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EUROBAT Feedback on the Inception impact assessment on the End-of-Life Vehicles Directive

With this position paper, EUROBAT would like to provide its expert input on the Inception impact assessment on the End-of-Life Vehicles Directive.

Timing: the proposal is severely delayed

First of all, we regret that the proposal is considerably delayed compared to the own Commission legal obligation to "review the ELV Directive, by 31 December 2020, and to this end, shall submit a report to the European Parliament and the Council, accompanied, if appropriate, by a legislative proposal". According to the Inception impact assessment, the new proposal will be published only in 2022. This is clearly a missed opportunity: the Commission published a new Batteries Regulation on 18 November, and considering the legislative overlaps between the two initiatives it would have been preferable to discuss them at the same time. Since this will not be possible, EUROBAT calls the Commission to speed up the work on the ELV Directive as much as possible.

Solve legislative overlaps using the Batteries Directive as key legislative instrument on batteries

The ELV Directive has caused unnecessary regulatory burden and complexity. Automotive batteries and the substances used in them are already regulated by other pieces of EU legislation:

Through the Batteries Directive: the Inception impact assessment reports that "the EVs contain specific parts and components (e.g. batteries), which require specific handling when the vehicles reach the end of their life". Exactly because this is true, batteries are already regulated through the dedicated Batteries Directive, now undergoing a major revision which will turn it into a Regulation. The document also call for new measures on recycling efficiency, recycled content, reuse, recovery of key materials for the car, but similar measures specifically targeting batteries will already be included in the Batteries Regulation. It would therefore be natural and logic to avoid legislative overlaps and take out batteries from the scope of the ELV Directive. If this will not be the case, we expect the Commission to clarify exactly how the two initiatives will interact. Since the negotiations on the Batteries Regulation are already started, we call the Commission to publicly state how they plan to solve this inconsistency.

Through REACH and Occupational Health & Safety legislation (OSH): Substances used in automotive batteries and their exposure risks are regulated through REACH and Occupational Health & Safety. The majority of currently available battery chemistries contain hazardous substances in some form. However, these substances are contained in the battery article within sealed units, and are not intended to be released during normal or reasonably foreseeable conditions of use. Risks from battery materials are therefore largely limited to the workplace. Here, our industries already promote high standards of worker and environmental protection. World-leading European recyclers also work to ensure that battery materials are safely treated and recovered at their end-of-life, both for existing and new battery types. Automotive lead batteries operate in a closed loop.

We therefore urge the Commission to solve this legislative overlap and use the Batteries Regulation as key legislative instrument on batteries, and REACH and OSH as key instruments on exposure risks. Additionally, we would request that Commission evaluate the existing ELV exemption criteria to ensure consistent with other waste legislation substance restriction exemptions criteria such as RoHS (Article 5(1)) where for example the availability of substitutes and the socio-economic impact of substitution, as well as life-cycle thinking on the overall impacts of the exemption apply. This approach should be applied also to ongoing exemption review.