

29<sup>th</sup> November 2002

Dr. Klaus Berend,  
European Commission,  
DG Environment C.3,  
Rue de la Loi 200,  
B-1049,  
Brussels,  
Belgium.

Dear Klaus,

It was a pleasure to witness your chairing of Group III at the Thematic Strategy Conference on 4<sup>th</sup> November and also to have met you over dinner at the ECPA event on 13<sup>th</sup> November last.

I enjoyed our conversation and I agreed to provide some further comments.

I am sending a separate submission for placement on your website following the conference on 4<sup>th</sup> November.

During our discussions, I agreed to comment on the following points:

- 1. Low Rates and Liability:** As an agronomist, the use of a low rate is determined by the size of the weed, the level of disease or insect pressure, the climatic conditions, the timespan over which protection is required and other factors. Additionally, the agronomist has to consider whether the farmer does or does not have a sprayer and whether the farmer does or does not have the capacity to react rapidly should the low rate prove insufficient to control pests – I use the word pest to refer to a weed, disease or insect. Additionally, the relationship between the agronomist and the farmer is important. If it is not a good working relationship, the agronomist faces the possibility of being sued if something does not work.
- 2. Rate of Use on Label:** In proposing the rate of use of a product, such as a herbicide, company personnel will examine the results of hundreds of trials carried out over a number of seasons to determine the rate of use. The trials will point to a rate which will give good results over a range of weed sizes and climatic conditions. The proposed rate and trial data will then be examined by the relevant licensing authorities and may be approved with or without some amendment.

I am describing a methodical process which takes a number of years to complete. The final rate must deliver performance under challenging conditions. Otherwise, the company will be sued.

As a result, the opportunity does exist to reduce rates under ideal as opposed to challenging conditions. You will appreciate that it would be very foolish for a company to put a use rate on its label which only works under ideal conditions.

3. **Treatment Frequency Index (TFI):** As the Danish speaker in Group III recognised, the collection of data across a large member state would be a huge challenge. How do you know which crop a particular product has been used on?

As an example, we no longer attempt to gather statistics in relation to the use of a product such as CMPP or MCPA (both herbicides) by crop as we cannot tell if the product has been used on grass or on a winter or spring crop of wheat, barley or oats. In relation to glyphosate, the product can be used on practically every crop pre-harvest, post-harvest or pre-planting. Concerning fungicides, they normally have a use in a range of cereals and fruit and vegetable crops. The task of calculating TFI is extremely difficult.

If we look at the reports from the Food and Veterinary Office concerning residues, problems normally occur in fruit and vegetable crops. This is the area where the TFI is most difficult to calculate. As such, we could do wonderful work in cereals where we normally do not have residue problems and ignore the crops where we do have problems because it is close to impossible to assemble the statistics.

4. **Prescription Concept:** As I mentioned, I also work in the animal health area. The concept of confining products to a particular profession becomes instantaneously politicised! The profession will want everything confined to its profession stopping short only of allowing air and water to be used without its blessing!

In the animal health world I argue passionately that the default position should be that a product should be on free sale. The parties who argue that the products should be confined should make a logical case. Clearly, if a veterinary surgeon is required to examine the animal in order to diagnose the disease and so choose the correct medicine, such a product should be a prescription only medicine available only from the veterinary surgeon or on a foot of a prescription from the veterinary surgeon. However, if the farmer wishes to use a clostridial vaccine in sheep and knows that the animals should be injected in mid-August and again six weeks before giving birth, you should not need a prescription in order to obtain such a product.

I would be extremely concerned at heading down the route of a prescription regime for plant protection products. In contrast, I believe that the current licensing arrangements under 91/414 allow the authorities to objectively assess operator exposure and to confine those products which need to be confined to appropriate routes of supply. As an example, methyl bromide is only made available to contractors with the approved application equipment and who have trained people available to use such equipment. As such, we have an appropriate mechanism in place to confine products where they need to be confined. As I said at the outset, the concept of a prescription regime would become very political.

5. **Integrated Crop Management (ICM):** I believe ICM is an extremely sensible concept. It represents a rational route between organic production and the use of excessive quantities of plant protection products to prop up bad management practices.

As an example of ICM, I recall visiting a field with a farmer and I had to ask him if he was growing oilseed rape or winter barley. Both plants were present in abundant numbers! As it turned out, his ploughing had been extremely poor resulting in a very large number of volunteer barley plants growing amongst the newly planted oilseed rape crop. The result was the necessity to use a product which controlled broadleaf weeds and also volunteer cereals. In contrast, the vast majority of farmers ploughed correctly and only needed a product which controlled broadleaf weeds. ICM stresses the role of all activities, including good ploughing, to minimise pests.

As an example of a lack of information, I once recall visiting a farmer who had sprayed his cereal crop with a fungicide because it was the middle of April! I examined the crop and it clearly did not have any disease before or since it was sprayed. This was a clear misuse of a product and a total waste of money.

ICM attempts to pursue the concept of “as little as possible but as much as is needed”. We must be able to justify each and every input by keeping very good records and by providing a justification for each and every input.

6. **Storage Standards:** As part of our activities in BASIS, we provide an assessment service for people storing plant protection products. The motivation behind this service was to minimise accidents. This was particularly in the situation where the product or fire water would leak off a site and contaminate a watercourse leading to major problems if the watercourse was used for the supply of water to a downstream town.

More recently, we have had the nitrofen scandal. I would strongly advocate the introduction of essential requirements in relation to the storage of pesticides at manufacturer, wholesaler, retailer and farmer level.

7. **Legal Base:** During our discussion, you mentioned that it may be difficult to find a legal base for certain initiatives. As I recall, the introduction of essential requirements in relation to ICM across the EU may be difficult. I believe certain Member States may claim that it is within their competence and not that of the EU to legislate in certain areas. I would urge you to argue that you are acting in the context of food safety or some other concept which gives you the right to act at an EU level. Perhaps the single market concept is also appropriate. If we do not have EU standards we will have utter disharmony across the EU in relation to requirements.

I very much enjoyed our conversation on 13<sup>th</sup> November and hope that I have picked up on most of the points. If you feel that there are other issues on which you would like some feedback, please let me know.

Given my multipurpose role as working for a trade association, BASIS and also operating a company which promotes ICM, I am deeply interested in both the review of 91/414 and also the outcome of the Thematic Strategy.

If you feel that it would be of any value, I would be more than pleased to justify my various points of view as a speaker or panellist at future meetings that you may be planning. I enjoy the challenge of a good debate!

Very best wishes.

Yours sincerely,

**DECLAN O' BRIEN**  
**Director**