



PMC Karstedt sub-group conf call

Conference call, 23 June 2015 (4:00-4:30 pm CET)

1. Welcome and Introduction

France Capon welcome the participants (cf. list in Annex I) reminding the anti-trust guidelines. The aim of the call was to discuss:

- The latest developments related to the Karstedt and the relation with Reconcile
- The position of PMC in preparation of the meeting with Reconcile which will be organized on 1 July 2015.

2. Summary

Latest developments

Klaus Rothenbacher updated the group concerning the sameness exercise. The exercise was supposed to be finalized end of April but due to unexpected and unexplained delay for Peter Fisk (consultant appointed by Reconcile), this task is significantly delayed without clear new deadlines set. Despite several reminders sent by PMC, no information and no actions are taken by Peter Fisk to finalize the sameness discussion. PMC proposed solutions to speed up the process but no reply so far from Peter Fisk.

Regarding the LR position, France summarized the latest communication received from Reconcile as follows:

- The members of Reconcile discussed in their Steering Committee May 22, the Karstedt registration dossier and came to the following conclusions.
- Regarding the registration dossier to be submitted by the LR and the tonnage band to be covered, Reconcile sent the following text extracted from ECHA guidance and their interpretation:

ECHA's guidance on registration under REACH (Version 2.0 May 2012 at pg.59) provides the following:

“ 3.3.1 Mechanisms of joint submission - *The information that needs to be submitted jointly is submitted by one lead registrant on behalf of the other registrants (the so-called 'member registrants'). Other information needs to be submitted by all registrants individually. The lead registrant of a joint submission could, for example, be the largest producer as he in any case will have to register the entire data set by the earlier deadline. However, this is not obligatory: the joint submission registrants have the possibility to appoint a lead registrant with a lower tonnage (for instance, if they have to prepare joint submissions for more substances and decide to share the workload of managing the joint submissions). If they arrange their joint submission in this way, a lead registrant*



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in a lower tonnage band has to provide a complete dossier (i.e. with studies for the highest tonnage band to be registered for that substance) meeting the earliest deadline applying to any of the registrants. It is important to stress that the lead registrant will always pay the fee corresponding only to his own tonnage band, as well as any other member of the joint submission. In practice this implies that there will be two different types of registration dossiers: the 'lead dossier' (containing the information of the lead registrant and the data set required in REACH for the highest tonnage band to be registered for that substance) and the 'member dossier' (with the individual information to be submitted by each member of the joint submission)."

Reconsile interpretation is that Reconsile's LR can submit its registration dossier covering 1-10t/a by mid-2016 and either transfer the LR to PMC consortium for submitting an upgrade or that the Reconsile LR is submitting the upgrade with full support and data from PMC. Reconsile members realize that if PMC does not take over the lead after mid-2016, Reconsile needs to make an upgrade covering the tonnage band 10-100t/a. In an agreement between Reconsile and PMC consortium the responsibilities and activities of each consortium needs clearly to be described. Reconsile members made it clear to ReachCentrum that they do not want a contract on company level, the contract needs to be on consortium level.

PMC does not have the same understanding of the chapter in the ECHA guidance. Indeed, the underlined sentence refer to the earliest deadline applying following the rules for the phase-in substances (which means 2010, 2013, and 2018) and not to internal deadlines set by a group of registrants.

The proposal to submit the registration and update it is very complicated and not reliable even if technically and legally feasible. PMC will propose again to Reconsile to take over the role of LR. It has been noted that so far there were no formal communication in the SIEF regarding the LR and therefore, there is no legitimate LR yet. PMC understands that Reconsile wants to submit earlier the registration dossier and is working on Q1 2017 deadline to submit it. However, due to the delay in the substance sameness exercise, it is difficult to believe that their registration dossier will be ready on time. It is worth also to underline that the sameness exercise being not yet finalized, there is still some uncertainty regarding joint submission between PMC and Reconsile.

3. Actions and next steps

PMC position in preparation of meeting with Reconsile (1st July 2015): the LR role must be taken over immediately by a PMC member (Heraeus volunteered). At this stage, there is no fall back position, legal aspects of opting out must be checked in case of refusal from Reconsile.

A solution could be to have Reconsile LR submitting the full dossier but at once (not in two parts) and in this case. It is critical to have a very strong confidentiality agreement with this LR to avoid a misuse of the data related to the 10-100t tonnage band. But this could still trigger issues for future data sharing.

Participants to the 1st July meeting:



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Reconcile: Leo Appelmans (Reconcile secretariat), Denise O'Connor (REACH Centrum legal counsel), Jean Michel Stein (BlueStar), Claus Heikenwalder (Wacker).

PMC: France Capon (PMC Secretariat), Klaus Rothenbacher (PMC Secretariat), Roland Brasch (Heraeus, in person), Nissanka Rajapakse (Johnson Matthey, by phone), Dave Boyd (Chair of the PGM Working Group, by phone), Marleen Van Den Bergh (Umicore, by phone).

Due to the presence of REACH Centrum legal counsel, the Karstedt sub-group considered to have also a legal counsel present. However, the PMC has no legal counsel anymore and the procedure to choose one is still ongoing.

ACTION: FC – check with the chairs of the Management Committee if a specific contract can be set up for this meeting with one of the law firms - DONE

Post-meeting info: the chairs of the Management Committee recommended for this first meeting to not be accompanied by a legal counsel and see first the outcome of the meeting before engaging in more legal discussions.



Annex 1: List of Participants and apologies

Secretariat:

France Capon (EPMF, Belgium)

Klaus Rothenbacher (EPMF, Belgium)

Participants:

Dave Boyd (Consultant, Chair of the PGM WG)

Roland Brasch (Heraeus, Germany)

Nissanka Rajapakse (Johnson Matthey, UK)

Marleen Van Den Bergh (Umicore, Belgium)

Apologies:

Angela Alderman (Johnson Matthey, UK)

Heike Kinz (Umicore, Germany)

Klaus Zimmerman (Umicore, Germany)