

# Media Briefing

June 30 2004

## Access to Information on Pesticides

### Friends of the Earth's demands for greater transparency on pesticides approvals

#### Introduction

In recent years the transparency and openness of many regulatory processes has greatly improved compared with the 1980s and early 1990s. Access to environmental information has been made possible by The Environmental Information Regulations 1992. It requires public authorities make all environmental information held by them available to any person who asks for it, without their needing to prove an interest, subject to a number of limited and specific exceptions. The law requires that these exceptions are interpreted strictly and proportionately with the objective of the legislation.

In the near future there will be greater access to environmental information as a result of new Environmental Information Regulations and new European laws. The Aarhus Convention<sup>i</sup> also allows for greater access to environmental information and greater public participation in decision making.

However, the pesticide approval process remains one of the last strong holds of secrecy where corporations still wield their enormous financial muscle to try to minimise the public's "right to know".

#### Access to Information on Pesticides in the UK

Meetings of the Advisory Committee on Pesticides (ACP) are in secret except for a token annual open meeting. Their minutes are published but these do not set out the reasons for their decisions.

Under the current access to information arrangements, operated by the Pesticides Safety Directorate (PSD), access is only allowed for data on pesticides which have been granted a full approval. In addition, the PSD's archaic version of public access requires people to travel to the PSD's York office - having first made a formal request - and to only take hand written copies of data.

The PSD indicated to Friends of the Earth that it would be willing to provide photocopies of studies about the environmental and health effects of pesticides. However, they were prevented from releasing them due to legal action by Bayer CropScience and the Crop Protection Association in 2001. The legal action by the pesticide companies followed a request from Friends of the Earth for access to the data supporting the experimental approval of Bayer's herbicide glufosinate ammonium – one of the herbicides used on the GM crops grown in the government-sponsored Farm Scale Evaluations.

**Page 1**

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So some legal questions about some types of pesticide data remain unresolved in the UK. This is in contrast with the approvals process for GMOs and the process by which GM seed varieties are added to the UK's national list of varieties (the seed list).

Bayer is attempting to get products approved through both these regulatory processes. In both, some data supplied by the company in support of its products is made available to the public before consents are granted although some parts are withheld on the grounds of commercial confidentiality.

To date the decision to limit access to data in this way has not been legally challenged. Despite the lack of full access to data, members of the public are able to make informed contributions to the decision-making process. However, how these comments are included in the decision making process is still not clear because key meetings still take place behind closed doors.

## **Access to Pesticide Information in the 21<sup>st</sup> Century**

The following information should be available to members of the public on request from the PSD and this should be available without permission from the pesticide companies:

- All data supporting applications – full, experimental, off-label or administrative.
- Data submitted during reviews of active ingredients or formulated products including environmental breakdown products and products of metabolism and environmental fate data eg longevity in the soil and mobility in soils.
- Data on contaminants of active ingredients or formulated products.
- All data supporting additives and formulated products.
- All approval documents including any conditions.
- Meeting agendas of the Advisory Committee on Pesticides (ACP) (the statutory committee that advises ministers on pesticide approvals)
- Advice given by PSD staff to the ACP and the Ministers
- Minutes of meetings including decisions and reasons for those decisions.
- A public register of all applications and approvals with lists of documents relating applications. The public register should also include all correspondence relating to the application and decision.
- Data supporting all types of applications should be made available at least six weeks before the application is placed on the ACP's agenda to allow time for interested parties to comment.
- PSD's evaluation should be published at least six weeks prior to the application being placed on the ACP's agenda to allow interested parties to comment.
- Introduction of a right to object to any approval to be heard at a public hearing with a right to appeal against the Minister's decision.
- Copies of all data, minutes, correspondence and approvals should be sent to interested parties on request. Reasonable photocopying charges would be permitted (and notified prior to the commencement of copying). No charge should be levied for staff time.
- Electronic copies should be introduced as soon as possible to facilitate easy access.
- All documents should be water marked to prevent data being resubmitted by rival companies as their own data. Electronic security measures could include read only, no cut and paste to prevent deletion of water marks.

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## Exemptions:

Friends of the Earth recognises that details of manufacturing processes should be confidential although data on contamination arising from manufacturing and processing should be included in supporting data and made public. Precise formulation details would not be supplied but data on all ingredients and contaminants should be available.

Personal details of staff should be deleted from the data sheets and other information published.

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<sup>1</sup> <http://www.unece.org/env/pp/documents/cep43e.pdf>

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