



Department  
for Environment  
Food & Rural Affairs

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[www.gov.uk/defra](http://www.gov.uk/defra)

By Email [REDACTED]

**Your ref:**  
**Our ref:** RFI 6712  
**Date:** 13 October 2014

Dear [REDACTED]

**REQUEST FOR INFORMATION: AUTHORISATION FOR THE USE OF A  
NEONICOTINOID INSECTICIDE ON OILSEED RAPE**

Thank you for your request for information about the application for the authorisation of a neonicotinoid insecticide on oilseed rape, which we received on 7 July 2014. You have requested copies of all correspondence between Syngenta and Defra regarding the application to use neonicotinoid pesticides in the UK during the EU moratorium, including emails, written letters, minutes of meetings with Syngenta representatives and any evidence submitted at those meetings. I apologise once again for the delay. It has taken some time to make sure you have a full and accurate response and we have also been experiencing a high volume of requests.

My letter of 9 July 2014 advised that we were handling your request under the Environmental Information Regulations 2004 (EIRs). The EIRs apply to requests for environmental information, which is a broad category of information defined in [Regulation 2 of the EIRs](#) and which give similar access rights to the Freedom of Information Act 2000 (FOIA).

Defra has today replied to a similar request for information relating to the period up to 26 June which I attach (RFI6697). In this letter I am therefore just covering the period from 27 June to 7 July. Following careful consideration, we have decided to disclose some of the information requested and withhold other information where necessary, as follows (see also Annex A):

One email message has been withheld as it contains information that:

- was supplied to Defra voluntarily. Syngenta has not given Defra consent to disclose these communications, and therefore, disclosure of this information would be unauthorised. These communications contain information in support of Syngenta's application for an emergency authorisation for the use of a neonicotinoid insecticide on oilseed rape. The communications were not required as part of the application and were not a data requirement set under EC Regulation 1107/2009 concerning the placing of plant protection products on the market. This information is withheld under Regulation 12(5)(f) of the EIRs, and;
- is subject to commercial confidentiality. The communications contain non-public information with commercial value that was provided to Syngenta (which paid for the information) on a confidential basis. This information is withheld under Regulation 12(5)(e) of the EIRs.



In applying the exceptions under regulation 12(5)(e) and (f), we have had to balance the public interest in maintaining the exceptions against the public interest in disclosure. We have taken account of the presumption in favour of disclosure as required by regulation 12(2) of the EIRs.

We recognise that there is a public interest in disclosure of information in respect of understanding Government-decision making on matters of significant public importance; openness and transparency in the risk assessment process and how Defra manages the risks posed by neonicotinoid insecticides; and transparency and accountability to increase public confidence that Government decisions are being made on a sound basis.

These public interest arguments are reduced in strength because Syngenta withdrew its application. As a result, it was not necessary to take a decision on the application for emergency authorisation to which the request for information refers.

On the other hand, there is a strong public interest in maintaining the exception under regulation 12(5)(f) because:

- Defra did not require Syngenta to supply this information in support of their emergency authorisation application. Syngenta supplied the information voluntarily. Syngenta were not under (and could not have been under) any obligation to provide the information to Defra. The communications were sent to CRD (the competent authority for the regulation of pesticides) and copied to Defra for information only;
- The information was not supplied in circumstances such that Defra or any other public authority was entitled apart from the Environmental Information Regulations to disclose it;
- Syngenta has not consented to its disclosure; and
- Protection of confidential discussions between applicants, Defra and CRD. It is important that applicants for emergency authorisations are able to discuss and progress their applications without confidential information being at risk of being disclosed publicly.

There is also a strong public interest in maintaining the exception under regulation 12(5)(e) because:

- Disclosure of the communications would adversely affect Syngenta's interests for the reasons set out above in the final bullet relating to the exception under regulation 12(5)(f);
- The commercial nature of the information. Disclosure of this information under the EIRs will damage Syngenta's interests; and
- Disclosure would assist competitors and undermine fair and equal competition. It is important that companies submitting applications for pesticides can submit confidential information to support the evaluation, without fear that the information would be disclosed to commercial competitors.

Therefore, we have concluded that some of the information requested should be withheld.


We are able to disclose some of the communications requested despite Syngenta not consenting to their disclosure under regulation 12(5)(f). We have concluded that the communications do not include any confidential commercial information under Regulation 12(5)(e), and that no harm would be caused by their disclosure. However, you should note that some of these communications contain personal data relating to Syngenta employees, junior civil servants and/or other third parties. This information has been redacted under Regulation 12(3) and 13 of the EIRs. We consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 to the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data; second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA. Therefore, we have concluded that this information is exempt from disclosure under Regulation 12(3) and 13 of the EIRs.

In keeping with the spirit and effect of the EIR, and in keeping with the government's Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on [www.gov.uk](http://www.gov.uk) together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

I attach Annex B, which explains the copyright that applies to the information being released to you. I also attach Annex C giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact the address below.

Yours sincerely

  
Defra FOI and EIRs Team  
[InformationRequests@defra.gsi.gov.uk](mailto:InformationRequests@defra.gsi.gov.uk)

## Annex A

Ref No'	Date	Document	Comments
Defra 1	27 June 2014	E-mail exchange between Syngenta and Defra regarding the ongoing application for an EA.	Document withheld under Regulation 12(5)(e) and 12(5)(f) of the FOIA.
Defra 2	2 July 2014	Telephone call from Syngenta to Peter Unwin (Defra). The note of the call states 'He said that Syngenta were minded to withdraw the application given the time it had been taken to be considered. Rather than withdraw it fully they may say they are withdrawing it for this year and leaving it on the table for next, given that by then it would be possible to see the impact of a year's crop of oilseed rape without neonicotinoid treatment. They (Syngenta) would reaffirm their commitment to the trials to feed into the EU review. I said in that case I hoped we would also reaffirm the importance of the trials in providing good evidence for long term decisions and emphasise our commitment to science based decision making. 'Syngenta' will work up language overnight and send it to Sarah Church (of Defra) to discuss first thing tomorrow. We hoped that 'Syngenta' and Sarah would be able to see this through to a satisfactory conclusion but if necessary 'Syngenta' and I would speak together tomorrow lunchtime	Partial disclosure. Names of Syngenta officials within the notes have been substituted for the word 'Syngenta'.
Defra 3	2 July 2014	E-mail exchange between Defra and Syngenta regarding Syngenta's application.	Partial disclosure. Redact names and contact details for Syngenta officials and junior Civil Servant.
Defra 4	3 July 2014	E-mail exchange between Defra and Syngenta concerning Syngenta's statement following the withdrawal of their application.	Partial disclosure. Redact names and contact details for Syngenta officials and junior Civil Servant.
Defra 5	3 July 2014	E-mail exchange between Defra and Syngenta concerning press coverage of Syngenta's decision to withdraw the EA.	Partial disclosure. Redact names and contact details for Syngenta officials and junior Civil Servant. 3 <sup>rd</sup> party name redacted.

## Annex B

### Copyright

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Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the [Intellectual Property Office's website](#).

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## Annex C

### Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: [requestforinfo@defra.gsi.gov.uk](mailto:requestforinfo@defra.gsi.gov.uk)) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF