

Review of the EPBA Position on EU Battery Directive- February 2000

These key points are based on the issue specific position papers of the EPBA which can be found on the EPBA web site www.epba-europe.org. These positions were drawn up in relation to the draft proposal of April 1999.

1. Legal Basis

It is essential that the Battery Directive be based on Article 95 and that the Commission closely monitor implementation in the best interest of all involved.

Experience with the Battery Directive 91/157/EEC, which is based on Article 100a (today 95- and harmonizing the single market), indicates that Member States take a very different view on the interpretation and implementation of the Directive into national legislation. This has led to disparate measures presently adopted by Member States for the management of waste batteries. Application of Article 95 and a close monitoring of implementation will prevent a further divergence in national measures - which would lead to the erection of barriers to trade, distortion of competition, and confusion of consumers, resulting in a partition of the internal market along national borders.

A legal basis of Article 175 (setting minimum requirements) would certainly lead to differing national approaches and market distortions. Introduction under Article 175 could have, for example, the following consequences:

- A lack of harmonization on the limits on substances that can be used in batteries;
- Differences in recovery and recycling targets which would restrict competition within the European recycling industry resulting in higher costs that could favour national industries;
- Freedom to impose additional national markings which would mean higher costs for manufacturers and importers, proliferation of symbols, market partitioning and consumer confusion.

2. Financing of spent portable battery return/recovery Systems

To harmonize the European Market it is very important to define within the EU battery Directive the principles of a common financing mechanism for the battery return systems for spent batteries.

- All battery manufacturers and importers should have the obligation to participate in the financing of the management of waste batteries in proportion to the number of batteries they place on the market;
- Battery manufacturers, importers and distributors should be able to opt to create, join or use, collective return systems within a given geography for reasons of efficiency

and the single market.

- So-called “free riders” must be avoided. Therefore, all manufacturers and importers of batteries not joining a common system should be obliged to submit documents annually, independently audited, proving effectiveness of their individual return system according to their actual market share, to national authorities.
- For all market actors there should be the obligation to make the cost transparent through to the final end-consumer. This information on contributions to recycling will motivate the end-consumer to use the installed battery return systems. In addition, intermediate economic actors should not add any margin nor should the national VAT be applied to the respective costs
- Pricing of batteries must remain the responsibility of the market. In order to avoid potential distortions to the single market Member States should not apply eco taxes, governmental set levies, import taxes or other economic instrument, which would add to the price of the batteries.
- To finance public/municipal collection centers and household collection of spent batteries Member States should be allowed to use the established system of a fixed waste levies/fees per household.

3. Ban of Substances

- Similar to the approach on electronic products any ban or substitution of certain substances can be handled only on the basis of scientifically sound risk assessments. These completed risk assessments should take into consideration the collection and recovery of the substances i.e. the real potential impact to the environment as well as the technical needs for certain applications. A preliminary ban, until further research has been done, cannot constitute a substitute for a conclusion of a risk assessment and it cannot remove the obligation to provide available scientific and technical information.
- The proposed reduction of lead to 0.1% is technically not achievable for Zinc Carbon batteries. EPBA has therefore proposed a limit of 0.2%.
- The DG Environment proposed reduction of cadmium to 0.002% would entail a ban on Nickel Cadmium batteries. The NiCd industry has proposed a voluntary commitment – CollectNiCad - concerning the take-back and recycling of NiCd batteries. The application of this Voluntary Commitment would avoid any environmental impact of NiCd batteries due to disposal issues and would therefore make any substitution of Cadmium in batteries obsolete. The EPBA therefore urges the Commission to accept and support the Voluntary Commitment of the NiCd industry. The use of NiCd batteries will evolve according to market rules.

A ban is unjustified when there is (i) a proven need for NiCd batteries on the market, (ii) an ongoing risk assessment which will show that, when collected and recycled, NiCds present no imminent danger for the environment, and, (iii) an industry proposed Voluntary Commitment, CollectNiCad, concerning the take back and recycling of NiCd batteries throughout Europe.

4. Collection

- As set out by the Commission in the WEEE proposal, the battery industry supports the principle that municipalities are responsible for the collection of spent batteries. EPBA members are willing to accept their share of collection responsibility starting from designated collection centres, these however must be established by municipalities or other public organizations. The collection must be carried out in such a way as to ensure the suitability for recovery.
- The involvement of retailers and maintenance companies might improve collection; this must however take place on a voluntary basis and they should give the collected materials back to public collection centres.
- Learning from existing schemes on packaging and battery collection it is not possible and meaningful to define collection targets on the basis of sold products. Such a collection target would have no meaning due to the fact that some of those products stay on the market for up to 15 years. EPBA therefore supports the principle of defining a weight/inhabitant collection target, which should be achieved by Member States five years after implementation of the directive. The battery industry is ready to provide its share of data to the national authorities. On the basis of gathered technical and economic experience, and from consulting with the industry, the Commission should further develop the collection target five years after effective implementation.
- Experience with existing collection schemes provides indications that the collection of spent batteries will require a change of behaviour on the part of the European consumer. While industry is willing to play its part by providing consumer information through those channels it influences, the broader education of the European people is the principle task of the local and national Governments of the Member States.

5. Recovery

The technology for the recovery of spent batteries in Europe is well established. More than 85% of all consumer batteries, namely Alkaline and Zinc-Carbon types, can be recovered in the metals industry around Europe, if they contain less than 5 ppm Mercury. Rechargeable batteries, as well as other battery types, can be recovered in dedicated facilities.

- EPBA, in conjunction with the metals industry, has developed technology for the recovery of materials contained in spent zero mercury Alkaline Manganese and Zinc Carbon general-purpose batteries. This involves sorting batteries according to their major constituents automatically in a high-speed machine, a technology developed with EPBA funding, and supplying to the appropriate metals processor.
- EPBA therefore asks that necessary measures be taken to ensure that collected batteries are treated with the best available and economically achievable recovery

technology.

6. Marking

- If all batteries will be collected, marking becomes superfluous.
- The marking of products and/or product packages must be viewed in the light of global production. Any additional single European marking requirement would add cost to the European market.
- If, however, the Commission is of the opinion that additional information is needed to make consumers aware, the symbol according to ISO Standard 14021 on Environmental labels and declarations would give clear and sufficient information to the end-user. This ISO symbol clearly indicates that: 1) the battery is recyclable; 2) a system for its collection is in place; and 3) the battery should be disposed of in that system at the end of its life. The battery industry is willing to add this symbol to its product packages and, in view of a marking harmonization across the EU, any national marking requirement should be avoided.
- The setting of a weight up to a 30kg limit for the marking of appliances powered by batteries containing substances as described in Annex I of the battery proposal will lead to strong opposition from industry since this limit could include large wristwatches or small clocks powered by silver oxide cells. EPBA suggests that the information on the battery contained in the device be set out in the instructions for use.

6. Removability

- The “easy removability” requirement as proposed by DG Environment is unworkable and not achievable for many products (e.g. watches). The requirement means that such products cannot have batteries located under a cover held in place by screws. Also, if complying with the requirement, some products, such as toys, will present a risk for children in that they risk swallowing the cells.
 - Therefore, easy “removability” should not be mandatory for those appliances listed in Annex II of the draft proposal and should be carried out only by qualified personnel.
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