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November 1, 2021
Via E-mail Only

Meredith Schafer
Sheet Metal Air Rail Transportation (SMART)
1750 New York Avenue, NW, 6th Floor
Washington, D.C. 20006
Email: mschafer@smart-union.org
Phone: 202.662.0883

Re: Kingspan Demand to SMART (1) to Cease Circulating Libelous Statements in October 2021
Publication and (2) for Information Regarding Circulation for Mitigation

Dear Ms. Schafer:

DLA Piper is counsel for Kingspan Holdings US Inc. As you know, the publication by Sheet Metal Air Rail Transportation (SMART) titled "Kingspan and the Grenfell Tower Inquiry A Report for Architects, Specifiers, Project Managers & Fire Protection Engineers," dated October 2021 (the "SMART Publication"), contains several libelous statements, made by SMART to intentionally and maliciously cause injury to Kingspan. I address this letter to you regarding the SMART Publication and demand immediate action because you are listed as the contact person on the last page of the SMART Publication. If you are not the correct person to take the required immediate action requested in this letter in response to the damage SMART has caused to Kingspan (and will continue to cause to Kingspan if immediate action is not taken), please direct me to the proper person, provide the person's contact information, and forward this letter to that person immediately, so that further mitigation and corrective action can proceed immediately.

By way of important background to this letter, Kingspan Insulation Ltd UK has always supported, and continues to do so, the vitally important work of the Grenfell Tower Inquiry (the "Inquiry") to determine what went wrong and why. To this end, Kingspan Insulation Ltd UK has provided extensive evidence to the Inquiry including a detailed Closing Statement to Phase 2, Module 2, which corrects a number of inaccurate allegations made against the business during the course of the Inquiry, and which were widely repeated in the media at the time. This statement is published on the Inquiry website: <https://www.grenfelltowerinquiry.org.uk>.

In addition, arising from the Inquiry process, Kingspan identified historical process and conduct shortcomings relating to its Kingspan Insulation Ltd UK business. The evidence from the Inquiry has shown, however, that none of these shortcomings were causative of the failures that led to the Grenfell Tower fire. Kingspan has nonetheless publicly apologized for these shortcomings and has also issued a number of additional clarifications and corrections on its dedicated website <https://inquiry.kingspan.com>.

Despite this publicly available record, the SMART Publication includes a number of inaccurate and libelous statements about Kingspan. As examples, the SMART Publication includes the following verifiable falsehoods:



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- a) Page 1: “The company’s documented conduct that has recently been exposed in the Grenfell Tower Fire Inquiry has concerned its Kooltherm K15 insulation, the primary Kingspan product used in a small portion (5.2%) of London’s Grenfell Tower as part of the exterior insulation and cladding system *that is believed to have contributed to the extraordinarily rapid spread of the fire up the side of the building.*” (Emphasis added.) The “principal reason” for the rapid flame spread was determined by the Inquiry to be the PE-cored ACM cladding.¹ There is currently no evidence to suggest that the insulation (not to mention the Kingspan insulation, which comprised only a small portion of the installed insulation) contributed in any meaningful manner to the rapid spread of fire. Paragraphs 10, 11, and 12 of Kingspan Insulation’s Closing Statement for Phase 2, Module 2 clearly explain that *any* rainscreen insulation will play some part in a cladding fire and scientific research has shown that the nature and speed of the spread of the fire at Grenfell Tower would not have been materially different if a non-combustible insulation had been used.² This further evidences that the rapid fire spread was as result of the PE-cored ACM cladding.
- b) Page 4: “Until October 2020, Kingspan continued to use a 2005 large scale fire test to market K15, despite the fact that Kingspan had introduced a new, more flammable, version of K15 in 2006.” SMART repeats a version of this libellous statement – in bold – on page 5. There is absolutely no scientific or expert evidence to support the assertion that the “new” version of K15 introduced in 2006 is “more flammable” or had a worse fire performance than the pre-2006 K15 product. In fact, evidence provided to the Inquiry by Dr Malcolm Rochefort (and referred to at paragraph 61 of Kingspan Insulation’s Closing Statement for Phase 2, Module 2) confirms that there was no reason, on a chemical level, to expect any significant difference in terms of fire performance between the “old” or “new” versions of the product and if anything, the “new” version benefited from a less flammable blowing agent. Although the “new” version of K15 was incorporated into BS8414-2 system tests in 2007 and 2008 that did not the meet the BR135 criteria – a product does not pass or fail a large scale test; only a system as a whole (insulation, cladding, fire barriers, fixings etc.) can pass or fail the test.³ The “new” version of K15 did not fail these tests at all, the system failed. On page 11 of the SMART Publication, in the bottom left corner of the page, SMART confirms its agreement with this understanding that the standards in the UK “only apply for the entire system as tested...and not for any single component of that assembly system.”
- c) Page 8 (in bold): “Although technically allowed at the time by the U.K. building code, Kingspan also used what it called a ‘loophole’ and ‘a bit of a cheat’ to achieve a higher fire rating (Class 0) for K15 by testing only foil surface of the insulation, even though the complete product had failed

¹ Grenfell Tower Inquiry, Phase 1 Report, para 2.13a.

² See Kingspan Insulation’s Opening Statement for Phase 2, Module 2 para 67-75 and in particular the following Efectis papers: “Reconstruction of Grenfell Tower fire. Part 3—Numerical simulation of the Grenfell Tower disaster: Contribution to the understanding of the fire propagation and behaviour during the vertical fire spread.” Fire and Materials 2020; 44; 35-57; “Reconstruction of the Grenfell Tower Fire — Part 4: Contribution to the Understanding of fire propagation and behaviour during horizontal fire spread.” Fire and Materials, 2020; 1-27.

³ See paragraphs 66 to 72 of Kingspan Insulation’s Closing Statement for Phase 2, Module 2, which addresses these tests in detail.



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the test.” The truth is K15 did achieve the “Class 0” fire rating for surface spread in a flame test in accordance with the plain words of the statutory guidance at the time. This too is publicly reported in Kingspan Insulation’s Closing Statement for Phase 2, Module 2 available from the link above (see in particular paragraphs 82 to 90). There was no “cheat” or “loophole,” and K15’s Class 0 classification is in accordance with a reasonable, valid and legitimate interpretation of the relevant statutory guidance. Kingspan’s interpretation is consistent with the Inquiry’s own independent expert evidence from Dr. Barbara Lane. Dr. Lane explained that in 1985 “the requirement to consider the substrate with the surface was removed from the text in the statutory guidance document.” This deliberate change in the statutory guidance permitted the testing of the surface material of a composite product, as opposed to the testing of the entirety of the product.

- d) Page 15: “Between 2006 and 2015, in other words, there was not a single successful large scale fire test that could be applied to K15. Instead, there were tests on versions of K15 that were not actually the product being sold in the market.” SMART’s libellous falsehood is repeated and extrapolated upon in an entire section beginning on page 16 of the SMART Publication. In 2015 alone there were three large scale test passes on systems incorporating K15. In total, there are currently 14 large scale test passes on systems incorporating K15 and these are listed at footnote 5 of Kingspan Insulation’s Module 2 Closing Statement.

These are only examples of numerous libelous statements in the SMART Publication, which taken in its entirety gives the entirely false impression that Kooltherm K15 was not safe for use in compliant applications in the UK during the period covered by the evidence given to the Inquiry.

Accordingly, Kingspan demands that SMART:

- 1) Immediately discontinue any circulation of the SMART Publication by tomorrow, November 2, 2021;
- 2) Immediately take down any electronic posting of the SMART Publication or reference to it by tomorrow, November 2, 2021;
- 3) Identify each and every person or entity to whom SMART has provided a copy of the SMART Publication (electronic or in hardcopy), including full contact information, by no later than November 5, 2021, so that Kingspan may mitigate damage caused; and
- 4) Identify each and every place (physical and electronic) where SMART has posted or otherwise published the SMART Publication by no later than November 5, 2021.

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Kingspan reserves all of its rights.

Sincerely,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'Rajiv Dharnidharka'.

Rajiv Dharnidharka
Partner

cc: Lorcan Dowd