The Trucks cartel will have affected a significant percentage of the 600,000 hauliers operating in Europe, as well as companies or corporate groups which retain their own fleets.

The Trucks Cartel
On 19 July 2016, the EC concluded a five-year investigation finding that five major truck manufacturers – MAN, Volvo / Renault, Daimler, Iveco and DAF (the “Cartelist”) – unlawfully coordinated the pricing of trucks over a 14-year period, from 1997 – 2011, as well as colluding on the timing of the introduction of emission technologies and the passing on to customers of the costs of those technologies. Each Cartelist admitted their involvement and so cannot appeal the findings of the EC.

The EC Decision covered both “medium-duty” and “heavy-duty” trucks, which were defined by the EC as those weighing 6-16 tonnes and over 16 tonnes respectively. The EC found that the cartel affected prices of trucks across the entire European Economic Area.

The EC imposed record-breaking fines of over €2.9 billion on the Cartelist. Individual fines amounted to €670.4 million for Volvo/ Renault; over €1 billion for Daimler; €494.6 million for Iveco; and €752.7 million for DAF. MAN avoided fines as it was the first to report the cartel to the EC, but was still found to have unlawfully participated in the cartel. A further truck manufacturer, Scania, remains under investigation.

It is not acceptable that MAN, Volvo/Renault, Daimler, Iveco and DAF, which together account for around 9 out of every 10 medium and heavy trucks produced in Europe, 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”

Margarthe Vestager,
The EC Commissioner for Competition

Rights to Compensation
As stated in the EC press release, any business which purchased or leased trucks which were affected by the cartelist has a right to claim compensation in their national court for any loss which it suffered as a result of the higher prices they paid for trucks due to the cartel, together with interest.

This will include trucks purchased from MAN, Volvo/Renault, Daimler, Iveco and DAF between 1997 and 2011. MAN’s immunity from fines for being the whistleblower does not exempt it from liability for compensation of any losses caused to its customers. The affected businesses may also be able to claim damages in respect of purchases of Scania and other from the cartelist, on the basis that the market price of trucks is likely to have been artificially increased by the cartel regardless of whether Scania/other manufacturers themselves have participated in the unlawful price-fixing.

The Damages Directive
The right to compensation of the affected truck purchasers may be significantly enhanced by the upcoming domestic implementation of the Damages Directive.

The Damages Directive is a European Union (EU) - wide instrument which was signed into law in November 2014. It is a part of the EC initiative to further encourage and assist businesses which have suffered loss as a result of price fixing to claim compensation, establishing minimum rights for claimants across the EU to ensure compensation is more accessible.

Among others, the Directive provides for greater availability of disclosure from the defendants to give claimants access to information regarding the extent of the cartel overcharge (Article 5); and requires that claimants are entitled to “full compensation” (Article 3). The deadline for the EU Member States to incorporate the Directive’s provisions into their national laws, where these are not already met, is 27 December 2016.

Next steps
Companies and other entities who purchased trucks during the cartel period are encouraged to contact Hausfeld’s European offices in Berlin, Brussels, and London for an initial assessment of their potential claim.