

Stichting Truck Claim

Annual Report 2018

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Directors' Statement

Mission

Stichting Truck Claim is a non-profit Dutch foundation with its registered seat in Rotterdam, the Netherlands.

Representation

The foundation represents the interests of professional users, being transport companies that have bought or leased one or more trucks or truck combinations in the period 1997-2011, and have paid too much for the purchase or lease of these trucks or truck combinations, and are not engaged in any civil proceedings against one or more truck manufacturers in connection with the cartel.

Objective and approach

The foundation was incorporated on 1 December 2016 to recoup the damages that have been incurred by trucking companies as a result of the truck cartel. The foundation intends to obtain redress for these affected companies from the truck manufacturers in two ways:

- **Settlement** - The objectives of the foundation are drafted in light of the primary goal of concluding a fair and reasonable solution for all involved parties by means of reaching a collective settlement.
- **Litigation** - If (one or multiple) truck manufacturer(s) would not be willing to pursue an out of court solution the Dutch legal system enables the foundation to litigate on the merits of the case in the Netherlands.

By virtue of its articles of association the foundation is allowed to collect claims of affected companies and subsequently file one or more lawsuits in order to obtain redress for these companies.

Governance

Management Board

The foundation is governed and represented by the management board. The management board is responsible for the strategy, financial policy and day-to-day business of the foundation. In 2018, the management board consisted of Mr Cornelis den Ouden. The foundation is currently looking for opportunities to further expand the management board.

Supervisory Board

The articles of the foundation allow the possibility to install a supervisory board to supervise the foundation's management board and the general course of affairs and business of the foundation. The foundation expects to install a supervisory board in the course of next year.

Case Background

On 19 July 2016, the European Commission (EC) found that MAN, Volvo/Renault, Daimler, Iveco, and DAF breached EU Antitrust rules. On 27 September 2017 the EC issued a press release informing that it had also concluded that Scania participated in the cartel.

The truck manufacturers were involved in prohibited collusion on truck pricing and on passing on the costs of compliance with stricter emission rules for a period of about 14 years. The five Truck Manufacturers listed in the decision acknowledged their liability for the cartel and reached a settlement with the EC. Scania chose not to cooperate with the EC during the investigation, but was fined in a later stage. Volkswagen's MAN escaped a fine since they applied for leniency and revealed the existence of the cartel.

The EC decision

The EC found that the anticompetitive behavior of the truck manufacturers was related to (at least):

- coordinating prices at "gross list" level for medium (6-16 tons) and heavy (>16 tons) trucks in the EEA;
- 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); and
- 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).

Scope and period

The infringement covered the entire European Economic Area (EEA), including the UK, and lasted about 14 years - roughly from 1997 until January 2011 - when the EC carried out unannounced inspections of the firms.

Affected companies

The truck cartel has affected a significant number of haulers operating in Europe, together with companies which have their own fleets. These are businesses which purchased medium and heavy duty trucks from MAN, Volvo/Renault, Daimler, Iveco and/or DAF between 17 January 1997 and 20 September 2010 (MAN) /18 January 2011 (others). It is clear from a EC press release of 17 September 2017 that Scania also participated in the cartel.

By virtue of its articles of association, the foundation represents the interests of all the affected companies.

Actions of the foundation during the year 2018

The year 2018 has been the second financial year since the incorporation of the foundation on 1 December 2016.

Book building

Since its incorporation, the foundation has built a portfolio of affected companies in multiple European jurisdictions, thereby focusing on SME companies. This multi-jurisdiction approach allows the foundation to bundle damage claims and data relating to the same infringement.

Legal partners

The foundation has concluded partnerships with organizations from local jurisdictions to help the foundation with (the collection of) claims in the start-up phase. Partners of the foundation provide multiple services, such as:

- rendering general advice and expertise to the foundation with respect to relevant aspects of law within the partner's jurisdiction;
- operating as a local contact for local victims, other relevant interest groups and the media;
- securing active support of victims that become a participant in the foundation; and
- promoting of the Foundation and its efforts within the certain jurisdiction.

Litigation on the merits

The foundation will bundle multiple claims and consequently file one (or multiple) joint lawsuit(s). Litigation will be done on a Power of Attorney basis so that participants remain the owner of their claim. The terms and conditions of the participation are laid down in a Participation Agreement. The foundation issued the writ of summons in July 2019; the proceedings will start in the beginning of 2020.

Selection economic expert

The foundation has organized a private tender and selected an economic expert that will be calculating the overcharge for trucking companies that participate in the initiative of the foundation.

The economic experts will draft an economic report that will serve as a basis for the participants' claims in the aforementioned litigation.

Financials

The foundation follows a strict “no-cure-no-pay” arrangement with its participants. Car owners can join the foundation completely free of charge. All costs (including legal costs) will be borne by the foundation, for which it has obtained external funding. In return, the foundation deducts a certain percentage of the settlement amount (if aggrieved companies settle their claim via the foundation) or from the compensation amount that has been obtained in court (in case of successful litigation on the merits). This is 20% of the compensation amount after successfully litigating individual claims and 15% of the settlement amount after a voluntarily settlement.

The foundation is initially funded by private net-worth individuals. The foundation obtained additional funding by a professional third party funder in April 2019.

The foundation has regularly corresponded with the tax authorities regarding its tax obligations. So far the tax authorities concluded that the foundation is able to deduct VAT.

Meetings

The management board, the legal counsel and the financiers of the foundation regularly consulted each other via email, phone and have held physical meetings. The conversations and messages focused on the foundation’s strategy, the governance, the financial affairs of the foundation, and the general course of affairs around the truck cartel case.

Information and communication

The foundation has developed an international platform where participants can simply register and upload the necessary data.

The claim platform is assessable for participants through the website of the Foundation: www.truckclaim.org. The claim platform provides a structured and safe way to information that is needed to fully register with the foundation. The trucking companies on their end will be able to monitor the registration process from their personal account.

The webpage is particularly focused on the international market and allows an easy registration for trucking companies.

Annual Accounts 2018

A. Balance Sheet

	<u>31.12.2018</u>	<u>31.12.2017</u>
<u>FIXED ASSETS</u>		
Intangible fixed assets	--	--
Tangible fixed assets	--	--
<u>CURRENT ASSETS</u>		
Inventories	--	--
Receivables	€ 46,671	€ 36,969
Cash and bank balances	€ 161,551	€ 123,886
<u>CURRENT LIABILITIES</u>		
Creditors	€ 80,180	€ 36,969
Accrued liabilities	€ 84,200	€ 56,578
Current assets minus current liabilities	€ 43,842	€ 67,308
Assets minus current liabilities	€ 43,842	€ 67,308
<u>EQUITY</u>	€ 43,842	€ 67,308

B. Statement of Income and Expenses

	<u>2018</u>		<u>2017</u>	
<u>INCOME</u>				
Third Party Funding	€	0	€	0
Total	€	0	€	0
<u>EXPENSES</u>				
Legal & Notary		108,764		214,010
Management/Remuneration Fees	€	8,838	€	4,123
Other	€	155,864	€	14,559
Total	€	273,466	€	232,692
Operating Income	€	(273,466)	€	(232,692)
Non-operating Income	€	0	€	0
Net loss	€	(273,466)	€	(232,692)

Notes to the Annual Accounts 2018

A. Notes to the Balance Sheet

BALANCE SHEET VALUATION POLICIES

General

Stichting Truck Claim is a Dutch non-profit foundation and represents the interests of European Trucking Companies that suffered damage as a result of the Truck Cartel.

Valuation of assets and liabilities and determination of the result take place under the historical cost convention.

Unless mentioned otherwise at the relevant principle for the specific balance sheet item, assets and liabilities are presented at face value.

Receivables

Upon initial recognition the receivables are recorded at the fair value and subsequently valued at the amortized cost. The fair value and amortized cost equal the face value. Provisions deemed necessary for doubtful accounts are deducted. These provisions are determined by individual assessment of the receivables.

Cash and cash equivalents

Cash and cash equivalents are valued at nominal value and, insofar as not stated otherwise, are at the free disposal of the company.

Current liabilities

Current liabilities concern debts with a term of less than one year. Upon initial recognition the current liabilities are recorded at the fair value and subsequently valued at the amortized cost.

Equity

The equity is the actual funding up to 31 December 2018 minus the expenses made up to and including 31 December 2018. Additional funding is guaranteed by the additional funding acquired in April 2019.

B. Notes to the Statement of Income and Expenses

PRINCIPLES FOR THE DETERMINATION OF INCOME AND EXPENSES

General

The foundation is founded 1 December 2016 and this second financial year comprises of twelve months up to 31 December 2018.

Income

Net income represents amounts invoiced for services rendered during the financial year reported on, net of discounts and value added taxes.

Expenses

Expenses are attributed to the financial year to which they relate.

Willemstad, 21 November 2019,

Management Board

Cornelis den Ouden