

**DECISION OF THE CHAIRMAN OF THE BOARD OF APPEAL  
OF THE EUROPEAN CHEMICALS AGENCY**

**4 May 2020**

*(Request for confidential treatment of information –  
Excerpts of a registration dossier)*

<b>Case number</b>	A-011-2018
<b>Language of the case</b>	English
<b>Appellant</b>	Clariant Plastics & Coatings (Deutschland) GmbH, Germany
<b>Representatives</b>	Ruxandra Cana, Darren Abrahams and Hannah Widemann Steptoe & Johnson LLP, Belgium
<b>Contested Decision</b>	CCH-D-2114394043-52-01/F of 9 April 2018, adopted by the European Chemicals Agency pursuant to Article 41 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (OJ L 396, 30.12.2006, p. 1; the 'REACH Regulation')

**THE CHAIRMAN OF THE BOARD OF APPEAL**

gives the following

### Decision

1. Paragraphs 36, 74, 83, 142 and 143 of the decision of the Board of Appeal in Case A-011-2018, *Clariant Plastics & Coatings (Deutschland)*, cite certain excerpts of the Appellant's registration dossier. On 14 August 2019, the Appellant requested that this information should be treated as confidential and therefore not included in the Board of Appeal's final decision.
2. Pursuant to Article 21(5) and (6) of Commission Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency (OJ L 206, 2.8.2008, p. 5, as amended by Commission Implementing Regulation (EU) 2016/823, OJ L 137, 26.5.2016, p. 4), decisions of the Board of Appeal are, in principle, published in full. As an exception, the Chairman may decide, on the reasoned request of a party, to redact certain information from a decision.
3. In such a case, it falls to the party seeking the redaction to establish that the information in question is of such a nature that it should be kept confidential.
4. The Appellant puts forward two reasons for requesting that the information in question should not be published. First, the information in question is not publicly available in that form. Second, other registrants might rely on the information in question illegitimately, without paying a share of its cost.
5. As regards the first argument, the fact that the information in question is not publicly available in that form does not in itself mean that the information should not be published.
6. As regards the second argument, the eventuality that other registrants might rely on the information in question illegitimately is entirely hypothetical. Moreover, according to the second subparagraph of Article 10(a) of the REACH Regulation, except in cases covered under Articles 25(3), 27(6) or 30(3) of that regulation, a registrant must be in legitimate possession of or have permission to refer to the studies on which it relies for the purpose of registration.

On those grounds,

THE CHAIRMAN OF THE BOARD OF APPEAL

hereby:

**Rejects the Appellant's request for the confidential treatment of the information contained in paragraphs 36, 74, 83, 142 and 143 of the decision of the Board of Appeal in Case A-011-2018, *Clariant Plastics & Coatings (Deutschland)*.**

Andrew FASEY

On behalf of Christoph BARTOS, Chairman of the Board of Appeal

Alen MOČILNIKAR

Registrar of the Board of Appeal