

## Announcement of appeal<sup>1</sup>

<b>Case</b>	A-008-2014
<b>Appellant</b>	Crosfield Italia S.r.l., Verona, Italy
<b>Appeal received on</b>	14 August 2014
<b>Subject matter</b>	A decision taken by the European Chemicals Agency (the 'Agency') pursuant to Article 13(3) and 13(4) of the Fee Regulation
<b>Keywords</b>	<i>Verification of SME status – Decision finding registrant was not an SME – Invoicing of supplementary registration fees and administrative charge</i>
<b>Contested Decision</b>	SME(2013) 4672
<b>Language of the case</b>	English

### Remedy sought by the Appellant

The Appellant requests the Board of Appeal to:

- revoke or annul the Contested Decision; and
- cancel the invoices resulting from the Contested Decision.

### Pleas in law and main arguments

On the basis of the information submitted by the Appellant in a process of verifying the Appellant's status as a small- and medium-sized enterprise (hereinafter 'SME'), the Agency concluded in the Contested Decision that the Appellant is ineligible for the claimed registration fee reductions for a small-sized enterprise. The Contested Decision informed the Appellant that the Agency will issue an invoice for the additional amount up to the full registration fee for a large enterprise, as well as an invoice for an administrative charge. Furthermore, the Contested Decision stated that failure to pay the balance to the correct registration fee will result in the rejection of the registrations concerned and revocation of registration numbers assigned by the Agency following completeness checks.

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<sup>1</sup> Announcement published in accordance with Article 6(6) of Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency.

In its appeal the Appellant contends that the Contested Decision can be appealed before the Board of Appeal as it falls within the situations envisaged by Article 20 of the REACH Regulation.

The Appellant claims that the Contested Decision is unlawful as it lacks motivation since the Agency failed to take any account of the Appellant's arguments contesting the calculation criteria used by the Agency to determine the company size. This omission means that the Appellant cannot fully defend itself nor understand the legal reasoning of the Agency when adopting the Contested Decision.

The Appellant also claims that the Contested Decision is completely unfounded as the Agency erroneously assessed the information concerning the Appellant's relationship with other enterprises. The Appellant also disagrees with the Agency's broad interpretation of the notion of 'linked enterprises' and argues that this leads to incongruous results. Finally, the Appellant considers that the Agency should have concluded that the Appellant is a small size enterprise.

### **Further information**

The rules for the appeal procedure and other background information are available on the 'Appeals' section of the Agency's website:

<http://echa.europa.eu/web/guest/regulations/appeals>