



Recognition to the OSOR and 'no data-no market' principles

ECHA Forum meeting 6 November 2014

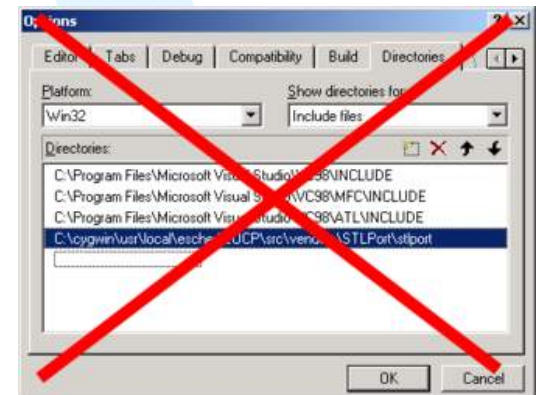
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What's the issue?

Multiple registration dossiers (individual or joint submissions) outside the existing joint submission **for the same substance**, that:

- do not respect **OSOR principle**
- do not respect '**no data – no market**' principle – incomplete dossiers pass the TCC
- make **incorrect use of opt out** (of entire dossier instead of for certain endpoints- art 11(3) and 19(2))



Scope?

- Is this a metals issue only? => NO it is clearly a **GENERIC ISSUE**

BUT: “metals” and/or “data-rich substances” may be **vulnerable:**

- Large numbers of potential registrants
- Many importers
- High investment in quality registration files
- Significant amounts of proprietary information (Consortia level)
- Data rich, so financial benefits of an opt out may be higher
- ...



What about enforcement/compliance check experience?

Enforcement/compliance check, so far...

- Multiple registrations seem **not inspected nor stopped** by ECHA when receiving the registrations
- Lack of an **enforcement strategy** by Member states on the OSOR principle
- **No structural follow-up** strategy by ECHA on multiple registrations
 - E.g. prioritisation for compliance check on use of opt out



Actions taken by industry, so far...

Identification and raising the issue:

- Discussed issue with DG ENT, DG ENV, ECHA

Broadening the support base

- Press release Chemical Watch (May 2014) and Trends (Sept 2014)
- On agenda of REACH FORUM of 26 June 2014

Individual cases :

- Letter from Belgian State Secretary for the Environment to ECHA's Exe. Dir. urging to take action against these free-riders (Sept 2014)
- Charcoal – board of Appeal case ongoing

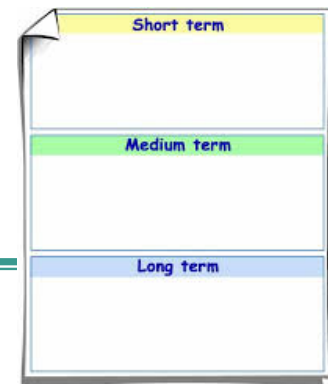
Reasons for bringing this up

- Undermines the objective to **promote REACH** as an efficient tool to improve chemicals management status
- **Number of cases** may grow significantly
 - Creating an increasing number of precedents
 - Some consultants actively offer ‘cheap opt out dossiers’
- **Undermines work** of industry consortia
 - How to persuade registrants to continue investing in regulatory compliance and updates?
- Impossible to **convince a free-rider** to share cost once a registration number is granted
- Distorts **competition**



NEED for **collaborative attention** and **action** to maintain a balance between “motivation” and “compliance”

Objectives



- **Short term:**
 - A clear message from ECHA/Member States to free-riders that incorrect opt-out dossiers are NOT accepted
- **Medium term:**
 - Adapt the REACH-IT system such that the ground for multiple registrations are checked and validated before accepting them
 - Promote compliant companies to continue investing in updating their REACH dossiers rather than needing to challenge “free riders”
- **Long term:**
 - Ensure fair, balanced, transparent and non-discriminatory enforcement (including data sharing) for future & current registrants
 - Guarantee a proper implementation of the Regulation.

Anticipated actions from the FORUM

The highground:

- A clear “moral signal” from the Forum

Prevention and identification:

- REACH IT not automatically accepting individual dossiers outside an existing joint submission
 - unless a plausible justification is provided
- Multiple joint submissions triggering a procedure
 - eventually up to a targeted CC in absence of proper response

Apply enforcement when needed

- An enforcement strategy to discourage free-riders.
 - Check on legitimate access of used data.

But also work on existing cases

- Whistle blowing on real mal practices

