

Anticipated acquisition by Bain Capital Investors LLC of Gruppo Cordenons S.p.A

Decision on relevant merger situation and substantial lessening of competition

ME/6748/18

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 19 July 2018. Full text of the decision published on 2 August 2018.

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

SUMMARY

1. Bain Capital Investors LLC (**Bain Capital**) is a private equity investment group that owns, among many other companies, Fedrigoni S.p.A. (**Fedrigoni**). Bain Capital has agreed to acquire Gruppo Cordenons S.p.A. (**Cordenons**) (the **Merger**). Fedrigoni and Cordenons are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties will cease to be distinct as a result of the Merger, that the share of supply test is met and that, accordingly, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. The Parties overlap in the supply of wood-free graphic specialty paper (**graphic specialty paper**) in the UK. The Parties supply graphic specialty paper through two main routes, either directly to printers or through merchants (including specialist paper merchants) who then supply printers and other end-users in the UK.
4. The CMA considered whether the product frame of reference should be narrowed to coated felt-textured paper, a paper produced by both Parties with particular characteristics that make it suitable for certain end uses. Based on evidence from the Parties and third parties, the CMA concluded that coated

felt-textured paper forms part of the wider product frame of reference for the supply of graphic specialty paper. Therefore, the CMA has assessed the impact of the Merger in the supply of graphic specialty paper.

5. The CMA investigated whether the Merger would give rise to horizontal unilateral effects in the supply of graphic specialty paper in the UK. The CMA found that the Parties' combined share of supply is relatively low, at [30-40]% by volume ([20-30]% by value); the Parties compete closely, but are not particularly close alternatives compared with other large competitors; and the Parties will face strong competition from a range of alternative suppliers post-Merger. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) in the supply of graphic specialty paper in the UK.
6. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

7. Fedrigoni is an Italian company that manufactures and supplies paper globally, including both graphic and fine paper (including graphic specialty paper), security paper and solutions (eg paper for bank notes), self-adhesive labelstock, and stationery. Fedrigoni had a worldwide turnover of £[~~xxx~~] million in 2017, of which £[~~xxx~~] million was generated in the UK.
8. Cordenons is an Italian company that manufactures and supplies paper globally, including graphic specialty paper and industrial filtration paper. Cordenons had a worldwide turnover of £[~~xxx~~] million in 2017, of which £[~~xxx~~] million was generated in the UK.

Transaction

9. Bain Capital intends to take full control of Cordenons through the acquisition of its entire share capital for a consideration of €[~~xxx~~] million.
10. The Parties submitted that the transaction brings together two highly complementary businesses, in relation to their geographic presence, distribution, and R&D capabilities. [~~xxx~~].

11. The Merger is conditional on CMA clearance. The Parties informed the CMA that the Merger is also the subject of review by competition authorities in Austria¹ and Serbia.

Jurisdiction

12. As a result of the Merger, the enterprises of Fedrigoni and Cordenons will cease to be distinct.
13. The turnover test is not met because the UK turnover of Cordenons does not exceed £70 million.
14. The Parties overlap in the supply of graphic specialty paper in the UK. The Parties estimated that their combined share of supply of graphic specialty paper in the UK is [20-30]% by volume (with an increment of [10-20]% brought about by the Merger).² The CMA therefore believes that the share of supply test in section 23 of the Act is met.
15. The CMA accordingly believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
16. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 6 June 2018. The statutory 40 working day deadline for a decision is therefore 31 July 2018.

Counterfactual

17. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is

¹ The Austrian Competition Authority approved the acquisition by Bain Capital of Cordenons on 26 June 2018 (BWB/Z-3948)

² Bain Capital's estimated share of supply of the Parties and key competitors based on sales volume. As discussed in paragraph 47 below, the CMA believes that the Parties' estimate of their share of supply is an underestimate.

a realistic prospect of a counterfactual that is more competitive than these conditions.³

18. In this case, there is no evidence supporting a different counterfactual, and the Parties and third parties have not put forward arguments in this respect. Therefore, the CMA believes the prevailing conditions of competition to be the relevant counterfactual.

Frame of reference

19. Market definition provides a framework for assessing the competitive effects of a merger. It involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger. There can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.⁴
20. The Parties overlap in the supply of graphic specialty paper in the UK. Neither Party manufactures paper in the UK.⁵ Both Parties utilise paper merchants to distribute their products in the UK, with Fedrigoni also supplying some UK printer customers directly.

Product scope

21. The Parties both produce graphic papers, which are papers used primarily for printing, writing, and packaging. Graphic papers can be divided into (i) 'standard' grades, which are produced in large volumes and are not highly differentiated, and (ii) 'specialty' grades, which cover a wide range of grades of paper with different characteristics. Specialty grades have a greater level of differentiation in terms of, for example, weight, surface finishes, and colour. The Parties submitted that Fedrigoni supplies both standard and specialty graphic paper in the UK, but Cordenons supplies only specialty graphic paper in the UK.

³ *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

⁴ *Merger Assessment Guidelines*, paragraph 5.2.2.

⁵ Fedrigoni has manufacturing sites in Italy, Spain, and Brazil. Cordenons has manufacturing sites in Italy.

The supply of graphic specialty paper

22. In *Arjowiggins/M-real Zanders Reflex*, the European Commission (EC) distinguished graphic specialty paper as a separate product market from wood-free standard paper. This was based on its special characteristics (such as being coloured, embossed, translucent or coated in metallic ink), different marketing strategies, and because this type of paper is produced in smaller quantities and sold at a higher price.⁶
23. In the present case, the Parties submitted that the narrowest plausible product frame of reference is the supply of graphic specialty paper, in line with the *Arjowiggins/M-real Zanders Reflex* case. The Parties submitted that the demand-side differences identified in that case remain relevant today. On the supply-side, the Parties said that several factors distinguish the production of standard and specialty graphic paper: first, the lower capacity of machines used to produce specialty graphic paper; and second, the need for converting machinery to apply additional features to specialty graphic paper, eg coating and embossing, which is not required for standard paper.
24. Several third-party respondents confirmed that there is a clear specialty or premium segment within graphic paper, and that the conditions of competition in this segment are different from those in the standard graphic paper segment.
25. Based on this evidence, and consistent with the previous decision of the EC, the CMA has identified a separate frame of reference for graphic specialty paper, which does not include graphic standard paper.

Further segmentation of graphic specialty paper: coated felt-textured paper

26. Both Parties produce a particular type of graphic specialty paper with certain distinctive characteristics. These papers are felt-textured, which makes them glossy and smooth. They are also treated with a specialised coating, which provides higher vivid printing results suitable for certain end uses, particularly producing greetings cards and luxury packaging.
27. The Parties submitted that coated felt-textured paper was not a distinct frame of reference and that graphic specialty paper should not be segmented further. However, some customers raised concerns about the Merger, indicating that a limited number of suppliers produce coated felt-textured graphic specialty paper. The CMA therefore considered whether coated felt-

⁶ European Commission Case COMP/M.4513 – [Arjowiggins/M-real Zanders Reflex](#), paragraphs 131-132.

textured paper could represent a separate frame of reference, looking at both demand and supply-side factors.

Demand-side substitution

28. The Parties submitted that customers use various types of graphic specialty paper interchangeably in a range of applications and there are no grades dedicated exclusively to specific end uses. They added that the appearance of a final product rarely has to be in a specific form, meaning that customers can substitute between different forms of graphic specialty paper.
29. Most of the Parties' customers that responded to the CMA indicated that they would generally switch to alternative paper grades in response to a 5% price rise of coated felt-textured paper.⁷
30. The Parties provided correspondence between Cordenons and their largest customer ([REDACTED]). The correspondence indicated that customers would switch to alternative paper grades in the event of a price increase in coated felt-textured paper.

Supply-side substitution

31. The Parties submitted that the same machinery and technology is used to produce a broad range of grades of graphic specialty paper, and most manufacturers supply many different grades.
32. The Parties also said that there are at least six European graphic specialty paper producers that have the necessary coating equipment to produce coated felt-textured paper. The Parties said that all these suppliers could supply coated felt-textured paper in the UK.
33. Some customers confirmed that suppliers could fairly easily start producing grades of specialty paper which they did not already supply, with one commenting that, when they requested a supplier to produce a replacement product to one previously produced by [REDACTED], the supplier was quickly able to produce a very close substitute.
34. Customers also said that there are other existing suppliers of coated felt-textured paper in the UK in addition to the Parties, namely James Cropper, Arjowiggins, and Favini.

⁷ Some customers, given their intermediary role in the market, told the CMA that they would pass the price increase on to their customers. However, they said that they would expect these customers to then switch from coated felt-textured paper to a different type of paper.

35. Competitors who responded to the CMA also did not identify any barriers to supplying coated felt-textured paper, with two competitors confirming that they already produce this type of paper, albeit with low UK sales volumes.
36. Based on this evidence, the CMA does not believe that coated felt-textured paper represents a distinct product frame of reference.

Conclusion on product scope

37. For the reasons set out above, the CMA has assessed the impact of the Merger in the supply of graphic specialty paper.

Geographic scope

38. In *Arjowiggins/M-real Zanders Reflex*, the EC considered the geographic frame of reference to be EEA-wide⁸ on the basis that many manufacturers operate throughout Europe from a limited number of production sites, the cost of transportation is low, and most brands are used in several EEA countries.
39. The Parties submitted that the narrowest plausible geographic frame of reference for the supply of graphic specialty paper is the UK.
40. Third-party responses indicated that there are no significant differences in competitive conditions between the UK and the rest of the EEA.
41. Based on this evidence, and on a cautious basis, the CMA has assessed the impact of the Merger on a UK-wide basis.

Conclusion on frame of reference

42. For the reasons set out above, the CMA has assessed the impact of the Merger in the supply of graphic specialty paper in the UK.

Competitive assessment

Horizontal unilateral effects

43. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and

⁸ European Commission Case COMP/M.4513 – [Arjowiggins/M-Real Zanders Reflex](#), paragraph 121.

without needing to coordinate with its rivals.⁹ Horizontal unilateral effects are more likely when the merging parties are close competitors.

44. The CMA has assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of graphic specialty paper in the UK.
45. In undertaking this assessment, the CMA considered the Parties' shares of supply in graphic specialty paper in the UK, the closeness of competition between the Parties, and the competitive constraints on the Parties from alternative suppliers.

Shares of supply

46. The Parties estimated their shares of supply for graphic specialty paper in the UK using internal sales data, competitor sales estimates, and estimates of the total market size produced by external consultants. According to these estimates, the Parties' combined share of supply of graphic specialty paper in the UK by value is [20-30]%, and by volume is [20-30]%.
47. The CMA obtained data from some competitors for their sales of graphic specialty paper in the UK, and used this data to update the Parties' estimates,¹⁰ as shown below.

⁹ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

¹⁰ Some smaller competitors ([REDACTED]) provided either volume figures or revenue figures but not both. In these cases, the CMA estimated the value/revenue based on an average sales price of £[REDACTED], as used by the Parties in calculating estimates for 'other suppliers'.

Share of supply estimates of graphic specialty papers (UK, 2017)

Supplier	Revenue	%	Volume (MT)	%
Fedrigoni	£[REDACTED]	[10-20]%	[REDACTED]	[10-20]%
Cordenons	£[REDACTED]	[10-20]%	[REDACTED]	[10-20]%
Parties Combined	£[REDACTED]	[20-30]%	[REDACTED]	[30-40]%
James Cropper	[REDACTED]	[40-50]%	[REDACTED]	[40-50]%
Arjowiggins	[REDACTED]	[10-20]%	[REDACTED]	[10-20]%
Favini	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Koehler	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Others	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Total	£[70-80 million]	100%	[30,000-40,000]	100%

Source: Parties' estimates and competitor sales data where available.¹¹ Suppliers with shares below [0-5]% are aggregated as 'Others'

48. The CMA estimated that, post-Merger, the Parties would have a combined share of supply of graphic specialty paper in the UK of [20-30]% by value and [30-40]% by volume, making it the second largest supplier after James Cropper. The table shows that there are currently four major suppliers in the UK: the Parties, James Cropper, and Arjowiggins, which together account for 90% of sales by volume.

Closeness of competition

49. The Parties submitted that there is no evidence that suggests Fedrigoni competes more closely with Cordenons than it does with any of the other manufacturers which supply graphic specialty paper in the UK. The Parties said that, given Cordenons' smaller presence in the UK and that it supplies entirely through paper merchants, it competes less directly with Fedrigoni in the UK than other competitors.
50. Fedrigoni's internal documents indicate that [REDACTED], and there is nothing in these documents to suggest that Cordenons is a particularly close competitor. A Fedrigoni sales and marketing presentation¹² states that [REDACTED].
51. In Fedrigoni's customer correspondence, [REDACTED]. In Cordenons' correspondence with a paper merchant, [REDACTED].

¹¹ The shares of other smaller players may be underestimated as these shares are based on those competitors that responded to the CMA's questionnaire. However, this underestimation is unlikely to be significant as, by the Parties' own estimates of market shares, "Other suppliers" (all except the Parties, James Cropper, Arjowiggins and Favini) account for only [REDACTED]MT of sales by volume.

¹² Annex 017 to the Merger Notice, [REDACTED].

52. Some customers who responded to the CMA's questionnaire indicated that the Parties supply certain products that are particularly close alternatives (in particular coated felt-textured paper, as discussed at paragraph 26 *et seq*), with just over half of customers expressing concerns about the effects of the Merger and the possibility of price increases. However, some of these customers said that they would be able to switch product or supplier in the event of a price increase. Moreover, as discussed above, most customers that responded to the CMA indicated that they would generally switch to alternative paper grades in response to a price rise in coated felt-textured paper (see paragraph 29 above).
53. Although competitors generally told the CMA that the Parties compete closely, they mainly highlighted that the Parties had similar broad product ranges, rather than suggesting that there was any particular product line where the Parties compete and there are limited other competitors.
54. Based on the evidence set out above, the CMA believes that the Parties compete closely in the supply of graphic specialty paper in the UK, although there is no evidence to indicate that they are particularly close alternatives compared with the other large competitors that also offer a broad range of graphic specialty paper products in the UK.

Competitive constraints

55. The Parties submitted that the competitive landscape is highly fragmented, with many manufacturers of graphic specialty paper supplying in the UK, such as European suppliers: James Cropper, Arjowiggins, Favini, Koehler, Lessebo, and Zuber Rieder; and US manufacturers: Mohawk and Neenah.
56. The Parties also submitted that specialist paper merchants also pose a competitive constraint on the Parties due to their strong brand identities, specialist knowledge and established customer relationships, meaning that customers could choose to approach paper merchants rather than the Parties. Specialist paper merchants are expected to have access to a wider set of manufacturers than other types of customers, thus broadening the constraint on the Parties.
57. The share of supply estimates indicate two main competitors to the Parties: James Cropper, a UK-based paper manufacturer that specialises in graphic specialty paper; and Arjowiggins, a French paper manufacturer that produces both standard and specialty graphic papers, as well as specialty synthetic papers.

58. The CMA found from Fedrigoni's internal documents that it considers itself constrained by a range of competitors, including [redacted]. In Fedrigoni's customer correspondence, several other suppliers are named as competitors.
59. Customers who responded to the CMA's questionnaire indicated they currently use, or would use, a range of suppliers other than the Parties. One customer, who indicated that the Parties' products are close alternatives, said that James Cropper, Arjowiggins, and Favini could all provide similar products.
60. Competitors listed several other suppliers with whom the Parties compete closely, including James Cropper, Arjowiggins, and Favini. Competitors did not generally raise concerns about the impact of the Merger due to the presence of these alternative suppliers.

Conclusion on horizontal unilateral effects

61. For the reasons set out above, the CMA believes that the Parties' combined share of supply is relatively low, at [30-40]% by volume ([20-30]% by value); the Parties compete closely but are not particularly close alternatives compared with other large competitors; and the Parties will face strong competition from a range of alternative suppliers who will continue to constrain the Parties post-Merger.
62. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of graphic specialty paper in the UK.

Decision

63. Consequently, the CMA does not believe that it is or may be the case that the Merger may be expected to result in an SLC within a market or markets in the UK.
64. The Merger will therefore **not be referred** under section 33(1) of the Act.

Andrew Wright
Director of Mergers
Competition and Markets Authority
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