



11 November 2013

John Small
FYI Website

Dear John

Request for official information

I refer to your email dated 11th October 2013, in which you requested all of the information submitted to the Environmental Protection Authority (EPA) in support of an application for using Roundup Transorb on silage crops before harvesting. Your request has been treated as a request for information under the Official Information Act 1982 (OIA).

You noted that since Roundup Transorb is different to generic glyphosate, you considered there to be no commercial risk to the supplier of Roundup Transorb from releasing this information. This was because in your view any seller of another glyphosate product could not rely on this information for its own application to the EPA.

Documents enclosed by the EPA

In response to your request I enclose the following documents:

1. HSR03010 Application form.
2. HSR03010 Decision document.

As well as information that the EPA possesses, I have enclosed a review report from the European Commission for the active substance glyphosate. Within this document is a summary of the relevant endpoints used in the registration of the active in the European Union. While not exactly the same as the dossier provided to the EPA in support of Roundup Transorb, I consider that this may be useful to you (see Attachment 3).

Consultation with applicant

Section 57 of the Hazardous Substances and New Organisms Act 1996 (HSNO Act) sets out a process for dealing with a request for information under the OIA where the information may be able to be withheld under section 9(2)(b) of the OIA, or has been classified as commercially sensitive by the person who gave the information to the EPA.

Accordingly, the EPA contacted the supplier of the requested information, Monsanto, and informed them of your request. Monsanto indicated that they considered that the scientific studies were provided in confidence and should remain confidential. Monsanto noted that Roundup Transorb is no longer being sold in New Zealand, and suggested that they would be happy to have a discussion with you directly on any concerns you had.

The EPA notes that studies provided in support of an application are often confidential in nature. In this case, the EPA has considered both your comments and the response from Monsanto and has decided that the studies were provided in confidence and the information they contain should remain confidential.

Documents withheld by the EPA

The EPA has withheld the remaining information submitted in support of the Roundup Transorb application under section 18(a) of the OIA. Section 18(a) of the OIA provides that requests for information may be refused when there is good reason for withholding the information under the OIA.

Section 57 of the HSNO Act states that where, in the EPA's opinion, any information provided in respect of an application may be able to be withheld under section 9(2)(b) of the OIA, that information shall not be released to any person when the application is publicly notified.

Section 9(2)(b) states that information may be withheld where the making available of the information—

- “(ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.”*

The EPA also considers that another ground exists under section 9(2) of the OIA in that the withholding of the information is necessary to:

1. *“(ba) protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information—
 - (i) would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied”**

In making this decision the EPA has considered, in terms of s 9(1) of the OIA, whether the interest in withholding the information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

You have a right, by way of complaint to an Ombudsman under s 28(3) of the OIA, to seek an investigation and review of this refusal.

Yours sincerely



Rob Forlong
Chief Executive
Environmental Protection Authority