

Information sheet

on the use of Empa test reports for advertising purposes and the publication of their contents

Empa test reports may be used by the client as an effective means of advertising. However, Empa requires that clients comply with certain requirements in order to preserve its independence and to avoid competition irregularities and damage to Empa's reputation. It is recommended that the intention to use and publish the corresponding Empa test report should be made known to Empa during the commissioning of the project.

In particular, the following points should be observed:

- Each mention of a test carried out by Empa must contain the number and date of the relevant Empa test report (e.g.: "See Empa Test Report No. 123,456 dated 31 December 2014").
- Excerpts from the Empa test report should be reproduced in full and any illustrations and explanations should be faithful to the original. Care must be taken to ensure the referencing is correct.
- Notes, excerpts and conclusions must be reproduced faithfully and may not be inserted into or added to the text in a misleading way. In particular, the impression must not be given that:
 - Empa tested a representative number of objects, when in reality only one or a few objects were tested;
 - Empa carries out continuous monitoring of a product (when in reality only a few samples of which were actually tested);
 - Empa tested additional properties - which it did not actually test; or
 - Empa has drawn marketing-oriented conclusions - which were actually formulated by the client.

- It is not permitted to use the Empa logo for commercial purposes in connection with the use of the Empa test report and the publication of its content. Permission to use the Empa logo requires separate authorisation and is usually only granted for non-profit purposes (see separate Empa Directive MHB-2.5.3 Use of the corporate design).

The procedure for issuing an advertising authorisation is as follows:

1. Authorisation requirement

The use of an Empa test report for advertising purposes in written or other form, in particular an advertising reference to a study carried out at Empa, is only permitted with Empa's express written consent.

If the publication and release of the Empa test report by the client to interested third parties is not associated with an advertising text, no authorisation is required.

The Empa test report is released to third parties by the client themselves. Empa does not pass on Empa test reports to third parties.

2. Application

The request to use and publish the corresponding Empa test report for advertising purposes should be sent to the Empa Portal at Department 607 (**Dr Matthias Nagel; matthias.nagel@empa.ch**).

The Empa Portal will then provide a pre-formulated application form.

The proposed advertising text should be submitted to the Empa Portal in full, including all illustrations. This is usually done by submitting the manuscript, and in the case of printed texts, also providing a proof copy.

3. Granting of authorisation

Authorisation are usually only granted for Empa test reports that are ***no more than 2 (two) years old*** at the time of the initial submission of the authorisation application.

The Empa-Portal checks the authorisation application together with the submitted advertising text in conjunction with the relevant laboratory that drafted the Empa test report.

The authorisation specifies how and in what context the Empa test report may be used for a particular advertising purpose.

Authorisations are granted **for a maximum of 3 (three) years**.

A one-time extension of **up to 2 (two) years** can be made before expiry of the first authorisation.

Empa makes the final decision on the authorisation application. There is no legal right to the granting or renewal of an authorisation, nor is there any right of appeal.

When rejecting a request, Empa is not obliged to state the reasons for its decision.

4. Obligation to disclose

If any reference is made to an Empa test report for advertising purposes, the client is obliged to provide any interested party with the complete results of the relevant Empa test report in full, including all illustrations and any explanations.

Upon publication, the client automatically releases Empa from its duty of confidentiality regarding these results, but not regarding the preservation of the client's industrial and trade secrets (e.g. formulations or manufacturing methods).

5. Fees

Corresponding fees are charged for granting and extending advertising authorisations. These fees are set out in the "Fee system for the use of Empa test reports for advertising purposes" of 1 September 2015.

6. Consequences of breaches

In the event of breaches of the rules on the use of Empa test reports for advertising purposes, Empa reserves the right to take further action, in particular corrective counterstatements (e.g. to be sent to misinformed interested parties) and legal action.

Empa Legal Department

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