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EPBA comments on the Evaluation Roadmap of the Batteries Directive (2006/66/EC)

Introduction

The European Portable Battery Association (EPBA) is the authoritative voice of the portable power industry. The association supports the common interests of its members regarding portable batteries and battery chargers with European institutions and other leading international bodies to provide consumers with complete power solutions which are sustainable across their life-cycle.

EPBA supports the purpose of this evaluation and believes that it is useful to assess how to improve the Directive and its implementation on the ground. EPBA members are committed to fully cooperate with the European Commission in the achievement of this goal.

EPBA has developed important recommendations to be taken into account in the report and evaluation of the Batteries Directive.

Scope of the evaluation

- **Objectives of the current legislative framework**

We support the two main objectives of the Batteries Directive as mentioned in the roadmap: protection, preservation and improvement of the quality of the environment and smooth functioning of the internal market.

We also support that the requirements which have an impact on the Internal Market (e.g. substance ban, marking) need to be implemented uniformly by Member States. There have been some issues with the interpretation of the marking requirements at national level which could potentially have distorted the Internal Market. It is therefore important that any requirement impacting the internal market is stated in unambiguous terms.

EPBA hopes that this evaluation will be the opportunity address these distortions.

- **Subject areas of the evaluation**

Circular Economy

The roadmap also refers to the Circular Economy Package, namely to the European Commission proposal to amend the directive by deleting the three-year reporting requirement for Member States.

EPBA highlights that it is essential to undertake a proper revision of the entire Directive separately from the circular economy discussions and not to use the circular economy

package legislative process to fully amend the directive as some European Parliament members are intending to do.

Additionally, EPBA recalls that the battery industry has already been implementing circular economy principles. EPBA members have namely invested in the continuous search for more efficient use of resources & product design. This namely results in a significant increase of the runtime of primary batteries due to more advanced materials (between 27% - 48%) while reducing the overall weight of batteries placed on the market. Our industry has also worked on reducing the weight of batteries, developing rechargeable batteries, improving longevity of batteries due to mechanical changes, increasing shelf life of batteries. Our members' main focus also has been consumer information to enable the battery buyer to make an informed decision which type of battery fits its needs.

The roadmap mentions that the European Commission will explore new approaches in relation to reusing, recycling and recovery of spent batteries.

EPBA highlights the fact that there is a need to balance the energy and environmental impact to obtain high purity of materials from recycled materials versus the use of virgin materials. on the fact increasing the quantity of material recycled in batteries without a mechanism that allows producers to ensure the quality of the recycled material would be counterproductive. Ensuring quality of materials will translate into higher performance delivered to the consumer while less waste is generated.

In a nutshell, EPBA recalls that the success of the Circular Economy will depend greatly on its ability to recognise differences across materials and products. The distinct specificities of batteries have to be taken into account. Batteries are one of the first complex consumer product category that have been regulated for reduced environmental impact, recycling technologies development for reuse of spent batteries materials, and consumer and stakeholders involvement to increase collection rate resulting in x thousands tons of valuable materials (zinc oxide, iron mixes,...) recovered across multiple industry channels.

Issues to be examined by the evaluation

- **Relevance of the Batteries Directive**

First of all, EPBA agrees with the European Commission's assessment on the relevance of the Batteries Directive: the use of batteries will continue to grow and therefore specific EU legislation in this area will still be relevant in the future.

EPBA thinks that it is useful for the evaluation to take into account battery technology trends in terms of components and design. The current Batteries Directive fails at accommodating new technology developments. It would be useful for the revised directive to present some options for the future without favouring a specific battery technology or design. In addition, it will also be necessary that any consideration regarding the new approaches to which the roadmap refers should take into account the environmental and economic impacts.

- **Effectiveness of the Batteries Directive**

To improve the directive's effectiveness, the focus should be on implementation and enforcement by national authorities as well as the harmonization of various items: reporting, batteries definitions, etc....

The first Batteries Directive implementation report clearly shows that there is limited inspection and enforcement being carried out. The directive was transposed into national legislation but very few countries actually apply compliance checks.

Distance selling of batteries should also fall in the scope of producer responsibility. The digital internal market brings an abundance of positive aspects for the European citizens, including the opportunity to compare prices of the end products. However, it must provide equal competitive arrangements for both distance selling and traditional sales. The importer and manufacturer must organize waste management for the products put into market that are under producer responsibility and carry the costs of the waste management. The e-commerce results in significant and increasing numbers of electrical and electronic devices with integrated batteries.

Calculation methodology

EPBA believes that the evaluation roadmap is an opportune moment to re-assess the calculation basis for the collection targets and shift towards a target which is based on 'what is available for collection'.

This approach is introduced as an option in the WEEE legislation and has as the advantage reflecting better the actual realities of the each individual EU Member State market.

This will require developing a specific calculation methodology which takes into account the national market realities and specificities.

Collection targets

In September 2016, 10 Member States will have reached the 45% target. This confirms the concerns that EPBA had expressed in the past and reinforces the need for realistic and workable collection targets.

Portable battery collection is very complex and is subject to a wide variety of parameters such as: consumer awareness, legal frameworks, density of the collection points, variety of collection streams and the need to ensure that every actor in the waste collection process takes up its responsibility. The way these are implemented differ highly from one member state to another one.

The Batteries Directive evaluation should focus on how to foster implementation instead of setting new mandatory targets.

Extended Producer Responsibility (EPR)

The roadmap mentions that not all batteries are properly collected and recycled which increases the risk of releasing hazardous substances into the environment and constitutes a waste of resources.

EPBA would like to underline that binding EU minimum performance requirements for EPR would considerably improve the achievement of collection targets while ensuring a level playing field for all EPR schemes (regardless of their ownership structure) and promote a viable market for secondary raw materials.

Furthermore, clarifying the Directive's definition of a "producer" would also enable a better implementation of the obligations by enhancing the registering/reporting obligations. EPBA also recommends that the definition covers batteries which are placed on the market via

online sales to ensure that these producers also take up their responsibilities in terms of EPR requirements.

Recycling efficiency targets

The first Batteries Directive implementation report highlighted concerns in the interpretation of recycling efficiency targets and how these are reported. Member States should be reminded that a 100% recycling rate is not possible and that the recycling technologies are so different from one player to another one, including but not exhaustive dedicated versus non dedicated process, highly variable number of steps before reaching a new by-product, that makes the recycling efficiency methodology highly complex to describe.

Capacity marking

Various studies have concluded that capacity marking for primary portable batteries is not feasible from a technical point of view. This has been confirmed in the European Commission's guidance document which states that "[...] it has proved not currently possible to draw up harmonised rules for the capacity labelling of portable non-rechargeable batteries [...]"¹. Given that it is not possible to provide capacity marking information for primary portable batteries that is meaningful, relevant and easy to understand by the consumer, EPBA calls for removing the capacity marking requirement for primary portable batteries.

- **Efficiency of the Batteries Directive**

EPBA has always advocated for a transparent financing mechanism as it is a pre-requisite for a sustainable and efficient battery collection system. This is not reflected in the current battery directive since it does not allow the use of a visible fee towards the end-users.

A visible fee is the tool that will first and foremost inform the consumer that the portable battery will be treated at end of life and therefore needs to be disposed of correctly. The visible fee will also allow for making the consumer aware of the financial impact of the recycling of portable batteries. This fee would be differentiated according to the actual costs of collection and recycling of that particular battery system and would also therefore reflect the efficiency of the collection and recycling schemes ensuring a continuous drive for improvement.

As an additional advantage, the use of a visible fee provides an easy control mechanism for authorities to verify whether a company placing batteries on the national market is compliant with the producer responsibility requirements.

Therefore EPBA asks the European Commission to consider imposing a visible fee marking on all batteries to reflect the net cost of battery collection; this will also contribute to the consumer awareness on the implementation of circular economy principles. This will also align batteries with other consumer goods that are already exhibiting visible fee in stores.

¹ European Commission, Frequently Asked Questions on Directive 2006/66/EU on Batteries and Accumulators and Waste Batteries and Accumulators (Updated version, May 2014), <http://ec.europa.eu/environment/waste/batteries/pdf/faq.pdf>

- **Coherence and consistency of the Batteries Directive**

EPBA approves the Commission's effort to create links and interactions between the Batteries Directive and other existing legislation covering waste such as: Waste Directive, WEEE Directive, ELV Directive, REACH regulation and RHOS Directive.

The conclusions of the first Batteries Directive implementation report takes stock of a confusion between the definition of industrial, automotive and portable batteries. EPBA agrees with this assessment and adds that it creates uncertainty in the distinction between portable and industrial batteries. For that reason, national organizations responsible for collection schemes often apply weight thresholds to distinguish the different types of batteries. These weight limits differ among EU countries leading to inconsistencies in collection. Therefore EPBA supports the development of a dedicated method to differentiate industrial, automotive and portable batteries.

Finally, the involvement of distributors in the collection and recycling process varies significantly from one Member State to another. This is due to the lack of uniform transposition of the Directive on national level. EPBA asks the European Commission to address this point in the evaluation and possible directive revision.