RECHARGE

ADVANCED RECHARGEABLE & LITHIUM BATTERIES ASSOCIATION

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# RECHARGE's Position on the Review of the Batteries Directive

## Summary of key proposals

### 1 Article 3: Definitions

**Maintain the Batteries categories: Portable, Industrial and automotive**

The distinction operated between the different categories (portable, automotive and industrial) is **still relevant and fit for purpose.**

However, **e-bikes batteries** could **be moved** from the industrial **to the portable category**, due to their increasing use by consumers and collection at municipal collection points.

Moreover, in view of extending product life, **re-use and second life should be defined** in the Batteries Directive.

### 2 Article 1, Article 2 and Article 4

**Refer to hazardous substances management**

**Chemicals** are **regulated by several EU** and **international legislation** when it comes to their use, marketing, transport or as a waste (REACH, OSH, United Nation transport and waste framework directive).

To **avoid duplicating provision,** it is advisable to make reference to these existing chemicals management texts.

### 3 Article 10: Collection Targets

**Keep industrial and automotive batteries out, harmonise Member States statistics for portable batteries**

The take-back obligation governing industrial batteries is strengthened by a prohibition on landfilling and incineration, effectively imposing a 100% take back obligation based on waste generated (but not on last 3 year sales).

For a more accurate collection calculation, the amount of **portable batteries** "**available for collection**" could be **calculated as** in the **WEEE Directive.**

### 4 Article 12: Recycling efficiency

**Changes in recycling efficiency targets must support a sustainable recycling**

The recovery of a **minimum percentage of the metals contained** can be improved**,** for metals with a severe environmental risk of accelerated depletion.

The **method to assess this environmental risk** should be **science-based**. In addition, the **principle of non-excessive cost** of recovery must be introduced to **support** the development of a sustainable **recycling industry.**

### 5 Article 21 & 22: Labelling and information

**Avoid unnecessary complexity of labelling and provide quality information for consumer**

**Labelling requirements** concerning chemical composition and identification of substances are **already in place to support professional recyclers. To avoid complexity and confusion** the label should be kept **simple and easy to understand,** maintaining the crossed-out wheel bin.

Moreover, since **environmental labelling is still in its infancy**, making use of PEF methodology would only result in complexity and confuse the consumer.

### 6 Hazardous waste codes clarification and harmonization is required

Some Member States have classified all batteries as Hazardous Waste which poses a problem with regards to the shipment of waste.

**Harmonization of waste batteries classification through all EU Member States is needed**, and there is not necessity to systematically classify them as hazardous, since users are not exposed to the substances contained inside, under normal and reasonably foreseeable conditions of use.

## Introduction

In October 2017, the European Commission launched the **EU Batteries Alliance to create a competitive and sustainable, battery cell manufacturing activity in the European Union**, contributing to both growth and sustainability objectives. In parallel, the Commission has initiated the review of Directive 2006/66/EC (the "Batteries Directive"). **The revision of the Batteries Directive will be a key factor determining the success of the challenging task to become a world leader in batteries manufacturing**.

RECHARGE is convinced that the momentum created by the Batteries Alliance is a unique opportunity to look at **the legislative and regulatory landscape** impacting batteries and to work towards better coherence and efficiency.

**The future environmental objectives** discussed in the framework of the Batteries Directive revision, such as batteries collection rate and recycling efficiency, **should be compatible with the growth objectives set for the battery sector**. RECHARGE would like to outline its key proposals related to the review of the Batteries Directive so as to create a favorable landscape for the batteries sector in the European Union.

## 1. Maintain the Batteries categories (Article 3: Definitions), Clarify re-use and second life

Directive 2006/66/EC defines **3 categories of batteries**: portable, automotive and industrial batteries, with attached rules and obligations. The distinction operated between the different categories have structured the market. A vast majority of products clearly fall into a specific category, the definitions are still **relevant and fit for purpose**, and therefore, should be maintained.

However, e-bikes batteries which are L1 vehicle batteries are currently falling into the industrial category. However, they are **increasingly used by consumers and returned to municipal collection points** in the same systems manner as portable batteries such as laptop batteries. Therefore, RECHARGE considers that **e-bikes batteries could be moved from the industrial to the portable category**.

In view of the Circular Economy objectives to extend the batteries life prior to becoming waste, **re-use and second life of batteries** (especially the industrial batteries from electro-mobility) becomes an important new business model.

In the Waste Framework Directive 2008/98/EC, Article 3.13, and in the Waste Electrical & Electronic Equipment Directive 2012/19/EU, Article 3.2. re-use is defined as "any operation by which products or components that are not waste are used again for the same purpose for which they were conceived."

As there is no definition of re-use in the Batteries Directive 2006/66/EC, RECHARGE proposes to include the following **definition of re-use**: "Any operation by which batteries or accumulators that are not waste are used again for the same purpose for which they were conceived."

RECHARGE also proposes **to include in the Commission FAQ document**: "A repair (refurbishment, remanufacturing) of a battery is considered a sub-set of re-use, and does not change the EPR for the producer/importer having placed that battery on the market for the first time."

Second life is neither defined in the Waste Directives nor in other EU legislation. RECHARGE proposes to include the following **definition of second life (also named "re-purposing")**: "Any operation by which batteries or accumulators that are not waste are placed on the market again for use for a different purpose for which they were designed and placed on the market for the first time."

**RECHARGE proposes to include in the FAQ**: "A re-purposing of a battery for a second life changes the EPR, as that second life battery is used for a different purpose than the battery put on the market for the first time. The importer/producer/re-purposer of the second life battery has now the EPR obligation (and other obligations of the Batteries Directive and Regulation on the calculation of RE), irrespective of a new label or not."

Generally, **RECHARGE proposes to harmonize definitions throughout Waste legislation**, and to further clarify these definitions in the FAQ, with emphasis on 'producer' and 'placing on the market'.

## 2. Refer to hazardous substances management (Article 1/2, article 4)

**Chemicals are regulated by several EU and international legislation** when it comes to their use, marketing, transport or as a waste (REACH, OSH, United Nation transport and waste framework directive).

- Regulation (EC) No 1907/2006 (REACH) provides the main framework to manage chemicals and provide safety information on substances.
- The UN transport regulation about Dangerous Goods define the transport and packaging requirements for new and waste batteries.
- The Waste Framework Directive refers to the CLP regulation to identify hazardous wastes, and the batteries are specifically identified in the annex III, list of wastes.

RECHARGE advises the **use and make reference to these existing chemicals management texts** rather than duplicating provisions.

Therefore, RECHARGE recommends that **the first article of the revised Battery Directive is modified and makes direct reference to the REACH regulation for the management of hazardous substances**.[1]

For continuity reasons, **RECHARGE is in favor of keeping the legacy restrictions on the 3 heavy metals under the Batteries Directive as they are today** (the lead, mercury and cadmium containing batteries are not identified in the REACH annex XVII for restrictions).

Finally, to support competitive EU battery value chains, we call on the European Commission to clarify whether European battery manufacturers would be subject to the high costs of REACH authorisation, or which criteria need to be fulfilled so that effective risk management under OSH will be recognised as sufficient.

[1] **Article 1 Directive 2006/66/EC**
This Directive establishes:
(1) rules regarding the placing on the market of batteries and accumulators and, in particular, a prohibition on the placing on the market of batteries and accumulators containing hazardous substances;

## 3. Collection targets (Article 10): keep industrial and automotive batteries out, harmonise Member States statistics for portable batteries

Industrial and automotive waste batteries are essentially large batteries, used by professionals. Reverse logistic chains are industry specific, with life duration often achieving more than 10 to 15 years, and batteries are often subject to diagnose before the decision to takeback as a waste. The take-back obligation governing industrial batteries is strengthened by a prohibition on landfilling and incineration, effectively imposing a 100% take back obligation based on waste generated.

While it supports the collection targets for portable batteries, as it has been successful in improving the recycling rates, RECHARGE cannot see the added value of collection targets for automotive and industrial batteries.

Furthermore, RECHARGE considers that **harmonization is required between member states statistics for portable batteries collection targets.**

For a more accurate collection calculation, the amount of portable batteries "available for collection" could be calculated, like in the WEEE Directive. In addition, RECHARGE recommends to **clarify the role of the WEEE recyclers**, with a **reporting obligation on separation or treatment of the batteries collected** in the WEEE flow.

## 4. Recycling efficiency targets (Article 12)

The current requirement for **recycling efficiency**, based on a percentage of weight of the **battery could be improved to better contribute to the achievement of the circular economy** objectives.

RECHARGE promotes the recovery of a **minimum percentage of the metals contained**, in particular metals for which the environmental risk of accelerated depletion is severe. **The method to assess this environmental risk should be science-based**. In addition, the principle of non-excessive cost of recovery must be introduced to support the **development of a sustainable recycling industry**.

## 5. Labelling and consumer information (Article 21 & 22)

**Labelling requirements** concerning chemical composition and identification of substances are already in place to **support professional recyclers, facilitating sorting and recycling of batteries**:

- The Batteries Directive is already requiring the identification of mercury, cadmium or lead. In addition,
- The REACH regulation is now requiring the identification of the substances of very high concern contained in the articles.
- The UN regulation for the transport of dangerous goods is also requiring the identification of the battery capacity for some chemistries.

Therefore RECHARGE **does not support further complexification** of the labelling of batteries.

**RECHARGE supports consumer information in order to promote the separate collection of batteries**. RECHARGE recommends that the label should be kept simple and easy to understand, maintaining the crossed wheel bin. For additional information, other communication channels (like internet web sites or advertisement campaigns) may be used.

Further options to inform consumers and professionals are currently being considered, such as environmental impacts, life duration and/or capacity, chemical composition, etc. with the Commission "Product Environmental Footprint" (PEF), an on-going pilot project addressing the complex issue of environmental communication.

**RECHARGE believes that it is premature to make use of the PEF methodology**. There are some **specific limitations**, for instance the requirement of the cell capacity identification in order to assess the product life duration has been found non-applicable for primary cells and batteries. **Environmental labelling is still in its infancy, it would only result in complexity and confuse the consumer.**

## 6. Hazardous waste codes clarification and harmonization is required

For the time being some Member States have classified all batteries as hazardous waste which pose a problem with regards to the shipment of waste, creating obstacles to free circulation inside the EU.

RECHARGE considers that **legislation harmonization is needed, as waste batteries should have the same classification through all EU**.

Moreover, in principle users are not exposed to the substances contained inside, as long as the batteries integrity is preserved (they do not get crushed or damaged).

Therefore, waste batteries should not be considered hazardous waste when not relevant. For the usage of professionals, mirror codes should be created for a relevant management of the waste.


About RECHARGE

RECHARGE aisbl is the Advanced Rechargeable and Lithium Battery Association. RECHARGE is representing the specific interests of the Rechargeable Battery Industry in Europe. RECHARGE's mission is to promote the value of advanced rechargeable batteries through their life cycle. RECHARGE's Membership includes Rechargeable Battery Manufacturers, Original Equipment Manufacturers, Rechargeable Batteries Recyclers and Raw materials suppliers to the Battery Industry. *For further information, contact Claude Chanson, General Manager, cchanson@rechargebatteries.org*