

Announcement of appeal¹

Published on	16 June 2020
Case	A-002-2020
Appellant	Tecnofluid Srl, Italy
Appeal received on	13 May 2020
Subject matter	A decision taken by the European Chemicals Agency (the 'Agency') on 19 February 2020 'based on the data sharing dispute processes available to ECHA under the REACH Regulation, and in light of [Commission Implementing Regulation (EU) 2019/1692 on the application of certain registration and data-sharing provisions of the REACH Regulation after the expiry of the final registration deadline for phase-in substances (OJ L 259, 10.10.2019, p. 12)]'
Keywords	<i>Data-sharing dispute – End of the phase-in period – Article 30 – Commission Implementing Regulation 2019/1692 – Cut-off date</i>
Contested Decision	DSH-D-30-3-0332-2019-1
Language of the case	English

Remedy sought by the Appellant

The Appellant requests the Board of Appeal to:

- annul the Contested Decision in its entirety,
- admit the data-sharing dispute under Article 30 REACH,
- grant the Appellant permission to refer to the requested tests or studies,
- order the refund of the appeal fee, and
- take such other or further measures as justice may require.

Pleas in law and main arguments

The Appellant submitted to the Agency an application for permission to refer to certain information on the substance Reaction products of monoethanolamine and boric acid (EC No 701-024-0) under Article 30(3) of the REACH Regulation.

By the Contested Decision, the Agency rejected the Appellant's application for permission to refer as inadmissible on the grounds that the negotiations which led to the filing of the application for permission to refer had not taken place before the deadline foreseen in Article 29(3) of the REACH Regulation (1 June 2018).

¹ 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 as amended by Commission Implementing Regulation (EU) 2016/823.

The Appellant claims that, in adopting the Contested Decision, the Agency:

- failed to take into account certain information provided by the Appellant on the data-sharing negotiations,
- committed several errors in its assessment of the case, and failed to comply with Article 30 of the REACH Regulation and Article 2(2) of the Commission Implementing Regulation 2016/9,²
- stated reasons that are illogical and self-contradictory, and
- infringed Commission Implementing Regulation 2019/1692.

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>

² Commission Implementing Regulation on joint submission of data and data sharing; OJ L 3, 6.1.2016.