

COMMENTS ON THE PLANNED MODERNISATION OF THE EUROPEAN UNION'S BATTERIES LEGISLATION

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European Recycling Platform (ERP) welcomes the European Commission's plans to modernise the European Union's batteries legislation in order to reflect latest market and technology developments, to address the lack of definitions, and to align it with the latest amendments to general waste legislation. We also welcome the idea to change the legal character of the provisions from a directive to a regulation in order to ensure the highest possible level of harmonisation across Member States.

With this paper, ERP would like to share some of its practical experience in operating producer responsibility schemes for batteries in 13 countries and to provide feedback on some of the ideas and possible measures proposed by the European Commission so far, e.g. in the recently published roadmap and during the stakeholder workshops earlier this year. In particular, we want to focus on the following aspects:

1. Scope of extended producer responsibility
2. Awareness raising and density of collection points
3. Battery marking
4. Collection targets
5. Control and auditing system for the recycling of batteries
6. Calculation method for recycling rates

1. Scope of extended producer responsibility

A redefinition of the scope of extended producer responsibility (EPR) would reflect latest market developments such as the increasing sales of larger batteries to consumers with e-bikes, e-scooters or other similar products. Moreover, this would eliminate the confusion regularly caused by the current and rather subjective definition of "hand-carried" differentiating portable from industrial batteries. However, while a differentiation by sales model (B2C / B2B) appears to go into the right direction, the reported B2C put on market (POM) volumes according to sales channel might not always correspond to the actual collection volumes. Some batteries intended for businesses might be used by consumers as well; others might be intended for both businesses and consumers in the first place. These batteries would likely end up in the collection for consumer batteries, which would then be under-financed due to the missing revenues for the unintentionally collected B2B batteries.

A better approach would be to define consumer and dual-use batteries as "portable/consumer batteries" and only batteries purely designed for B2B as "industrial batteries" (as done in the WEEE Directive). Alternatively, legal clarity could be achieved by an objective differentiation by weight (as being common practice in some Member States).

2. Awareness raising and density of collection points

The effectiveness of awareness raising campaigns and the convenience of disposal are both important factors for motivating consumers to dispose of their used batteries correctly, i.e. separately in the designated collection

points. Member States that have invested in awareness raising campaigns have witnessed higher return rates and better citizen engagement. On the other hand, it is proven that when the costs of such campaigns are to be borne by producers there can be quite an impact on the product's unit costs.

The envisioned budget of 0,50 euros per inhabitant would result in very expensive campaigns, especially in populous countries like Germany, where the total budget would amount to over 40 million euros per year, or Italy (30 million euros per year), corresponding to an increase of several thousand percent compared to the status quo (e.g. 0,5 million euros in Italy). These figures seem unreasonably high, particularly given that compliance costs are already a major concern for producers in some Member States, with some considering not serving these markets any longer due to the low margins.

Also, a fixed budget itself does not guarantee success as it could easily be spent for simply expensive but not necessarily effective campaigns. For example, research shows that expensive TV or newspaper campaigns show no impact with the younger generation consuming other media than those. Always, the most effective channels in a country should be considered. Moreover, it shall be defined who is monitoring the campaigns.

Although ERP supports the idea of increasing the budget for public awareness campaigns and defining targets, we would like to stress the importance of keeping these targets within reasonable limits and taking into account the different circumstances and actual needs in the Member States (e.g. different collection rates and infrastructure, differences in culture, demography as well as the media landscape etc.) Those shall then also involve local stakeholders such as consumer organizations and schemes defining budgets and communication channels.

The same argumentation applies to the idea of defining minimum values for the density of collection points. Instead of simply increasing density it is way more important to oblige those parties to collect at points that are frequently visited by consumers, such as retailers selling batteries, municipal collection points etc.

3. Battery marking

ERP appreciates the potential benefit of colour codes for improving identification and sorting of the different types of chemistries. However, in order for these codes to be effective they would have to be internationally aligned and accepted. Further, the colour scheme would need to be adapted quite often in order to keep pace with the development of different battery chemistries. One also has to bear in mind that it takes many years before the marked batteries actually go into sorting and that only a share of marked batteries of 80% or higher would create reliable conditions in treatment.

4. Collection targets

ERP believes that increasing the collection target for portable batteries to 65% within 10 years as likely proposed (assessing 55%, 65% and 75%) is not realistic.

Rationale:

- The majority of Member States do not even reach the current 45% target;
- In order to achieve a collection rate of 65% Member States would need to reduce about 70% of the losses resulting from incorrect disposal of the batteries to municipal waste and about 25% of the losses resulting from the export of electronic waste. While awareness raising campaigns may be a possible means to reduce incorrect disposal, reducing exports is far more difficult even if all exporting parties would be required to compile a corresponding report.
- The potential significant consequences of unachievable EU targets in member states that currently make the target achievement a prerequisite for a PRO's permit. This is not only risky for the PROs themselves but if consequently applied also for the stability of the overall EPR scheme in those countries.

- The collection rate still heavily depends on consumer behaviour, on which producers and producer responsibility organisations (PROs) like ERP have only limited influence.
- In general, targets based on POM volumes (even as an average over three or more years) are too simplistic since different batteries and chemistries have different life-times. As consumers buy more and more mobile electronic equipment which is typically powered by rechargeable batteries such as lithium-based or NiMH batteries, the POM volume will continue to increase. At the same time, the significantly longer lifetime of those batteries will cause the collection volume to increase at a much slower rate, making it almost impossible to maintain even the current collection rate of about 45%.

ERP believes that:

- “batteries available for collection” would be a far better calculation base for targets than POM, even if the corresponding volumes are difficult to determine.
- Monitoring of the collection rates for different battery chemistries should be implemented. The monitoring would:
 - Generate transparency on the availability for collection of different battery types for future target planning as well as on the performance of PROs for a level playing field;
 - Fit well with the idea having chemistry specific recycling efficiency targets; and
 - Create an EU-harmonized base for a battery eco-modulation based on chemistries considering their different risks as well as associated handling and treatment costs.
- It would, also be reasonable to implement separate collection targets for primary (non-rechargeable) and secondary (rechargeable) batteries considering their different lifetimes and thus the different collection rates being possible for the two categories (e.g. today’s collection levels for lithium-based batteries are about 10%). Within each of these the approach could be similar to the UK system on WEEE where: categories 2-10 have individual targets (and thus anticipated return rates) while evidence from any of these categories can be used for compliance for any other.

5. Control and auditing system for the recycling of batteries

ERP appreciates the idea of implementing an EU-wide auditing system based on harmonized standards. This will not only ensure environmentally sound treatment, but also create a level playing field among recyclers contributing to a true internal market.

6. Calculation method for recycling rates

ERP welcomes the proposed new calculation methods and the plan to define new criteria for when slags should be accounted for recycling. This would create a level playing field among recyclers and, consequently, among PROs.

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About ERP

European Recycling Platform was founded in 2002 in response to the introduction of the European Union's Waste Electrical and Electronic Equipment (WEEE) Directive. ERP's mission is to ensure high quality and cost effective implementation of the Directive, for the benefit of its customers and the environment. In June 2014, ERP became part of the Landbell Group, an international supplier of service and consulting solutions for environmental and chemical compliance. ERP and Landbell Group have collected more than 7 million tonnes of packaging, more than 3.5 million tonnes of e-waste, and over 65,000 tonnes of portable batteries.

ERP is the first and only pan-European producer responsibility organisation authorised to operate in Austria, Denmark, Finland, Germany, Ireland, Israel, Italy, Norway, Poland, Portugal, Slovakia, Spain, Sweden, and the UK. By passing on the advantages of multinational recycling operations to customers, ERP has proved to be the most competitive solution for companies in the countries where it operates for WEEE, batteries and packaging compliance, as well as take-back services.

For more information on ERP, please visit: www.erp-recycling.org



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