

Position paper on the proposal for a new Batteries Regulation¹

Our suggestions to policy-makers

1. **Streamline administrative processes** for industry and national authorities
2. Similar sustainability requirements should also be developed for **products directly competing with electrochemical batteries**, to correctly inform the user and support them in making the most sustainable choice
3. Adjust the **number of secondary acts** to where it is really impactful and propose **adequate timelines** to develop robust methodologies (e.g. on carbon footprint)
4. **Re-assess the numerical targets** once the methodologies have been developed
5. Clarify how the market access criteria on batteries will be tested and enforced, especially for those **batteries imported into the EU**
6. **Make use of the well-established REACH and OSH Regulations** when regulating hazardous substances in batteries and **refrain from creating a new parallel process** in the Batteries Regulation
7. Focus the **scope** of sustainability criteria on “electric vehicle batteries” and “stationary energy storage batteries”
8. Consider the **specificities of each battery technology and application** when developing these sustainability methodologies
9. **Standards should be developed by Standardisation Committees**, not by the Commission; hence, we strongly recommend removing Article 16
10. Adopt a **careful approach on recycled content**, assessing the possibility of establishing targets only after a detailed methodology has been adopted
11. **Avoid duplication of labelling and information systems**, and clarify the purpose and audience of the information and information systems
12. EUROBAT supports the **obligation to establish supply chain due diligence policies**
13. Clarify unequivocally which actor must be considered as the producer in view of the application of the **extended producer responsibility**
14. Include a **grandfather clause** to avoid the retroactive application of the regulation

Structure and Transparency

1. The proposal has a **good general approach**. it considers all stages of a battery’s lifetime, from production to use phase and end of life management, and it does so having in mind the interactions between chemicals management, environmental protection and industrial competitiveness. Turning the Batteries Directive into a Regulation is also welcomed by the battery industry, since it can be a step towards a level-playing field at EU level, reducing differences among national markets. However, definitions and scoping should be carefully assessed in relation to the obligations mandated, having in mind the specificities of each application and technology. Furthermore, some provisions risk creating a **very high administrative burden for the industry**.

¹With this position paper, EUROBAT would like to provide its position on the Proposal for a Regulation 2020/353 concerning batteries and waste batteries.

For example, the provisions on Labelling (Art. 13), Conformity of Batteries (Chapter IV), End-of-life management (Chapter VII) and Electronic exchange of information (Chapter VIII) are quite burdensome for the industry and also for national authorities, so should be streamlined.

2. The Batteries Regulation is the first example of the **“new generation” of environmental legislation** related to specific products. Indeed, several measures have almost no precedent, while other ones are completely new. Considering the strategic importance of the battery industry, we believe that a cautious approach on these measures is preferable, to avoid imposing excessive requirements on the industry. At the same time, we should acknowledge the fact that products which incorporate batteries compete with other products, including for instance internal combustion engine vehicles and other forms of stationary energy storage. It would therefore make sense that **similar requirements should also be developed for products directly competing with batteries**, to correctly inform the user and support them in making the most sustainable choice.
3. Another reason for concern is the **high number of delegated and implementing acts** included in the proposal. We wonder if the timeline proposed by the Commission will allow time to develop a solid methodology for the calculation of the carbon footprint. For instance, Product Environmental Footprint Category Rules are currently available only for lithium batteries for mobile applications, but not for lead or nickel batteries, or for stationary storage batteries. We would therefore recommend developing **a more reasonable timeline for the establishment of the methodology to calculate the total carbon footprint**, with different applicability to each technology and application once the respective methodology will be available. Besides, the carbon footprint methodology should ensure that GHG impacts from all actors in the supply chain of batteries are captured on the basis of their real and true emissions, and that the use of sectoral averages is limited to components that have marginal impacts relative to the complete battery footprint.
4. Numerical targets (e.g. on recycled content) are already established in the proposal, but the methodologies to calculate them are not. This makes it extremely complicated to assess the impact of the proposed measures, with negative consequences for business certainty. It will be paramount to **re-assess the targets once the methodologies have been developed**.
5. Finally, it is not clear **how the Commission plans to test, verify and enforce the criteria included in the Regulation for batteries imported into the EU**. This should be clarified as a priority, to protect the EU battery industry from unfair competition and EU citizens from non-compliant products.

Hazardous substance management

6. Multiplying competing processes to regulate hazardous substances² does not enhance the effectiveness of worker and environmental protections, but creates instability that is detrimental to the sustainable growth of a new industry needed for the energy transition. EUROBAT therefore urges the co-legislators to **make use of the well-established REACH and OSH Regulations** when regulating hazardous substances in batteries and **refrain from creating a new parallel process** in the Batteries Regulation.

Carbon footprint, state of health reporting, performance and durability criteria

7. We welcome the Commission proposal to promote green batteries made in Europe by providing information and in some cases restricting market access to non-sustainable batteries. However, the original target of these measures³ was only batteries for on-road electric vehicles and batteries for grid-connected stationary energy storage because of their relevance in the coming years and their potential for CO₂ and energy savings. Indeed, the industrial battery segment includes a huge variety of technologies and hundreds of real-life applications, from forklift trucks and batteries for telecommunications to elevators and uninterruptable power supply in data centres and hospitals. The proposal currently targets all industrial batteries, but we would strongly recommend limiting **the scope of these measures to “electric vehicle batteries” and “stationary energy storage batteries”**, as originally intended by the Commission when the ecodesign preparatory study on batteries was developed.
8. Extensions to other technologies and segments should be considered on the basis of their size and following a structured methodology combining technology and use, including impact assessment, CO₂ and energy savings potential and cost-benefit analysis. **The specificities of each battery technology and application should be considered when developing these methodologies**. It is unacceptable to assess the performance of a battery technology using the methodology developed for another technology.
9. In this vein, we found unacceptable that the Commission is planning to task the development of standards to the Joint Research Centre if the relevant harmonised standards developed by CEN CENELEC “are not sufficient” (Art. 16.b). Standards on batteries are developed internationally, in committees consisting of experts from all national standardisation committees in Europe. It is unacceptable that the Commission wants to take the place of national technical experts on matters which are by nature extremely technical and that refer to how the products are designed, produced and operated. We therefore **strongly suggest removing Article 16 in its entirety**, and to

² The use of substances in batteries is already regulated under REACH, OSH, ELV and the Batteries Directive. Simplification on the basis of horizontal legislation is of the essence.

³ The scope of the “Preparatory Study on Ecodesign and Energy Labelling of rechargeable electrochemical batteries with internal storage under FWC ENER/C3/2015-619- Lot 1” was in fact “high energy rechargeable batteries of high specific energy with solid lithium cathode chemistries for e-mobility and stationary energy storage (if any)”.

allow national, European and international standardisation committees to do their work on standards development.

Recycled content

10. We are quite surprised by the proposal of the Commission on recycled content. The Commission did not address any of the concerns that emerged during the stakeholders meeting and that were correctly reported in the Impact Assessment. For instance, there is no clarification on how the recycled content can be calculated and verified, above all for imported batteries, with the concrete risk of damaging the EU battery industry vis-à-vis international competitors. The scope of the measure, its application and the definitions are unclear, and do not allow to really assess the feasibility of the targets proposed. Besides, the availability of the materials is really a matter of an open global market, considering also the growth of the market and the push for second life applications, which is in direct contradiction with high levels of recycled content in new batteries. Finally, the measure will apply to all industrial, automotive and electric vehicle batteries, regardless of their characteristics: in some specific cases, high levels of primary materials are needed to ensure higher performances.

For these reasons, we suggest a **careful approach on recycled content, refraining from establishing targets at this early stage. The possibility to establish targets should be considered only at a later stage.**

Labelling

11. Article 13 refers to an exaggerated long list of information that will have to be provided together with the battery in different forms (printed or engraved on the battery, through a QR code and with a battery passport). This system would result in at least a **duplication of sources**, with consequent unnecessary administrative burden to maintain and operate several labelling systems. We would therefore suggest streamlining and unifying these processes, and limiting the information requirement to the label, the battery management system and an online database.

Supply chain due diligence policies

12. EUROBAT supports the obligation to establish supply chain due diligence policies laid down in Article 39. If Europe wants to produce the most sustainable batteries in the world, it is paramount to ensure that raw materials fundamental for the manufacturing of batteries are sourced respecting high environmental and social criteria, addressing also risks in the battery supply chain related to the protection of human rights.

Extended producer responsibility

13. The draft Battery Regulation does not really solve the problem of identifying unequivocally which actor must be considered as the producer, in view of the application of the **extended producer responsibility**. Depending on the conditions, the producer seems to be the original equipment manufacturer (for instance the carmaker), in other cases the battery manufacturer and in other cases both at the same time. This situation must be clarified by the legislator.

Avoid retroactivity on existing products

14. When this regulation will enter into force, some products will have already been sold or a purchasing agreement already signed. They will then be placed on the market when the regulation will already apply, even if those requirements were not valid when the original purchasing agreement was made. We therefore recommend including a grandfather clause for those products to avoid that the regulation is applied retroactively.