

Parma, 29 June 2017  
Ref. DD/CP/mm (2017) - out- 17959648

Nina Holland  
Agribusiness campaign  
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**Re: Your request for public access to documents of 12 May 2017**  
Our ref: PAD 2017/036

Dear Ms Holland,

I refer to your request for public access to documents submitted on 12 May 2017 through Ask the EU website, by means of which you requested access to:

- "1. Any documents between December 2013 and December 2015, including briefings, reports, correspondence (email or other), where the active substance glyphosate is concerned or mentioned, between officials/representatives/experts of EFSA and officials/representatives of:*
- Monsanto or any other company producing glyphosate*
  - Glyphosate Task Force*
  - Hume Brophy or any other firm representing industry with an interest in glyphosate*
  - European Crop Protection Association (ECPA)*
  - representatives of the US administration, including agencies such as the EPA and the FDA*
  - representatives of the German government*
  - the German Federal Institute for Risk Assessment BfR*
- 2. A list of meetings, as well as agendas and minutes any other reports of such meetings, between December 2013 and now, where the active substance glyphosate is concerned or mentioned, between officials/representatives/experts of EFSA and officials/representatives of the entities mentioned in the list under 1.*
- 3. All access to documents requests sent to EFSA on glyphosate (minus CEO's) since 2012."*

As per our letter of 8 June 2017 in view of the high number of documents falling within the scope of your request and in line with Article 6(3) of the PAD Regulation, we proposed you to reply in subsequent batches. We are hereby disclosing to you a second batch of documents falling within the scope of your request, as follows in the enclosed CD ROM.

#### **1. Partial disclosure – 2nd batch**

With regard to point 1 of your request, we are considering your request as covering briefings, reports and correspondence (e-mail or other) relating to the EFSA's work on the peer review of the active substance glyphosate under Regulation (EC) 1107/2009

concerning plant protection products<sup>1</sup>. Therefore, we have excluded documents relating to other sectors, such as Genetically Modified Organisms (GMOs), falling within EFSA's remit. Please also note that we have excluded from this point the correspondence with the Glyphosate Task Force (GTF) and its members that has already been released to you in reply to your request handled last year, registered as PAD 2016/046. Finally, we are processing your request for correspondence exchanged until the date of your request, i.e. 12 May 2017.

We are pleased to provide you with a first set of documents constituting the correspondence between EFSA and the organisations listed here below. Please be informed that we are still collecting and assessing correspondence with third parties falling in the scope of point 1 of your request.

For your convenience, the relevant correspondence for this second batch is grouped by organisation in the following way:

- Knoell Consult GmbH: we would like to inform you that the GTF that applied as applicant for the renewal of the approval of the active substance glyphosate appointed a consultant Knoell Consult GmbH as interface with EFSA for the whole renewal process and therefore, all communications with and from the applicants were channelled through the consultant. Correspondence exchanged in 2015 is disclosed to you.  
With regard to this correspondence, please note that only few elements of the e-mails disclosed to you have been removed as they are considered to fall under the exception of Article 4(2) PAD Regulation protecting "*commercial interests of natural or legal person including intellectual property rights*" since their full protection is the direct consequence of these elements being qualified as "*confidential*" in Article 63 of Regulation No 1107/2009<sup>2</sup>. Indeed the information masked in the e-mails disclosed to you relates to "*the method of manufacture*" and "*links between a producer or importer and the applicant or the authorisation holder*", disclosure of which can affect the commercial interests of the applicant.
- European Crop Protection Association (ECPA): EFSA exchanged one email dated 12 November 2015 with ECPA consisting in the pre-notification under embargo of the EFSA Conclusion on the peer review<sup>3</sup> and related press material.
- German Federal Institute for Risk Assessment (BfR): correspondence exchanged is disclosed to you for the years 2014-2015.
- German Federal Office of Consumer Protection and Food Safety (BVL): correspondence exchanged in 2014-2015 is disclosed to you.
- German Federal Food Safety and Veterinary Office (BLV): correspondence exchanged in 2014-2015 is disclosed to you.
- The United States Environmental Protection Agency (EPA): correspondence exchanged in 2015 is disclosed to you.

Personal data (i.e. names of individuals and other personal data) present in all the documents disclosed to you have been masked in accordance with Article 4(1)(b) of the PAD Regulation and Article 8(b) of the Data Protection Regulation (EC) No 45/2001. In line with the settled case law of the Union Courts<sup>4</sup>, EFSA will only be able to balance the interests at stake and to consider the disclosure of personal data after you have provided

<sup>1</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, OJ L 309, 24.11.2009, p. 1-50.

<sup>2</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, OJ L 309, 24.11.2009, p. 1-50.

<sup>3</sup> EFSA, 2015. Conclusion on the peer review of the pesticide risk assessment of the active substance glyphosate. EFSA Journal 2015;13(11):4302, 107 pp. doi:10.2903/j.efsa.2015.4302. Available at: <http://www.efsa.europa.eu/en/efsajournal/pub/4302>.

<sup>4</sup> See Judgment in Case C-28/08 P, European Commission v The Bavarian Lager Co. Ltd., EU:C:2010:378.

an express and legitimate justification and convincing arguments in order to demonstrate the necessity of having personal data transferred to you.

We hope you will find the disclosed document useful. I must remind you that all persons reproducing, redistributing, exploiting or making commercial use of this information are expected to adhere to the terms and conditions asserted by the copyright holder.

With regard to point 2 of your request, please note that we are processing your request. As per point 3 of your request, we acknowledge receipt of your e-mail sent on 20 June 2016 confirming your request of access to "the letters or emails requesting access to documents, showing which organisation submitted them". We are processing this part of your request as well.

However, we regret to inform you that EFSA will require sufficient time to process your request due to the large number of documents on which the consultations with third parties need to be completed in accordance with Article 4(4) of the PAD Regulation and the holiday's period impacting on the coordination of our internal work. For this reason, we would like to confer with you to find a fair solution, in accordance with Article 6(3) of the PAD Regulation. We estimate to be in the position to provide you with a complementary reply to your public access to documents request, in a third batch, by **20 September 2017**. We hope this is agreeable to you. Please accept our apologies for any inconveniences caused by this delay.

## **2. Confirmatory application**

To exercise your right to appeal against this decision of partial disclosure by a confirmatory application, you may write to EFSA at the address below. You have fifteen working days from receipt of this letter to appeal. Beyond this deadline, your initial request will be considered as fully satisfied. In case you submit a confirmatory application, EFSA will inform you of the outcome of this re-examination of your request within fifteen working days of receipt, either by granting you access to the documents or by confirming the refusal. In the latter case, you will also be informed of any further appeal routes available. Please note that you can also exercise your right to appeal against this decision after the final reply to all the points of your request will be sent to you (final batch).

Further correspondence must be sent to:

EFSA

Dirk Detken, Head of the Legal and Assurance Services

Via Carlo Magno 1/A

Italia

e-mail: [EFSA.public.access.to.documents@efsa.europa.eu](mailto:EFSA.public.access.to.documents@efsa.europa.eu)

Yours sincerely,

[SIGNED]

Dirk Detken

Encl: CD ROM

Cc: J. Tarazona (EFSA)