



Ramifications for Chemical Industry with New EU Disclosure Mandate for Proprietary Pesticide Data

EUROPE

By LANA BECKETT, January 18, 2017

Harold Himmelman, Senior Counsel, and Alan Sachs, Principal, at Beveridge & Diamond law firm **wrote about**¹⁾ two landmark judgments on November 23, 2016, by the European Union's highest Court, the European Court of Justice.

They point out that the two cases have "significant adverse implications for the proprietary data rights of pesticide and other innovators in the EU and around the world. Together, the two new cases (C-673/13 P and C-442/14) hold that:

- an individual's use of a pesticide product represents an 'emission' under EU law, and
- the public's interest in 'information on emissions into the environment' overrides the commercial interests of pesticide innovators in protecting the confidentiality of all but a narrow category of pesticide data."

Even as both cases have now been referred back to lower courts for further assessment of their respective facts in light of the ECJ's rulings, they suggest that U.S. companies that submit data in connection with the approval of plant protection or biocidal products in EU jurisdictions will need to evaluate the impact of these new judgments on their efforts to protect trade secret and other sensitive information, as well as their data rights in the United States and around the world. And, they note "although the two rulings relate specifically to information submitted to EU authorities in support of pesticide products, the ECJ's reasoning can also be readily applied to information submitted in connection with other chemical products that are intended for uses that involve releases into the environment."

Resources for this article

1. wrote about

