

European Portable Battery Association Position

European Commission's proposal for a Regulation concerning batteries and waste batteries

Executive summary:

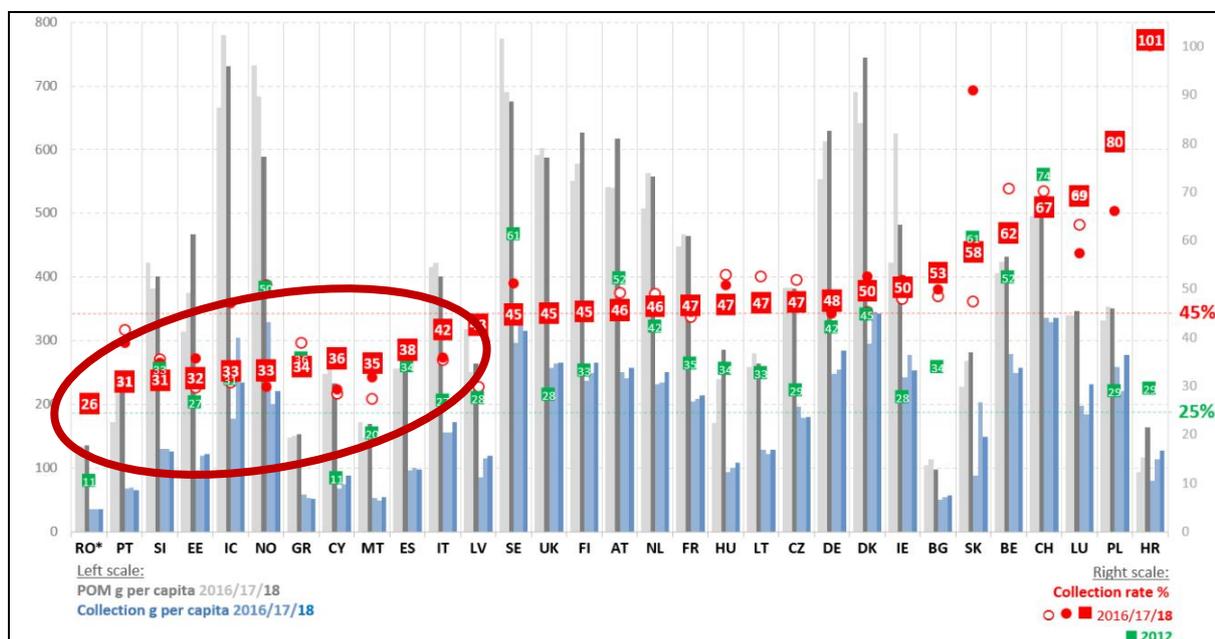
- **Collection targets:** EPBA strongly recommends to have **a collection target based on what is available for collection** which takes into account the longer than 3 years life span of a cell in the EU market and the batteries exported outside the EU in (W)EEE.
- **EPR – modulated fees:** The **durability and performance requirements (art. 9 of the proposal)** will be a more effective tool to increase the quality, sustainability and safety of portable batteries placed on the EU market than the use of modulated fees.
- **Labeling requirements:** EPBA supports a **more pragmatic labelling approach** in which it is clearly specified which information is to be put on the label/packaging or on the QR code.
- **Definitions:** The definition of portable batteries of general use should **reflect the actual market** and limit the battery types to the main five sizes which are sold: AA, AAA, C, D & 9 Volt. These are also battery types available in a rechargeable format.
- **Conformity assessment:** The proposed methodology will result in a **significant administrative burden**. EPBA recommends to **limit the scope to the five main sizes of portable batteries** and bring it in line with our comments on the definition of portable batteries for general use.
The legislation should also specify as of which level of modification a new assessment should be done. An approach similar as in IEC60086 standard will result in a workable approach.
- **EPR – visible fee:** EPBA supports the requirement that the cost for the EPR obligations, among which the collection of waste batteries, shall be shown separately at the point of sale to the end-user since it is a very useful instrument which allows to **continuously communicate on the importance of battery collection**
- **Performance and durability:** EPBA **welcomes the proposal to set quality standards** for portable batteries which will ensure that only high quality, long-lasting, safe batteries are being sold and used in the EU market and is available to contribute with its expertise in the discussions that will set the actual performance and durability parameters.

Collection targets portable batteries (Art. 48 & 55)

- We are disappointed that the Commission did not take into account the lessons learned from the current batteries directive. The experience and expertise coming out of all the efforts to reach the targets under the framework of the Directive show that the calculation methodology based on a 3-year average of sales is not reflecting the realities of the batteries market.
- The way forward for having ambitious but also achievable collection targets is to set the calculation basis for collection targets on *'what is available for collection'* rather than a 3-year average sales basis.
- A 3-year average sales methodology will not work for the following reasons:
 - The methodology cannot capture the use and end-of-life phase of portable batteries *i.e.* it ignores all batteries which are in use, stored and exported (both new and waste batteries). All these batteries have been put on the market and are accounted for in calculating the

collection target, but these are simply not physically available for collection since these are either stuck in households or are no longer on the EU market due to export of (W)EEE in which batteries are included.

- A 3-year time-span does not reflect the time an average portable battery stays on the market (from sales to actual collection). The life cycle of primary batteries and definitely rechargeable batteries exceeds the 3-year time span¹. Since the Commission is proposing quality and durability requirements for portable batteries, one should assume that the average time these batteries stay on the market will only increase in the coming years.
- Based on the above, a calculation methodology on ‘availability for collection’ is the most optimal way forward taking into account the lifespan of batteries and batteries exported from the EU territory in (W)EEE. Although it may be perceived as being a more complex calculation, this should not prevent the authorities in implementing it when the result will be a more correct depiction of the portable battery market. The data are available to use the methodology!
- We also have strong reservations with the justifications used in the Impact Assessment (IA) to support higher collection targets based on the 3-year average sales methodology. The IA looked into the environmental benefits of higher targets and concluded that this would lead to a reduction in greenhouse gas emissions. This is based on the assumption of using a closed loop model where the recycled materials, especially for Lithium-based batteries, are used again in battery production. What is not taken into account in these assumptions is the fact that no portable rechargeable battery production is taking place in the EU.
- Finally and underlining the need for learning lessons from the current experience, we see that this proposal overlooks the fact that 10 Member States did still not achieve the 45% target in 2018 (which is two years after the mandatory deadline) while 8 EU Member States are on or just above the collection result.



EPBA strongly recommends to have a collection target based on what is available for collection. The Commission should not wait until 2030 to conduct this assessment but it should be carried out immediately.

¹ EUCOBAT Möbius Study, How battery life cycle influences the collection rate of battery collection schemes, 2017 <https://www.eucobat.eu/sites/default/files/2019-01/Eucobat%20-%20Mobius%202017%20Battery%20Lifespan.pdf>

Labelling requirements (Art. 13 & 15)

- The proposal foresees more information to be communicated to consumers and other interested parties. The combination of additional information requirements and additional symbols (QR code, CE marking), combined with language requirements will make it difficult to put all this on a normal blister card of a portable battery. EPBA is in favour of a more pragmatic labelling approach while avoiding as much as possible duplication of information. It should be specified which information should be put exclusively on the battery label/packaging, exclusively made available via the QR code or made available via both means.
- The information on the label/packaging should, as a basis, be in line with the IEC standards which foresee the following information:
 - Designation (IEC or common)
 - Expiration of a recommended usage period or year and month or week of manufacture
 - Polarity of the positive (+) terminal
 - Nominal voltage
 - Name or trade mark of the manufacturer
 - Cautionary advice
- In addition to this, the label/packaging should also contain the battery type, batch or serial number of the battery or other element allowing its unequivocal identification and the chemistry denomination.
- The information on the QR code, should contain data which remains constant over a certain period of time. This means that information on the serial number and date of manufacturing cannot be provided via the QR code since these changes all the time.
- Information on the chemical content can be provided but the proposal remains unclear what type of information is exactly needed. The threshold should be precisely specified as of which threshold it is required to report on hazardous substances (other than Mercury, Cadmium and Lead) & critical raw materials contained in the battery (annex VI). As is the case with the current batteries directive, labeling of batteries (Pb, Cd or Hg) is required only when the battery contains these substances above a certain level. For legal certainty reasons, a similar approach will have to be included in the proposal.
- The text of the proposal will require further fine-tuning based on the below comments:
 - Capacity marking (art 13(2)): This is a requirement which is already included in the current batteries directive. However, three studies have shown that it is not possible for technical reasons to provide capacity marking information for primary portable batteries that is meaningful, relevant and easy to understand by the consumer. This is also confirmed in the FAQ document from the European Commission accompanying the batteries directive.
 - The Minimum Average Duration (art 13(2)) will not provide any meaningful information to the consumer. First of all, it cannot be applied to rechargeable batteries. Secondly, primary portable batteries can be used easily in more than hundred different applications. It is not feasible to provide information on this to the consumer in a way which will help making an informed purchase.

EPBA is in favour of a more pragmatic labelling approach in which it is clearly specified which information is to be put on the label/packaging or on the QR code.

Definitions – portable batteries of general use (art 2(8))

This definition aims to identify portable batteries commonly used which are also subject to quality and durability requirements. We suggest to limit this selection to the five main battery types: AA, AAA, C, D & 9 Volt which are by far the main sold sizes.

The other battery types which are mentioned in the proposed definition (4,5 Volts (3R12), AAAA and A23) can hardly be considered general use batteries since only small quantities are placed on the market. In addition, these battery types are not available in a rechargeable format which is important in light of the LCA study the Commission has foreseen to do by 2030.

The definition of portable batteries of general use should reflect the actual market and limit the battery types to the main five sizes which are sold: AA, AAA, C, D & 9 Volt. These battery types are also available in a rechargeable format.

Conformity of batteries (art. 15 – 20)

We are concerned that the consequences of the proposed conformity procedure will result in a very significant administrative burden. Although this measure has value to assure (portable) batteries respond to a high level of quality when placed on the EU market, the requirement also needs to be balanced against the proportionality principle.

In most cases, a specific portable battery size is available in various chemistries and multiple types which would multiply considerably the number of conformity assessments. Since quality standards will be added in addition to the already applicable performance standards, it is unclear at this stage what type of information would be needed to ensure the conformity assessment has a positive outcome. We can envisage situations where it would take considerable time to provide and evaluate the data which could even result in a delay in placing new models on the market.

We therefore want to propose that the conformity procedure is limited to the five main types of portable batteries: AA, AAA, C, D and 9 Volt. These are by far the main sold sizes which are purchased by the general public. We also see the benefit and the logic in linking the conformity assessment requirement with our comments on the definition of portable batteries of general use. As such, there will be a system in place where the five main types of portable batteries will be subject to performance and durability requirements as well as CE marking.

It is also unclear as of which level of modification, a battery model needs to undergo a new conformity assessment. We propose an approach similar to the new IEC60086 standard on portable primary batteries that will be published in 2021 and which requires a new test whenever a design change or requirement revision has been made. According to this standard, a change in the battery specification occurs whenever a change by more than 0,1 g or 20 % mass, whichever is greater, for the cathode, anode or electrolyte is done.

The proposed methodology for conformity assessment will result in a significant administrative burden. EPBA recommends to limit the scope to the five main sizes of portable batteries and bring it in line with our comments on the definition of portable batteries for general use.

The legislation should also specify as of which level of modification a new assessment should be done. An approach similar as in IEC60086 standard will result in a workable approach.

Extended producer responsibility – modulated fees (Art. 47(4))

- Instead of a modulated fee, the durability and performance requirements (art. 9 of the proposal) will actually be a more effective tool to increase the quality, sustainability and safety of portable batteries placed on the EU market.

- Based on the direction of the Commission’s proposal, the part on modulated fees should not include ‘rechargeability’ and ‘recycled content’ as parameters applicable to portable batteries:
 - We see a noticeable contradiction between modulated fees and the requirements to set performance and durability parameters for all batteries. The latter requirement should ensure that all portable batteries placed on the EU market meet certain quality requirements while a ‘rechargeability requirement’ would only favour rechargeable portable batteries.
 - In line with this, it is important to underline that the impact assessment confirms that portable rechargeable batteries are not the best option from an environmental point of view to power low drain applications. It is therefore not appropriate nor justified to penalise portable non-rechargeable batteries via modulated fees which are the most sustainable batteries to use in low drain applications.
 - The level of recycled content only applies, in the proposal, to industrial, automotive and electric vehicle batteries with an internal storage capacity above 2kWh. Based on this, recycled content should not be used as a parameter to set the financial contributions for portable batteries.
- The remaining requirements to modulate the fee based on battery chemistry and type are already applied in general today by the take-back schemes and are based on the actual costs of collection and recycling. Since this is a proposal for a Regulation, it is important to ensure that a EU-wide harmonised approach is applied excluding the possibility for Member States or Producer Responsibility Organisations to add additional requirements.

The durability and performance requirements (art. 9 of the proposal) will be a more effective tool to increase the quality, sustainability and safety of portable batteries placed on the EU market than the use of modulated fees.

End-of-life information – visible fee (art. 60 (5))

EPBA supports the requirement that the cost for the EPR obligations, among which the collection of waste batteries, shall be shown separately at the point of sale to the end-user. This a very useful instrument which gives a signal to the consumer that with every purchase part of the fee that has been paid is for the collection and recycling of these batteries. This is a fair and transparent system which continuously remind the consumer on the available take-back programmes and can drive increased collection via the designated bins in the shops.

It also strengthens the principle that all stakeholders have a role to play in achieving the collection targets and allows for the authorities an easy way to check producer compliance.

EPBA supports the requirement that the cost for the EPR obligations, among which the collection of waste batteries, shall be shown separately at the point of sale to the end-user.

Performance and durability requirements for portable batteries of general use (art. 9)

EPBA welcomes the proposal to set performance and durability requirements for portable batteries of general use since it will ensure that European consumers have access to high quality, long-lasting and safe batteries.

This approach recognises that both primary (non-rechargeable) and rechargeable batteries have their function in powering appliances and builds further on the sustainability considerations of these batteries in relation to appliances.

It is worthwhile to underline that from a sustainability point of view:

- Primary batteries are better for powering low-drain devices (e.g. remote controls, hearing aids)
- Rechargeable batteries are better for high-drain devices (e.g. digital cameras)

EPBA welcomes the proposal to set quality standards and is available to contribute with its expertise in the discussions that will set the actual performance and durability parameters while also taking into account the sustainability aspects related to portable batteries.