheij, based in Rotterdam, contributes its extensive experience with proven track record in cartel damages litigation to our fight for the best result. See www.brandeverheij.com

Further, the Foundation has retained the services of CEG-Global, a highly rated and experienced competition economics consultancy, that will use their robust knowledge of economics & finance theory and quantitative techniques to assist the Foundation in the Value of Commerce and Overcharge calculations needed to correctly quantify the damage. See www.ceg-global.com

KEY PROPERTIES

- Highly Experienced Coordination Team
- Top Tier Law Firm
- One Of The Largest Groups Of Bundled Claims
- Aligned Interests Across Parties
- Knowledgeable Economic Experts
- Strong Focus On Client Support
- Successful Track Record In Large Claims
- Solid Funding

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Founded in 1986, Omni Bridgeway is an established and experienced expert in managing cartel related claims and is financially backed by institutional investors. Omni Bridgeway has offices in Amsterdam (the Netherlands), Geneva (Switzerland), Cologne (Germany) and Singapore.

For more details on Omni Bridgeway, please visit omnibridgeway.com.

Next steps

Before you decide to join our Foundation, it is important to fully understand what you may expect and, equally, what the Foundation will expect from you. In practice, the Foundation manages the entire legal process, pays all the legal costs and court fees, hires and pays for all experts necessary to solidify the case and bears the (adverse) cost risk. Whether the claim is ultimately successful or not, the Foundation bears the full financial risk.

The Foundation does most of the work. For this claim to be successful however, we require certain information from you.

- The first step is to start investigating which legal entity, or entities within your group of companies, have actually purchased or leased trucks during the 1997-2011 period in the European Economic Area, because all these legal entities will need to sign a contract with the Foundation. A website has been created which will assist in the sign-up process.
- Once the contracts are signed, we will ask you to look for a specific set of historical receipts and other purchase / lease related data. These data are needed to calculate the actual damage caused by the cartel. Of course, we would like to have as much detail as possible, but we realise that especially the older data may be more difficult to find. Often, there are multiple solutions for obtaining the required data, such as via our trusted third party providers. Rest assured that we will do our utmost to facilitate you and help you where we can. Our experts will calculate your damage in due course and may or may not get in touch again for additional data requests.
- The final step is for you to do absolutely nothing and let the legal experts do their work. Omni Bridgeway's team will periodically contact you to inform you about relevant developments as and when they happen.
- If you have further questions, we welcome you to contact us at legal@truckscartelcompensation.com, +31 70 338 4343, or via your regular contact person at Omni Bridgeway.

“Any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision constitutes binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without being reduced on account of the Commission fine.”

THE EUROPEAN COMMISSION IN ITS PRESS RELEASE

Possible value of your damage

Calculating your exact damage is a very complicated matter, for which we have hired a team of experienced experts. However, to give you a number to work with we have made some preliminary estimates. Considering that the European Commission concluded that the cartel coordinated its prices on gross list level and considering that the cartel impacted both medium and heavy trucks, we start our calculations with an assumed average gross list price of EUR 65,000 per truck (excluding options and VAT). Based on scientific research on the average price effect of an average cartel, we conservatively work with a 10% overcharge. We feel that this is a reasonable estimate as 75% of cartel cases typically have a higher overcharge. We will also claim the interest on the damages, from the date the truck was purchased. Given the fact that the cartel started as early as 1997 and lasted for some 14 years, and the fact that the interest on the damages continues to accrue until a settlement or court decision, this may increase your claim by over 50%. Therefore we **conservatively estimate that your damages may amount to EUR 10,000 per truck, on average.**

	FOUNDATION	YOU
Identify relevant legal entities, create an account, upload the requisite documents & sign agreement(s).	✓	✓
Manage entire legal process.	✓	
Pay for all related legal and court fees .	✓	
Hire and pay for damages experts to calculate your damages.	✓	
Bear (adverse) cost risk .	✓	
Retrieve historic data on trucks & upload	✓	✓
Provide periodic updates on process.	✓	

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