

Helsinki, 22 November 2010

[REDACTED]

EC number: [REDACTED]
Reference number: DSH-30-3-[REDACTED]-2010

**YOUR REQUEST CONCERNING A DATA SHARING DISPUTE WITH [REDACTED]
[REDACTED] FOR SUBSTANCE WITH EC NUMBER [REDACTED]**

Dear Mr. [REDACTED]

The European Chemicals Agency (ECHA) has examined the information you (acting on behalf of the company [REDACTED]) provided on 22 September 2010 (complemented by e-mails dated 24 and 27 September 2010, 6 and 13 October 2010), as well as your reply to our communication of 13 October 2010 provided on 4, 5, 8 and 10 November 2010, regarding an alleged failure in reaching an agreement on data sharing with [REDACTED]

You base your request on Article 30(3) of the REACH Regulation. However, this provision refers to data sharing disputes resulting from a failure in reaching an agreement to share data involving testing on vertebrate animals. From the information received (in particular the correspondence from you to [REDACTED] dated 7 September 2010 and your explanations dated 5 November 2010), ECHA notes that you have actually purchased the Letter of Access (LoA) and licence on behalf of [REDACTED] in order to be a part of a Joint Submission for the substance with EC number [REDACTED].

In so far as you agreed to purchase the LoA under the conditions proposed, we can only acknowledge that you have already reached an agreement on the sharing of the data with the other party.

Moreover, according to the Article 30(3), ECHA is only allowed to grant a permission to refer to the data not shared as a result of a dispute, but is not entitled to impose the reimbursement of costs of data already shared.

Therefore, Article 30(3) of the REACH Regulation is not applicable in this specific case and ECHA cannot proceed with your request.

However, you have indicated that you are acting as a Third Party Representative on behalf of other companies which intend to register for the same substance (and possibly for the [REDACTED]). ECHA would like to draw your attention to the fact that the present decision concerns only [REDACTED] for which you submitted the webform. Accordingly, you may still initiate a data sharing dispute procedure in relation to these other registrants, especially if they are subject to registration by [REDACTED]. Please note you will need to submit a request separately for each of them in case you still have a data sharing dispute.

[REDACTED], a data sharing procedure lodged now may not be concluded by [REDACTED]. Therefore, in order to allow those registrants to fulfil their legal registration obligations, ECHA can allow these operators to proceed with the registration without the full data set, while the data sharing dispute is being processed. However, this permission will only be temporary and will not prejudice the final outcome of ECHA contradictory assessment. This permission to proceed being only temporary may entail legal consequences should ECHA eventually decide not to grant a definitive permission to refer to the data already submitted.

If you have a specific concern about the content of this message you can contact ECHA using the webform at http://echa.europa.eu/about/contact-form_en.asp and then selecting the menu item 'Enquiry on specific submission to ECHA'.

Yours faithfully,

[REDACTED]
Christel Schilliger-Musset
Director
Directorate of Registration & IT Tools

"ECHA reminds you that following Article 16 of Regulation (EC) No 1049/2001, the documents attached are subject to copyright protection."