

14 FEB 2017

Ref. DD/CP/mm (2017) – Out-16911584

Vincent Harmsen
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Subject: Your request for public access to documents of 3 January 2017
Ref: PAD 2017/001

Dear Mr Harmsen,

I refer to your request for public access to documents of 3 January 2017, by means of which you requested access to correspondence *between January 2016 and January 2017 as follows "on the topic of the active substance glyphosate, all correspondence (including emails), agendas, minutes of meetings or any other reports of such meetings between officials of EFSA and representatives of (one or more of) the following organizations¹".*

We have assessed your request in accordance with Regulation (EC) No 1049/2001 on public access to documents² (hereinafter the "PAD Regulation") with the following outcome. We are hereby providing you with partial access to correspondence between EFSA and certain companies for the year 2016 as detailed below.

1. Partial disclosure

Please note that EFSA had no correspondence related to glyphosate with the following companies listed in your request: Cefic, Hume Brophy, Fleishman-Hillard, Interel European Affairs, EPPA SA, FTI Consulting Belgium, Grayling, Kreab, Weber Shandwick, Acumen public affairs and Steptoe & Johnson LLP. Please note in this respect that a presumption of legality attaches to any statement made by an institution relating to the non-existence of documents requested³.

Following consultation with owners of the correspondence requested for the remaining companies listed in your request, we are pleased to give you access to the correspondence with EFSA as follows:

- Exchanges of letters between EFSA and Monsanto (member of the Glyphosate Task Force, GTF);
- Exchanges of letters between EFSA and Cheminova (member of the GTF);
- Exchanges of letters between EFSA and Arysta Lifesciences (member of the GTF);
- Exchanges of letters between EFSA and Nufarm GmbH & Co.KG (member of the GTF);
- Exchanges of letters between EFSA and ADAMA (member of the GTF);
- Exchanges of letters between EFSA and GTF;

¹ Bayer, -Monsanto, -Syngenta, -ECPA, -Cefic, -Glyphosate Task Force, -Hume Brophy, -Fleishman-Hillard, Interel European Affairs, -EPPA SA, -FTI Consulting Belgium, -Grayling, -Kreab, -Weber Shandwick, -acumen public affairs, -Steptoe & Johnson LLP, -Dr. Knoell Consult

² Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43-48, applicable to EFSA.

³ Case T-380/04 Terezakis v Commission [2008] paragraph 155.

- Exchanges of letters between EFSA and Monsanto and Helm AG (members of the GTF);

All these exchanges relate to the EFSA consultation launched in the context of a public access to documents request regarding accessibility of the studies on the active substance glyphosate, and they were all merged in one document, annexed to the present letter.

Please note that personal data (i.e. names of individuals and other personal data such as hand-written signature) present in all the correspondence disclosed 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 Courts⁴, EFSA will only be able to balance the interests at stake and to consider the disclosure of personal data after you have provided an express and legitimate justification and convincing arguments in order to demonstrate the necessity of having personal data transferred to you.

In addition to the above, please be informed that there is additional correspondence concerned by your request for which the consultations with the owners did not arrive to an end. In view of their large number and the need for third party consultation foreseen in Article 4(4) of the PAD Regulation which is time-consuming, EFSA would like to propose you a fair solution in application of Article 6(3) of the PAD Regulation⁵. EFSA proposes to reply you in batches along the process of finalisation of the third-party consultation and following a case-by-case assessment of the set of documents requested. EFSA will provide you with a second batch of documents in complement to the present disclosure by **7 March 2017 at latest**.

We hope you find the disclosed correspondence 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.

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.

Further correspondence must be sent to:

EFSA

Dirk Detken, Head of the Legal and Assurance Services Unit

Via Carlo Magno 1/A

e-mail: EFSA.public.access.to.documents@efsa.europa.eu

Yours sincerely,


Dirk Detken

Encl: 1

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

⁵ "In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view of finding a fair solution".