

POSITION PAPER

Batteries Regulation

For a legal framework that provides clarity and
brings innovation forward





Executive summary.....2

1. Preamble Definitions.....3

2. Batteries Categories (Article 2).....4

3. Lifecycle management.....5

4. Access to data in the Battery Management System (BMS).....8

5. Performance requirements for electric vehicle batteries..... 9

6. Substances and Due diligence.....10

7. Standardisation and Implementation.....11

Conclusion.....12

Executive Summary

This paper is a contribution by the automotive suppliers' industry in Europe to the debate on the proposal for a Batteries Regulation. More concretely, to the proposal on 'Batteries and accumulators and waste batteries and accumulators' replacing and repealing Directive 2006/66/EU of the European Parliament and of the Council.

-  CLEPA, the European association on automotive suppliers, represents over 3,000 companies supplying state-of-the-art components and innovative technology for safe, smart and sustainable mobility, investing over 30 billion euro yearly in research and development and employing overall nearly five million people across the continent.
-  As key stakeholders in the battery value chain, automotive suppliers acknowledge **the ambition of the Batteries Regulation for sustainability over the whole lifecycle of batteries**. This is in line with their own continuous effort to minimise the environmental impact of their products through high performances, long lifetime and circular management (repair, remanufacturing, recycling). The approach of the regulation has the potential to ensure a level playing field and strengthen the functioning of the internal market.
-  However, CLEPA believes that **the Commission's proposal should be carefully reviewed and amended, so as to:**
 - **Avoid adverse effects** such as double regulation, barriers to innovation, unrealistic targets, and uncertainty on duties of the respective actors.
 - **Provide clarity to industry** by providing clear definitions and certainty on duties along the value chain and the lifecycle of batteries.
-  CLEPA recommends adjusting the methodology for the calculation of the carbon footprint of batteries, alternative incentives to promote use of recycled content, clear and manageable provisions for extended producer responsibility, as well as alignment of performance and durability with the UN Global Technical Regulations under preparation.
-  We call on the co-legislators to amend the Commission's proposal in order to deliver on the objectives of the Batteries Regulation.

1. Preamble — Definitions



Batteries are complex systems consisting of several levels from individual components (e.g. anodes and cathodes) to integration in the vehicles via cells, modules and packs.

Beyond the primary function of energy storage, these systems have to be considered with all functions enabling safe and efficient operations e.g. thermal management, balancing, charging, health monitoring.

Given this complexity, the Batteries Regulation should provide unambiguous definitions that clearly define the scope of the respective provisions:

- **Battery**
- **Producer**

CLEPA suggests that the term 'battery' refers to any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more non-rechargeable or rechargeable battery cells or of groups of them, and which is ready for use as a finished product by the end customer or in an application.

We also support the introduction of a threshold at >2kWh for the EV battery categories when it comes to specific requirements for said categories later in the draft regulation.

2. Batteries Categories

(Article 2)

CLEPA appreciates the new battery category for EV batteries, which creates more legal clarity and makes targeted requirements possible.

For automotive batteries, CLEPA suggests extending the scope of the definition : 'automotive battery' means any battery primarily used for automotive starter, lightning, ignition power or other supporting functions in the vehicle" (including auxiliary batteries).

That way the automotive batteries category includes similar battery products, which are currently used in motor vehicles such as electronic control units.



3. Lifecycle management

Carbon footprint of electric vehicle batteries

(Article 7)

The methodology to determine carbon footprint should not be focused on one given technology or chemistry (e.g. Li-ion) and should **allow for consistent and coherent calculation for all battery technologies**. It also needs to be based on a robust database, tools and boundary conditions.

Robust calculation, verification and definition of responsibilities along the supply chain should also be clarified as well as the exact level at which to declare (cell, battery pack or module): for electric vehicles' batteries, automotive suppliers / battery manufacturers can only be responsible for the calculation of the carbon footprint from **cradle-to-gate** (i.e. raw materials acquisition and manufacturing stage). The use and recycling phases should therefore be excluded. These parameters should apply equally robustly whether the producer and its supply chain are located within or outside the European Union.

Reporting of carbon footprint by batch is unnecessary and would cause additional burden by requiring multiple calculations to match the multi-sourcing of the different components. **A reporting by type of product**, coupled with a more standard approach based on Conformity of Production, **would be more adapted**.

Recycled content

(Article 8)

An efficient and well-functioning recycling supply chain for batteries is an essential element of the sector's growth, development and contribution to the environmental and climate benefits of batteries. In this sense, incentives to promote / ensure the use of recovered material are important.

Nonetheless, the setting of mandatory targets by active material for recycled content – as described in Article 8 – is not an effective means to secure this objective. It is likely to generate contradictory incentives and be counter-productive for the following reasons:

- The Extended Producer Responsibility provisions of the Batteries Regulation proposal **require a certain proportion of key materials to be recovered from end-of-life batteries**. The impact assessment calculated the ratio of this recovered material to the amount of material required for new batteries in 2030 and 2035, based on the expected useful life of batteries and expected growth of battery production. The Commission's proposal sets recycled content percentage targets according to this assessment (recovered material divided by material demand).



- If the actual useful life of batteries is longer than projected, if more batteries go to second life or if the growth of the sector and the demand for material for new batteries is higher than projected, these would be positive developments. However, in these cases, the amount of recovered material would no longer be sufficient to meet the recycled content targets. The only ways to meet the recycled content targets would be to access more recycled material by removing batteries from the market before end-of-life, preventing batteries from entering second life or alternatively reducing demand by suppressing new manufacture. This directly **contradicts the objectives of the Batteries Regulation to support the sector's growth in an environmentally beneficial manner.**

The key objective in achieving a sustainable supply chain is to ensure that a high proportion of the material recovered each year is actually used in new battery manufacture, ideally approaching 100%. This requires cooperation between the main actors in the supply chain.

We therefore recommend that the mandatory recycled content targets for active materials be replaced by a set of European and national measures to encourage interaction and co-operation between manufacturers, OEMs, recyclers and other involved operators **to ensure that the highest feasible proportion of recovered material be used in new battery manufacture.** Measures can include financial or other incentives for using recovered material, support for supply chain operations and logistics, and agreements between recyclers, OEMs and manufacturers.

The next step should be to develop a methodology for calculation of recycled content to provide transparent and accurate information to policy makers and stakeholders. Then, in 2025, the Commission could re-assess how policy can best support more effective recycling.





End-of life management and Extended Producer Responsibility (EPR)

The proposed text should be clarified to remove uncertainty on which economic operator is responsible within the EPR scheme defined in Article 47, as this appears to be ambiguous depending on the circumstances.

For example, the producer – as defined in article 2 paragraph 37 of the Commission's proposal – could be the battery manufacturer or the OEM, depending on whether a cross-border transaction between these actors is involved. The definition as it stands applies different conditions to trade across Member States' borders compared to trade within a member state, potentially distorting the internal market.

For EV and automotive batteries initially put on the market, the duty holder should be the automotive OEM in all cases. Clear and unambiguous language in the Article 2 “producer” definition is necessary to secure this definition. Besides, with regards to traceability requirements as required by the Draft Battery Regulation, only the OEM is able to trace back the battery history (due to service events, like battery changes).

Additionally, as described earlier, the meaning of “end-of-life” needs to be clarified for these electric vehicle batteries. Indeed, **the economic operator who initially put the battery on the market cannot be responsible for reused batteries placed on the market by third parties for secondary applications.** Waste-related provisions should, from a general point of view, be adapted to this configuration.

Targets for recycling efficiency and material recovery (Article 57) should be reassessed once the methodology has been adopted, with at least 36 months' lead time.

The meaning of “end-of-life” for batteries need to be clarified: battery manufacturers cannot be held responsible for reused batteries placed on the market by third parties for secondary applications.

4. Access to data in the Battery Management System (BMS)

The proposed regulation states that electric vehicles batteries must include a battery management system (BMS) with access to relevant data provided with no discrimination.

CLEPA supports fair and equal access to in-vehicle data for third parties with a legitimate interest. Fair and undistorted competition is needed to leverage Europe's full innovation power in mobility services.

The BMS contains proprietary information; therefore, access **should be limited to market participants with a defined legitimate interest, and to information necessary for these activities**, such as State of Health (SoH) or similar indicators.

In this regard, related parameters (Annex VII) should be aligned in the final text with the outcome of regulatory provisions within the dedicated UN GTR on In-vehicle Battery Durability for Electrified Vehicles. To avoid safety issues, information should be accessible in read-only mode.

The European Commission is currently preparing a revision of the type-approval legislation to open it up to more car data-based services. It is essential that consistency is ensured in the approach to access to in-vehicle data across different areas, including Repair and Maintenance Information and the aforementioned BMS.



5. Performance requirements for electric vehicle batteries

The Proposal for a new United Nation Global Technical Regulation (UN GTR) on In-vehicle Battery Durability for Electrified Vehicles is to be adopted in June.

The draft GTR contains targets for state of certified energy (SOCE) of electric vehicle batteries and state of certified range of electric vehicles that have been compiled using technical data from expert sources.

This regulation, which applies to light duty electric vehicles, is sufficient and complete for regulation of durability for this application. A further GTR extending the scope to other vehicle categories should be adopted as soon as possible.

The proposal for a Battery Regulation contains durability and performance requirements for all types of batteries. Annex IV lists the relevant electrochemical performance and durability parameters, with targets to be determined through a delegated act. These include rated capacity and its percentage fade, which is equivalent to SOCE.

The other parameters—which are power, internal resistance, energy round trip efficiency and their respective percentage fade—are unnecessary to measure the durability and performance if capacity fade/SOCE is regulated.

Therefore, **a reference to the GTR is sufficient to enable regulation of the electrochemical performance and durability**, allowing manufacturers freedom to design batteries according to requirements of specific applications: **electric vehicle batteries should not be subjected to article 10 and its Annex IV, Part A and B.**



The Batteries Regulation should only refer to the United Nations Global Technical Regulation (UN GTR) for performance and durability, without adding any other unnecessary parameters and leaving battery manufacturers free to adapt to specific applications.



6. Substances and due diligence

Substances

In its article 6, the proposed regulation contains specific restrictions in addition to those set out in Annex XVII of Regulation (EC) No 1907/2006.

It should be avoided to multiply restrictions schemes which would result in additional reporting duties and overall administrative burden regarding substances of very high concern (SVHCs).

The assessment of substances used in batteries should remain subject to the horizontal chemicals management frameworks (e.g. REACH and OSH).

Due diligence

As stated in the proposal, most companies already base their activities on the 5-step OECD Due Diligence Guidance for Responsible Supply Chains of Minerals and Responsible Business Conduct.

Due diligence requirements should stick to this approach with limitation of new implementing acts. **Mandatory due diligence should not go beyond the level of the supply chain that is under the direct control of a company.**

In general, **specific obligations under the Batteries Regulation** (labelling, QR code, BMS and battery database/passport) **should be streamlined with existing and foreseen regulatory provisions.** Duplications of systems should be avoided.

7. Standardisation and implementation

Standardisation

Technical specifications to the Battery Regulation should, to the greatest possible extent, be developed by means of standardisation, based on the principles of the Standardisation Regulation (EU) No 1025/2012.

The European Commission must ensure a clear and concise standardisation request that takes on board the provided feedback of the SRAHG (Standardisation Request Ad-hoc Group) as well as the national standardisation organisations over the past months.

The Standardisation Request connected to this regulation needs to be adjusted so that it supports the principles of design and technology feasibility and provides more flexibility for the content of future standards.

Implementation

To account for necessary adaptations in the production process linked to the different evolving requirements, a **minimum implementation period of three years** must be set to allow proper implementation.



To achieve sustainability over the whole battery lifecycle and strengthening the functioning of the internal market, the Batteries Regulation should provide two key elements:



Clear definitions and certainty on duties along the value chain



Avoiding adverse effects due to ambiguous legislation.

The first-of-its kind horizontal regulation for batteries holds a great ambition for the uptake of a sustainable battery sector in Europe. CLEPA shares this overarching objective but also sees a risk that detailed provisions—contained in the current proposal—might hinder the development of battery manufacturing & e-mobility in Europe, with a risk to bring about adverse effects in terms of sustainability.

The Commission's proposal should be modified to avoid the risk of double legislation (e.g. on substances management and performance/durability requirements) and limit the amount of secondary legislation. This would remove a fair share of the uncertainty for industrial stakeholders.

We also urge the co-legislators to amend provisions on extended producer responsibility and targets for recycled content of active materials in new batteries. The modifications we suggest stick to the initial objectives of the text and allow to fully integrate factors such as long lifetime of automotive products, second use of electric vehicle batteries in other applications and, above all, continuous innovation and development of technologies for batteries.

We look forward to a discussion with the co-legislators on the precise evolutions which can help adopt an adequate legislation for a growing and sustainable market for batteries in Europe.

Would like to know more?

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CLEPA, the European Association of Automotive Suppliers, represents over 3,000 companies supplying state-of-the-art components and innovative technologies for safe, smart, and sustainable mobility.

CLEPA brings together over 120 global suppliers of car parts, systems, and modules and more than 20 national trade associations and European sector associations. CLEPA is the voice of the EU automotive supplier industry linking the sector to policy makers.

- The automotive sector accounts for **30% of R&D** in the EU, making it the number one investor.
- European automotive suppliers invest over **30 billion euros** yearly in research and development.
- Automotive suppliers register over **9,000 new patents** each year.
- Automotive suppliers in Europe generate **1.7 million** direct jobs.

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