



Eucobat Position Paper on the Proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020

Executive Summary

Eucobat welcomes the Commission's initiative to adapt and modernise the legal framework for the entire life cycle of batteries, which are one of the key enablers for sustainable development and green mobility, clean energy and climate neutrality, contributing to the Green Deal objectives.

From this perspective, here are the recommendations of Eucobat pertaining to several aspects of the proposed Regulation.

I. Definitions

A. Classification of batteries

For portable batteries of 'light means of transport', the current definition of those appliances set out in Article 2(9) excludes batteries from generally considered 'light means of transport' such as steps and hoverboards as the traveller is not seated.

Therefore, given the expected growth of e-mobility appliances on the market, Eucobat proposes to create a fifth category for 'light electric vehicles' which would include the 'light means of transport' currently classified under the portable category in the Commission's proposal.

The establishment of this category would clarify the classification of batteries and would help avoiding that 'light electric vehicle' batteries end up in the flows of waste portable batteries throughout the collection process.

This new category would include all batteries from L1e and L2e vehicles (two or three wheeled P +U) as defined in type-approval legislation and all batteries from light vehicles **exempted from any type-approval legislation and/or official registration**, such as the monowheel /e-steps, e-skateboards, hoverboards and all types of motorised personal transport devices.

Eucobat proposes that those batteries would be subject to the same EPR obligations as for portable batteries, and to set a separate collection target which could be defined based upon the 'available for collection' methodology. Furthermore, the term 'vehicle' is not defined in the proposal nor 'road transport'. Thus, Eucobat is proposing the introduction of a definition for 'vehicle' and the removal of the terms 'road transport' from the 'electric vehicle battery' definition.

Lastly, the terms 'designed for industrial uses' (Art 2.11) are not appropriate to distinguish portable batteries from industrial batteries. As such, it should be clarified that only batteries which are **'designed for exclusively industrial or professional use'** should be considered 'industrial batteries' as defined in the Directive 2006/66/EC currently in force, and that only batteries **'not designed for exclusively industrial or professional uses'** should be considered as portable batteries.

B. Definition of producer

As the current WEEE Directive complies best with the evolution of the market, Eucobat proposes to align **the producer definition (Article 2.37) with the WEEE Directive and to introduce the concept of ‘authorised representative of the producer’**, which should be clearly distinguished in the proposed Regulation from the ‘authorised representative of the manufacturer’.

In order to avoid administrative burden, a complete harmonization is thus required between the extended producer responsibility legislation on respectively batteries and WEEE legislation.

Lastly, Eucobat proposes the responsibility of online marketplaces **Article 47(10) and Article 50(4)** to be clearly stated and further precised.

C. Definitions of remanufacturing/repurposing

While the proposal for a Regulation includes a definition of ‘repurposing’ a definition of ‘remanufacturing’ is missing. Given that the term ‘remanufacturing’ is used at several points in the text, Eucobat proposes to include a clear definition which would underline that **remanufacturing consists in any operation resulting in the complete battery being used for the same purpose or application**. The original manufacturer/producer of a remanufactured battery would remain the responsible manufacturer/producer.

II. Electric vehicle battery labelling

As batteries in electric vehicles are composed of multiple modules, stacks or cells, that can be removed during repair, remanufacturing or repurposing of the battery, producers also **need to ensure the financing of the collection and recycling of these modules, stacks and cells**. In order to enable this financing, **a marking of the individual cells of the batteries with the registration information of the producer is required**.

More generally, the information on the label of the batteries (Annex VI) should include the weight of the battery.

III. Removability / Removal of batteries

Eucobat welcomes:

- **Article 11** which requires that manufacturers should design appliances, in which portable batteries are incorporated, in such a way that waste batteries can be readily removed and replaced by the end-user or by independent operators.
- **Articles 51 and 56** concerning the effective removal of portable batteries from waste appliances and vehicles.

Nonetheless, in order to ensure that all batteries are removed from electrical and electronic appliances and to prevent safety risks, Eucobat proposes that on the one hand that no exception would be made in article 11 2 of the proposal if the functioning of the battery is only possible when the battery is integrated into the structure of the appliance. On the other hand the provisions of the WEEE Directive and/or the European standard EN 50625-1 should be amended to ensure that:



- All batteries have to be removed from any separately collected WEEE prior to treatment of WEEE or during the treatment process (The only exception could be the batteries to ensure a continuity of power supply for safety, performance, medical or data integrity reasons).

- Their integrity is maintained during the removal process

- Quantified objectives should be imposed on the WEEE dismantlers for the removal of batteries from WEEE categories 5 (small equipment) and 6 (small IT and telecommunication equipment), as defined in annexes III and IV of the WEEE Directive.

IV. Collection and collection targets

Eucobat considers that the concept of a collection target in relation to the volume placed on the market, as defined in **Annex XI and Articles 48 and 55** of the proposal, is not appropriate for (waste) batteries. Indeed, in most cases, there is no correlation between the quantities of batteries recently put on the market (PoM) and waste batteries that are effectively available for collection. Therefore, targets based on PoM might be unachievable as they would be higher than the real amounts available for collection. A collection target can only be adequate if it is related to the quantities of **waste batteries available for collection**.

Eucobat welcomes the inclusion of the possibility to introduce the principle of the **target in function of the batteries available for collection (Article 55.3)**, but the timeline for the study and elaboration of this methodology is not acceptable (December 2030).

Eucobat calls for the study and elaboration of this methodology to be put on **the agenda immediately after the publication of the regulation** and proposes that the Commission should adopt **no later than 31 December 2023 a delegated act in accordance with Article 73 of the proposal to supplement this Regulation by establishing the methodology to calculate the amount of batteries available for collection**.

Furthermore, Eucobat proposes that from the entry into force of the Regulation, Member States should report to the European Commission **the amount of waste batteries available for collection, estimated at 65% of the average of the amount of batteries put on the market for the first time in this Member State during the three preceding years**¹. Eucobat also calls for the establishment of the AfC methodology, and for the lifespan of the batteries to be calculated **upon a European representative lifespan analysis based on an empiric sampling**.

While the availability of data on flows of batteries not available for collection (e.g. export of WEEE and of second hand EEE, batteries not removed from WEEE) might be considered a problem in the short term, Eucobat believes they should still be included in the methodology. Indeed, in the short term, the deduction of batteries not available for collection could be set to zero or replaced with best available data or estimations. To that end, Eucobat proposes that the Commission should be mandated to establish mandatory reporting of the required data by all concerned actors.

Awaiting the elaboration of the methodology for the calculation of the batteries available for collection, **Eucobat welcomes for 2023 the realistic target of 45% in function of the batteries PoM**.

¹ According to the studies of Möbius (End-of-Life study – Available for Collection study)¹, only 65% of the weight of the batteries PoM during a certain year are available for collection.

<https://www.eucobat.eu/sites/default/files/2019-01/Eucobat%20-%20Mobius%20-%202018%20-%20Batteries%20Available%20for%20Collection.pdf>

Nonetheless, if the Regulation would include a collection target in function of the batteries PoM, it should take into account the batteries put on the market **during the three preceding years (X3 – X-2 – X-1) as in the WEEE directive**, not the year of collection plus two preceding years (X-2 – X-1 – X). Otherwise, the target for the running year would only be known **at the end of the year**.

Lastly, the proposal stipulates at multiple times that distributors, collection points, WEEE recyclers would have the possibility to hand the collected waste batteries to waste operators.

Regarding the collection of portable batteries, Eucobat proposes **that there would be a mandatory handover to the producers or the Producer Responsibility Organisations, or at least a mandatory and free of charge reporting of the waste operators** (Articles 49-50).

V. Recycling

Eucobat stresses that the recycling targets should be realistic, measurable and **value-based instead of mass-based** and should ensure the recycling of hazardous and valuable materials to the highest degree that is technically feasible while avoiding excessive costs.

Eucobat proposes that the responsibility for the reporting of the recycling efficiencies would lie with the recyclers which would have to report to the Member State where they are located, and that this information would be made available to all other Member States where these batteries were collected.

Moreover, double recycling targets (general target + target for some CRM) will lead to increasing cost, as a recycling process allowing to achieve a high general recycling target is in most cases not compatible with a high recycling target for specific materials.

Lastly, the recycling targets set in Annex XII do not seem realistic for some types of batteries, e.g. lithium primary batteries, for which even 50% is already a very ambitious target.

VI. Visible Fee and EPR Financing Guarantees

Eucobat proposes to modify the provisions set in the Article 60(5) of the proposal **to require a visible compliance fee to be mentioned on invoices within the distribution chain, from producers to retailers of batteries instead of end-users**.

- This visible compliance fee shall include all costs for collection, sorting, treatment, monitoring, reporting, communication, sensibilisation and management incurred by the producers or by third parties acting on their behalf.
- The costs mentioned shall not exceed the best estimate of the actual costs incurred.
- The mandatory visible compliance fee applies only to batteries for which producers actively organize collection.

Eucobat stresses that the Batteries Regulation should set requirements **to create and maintain appropriate take-back structures for the stacks, modules and cells of electric vehicle batteries** that can be removed during repair, remanufacturing or repurposing of the battery while setting requirements to ensure the financing of the collection and recycling of these modules, stacks and cells.



What is more, given the long lifespan of the batteries in electrified vehicles, and the high cost of collection and recycling, each producer should, when placing a battery on the market, **provide a financial guarantee to prevent costs for the management of waste from orphan products from falling on society or the remaining producers.** These requirements for financial guarantees should be subject of an implementing act.

VII. Reporting to the Member States

Article 61 of the proposal states that producers of portable batteries or PRO's have to report to the national competent authority for each calendar year information according to the battery chemistry and a number of data **within 4 months of the end of the reporting year** for which the data are collected. Given the **considerable amount of data to be collected, controlled and compiled**, it is not possible to deliver such report within 4 months of the end of the reporting year. Therefore, **Eucobat proposes that it should be extended to 6 months.**

VIII. Battery passport

The information **on the status of the battery (waste/not waste/repurposed, EPR responsibility)** should be available in the Battery Passport.

It is essential that the producer responsibility organizations have access to the information on the Battery Passport, and that they can change the content if required.

About Eucobat

Eucobat aisbl is the European association of national collection schemes for batteries. They assure that all waste batteries are collected and recycled in an ecological sound way, and contribute this way to a better environment.

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April 2021