

Authorisation and dissemination

What we need to know to get substitution to work

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An introduction to ClientEarth

- ClientEarth is a non-profit environmental law organisation based in London, Brussels, Paris and Warsaw.
- We are lawyers working at the interface of law, science and policy. Using the power of the law, we develop legal strategies and tools to address major environmental issues.
- As legal experts working in the public interest, we act to strengthen the work of our partners - both governments and NGOs.
- Our work covers climate change and energy system transformation, access to justice, biodiversity, transparency, health and environment, and tropical forests.

Our methodology and principles

- We are lawyers working for people and their environment. Our legal teams are interdisciplinary including scientists, economists and policy experts.
- We work with green groups, academics and the leading edge of industry and governments.
- We view law as a tool for positive social change.
- We work on laws throughout their lifetime, from their conception through to legislation and implementation. And we work to enforce laws when governments fail to do so.
- When focusing on the European Union, we see individual Member States as laboratories where we can innovate ideas to move through the whole EU and beyond.
- We are proactive, helping to create the legal initiatives needed to move people and natural systems into greater resilience both in the developed and developing world.
- We take a long term view—focusing not only on the year or two it takes to get laws passed but on the decade or two it takes for laws to make a difference on the ground.

Legal framework on access

- Article 1(2) TEU:
 - “decisions are taken as openly as possible”
- Article 15 TFEU:
 - “agencies shall conduct their work as openly as possible”
- Regulation (EC) 1049/2001:
 - “Openness contributes to strengthening the principles of democracy”
- Regulation (EC) 1367/2006:
 - active and systematic dissemination to the public of environmental information
- Aarhus Convention:
 - public authorities hold environmental information in the public interest
- Article 109, 118 and Article 119 of REACH
- Article 64(2)(6)(9) of REACH

Steps for identification of information to disseminate

1. Filter all information on the substance through Articles 118(2)*;
2. Filter information for which an Article 10(a)(xi) request was accepted;
3. Weigh the public interest against the commercial interest for information considered confidential;
4. Identify information on emissions (e.g. exposure scenarios, where public interest always exists.

*with the exception of uses to be authorised

Essential information for civil society

- Precise use, function or application;
- Risk management measures;
- Exposure scenarios;
- Precise use, function, application;
- Analysis of alternatives;
- Socio-economic analysis;
- ...

Recommendations to ECHA

- Guide applicants in providing the right information;
- Create consultation templates including summaries of relevant information for third party contributions;
- Include information on authorisation to be disseminated in ECHA transparency rules (Art. 109);
- Create and maintain a substitution database for Annex XIV substances

Conclusions

- Information on chemicals is environmental information;
- Disclosure is the general rule;
- Start assessing the legal framework on CBI;
- Establish screening mechanisms for information to disseminate;
- Look at the aims of title VII: substitution!

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