

## **ANTICIPATED ACQUISITION BY FEDRIGONI S.P.A. OF ARJOWIGGINS GROUP LIMITED**

### **Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)**

Whereas:

- (a) the Competition and Markets Authority (**'CMA'**) has reasonable grounds for suspecting that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in Fedrigoni S.p.A., which is owned by funds controlled by Bain Capital Investors, LLC, and Arjowiggins Group Limited, which is currently owned by AW Creative Papers Group Limited, ceasing to be distinct;
- (b) the CMA is considering whether to make a reference under section 22 or 33 of the Act;
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under sections 22 or 33 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to Bain Capital Investors, LLC (**'Bain Capital'**), Bain Capital Europe Fund, IV, LP, BCIP Associates V, LP, BCIP Associates V-B, LP, Fabric (BC) Investor S.à.r.l, Fabric Poolco S.à.r.l., Fabric (BC) Topco S.à.r.l., Fabric (BC) Midco Ltd (collectively, the **'Bain Capital Group'**), Fedrigoni Holding Ltd., Fedrigoni S.p.A. and its subsidiaries (collectively, the **'Fedrigoni Group'**), AW Creative Papers Group Limited (**'AW Creative Papers'**), and Arjowiggins Group Limited (**'Arjowiggins'**) (**'Order'**).

## **Commencement, application and scope**

1. This Order commences on the commencement date: 17 June 2022.
2. This Order applies to the Bain Capital Group, the Fedrigoni Group, AW Creative Papers, and Arjowiggins.
3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige the Bain Capital Group, the Fedrigoni Group, AW Creative Papers or Arjowiggins to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.
4. This Order does not prohibit the completion of the transaction provided that the Bain Capital Group, the Fedrigoni Group, AW Creative Papers, and Arjowiggins observe the restrictions set out below.

## **Management of the Fedrigoni Group and Arjowiggins businesses until determination of proceedings**

5. Except with the prior written consent of the CMA, the Bain Capital Group, the Fedrigoni Group, AW Creative Papers and Arjowiggins shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
  - (a) lead to the integration of the Bain Capital Group and the Fedrigoni Group with the Arjowiggins business;
  - (b) transfer the ownership or control of the Fedrigoni Group business or the Arjowiggins business or any of their subsidiaries save that transfer of ownership or control of the Arjowiggins business to the Fedrigoni Group pursuant to completion of the transaction is not prohibited; or
  - (c) otherwise impair the ability of the Arjowiggins business or the Fedrigoni Group business to compete independently in any of the markets affected by the transaction.
6. Further and without prejudice to the generality of paragraph 5 and subject to paragraph 3 and 4, the Bain Capital Group, the Fedrigoni Group, AW Creative Papers, and Arjowiggins shall at all times during the specified period procure that, except with the prior written consent of the CMA:

- (a) the Arjowiggins business is carried on separately from the Bain Capital Group business and Fedrigoni Group business, and the Arjowiggins business's separate sales or brand identity is maintained;
- (b) the Arjowiggins business and the Fedrigoni Group business are maintained as a going concern and sufficient resources are made available for the development of the Arjowiggins business and the Fedrigoni Group business, on the basis of their respective pre-merger business plans;
- (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the Arjowiggins business or the Fedrigoni Group business;
- (d) the nature, description, range and quality of goods and/or services supplied in the UK by each of the Fedrigoni Group and Arjowiggins businesses are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Arjowiggins business and the Fedrigoni Group business are maintained and preserved, including facilities and goodwill;
  - (ii) none of the assets of the Arjowiggins business or the Fedrigoni Group business are disposed of; and
  - (iii) no interest in the assets of the Arjowiggins business or the Fedrigoni Group business is created or disposed of;
- (f) there is no integration of the information technology of the Arjowiggins business or Bain Capital Group and Fedrigoni Group businesses, and the software and hardware platforms of the Arjowiggins business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the Arjowiggins business and the Fedrigoni Group business shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Arjowiggins business will be carried out by the Arjowiggins business alone and for the avoidance of doubt Bain Capital Group and the Fedrigoni Group business will not negotiate on behalf of the Arjowiggins business (and vice versa) or enter into any joint agreements with the Arjowiggins business (and vice versa);

- (h) all existing contracts of the Arjowiggins business and the Fedrigoni Group business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Arjowiggins business or Fedrigoni Group business;
- (j) no key staff are transferred between the Arjowiggins business and the Fedrigoni Group business;
- (k) all reasonable steps are taken to encourage all key staff to remain with the Arjowiggins business and the Fedrigoni Group business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or indirectly, from the Arjowiggins business (or any of its employees, directors, agents or affiliates) to the Bain Capital Group business and Fedrigoni Group business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (including for example, where required for compliance with external regulatory and/or accounting obligations or for due diligence, integration planning or the completion of any merger control proceedings relating to the transaction) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

## **Compliance**

7. The Bain Capital Group, the Fedrigoni Group, AW Creative Papers, and Arjowiggins shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
8. The Bain Capital Group, the Fedrigoni Group, AW Creative Papers, and Arjowiggins shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by the Bain Capital Group, the Fedrigoni Group, AW Creative Papers, Arjowiggins and each of their subsidiaries with this Order. In particular, on 1 July 2022 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of the Bain Capital Group and the Fedrigoni Group, and the Chief Executive Officer of AW Creative Papers and Arjowiggins (or other

persons of the Bain Capital Group, the Fedrigoni Group, AW Creative Papers and Arjowiggins as agreed with the CMA) shall, on behalf of each of the Bain Capital Group, the Fedrigoni Group, AW Creative Papers and Arjowiggins, provide a statement to the CMA in the form set out in the Annexes to this Order confirming compliance with this Order.

9. At all times, the Bain Capital Group, the Fedrigoni Group, AW Creative Papers, and Arjowiggins shall each actively keep the CMA informed of any material developments relating to the Arjowiggins business or the Fedrigoni Group business, which includes but is not limited to:
  - (a) details of key staff who leave or join the Arjowiggins business or the Fedrigoni Group business;
  - (b) any interruption of the Arjowiggins business or the Fedrigoni Group business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
  - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Arjowiggins business or Fedrigoni Group business including any substantial changes in customers' demand; and
  - (d) substantial changes in the Arjowiggins business's or the Fedrigoni Group business's contractual arrangements or relationships with key suppliers.
10. If the Bain Capital Group, the Fedrigoni business Group, AW Creative Papers, or Arjowiggins has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that the Bain Capital Group, the Fedrigoni Group, AW Creative Papers and/or Arjowiggins may be directed to appoint under paragraph 11.
11. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
12. The Bain Capital Group, the Fedrigoni Group, AW Creative Papers, and Arjowiggins shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

## Interpretation

13. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.

14. For the purposes of this Order:

**‘the Act’** means the Enterprise Act 2002;

**‘an affiliate’** of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

**‘Arjowiggins’** means Arjowiggins Group Limited (Company number SC634103);

**‘the Arjowiggins business’** means the business of Arjowiggins and its subsidiaries carried on as at the commencement date;

**‘AW Creative Papers’** means AW Creative Papers Group Limited (Company number SC634287);

**‘the Bain Capital Group’** means each of Bain Capital Investors, LLC; Bain Capital Europe Fund, IV, LP; BCIP Associates V, LP; BCIP Associates V-B, LP; Fabric (BC) Investor S.à.r.l.; Fabric Poolco S.à.r.l.; Fabric (BC) Topco S.à.r.l.; and Fabric (BC) Midco Ltd;

**‘the Bain Capital Group business’** means the business of the Bain Capital Group and its subsidiaries carried on as at the commencement date;

**‘business’** has the meaning given by section 129(1) and (3) of the Act;

**‘commencement date’** means 17 June 2022;

**‘control’** includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

**‘the decisions’** means the decisions of the CMA on the questions which it is required to answer by virtue of sections 35 or 36 of the Act;

**‘the Fedrigoni Group’** means each of Fedrigoni Holding Ltd. and Fedrigoni S.p.A.;

**'the Fedrigoni Group business'** means the business of the Fedrigoni Group and its subsidiaries carried on as at the commencement date;

**'key staff'** means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

**'the ordinary course of business'** means matters connected to the day-to-day supply of goods and/or services by Arjowiggins or the Fedrigoni Group and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Arjowiggins and the Fedrigoni Group;

**'specified period'** means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

**'subsidiary'**, unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

**'the transaction'** means the transaction by which the Fedrigoni Group and Arjowiggins will cease to be distinct within the meaning of section 23 of the Act;

**'the two businesses'** means the Fedrigoni Group business and the Arjowiggins business;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Elie Yoo, Director of Mergers

## ANNEX A

### Compliance statement for the Bain Capital Group and the Fedrigoni Group

I [insert name] confirm on behalf of the Bain Capital Group and the Fedrigoni Group that:

#### Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) The Bain Capital Group and the Fedrigoni Group have complied with the Order made by the CMA in relation to the transaction on 17 June 2022 (the '**Order**').
  - (b) The Bain Capital Group and the Fedrigoni Group's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 and 4 of the Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by the Bain Capital Group or Fedrigoni Group that might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
    - (i) lead to the integration of the Bain Capital Group business and the Fedrigoni Group business with the Arjowiggins business;
    - (ii) transfer the ownership or control of the Fedrigoni Group or any of its subsidiaries; or
    - (iii) otherwise impair the ability of the Arjowiggins business or the Fedrigoni Group business to compete independently in any of the markets affected by the transaction.
  - (b) The Arjowiggins business has been carried on separately from the Bain Capital Group business and the Fedrigoni Group business, and the Arjowiggins business's separate sales or brand identity has been maintained.
  - (c) The Arjowiggins business and the Fedrigoni Group business have been maintained as a going concern and sufficient resources have been made



available for the development of the Arjowiggins business and the Fedrigoni Group business, on the basis of their respective pre-merger business plans.

- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within the Fedrigoni Group business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Fedrigoni Group business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Fedrigoni Group business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the Fedrigoni Group business have been disposed of; and
  - (iii) no interest in the assets of the Fedrigoni Group business has been created or disposed of.
- (g) There has been no integration of the information technology of the Arjowiggins business or the Bain Capital Group and Fedrigoni Group businesses.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Arjowiggins business have been carried out by the Arjowiggins business alone and, for the avoidance of doubt, the Bain Capital Group and the Fedrigoni Group business have not negotiated on behalf of the Arjowiggins business (and vice versa) or entered into any joint agreements with the Arjowiggins business (and vice versa).
- (i) All existing contracts of the Fedrigoni Group business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Fedrigoni Group business.

- (k) No key staff have been transferred between the Arjowiggins business and the Fedrigoni Group business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Fedrigoni Group business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Arjowiggins business (or any of its employees, directors, agents or affiliates) to the Bain Capital Group business and Fedrigoni Group business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
  - (i) key staff that have left or joined the Fedrigoni Group business;
  - (ii) interruptions of the Fedrigoni Group business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Fedrigoni Group business; or
  - (iv) substantial changes in the Fedrigoni Group business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. The Bain Capital Group, the Fedrigoni Group and their subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Fedrigoni Group business in accordance with paragraph 9 of the Order.

### **Interpretation**

4. Terms defined in the Order have the same meaning in this compliance statement.

### **I understand that:**

It is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in

**fin**es, imprisonment for a term not exceeding two years, or both. (Section 117 of the Enterprise Act 2002.)

Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF THE BAIN CAPITAL GROUP AND THE FEDRIGONI GROUP

Signature .....

Name .....

Title .....

Date .....

## Compliance statement for AW Creative Papers and Arjowiggins

I [insert name] confirm on behalf of AW Creative Papers and Arjowiggins that:

### Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) AW Creative Papers and Arjowiggins have complied with the Order made by the CMA in relation to the transaction on 17 June 2022 (the Order).
  - (b) AW Creative Papers' and Arjowiggins' subsidiaries have also complied with this Order.
2. Subject to paragraph 3 and 4 of the Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by AW Creative Papers or Arjowiggins that might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
    - (i) lead to the integration of the Arjowiggins business with the Bain Capital Group business and Fedrigoni Group business;
    - (ii) transfer the ownership or control of the Arjowiggins business any of its subsidiaries; or
    - (iii) otherwise impair the ability of the Arjowiggins business or the Fedrigoni business to compete independently in any of the markets affected by the transaction.
  - (b) The Arjowiggins business has been carried on separately from the Bain Capital Group business and the Fedrigoni Group business, and the Arjowiggins business's separate sales or brand identity has been maintained.
  - (c) The Arjowiggins business and has been maintained as a going concern and sufficient resources have been made available for the development of the Arjowiggins business and on the basis of its pre-merger business plans.

- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Arjowiggins business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Arjowiggins business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Arjowiggins business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the Arjowiggins business have been disposed of; and
  - (iii) no interest in the assets of the Arjowiggins business has been created or disposed of.
- (g) There has been no integration of the information technology of the Arjowiggins business or the Bain Capital Group and Fedrigoni Group businesses, and the software and hardware platforms of the Arjowiggins business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Arjowiggins business have been carried out by the Arjowiggins business alone and, for the avoidance of doubt, the Bain Capital Group and the Fedrigoni Group business have not negotiated on behalf of the Arjowiggins business (and vice versa) or entered into any joint agreements with the Arjowiggins business (and vice versa).
- (i) All existing contracts of the Arjowiggins business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Arjowiggins business.
- (k) No key staff have been transferred between the Arjowiggins business and the Fedrigoni Group business.

- (l) All reasonable steps have been taken to encourage all key staff to remain with the Arjowiggins business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Arjowiggins business (or any of its employees, directors, agents or affiliates) to the Bain Capital Group business and Fedrigoni Group business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
  - (i) key staff that have left or joined the Arjowiggins business;
  - (ii) interruptions of the Arjowiggins business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Arjowiggins business; or
  - (iv) substantial changes in the Arjowiggins business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

- 3. AW Creative Papers, Arjowiggins and their subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Arjowiggins business in accordance with paragraph 9 of the Order.

### **Interpretation**

- 4. Terms defined in the Order have the same meaning in this compliance statement.

### **I understand that:**

It is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fines, imprisonment for a term not exceeding two years, or both.** (Section 117 of the Enterprise Act 2002.)

Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF AW CREATIVE PAPERS AND ARJOWIGGINS

Signature .....

Name .....

Title .....

Date .....