

# **SME VERIFICATION**

SMEs and REACH

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**Company size**



## **Why ECHA verifies the company size**

- To ensure equal treatment
- To support fair competition
- To guarantee that only SMEs benefit from fee reductions

## **What to take into account when assessing the company size?**

- Ownership structure at the time of each submission
- Account closure and years of reference
- Headcount of staff (AWU)
- Audited financial accounts and/or consolidated financial accounts

## **If you realise you declared the wrong size**

- Follow the instructions on the SME web pages on ECHA's website
- Inform ECHA via the Helpdesk webform
- Update the company size in REACH-IT

## **Legal basis and outcome**



## Verification initiated by ECHA

Pursuant to Article 13(3) of the Fee Regulation, the 'Agency may request, at any time, evidence that the conditions for a reduction of fees or charges or for a fee waiver apply'.

- Request for documentary evidence supporting the declared SME size
- Analysis and verification
- Communication of the results

## Outcome of the verification

- No supplementary invoices for confirmed correct size
- Top-up and administrative charge invoices for detected misquoted size
- Failure to provide sufficient documentary evidence leads to top-up and administrative charge invoices for non-SMEs

**NB:** No administrative charge in case of admittance of a wrong size prior initiated verification



**Case studies**

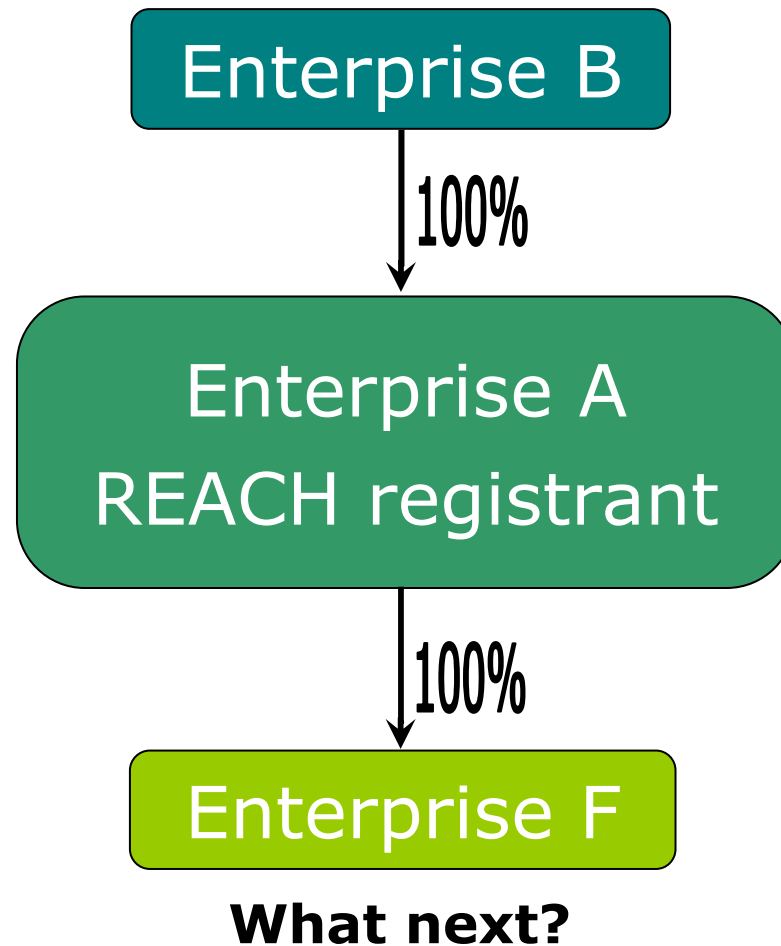


## Case study 1 - Illustrative example

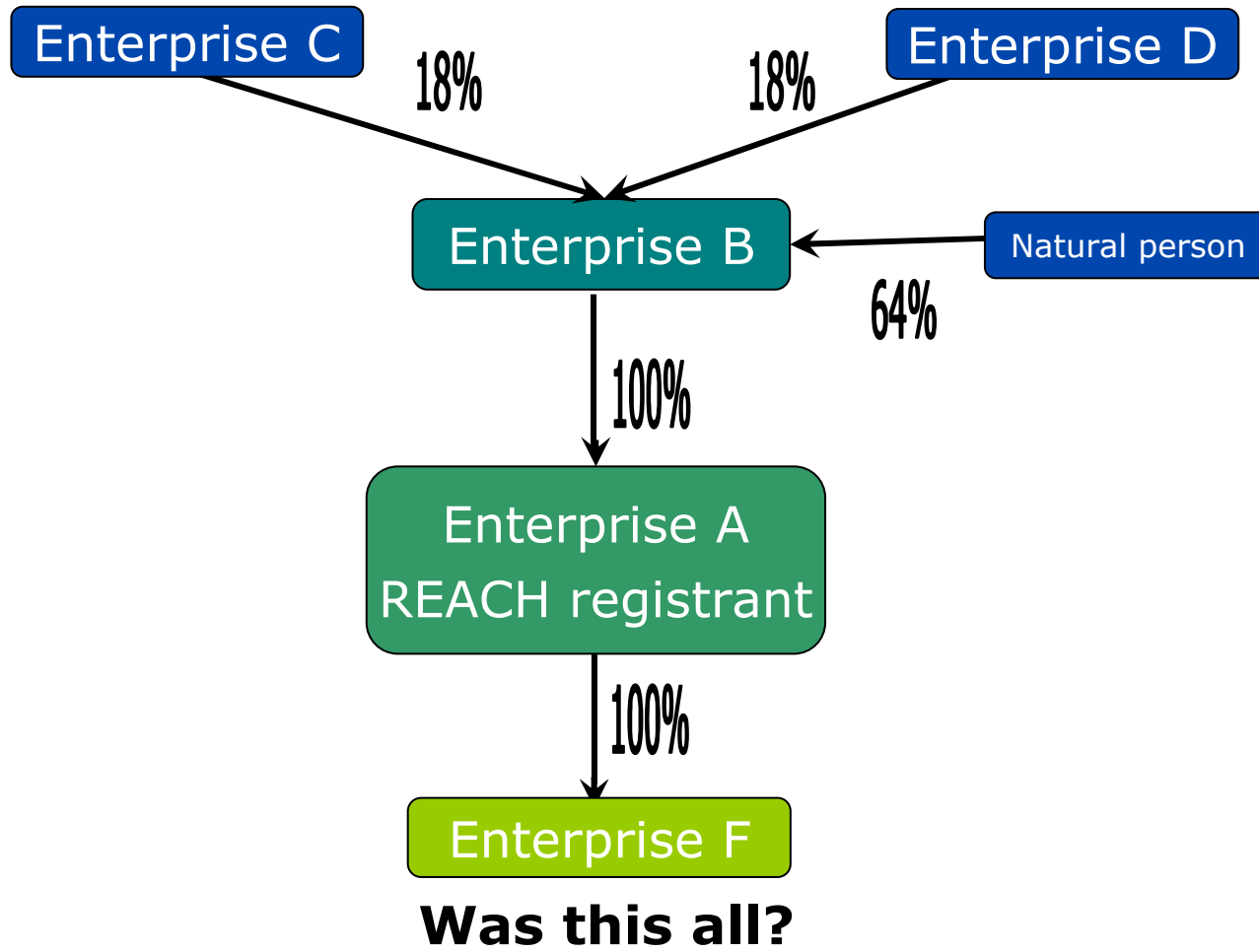
Enterprise A  
REACH registrant

**Is this company autonomous?**

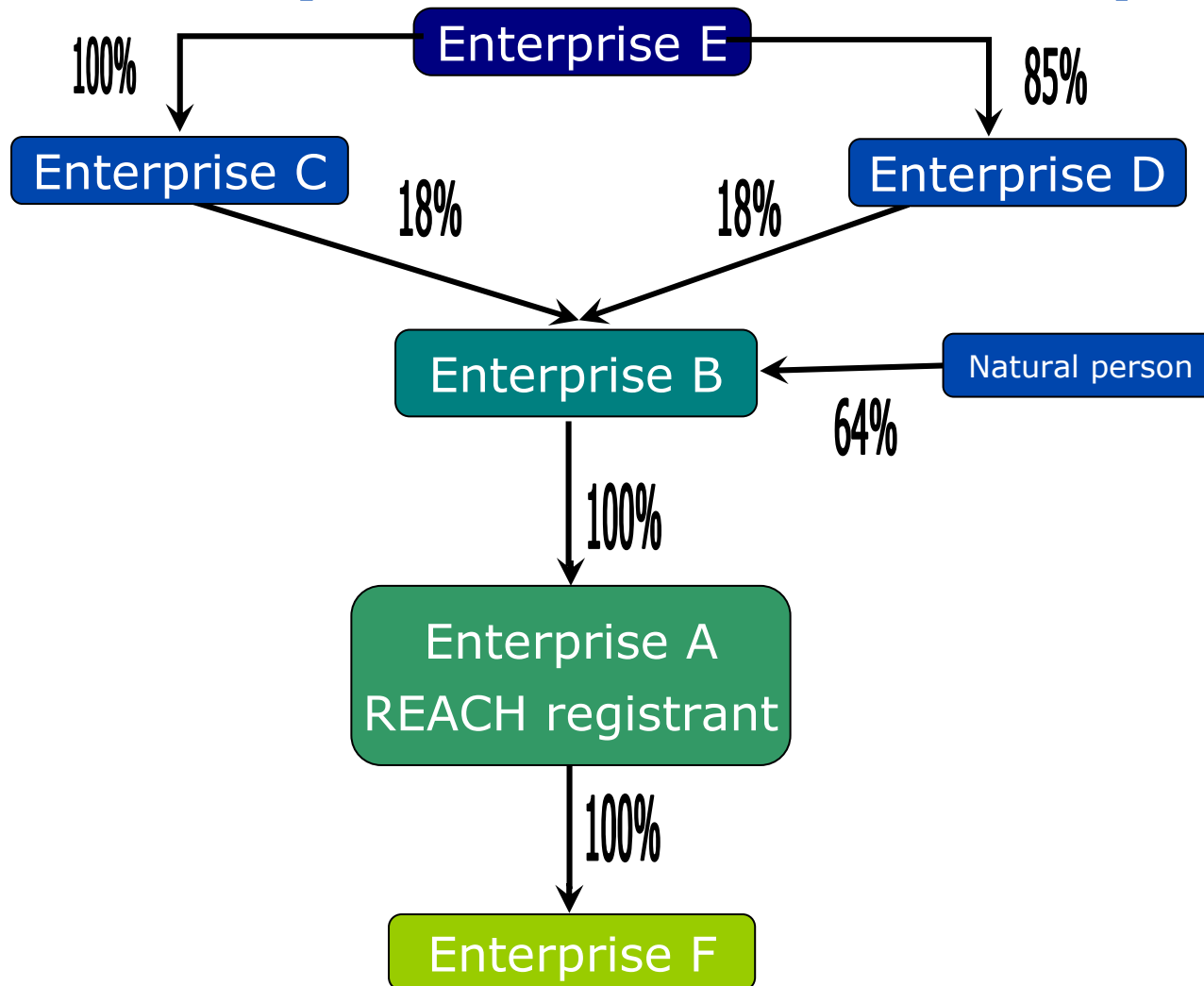
## Case study 1 - Illustrative example



## Case study 1 - Illustrative example



## Case study 1 - Illustrative example



## Case study 1 - Illustrative example

*Please note that the linkages given below are purely illustrative and do not cover all possible variations of partner and linked enterprises that an enterprise may have*

### What we know?

#### ***At the time of the dossier submission in REACH-IT:***

- **Enterprise A** owns 100% of the stakes of **enterprise F**, while **enterprise B** is the sole shareholder of **A** owning 100% of its business.
- **Enterprise B** has 3 shareholders: **enterprises C and D** each holding 18% of its stakes and **Mr. John Doe** is **B**'s majority shareholder owning the remaining 64% of its stakes.
- **Enterprises C and D** have a common majority shareholder – **enterprise E** holding 100% of the stakes of **C** and 85% of the stakes of **D**.

### How to establish the data of A?

## Case study 1 - How to establish the data of A?

**1. Q: Is company 'A' an autonomous enterprise?**

**A: No**

**2. Q: Is company 'A' a linked enterprise?**

**A: Yes**

Enterprise **A** is **linked** to enterprise **F** (through a holding of 100% that **A** has in **F**) and to enterprise **B** (through a holding of 100% that **B** has in **A**).

**3. Q: Is company 'A' a partner enterprise?**

**A: Yes, enterprise A is a partner enterprise**

At the first sight enterprise **A** would not be considered to have any indirect partner enterprises due to the fact that the majority shareholder of **B** (**A**'s immediate sole shareholder) is a natural person and the remaining 2 shareholders are holding less than 25% of **B**'s shares.

However, enterprise **B** is a partner enterprise to **C, D and E** because **C, D and E** are linked to each other, and jointly as a group they own 36% of the stakes of enterprise **B**.

Since, as mentioned above **B** is a linked enterprise to **A** and at the same time **B** is a partner enterprise to **C, D and E**, consequently enterprise **A** is to be considered as a partner enterprise to **C, D, and E**.

To calculate the data of **A**, we add the relevant percentages of the data for **B, C, D, E, and F** to the total data of **A**.

**A TOTAL = 100% of A + 100% of F + 100% of B + 36% of (C+D+E)**

## Case study 2 - Illustrative example

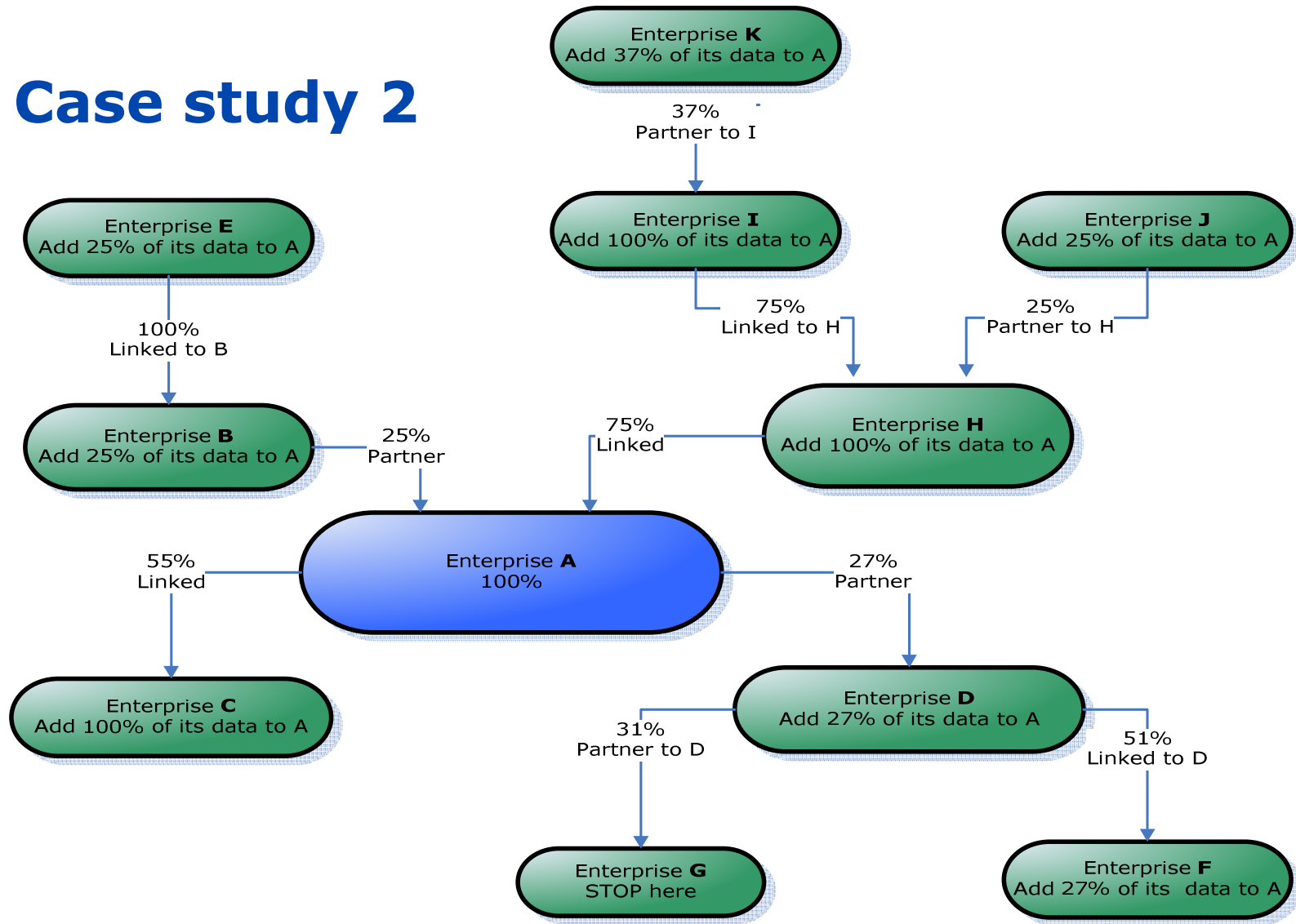
*Please note that the linkages given below are purely illustrative and do not cover all possible variations of partner and linked enterprises that an enterprise may have*

- Enterprise A owns 55% of C and 27% of D, while B has a 25% stake in the business of A and H has 75% stake in the business of A.
- D from its side has 51% stake in the business of F and 31% stake in the business of G.
- E owns 100% of the stakes of B.
- J owns 25% of the stake in the business of H and the remaining 75% of H are owned by I.
- 37% of the stake in the business of I are held by K.

**How to establish the data of A?**



## Case study 2

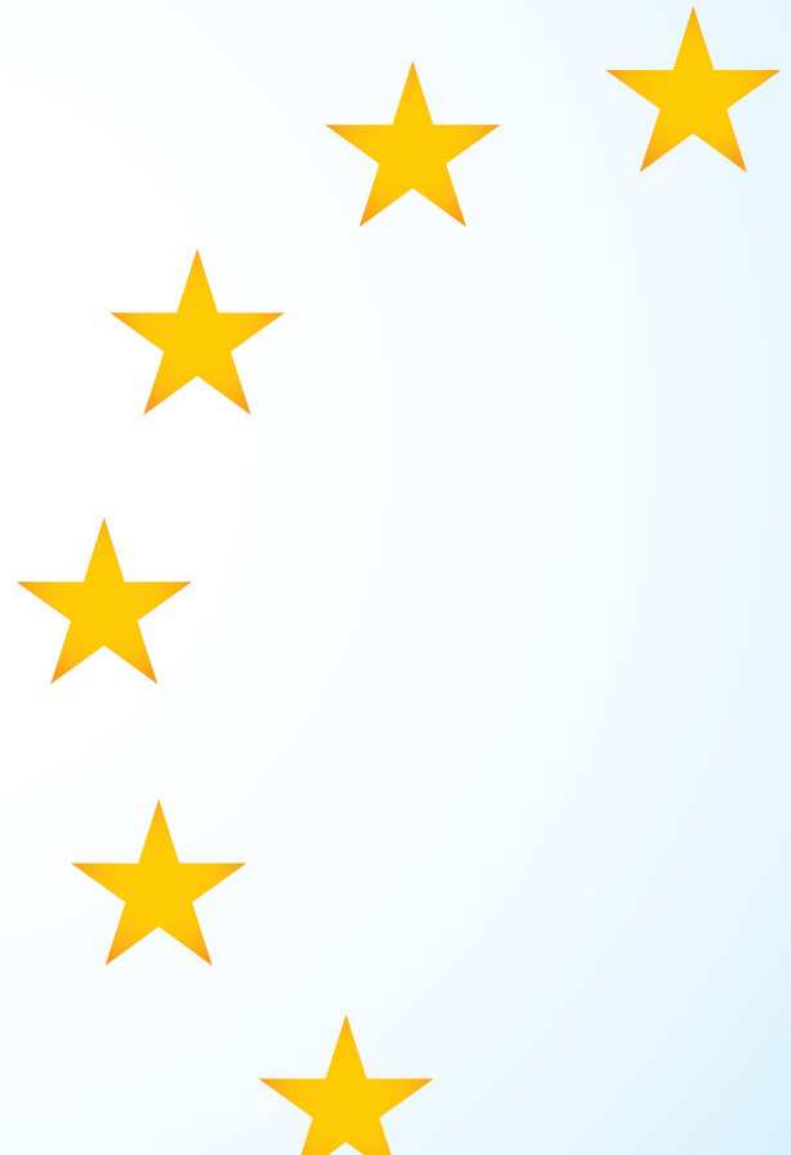


## Case study 2 - How to establish the data of A?

- Enterprise **A** is **linked** to enterprise **H** (through a holding of 75% that **H** has in **A**) and to enterprise **C** (through a holding of 55% that **A** has in **C**). Enterprise **H** should be considered as partner to **J** (through a holding of 25% that **J** has in **H**) and as linked to **I** (through a holding of 75% that **I** has in **H**). Enterprise **I** is also to be considered as partner to **K** (through a holding of 37% that **K** has in **I**).
- Enterprises **B** and **D** are to be considered as **partner** enterprises to **A** based on the following: **B** has 25% stakes in the business of **A** and **A** has 27% in **D**. But **B** is also to be considered as **linked** to **E** because **E** has a holding of 100% in the business of **B**. **D** from its side is **linked** to **F** through 51% holding and **D** and **G** are **partners** due to 31% holding of **D** in the business of **G**.
- To calculate the headcount and financial data of **A**, we add the relevant percentages of the data for **B, C, D, E, F, H, I, J** and **K** to the total data of **A**.
- The data of **G** **should not** be taken into account, because this partner enterprise is not directly or indirectly situated **immediately upstream/downstream** from enterprise **A**.

**A TOTAL = 100% of A + 25% of B + 25% of E + 100% of C  
+ 27% of D + 27% of F + 100% of H + 100% of I + 37% of  
K + 25% of J.**

# Tips, tools and guidance



## Tips – Key Messages

- Always consult the Finance – Accounting – Legal department before declaring the company size in REACH-IT.
- Extra attention to the linked/partner companies - need for consolidated accounts.
- Be prepared to provide the correct supporting documents at ECHA's request.
- The Only Representatives should declare the size of the non-EU manufacturer that they represent and **NOT** that of their own.

## Tips – Key Messages

- Keep the company size updated in REACH-IT at all times.
- Non-payment of invoices resulting of the SME verification will have severe legal consequences including revocation of the registration.
- Avoid the administrative charge by informing ECHA about a mistake in the company size prior the start of SME verification.

## SME Tools and guidance

- Commission Recommendation 2003/361/EC  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>
- Electronic SME test  
[http://ec.europa.eu/research/sme-techweb/index\\_en.cfm](http://ec.europa.eu/research/sme-techweb/index_en.cfm)
- News alert on SME status verification (ECHA/NA/10/72)  
[http://staging/news/na/201011/na\\_10\\_72\\_sme\\_administrative\\_charge\\_20101126\\_en.asp](http://staging/news/na/201011/na_10_72_sme_administrative_charge_20101126_en.asp)
- European Commission - The new SME definition - User guide and model declaration  
[http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)
- Commission Regulation (EC) No 340/2008  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:107:0006:0025:EN:PDF>
- Management Board decision MB/D/29/2010  
[http://echa.europa.eu/documents/10162/13611/mb\\_29\\_2010\\_d\\_final\\_decision\\_on\\_the\\_classification\\_of\\_services\\_for\\_which\\_charges\\_are\\_levied\\_en.pdf](http://echa.europa.eu/documents/10162/13611/mb_29_2010_d_final_decision_on_the_classification_of_services_for_which_charges_are_levied_en.pdf)

**Thank You.**

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