



The Batteries Regulation: state of play and what to consider during institutional negotiations

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At the end of last year, the European Commission published the long-awaited Batteries Regulation, with the objective to ensure that batteries placed on the EU market are sustainable and safe throughout their entire life cycle, and ultimately to promote the production of green, sustainable batteries in the Europe.

EUROBAT [welcomed the proposal](#) as a necessary initiative: the Batteries Directive dates from 2006 and does not reflect the evolution of the battery market and its growing importance. The Regulation builds on the objectives of the European Battery Alliance and recognises that the EU is lagging behind in the production of lithium-based batteries, so a lot is at stake. The global battery market is estimated to be worth more than [€130 bn by 2030, and Europe, with an estimated €35 bn](#), will be the second largest market behind China. For Europe, it will be of strategic importance to produce green, sustainable batteries in the EU, and this Regulation will create the legislative framework to make it possible. The Regulation needs to be properly designed and based on solid assessments, avoiding counterproductive measures that would ultimately damage the EU battery industry.

Now, almost a year later, discussions are in full swing in the Council and the Parliament. These discussions are unlikely to be finalised before the second half of 2022, reflecting the complexity of a very technical proposal. After the initial considerations of Members of the European Parliament and Member States, we have distilled five general issues with this proposal, to be considered for the next steps of the negotiations:

1 - Develop appropriate definitions and assign responsibilities clearly

- **Definitions** should unambiguously differentiate battery types and clarify the difference between battery cell, battery module and battery as a finished product
- Responsibilities should clearly and unambiguously be assigned to the right actors, above all in the case of the **producer definition**

2 - Avoid overlaps with horizontal measures

- **Chemicals management:** refrain from introducing a new parallel process to regulate chemicals used in batteries in Art. 6, address shortcomings of REACH in the REACH revision
- **Standardisation:** refrain from creating separate regimes for battery-related standards, address shortcomings of standardisation in the revision of the Standardisation Regulation

3 - Decisions should be based on solid methodologies and robust impact assessments

- Measures to optimise **recycled content** should be based on solid methodologies and robust impact assessments
- Track the use of recycled materials at company level across all battery products by providing one annual aggregated value

4 - Respect the diversity of battery technologies and applications

- Apply **performance and durability requirements** to electric vehicle batteries and stationary energy storage batteries

5 - Adopt reasonable timelines and transition periods

- A general transition period of 24 months for the entire Regulation should be foreseen
- 24 to 36 months should be granted between the adoption of secondary legislation and their entry into force
- Include a grandfather clause to avoid waste of resources



1 – Develop appropriate definitions and assign responsibilities clearly

The definitions included in the Batteries Regulation should be transparent and easy to apply, leaving no doubt about the classification of batteries or about which the requirement to apply. A key point is the difference between “battery cell” (definition 2.2), “battery module” (not defined in the text) and “battery” (definition 2.1). Since most of the requirements of the Batteries Regulation are applied at battery level, the definition should clarify the difference between cell, module and battery, and clearly remark that the “battery” is the finished, ready for use product, and the individual components of the battery should not be confused with the finished product. At the same time, the boundaries between automotive, industrial, portable, EV and light mobility battery need to be considered, having in mind the specificities of each application, to avoid situations where a battery is allocated to a category with improper requirements in terms of performance, design or collection.

Finally, extended producer responsibilities should be clearly and unambiguously allocated to the actor which can more effectively comply with them, through an appropriate definition of producer (definition 2.37) and in Article 47. Under the existing Batteries Directive, in the case of batteries incorporated in vehicles or appliances, battery manufacturers are correctly not considered as the producers (in most situations). This is appropriate as battery manufacturers have no information on the geographical market where the battery will ultimately be made available to customers and are therefore unable to comply with the EPR requirements, particularly the take back obligation. However, this is not always the case, since the producer status is allocated differently in the very unique situation where the battery manufacturer and the vehicle/appliance manufacturer are located in the same Member State. This disparity should be addressed, and the new definition should assign producer status to the vehicle/appliance manufacturer irrespective of the location of the battery manufacturer.

2 – Avoid overlaps with horizontal measures: the cases of chemicals management and standardisation

The Commission included several completely new concepts in the proposal, which could be used as a blueprint for other sectors. Proposals on carbon footprint, recycled content, standardisation, chemicals management and due diligence are either completely new or deviate from the path of existing, broader legislation, possibly damaging the battery sector vis-à-vis competing products in the storage or mobility sector. We hope our concerns will be shared by the European Parliament and Member States. If REACH, the Standardisation Regulation or any other horizontal legislation have shortcomings, then the solution is to re-discuss those, not to create derogations in each single product-specific regulation such as the Batteries Regulation.

The case of **chemicals management** (Art. 6) is of particular concern. The Commission is proposing a new, dedicated process to restrict the use of hazardous substances in batteries. These substances are already regulated under REACH and OSH, and the new process would simply create a parallel process, creating business uncertainty on which substances can be used and according to which process. The Commission seems to justify this separate process because REACH does not apply to substances generated by recycling, but all safety management principles of REACH (e.g. compliance with Chemical Safety Report & SDS) and the respective OSH legislation apply. Besides, any shortcoming of REACH should be addressed as part of the upcoming REACH revision. The proposal on a Chemicals Strategy for Sustainability already foresees a reopening of REACH, therefore we don't understand the need to include specific measures in the Batteries Regulation. Hence, we share the concerns brought forward by Member States on the duplication of chemicals management processes and we call for the use of REACH and OSH to regulate chemical substances in batteries.

Similar considerations can be made for **standardisation** (Art. 16). The Commission is proposing to strip the power of adopting standards from national standardisation committees and task it to the Joint Research Centre. The justification is that in some cases the development of standards has not been satisfactory or fast enough. However, this would not guarantee the same level of stakeholder participation, openness or transparency as when using the CEN/CENELEC framework to develop European standards. The Commission recently announced its intention to re-open the Regulation 1025/2012 on Standardisation, which will be a good occasion to address these issues. The [IMCO draft report](#) goes in the right direction when it asks to include a stakeholder consultation, but this still leaves too much power in the hands of the European Commission to simply disregard the expert opinion of national standardisation committees.

3 – Decisions should be based on solid methodologies and robust impact assessments: the case of recycled content

A general problem with the proposal is the establishment of numerical targets and measures not accompanied by the definition of methodologies or by serious impact assessments. This is the case, for instance, with the targets for recycling efficiencies, where targets are established but the methodology to calculate them is left to a delegated act to be developed by the Commission, which makes it quite difficult to assess the feasibility of the targets.

However, this problem is particularly serious for **recycled content**¹. Article 8 of the proposal mandates that, as of 2030, new batteries will have to be manufactured using minimum levels of secondary materials, and it already establishes the numerical targets. This is not simply a matter of technical feasibility. At this stage, we simply have no idea about the availability of secondary raw materials in 2030 and any estimate must consider a considerable margin of error. Setting up targets not supported by detailed impact assessments would have a detrimental effect on the industry, but also on the uptake of e-mobility, since scarce secondary raw materials would drive prices upwards. Several members of the European Parliament are also suggesting to extend the scope of the proposal to all batteries, which will increase the demand for secondary raw materials even further. This suggestion, however, was not followed by a request to reconsider or reassess the targets.

Other issues should also be considered, including the interaction with second life (higher targets on recycled content would go against the hierarchy of waste, preventing the reuse of the battery) and potential negative effects on the performance of certain batteries. In addition, compliance verification is a challenge since the levels of recycled content would have to be verified for each battery, but it is not technically possible to test a battery and assess its content of secondary materials. Besides, the availability of resources of national surveillance authorities to check compliance with the requirement is questionable.

Our proposal on recycled content is, therefore, twofold:

- Since we don't have enough information to establish targets, the Commission should prepare an impact assessment on different policy options, covering mandatory targets and other options, and properly assess their socioeconomic and environmental impact.
- To simplify the procedure, it would be preferable to track the use of secondary raw materials at company level. With this proposal, every company would simply have to provide information on the percentage of secondary cobalt, lead, lithium or nickel present in the batteries placed on the EU market as an aggregated figure.

The overall objective of monitoring (and setting up targets, if needed) the use of recycled content would be met in a more efficient and less burdensome way. We understand that Member States are discussing a similar proposal concerning yearly averages of recycled content per battery model. This is clearly a step in the right direction, but would still create problems for those batteries that require higher shares of primary materials for performance reasons.

4 – Respect the diversity of battery technologies and applications: the case of performance and durability requirements

Another general problem with the proposal is the lack of recognition of the diversity of the battery market. Several measures are tailored with lithium-ion batteries for e-mobility applications in mind, but in reality the battery market is extremely diverse, with different technologies (lithium, lead, sodium and nickel-based) and hundreds of very different applications, from button to container size. The same requirements cannot be applied to all batteries, above all in the case of performance and design. This is of specific concern for the requirements on performance and durability (Art. 10), which was recognised during the discussions of the ITRE Committee of the European Parliament and reflected in several amendments from the members of that Committee.

According to the proposal of the Commission, **performance and durability requirements** (Art. 10) would be applied to industrial and EV batteries above 2 kWh. However, the industrial battery category is a very diverse one, including batteries for stationary storage, off-grid applications, telecom towers, uninterruptable power supply, batteries for

¹ EUROBAT developed a longer assessment on the problems related to the recycled content proposal, available here: https://www.eurobat.org/images/EUROBAT_Position_paper_recycled_content_0103.pdf



motive power (forklift trucks, ground support equipment, cleaning machines, railway applications, construction and agricultural machines) and so on. These batteries have very different requirements and a feature considered fundamental for one application might be totally irrelevant for another one. Therefore, their performances cannot be regulated horizontally. Considering these complications, the scope of this proposal should be clarified to focus on specific applications with higher potential for decarbonisation – that is, electric vehicle batteries and stationary energy storage batteries.

Similar considerations can be made in relation to the obligation to equip batteries with a Battery Management System (Art. 14 – not all batteries need a BMS to operate), carbon footprint (Art. 7 – specific methodologies need to be developed to calculate the carbon footprint of different technologies and applications) and safety (Art. 12 – different battery technologies have different safety issues), where the proposal is clearly tailored around one single battery technology.

5 – Adopt reasonable timelines and transition periods

There is also a more general problem related to the application of the measures. Several measures will be implemented merely 12 months after the adoption of the corresponding delegated or implementing acts, assuming that the Commission will not encounter any delay in their approval process. In several cases, this is clearly not sufficient to allow the industry to adapt. The new requirements entail a complete re-design of the product (carbon footprint, performance and durability), new recycling processes requiring new permits (targets on recycling efficiencies and recovery of materials), changes in the value chain in non-EU countries (due diligence requirements) or complex and burdensome administrative processes (information on recycled content, labelling and battery passport). More reasonable timelines of 24 to 36 months should be foreseen to allow the industry to adapt to a new set of completely new requirements, together with a general transition period of 24 months for the entire Regulation.

In addition, we need to consider that certain batteries will no longer be allowed to be placed on the EU market, but this creates problems for the batteries incorporated in appliances designed before the entry into force of the regulation, for which a re-design would not be possible without also redesigning the application. The problem is particularly relevant for safety-sensitive applications (mostly industrial and EV), which have a long lifetime (even 10-20 years). These include, for instance, batteries for trains, aircraft, ground support equipment, back-up batteries and industrial installations in general. If replacement batteries for these applications are no longer available, the applications might have to be retired much earlier than planned, resulting in a waste of resources. It is necessary, therefore, to include a grandfather clause for batteries placed on the market to be incorporated in safety-sensitive applications designed before the entry into force of the Regulation and for spare parts.

About EUROBAT

EUROBAT is the leading association for European automotive and industrial battery manufacturers, covering all battery technologies, and has more than 50 members. The members and staff work with all policymakers, industry stakeholders, NGOs and media to highlight the important role batteries play for decarbonised mobility and energy systems as well as all other numerous applications.

