REACH registration deadline 2013 – some ideas from Fecc that might help SMEs

There is a need to reduce the impact of REACH on SMEs especially for the 2018 deadline as outlined in the Commission General report on REACH. Cefic collects ideas from its members and affiliates on how the impact on SMEs but not only SMEs can be reduced. We all know that the 2018 deadline will be much more challenging as these deadlines require the registration of substances produced or imported in lower volumes, most probably data generation and data access costs will become a major issue. This bares the risk for unplanned withdrawal of critical substances from the market.

Below first ideas from Fecc that might help to reduce the impact.

The 2013/2018 deadline and the overall cost of registration

- P**ossibilities to help an SME that would like to buy a LoA,** but does not have the money available and a bank does not want to lend it, because the bank thinks it is too risky.
    - I raise the issue, because we have a case in the membership of one of our national associations:
        - A member of a national association, micro business 6 employees £2.4m turnover pa, needs to jointly register a substance to the May 2013 deadline of REACH.
        - The cost of the Letter of Access (LOA) from the substance consortium is €53,000 payable up front before access to the LOA is made available and a joint registration with ECHA becomes possible.
        - The member makes enough sales currently of this substance to generate an annual surplus on those sales of £50,000 pa.
        - The member has **barely enough working capital** to finance its current level of business, is considered high risk by the banks (no loans available) and cannot afford the up-front payment.
        - The member will have to exit the market at the end of May due to working capital implications because the consortium insists on an upfront payment for access to the data dossier.
        - This clearly reduces competition in the market place for existing consortium members and is anti micro/SME in practical terms.

    - **Potential solution could be staggered payment.**

    - Whilst the member accepts that they have to pay a fair and equitable fee for access to the substance data dossier and can clearly pay over time from future earned profits the standard approach of consortium is payment up front for grant of LOA.
    - If the principle of staged payments over a negotiated period of years could become a common practice across Europe those SME businesses that are profitable but cash flow constrained might in some cases be encouraged to register and remain in the market place.

  - Another potential solution could be to receive money from the **European Investment Bank (EIB)** as outlined in the DCG group awareness raising document for SMES. It states that the EIB offers grants for the purpose of REACH compliance in particular for SMEs. But it seems to easy to receive, I have heard Cefic developed a guidance on how to approach the EIB. Could that document be shared with Fecc?

- **Letter of Access** for the registration of substances between **1-10 t for free**
  - At one stage the administrative costs for invoicing and reimbursement might be higher for a SIEF or consortia than the money they receive via the LoA. Therefore manufacturer could think about to provide a LoA for substances between 1-10 t for free.
  - We have heard that some Consortia are demanding sameness phys/chem test data from LoA applicants before granting access which can cost £5-7k to generate, this is not required under REACH and is probably anti competitive, not helping SME and unsustainable for smaller volumes as it often costs more than the LOA! Although we understand that some information is needed to proof sameness, but the requirements should be proportionate. Maybe Cefic should issue guidance its members.

- **SME definition**
  - Some discussions on the **SME definition have started in Germany** and as I have heard the Commission might consider looking into this issue. Although such negotiations with MSs might take a long time.

  - However, the proposal brought forward by Germany might help manufacturers, but not distributors.
    - A company qualifies as SME if the headcount is below 250 and the turnover below € 50 million (or balance sheet total below € 43 mio.) and not more than 25% are owned by another enterprise.

- The analysis of critical points in relation to the registration under REACH performed by Baua, UBA and VCI suggests that the SME definition should be broadened. They want to extend the number of employees to 500. This should be supported, **but would not help chemical distributors**.
- The majority of Fecc's direct members are family owned companies with less than **250 employers, but with a turnover up to € 220 million**. This is due to the fact that they buy the chemicals from their suppliers, over their services and sell to their customers.

o **Proposal**

- If the definition of SMEs would be reconsidered, some ideas should be developed to covers the specifics of the distribution sector, for example to include a new category for family owned companies with less than 250 employers, but up to € 250 million turnover.

UJK, 19 March 2013