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Teknikföretagens yttrande över EU-kommissionens förslag till förordning om batterier

Teknikföretagen tackar för möjligheten att svara på ovanstående remiss. Vårt svar är indelat i två delar, en övergripande del som behandlar principiella slutsatser och en del som behandlar kommentarer på artikelnivå.

Teknikföretagen är en bransch- och arbetsgivarorganisation som företräder svensk tillverkningsindustri. Tillsammans står våra drygt 4 200 medlemsföretag för en tredjedel av Sveriges export. Våra medlemmar verkar inom bland annat fordonsindustrin, telekom, elektronik, batteritillverkning och kraftutrustning. Gemensamt för dem är att nästan all försäljning sker i global konkurrens. Teknikföretagens uppdrag är att ge företagen bästa möjliga konkurrenskraft.

Med vänlig hälsning

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General comments on the legislation

Teknikföretagen welcomes the initiative to secure that batteries are sustainably produced. We believe batteries and different types of energy storage will have an important role for the energy system, but also more specifically for the transport, as well as the construction equipment sector, and in order to be able to reach the climate goals. As a key component for electrification it is therefore crucial that this legislation is not hindering the development towards electrification.

The battery technology is developing rapidly, and it is of great importance that a legislation is **technology neutral**. In order to reach efficient legislation this specific legislation needs to be set **in line with and not conflicting** with existing and other legislation. Moreover, **the administrative burden needs to be kept at a reasonable level** in order not to create too high costs for batteries and thereby create challenges for the industries that are including batteries in their products and services.

The proposal is a harmonized legislation for products – but as a regulation. That deviates from the New Legislative framework that regulates product safety for products that will use batteries. The proposed regulation uses only some parts from the important elements in the new legislative framework as the use of standardization and market surveillance. The degree of control from the authorities is too low and the limited use of standardization is not acceptable.

We support the introduction of the carbon footprint as a driver for sustainable fossile free production of batteries. Despite that life cycle assessment tools and methods need to be comparable, relevant and based on scientific data. It needs to be assured that the tool of the carbon footprint is stable and reliable to fulfill a secure and fair use of the footprint.

Standards must be developed by the standardization committee and not by the Commission

Standards must be developed under the standardization processes which have worked as a successful model under the New Legislative Framework for many years, with the right balance of participation in the process from the Commission, Member States, European standardization organizations and stakeholders. We are very concerned that the Commission is planning to give the task of developing the details of technical relevance to the Joint Research Centre if the relevant harmonized standards developed by CEN CENELEC “are not sufficient” (Article 16.b).

Third-party verification needs to be complemented with market surveillance

The proposal of requiring 3rd party certification differs from other CE marking directives, and risks to increase the administrative cost. We would prefer that third-party verification is only used for severe risk in respect to safety aspects – not environmental requirements. Certified bodies are commercial companies and need to be impartial to their customers and we do not see how this is assured.

Requirements on market surveillance authorities are too low. A requirement for the planning of the market surveillance is needed to secure a level playing field. In order to protect the EU battery industry from unfair competition as well as EU citizens from non-compliant products a timely and planned market surveillance is of high importance.

Double regulation must be avoided

We see a risk of double regulation and inconsistency in several different areas for this legislation, both when it comes to chemical restrictions, due diligence and battery performance. First example of this is when splitting up the restriction of hazardous substances over several regulatory frameworks.

When it comes to due diligence, we want to emphasize the need of aligning ongoing legal initiatives. The battery regulation should only refer to the horizontal initiative on due diligence instead of adding requirements that risk being contradictory.

Double regulation and unclear rules are also a risk when it comes to the performance and durability requirements, especially from an OEM perspective. Batteries are used in complex products that must fulfil requirements in for example the LVD directive and the machinery directive.

Administrative burden needs to be kept at a reasonable level

We suggest that the proposed Battery regulation is evaluated against the Commission Guidelines of Better Regulation. Is this proposal proportional when looking at the administrative impact of the proposal and is this the simplest, least costly way to achieve the policy objective?

Duplication of labelling and information systems must be avoided. Article 13 refers to an extensive list of information that will have to be provided together with the battery, in different forms (printed or engraved on the batteries, through a QR code and with a battery passport). This system would result in at least a duplication of information requirements, with consequent unnecessary administrative burden to maintain and operate several labelling systems.

For the information that is needed in the Battery Passport it must be secured that the critical information that are needed for recyclers does not intrude on IP and property rights.

The term “batch” is not defined in the regulation. For batteries produced in large factories the production is continuous and no clear batches exist. Calculations should rather be enforced per battery type and model and the term batch must be avoided, otherwise this risks to demand lots of administration.

SMEs and start-ups shouldn’t be hindered by complex legislation

The legislation proposal is complex, and it contains an extensive list of sustainability requirements. In order not to limit possibilities for SMEs with limited resources, some support system is needed. This will help these companies to

deliver on the requirements. We also see a risk that this extensive regulation hinders the development of new start-ups in the sector because of the regulatory burden

The requirements in the regulation are moreover referring technology of today with regards to battery chemistries. The legislation should be technology neutral in order not to hinder future development and innovation in this area. SMEs and start-ups shouldn't be hindered by a too complex legislation.

Global trade of batteries will still be important

The electrification is very complex with a high demand for of specialized and different types batteries. A lot of companies are sourcing batteries from all over the world and sees a risk that European batteries suppliers gain advantages in competition but see the risk that a severe part of the batteries produced in Europe will be used for transport industry and not for other applications where batteries are demanded.

The European industry will need both EU produced and imported batteries. It must be easy to continue to import battery cells for a reasonable cost during the coming decade. There is a worry that the battery regulation will decrease the possibilities to source special battery cells from other parts of the world.

Comments on specific articles and annexes of the proposal for battery legislation

Proposed regulation		Teknikföretagen comments
Article 2 Definitions		
(18) Carbon footprint	'carbon footprint' means the sum of greenhouse gas (GHG) emissions and GHG removals in a product system, expressed as carbon dioxide (CO2) equivalents and based on a Product Environmental Footprint (PEF) study using the single impact category of climate change	This definition should **refer to the standard/methodology** that is being developed.
(36) supply chain due diligence	'supply chain due diligence' means the obligations of the economic operator which places a rechargeable industrial battery or an electric-vehicle battery on the market, in relation to its management system, risk management, third party verifications by notified bodies and disclosure of information with a view to identifying and addressing actual and potential risks linked to the sourcing, processing and trading of the raw materials required for battery manufacturing;	**This definition differs** from the one in the ongoing Consultation on an Initiative on Sustainable Corporate Governance, including Due Diligence for human rights and environment. We want to emphasize the need of **aligning ongoing legal initiatives**. The battery regulation should only refer to the horizontal initiative on due diligence instead of adding requirements that risk being contradictory. Fragmentation and double regulations should be avoided.
Missing definitions	Remanufacturing	Definition of remanufacturing (used for example in article 59) is needed in the battery legislation. The definition will have implication on how this regulation is interpreted. In other regulations it is defined in many different ways dependent on where it is used. It is necessary to have one common definition used in all product regulation.
	Batch	The regulation states that Carbon footprint, recycled content and other measures should be implemented "per batch". However, the term "batch" is not defined. Batteries will be produced in a

		continuous production process were raw materials and components are refilled continuously. The term “batch” should be removed or defined. We prefer that battery type and model is the regulated entity.
Article 6 Restrictions of hazardous substances		
General comment	We see a risk of double regulation and inconsistency when splitting up the restriction of hazardous substances over several regulatory frameworks and urge the Commission to carefully evaluate the best way forward. It is vital that member states still have an influence over chemical restrictions why this must be ensured in the regulation.	
Article 7 Carbon footprint of electric vehicle batteries and rechargeable industrial batteries		
1	Electric vehicle batteries and rechargeable industrial batteries with internal storage and a capacity above 2 kWh shall be accompanied by technical documentation that includes, for each battery model and batch per manufacturing plant, a carbon footprint declaration drawn up in accordance with the delegated act referred to in the second sub-paragraph and containing, at least, the following information: (a) administrative information about the producer; (b) information about the battery for which the declaration applies; (c) information about the geographic location of the battery manufacturing facility; (d) the total carbon footprint of the battery, calculated as kg of carbon dioxide equivalent; (e) the carbon footprint of the battery differentiated per life cycle stage as described in point 4 of Annex II; (f) the independent third party verification statement; (g) a web link to get access to a public version of the study	- The **term “batch” is not defined** in the regulation. For batteries produced in large factories the production is continuous and no clear batches exist. Calculations should rather be enforced per battery type and model and the term batch must be avoided. If this is not changed the reporting burden will be unreasonable. - **Reference to the methodology for calculating carbon footprint should be made in the regulation**. In the methodology it is critical that renewable energy only can be accounted for if evidence of renewable energy sourcing is provided, i.e. contract for renewable electricity supply. If no renewable energy sourcing can be proved, the national average electricity mix in the country of production should be applied.

	supporting the carbon footprint declaration results.	
3	The requirement for a maximum life cycle carbon footprint threshold in the first subparagraph shall apply as of 1 July 2027 for electric vehicle batteries and for rechargeable industrial batteries.	Timing in respect to policy development procedures and technology development need to be analyzed further to secure legal clarity and FOI investments.
Annex II Carbon footprint		
4	The use phase should be excluded from the lifecycle carbon footprint calculations, as not being under the direct influence of manufacturers unless it is demonstrated that choices made by battery manufacturers at the design stage can make a non-negligible contribution to this impact.	The use phase shall be excluded from the lifecycle carbon footprint calculations since the influence of manufacturers are not direct. However, as it is stated, choices made can make a non-negligible contribution (e.g. significantly limited operating conditions resulting in a need for energy inputs to keep recommended conditions, etc.). Additionally, even though the influence of manufacturers is not direct, **recommendation on intended use of the product should be provided.**
Article 8: Recycled content in industrial batteries, electric vehicle batteries and automotive batteries		
General comment	One of the primary justifications for this Article is the concern over availability of critical substances currently used in Li ion battery technology, Ni, Co and Li. However, setting up requirements in this way is likely to provide obstacles to introduction of alternative cell chemistries, not relying on e.g. Ni and Co. Thus the dependence and over-exploitation of these elements are enforced by the regulation. There are already indications from recyclers that development of recycling processes for alternative Li ion chemistries with high content of sustainable substances, e.g. iron or manganese based systems, will suffer and that the cost for recycling alternative battery technologies will be prohibitive	
1.	From 1 January 2027, industrial batteries, electric vehicle batteries and automotive batteries with internal storage and a capacity above 2 kWh that contain cobalt, lead, lithium or nickel in active materials shall be accompanied by technical documentation containing information about the amount of	Timing in respect to policy development procedures and technology development need to be analyzed further to secure legal clarity and FOI investments.

	cobalt, lead, lithium or nickel recovered from waste present in active materials in each battery model and batch per manufacturing plant.	
2 and 3	1 January 2030: (a) 12% cobalt; (b) 85% lead; (c) 4% lithium; (d) 4% nickel. 1 January 2035: (a) 20% cobalt; (b) 85 % lead; (c) 10% lithium; (d) 12% nickel.	• **Mandatory content of recycled material risks hampering electrification rates and available production volumes**. It is important to remember that we don't know the required battery production volumes by 2030 and 2035. If 12% recycled content is to be used in 2030, there is no way to know how much material that represents, and if that material will be accessible. It is therefore important that the targeted levels can be easily updated and that the timeline for such thresholds are not introduced until the battery market reaches a steady state, not risking hampering the exponential growth of the electrification. • The term **"batch" should be removed or defined.** We prefer that battery type and model is the regulated entity.
Article 10 Performance and durability requirements for rechargeable industrial batteries and electric vehicle batteries		
2	From 1 January 2026, rechargeable industrial batteries with internal storage and a capacity above 2 kWh shall meet the minimum values laid down in the delegated act adopted by the Commission pursuant to paragraph 3 for the electrochemical performance and durability parameters set out in Part A of Annex IV.	• The Battery performance criteria risks impeding innovation and stalling market development. • New legislation should not specify technical conditions on the batteries. As test standards are developed, the performance declaration should be set only as information requirement to provide consumer information – but not set market access limits, this risks i.e. stalling batteries for fast charging or new types of batteries and cell chemistries. • Capacity face and internal resistance increase depend on the algorithms used to calculate the parameters. If such measures are to be used, standards on calculation measures must be developed • Any specific performance and durability requirements in the Battery Regulation referring to EV batteries (categories M and N) should only be a reference to UN-ECE

		regulations to foster international harmonization
3	By 31 December 2024, the Commission shall adopt a delegated act in accordance with Article 73 to supplement this Regulation by establishing minimum values for the electrochemical performance and durability parameters laid down in Part A of Annex IV that rechargeable industrial batteries with internal storage and capacity above 2 kWh shall attain.	Minimum values for the electrochemical performance and durability parameters that shall be established by 31 December 2024, concern only parameters laid down in Part A of Annex IV. However, other important parameters, such as depth of discharge and power capabilities at certain states of charge (included in Part B of Annex IV), that affect performance and lifetime of batteries are excluded. Why is this the case?
Article 13 Labelling of batteries		
General comments	It is good that it is defined how the labelling should be done. It might though require a lot of administration to secure that all information is correct. Double reporting needs to be avoided and administrative burden must not be too heavy. Information sharing on labels seems outdated, why duplicate the same information on labels and as electronic information? We would recommend keeping a minimum of printed information on the label and use QR code to connect to electronic data.	
Article 39 Obligation for economic operators that place rechargeable industrial batteries and electric-vehicle batteries with internal storage and a capacity above 2 kWh on the market to establish supply chain due diligence policies		
General comments	Many companies are already working hard to improve the sustainability in their supply chain both the voluntary UNGP Guidance and the more mandatory due diligence requirement on conflict minerals are relevant for users and producers of batteries. Based on previous experience, one regulatory framework is preferable rather than the creation of separate, potentially contradicting requirements across legislations.	
Article 57: Recycling efficiencies and material recovery targets + Annex XII		
3 and Annex XII part C	3. The recycling efficiencies and the recovery of materials laid down in Parts B and C of Annex XII shall be calculated in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 4. Part C: No later than 1 January 2026, all recycling processes shall achieve the following levels of materials recovery: (a) 90 % for cobalt;	Material recovery targets higher than 90% are always desired but difficult. It is important that the numbers are set based on **evidence from available technology and processes**. The methodology to calculate these efficiencies must be set based on the final hydrometallurgical process step where the raw materials are finally extracted. As the recycling processes are divided into sub steps, sometimes located in different facilities and even geographical areas, it is important that the recovery rates are set on single steps and are easily calculated from the final

	(b) 90 % for copper; (c) 90 % for lead; (d) 35 % for lithium; (e) 90 % for nickel. 2. No later than 1 January 2030, all recycling processes shall achieve the following levels of materials recovery: (a) 95 % for cobalt; (b) 95 % for copper; (c) 95 % for lead; (d) 70 % for lithium;	process point where "battery grade" is obtained from the recovered materials.
Article 58 Shipments of waste batteries		
1-3	General comment on shipments of waste batteries	This is critical to ensure proper waste treatment. Note to ongoing CEAP Plan activities need to be streamlined. In order to achieve a circular economy the general definitions on waste and shipment of batteries needs to be revisited and updated.
Article 59 Requirements related to the repurposing and remanufacturing of industrial batteries and electric-vehicle batteries		
General comment	**The standards and procedures set by the regulation are steps in the right direction to make sure second life batteries are handled with care** and have the same safety standards as other batteries. As written in the proposal, the regulation does not differentiate first or second life batteries which is a good way to create a level playing field for batteries on the European market	
Article 64 Electronic exchange system		
1.	By 1 January 2026, the Commission shall set up the electronic exchange system for battery information ("the system").	It needs to be **thoroughly assessed** how a system like this should be handled and the amount of data that needs to be collected. One aspect to consider is **cyber security and risks of sharing sensitive information, as IP, in respect to competition**.
Article 65 Battery passport		
General comment	**More information** on the content of the battery passport is in general **needed**. I must be secured that the battery passport includes critical information to recyclers **without intruding on IP and property rights**. Cell configuration and detailed drawings are very business and market intelligence sensitive. Any information to be shared to other market operators must take IP and property rights into consideration.	
Chapter IX Union market surveillance, control of batteries entering the Union market and Union safeguard procedures – Article 66-69		

General feedback on chapter	This chapter is handling what to do if the requirements are not met. We are though missing requirements on market surveillance authorities to have a plan for control and resources for control. How will market surveillance be secured?	
Article 70 Green public procurement		
1	Contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3(1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU shall, when procuring batteries or products containing batteries in situations covered by those Directives, take account of the environmental impacts of batteries over their life cycle with a view to ensure that such impacts of the batteries procured are kept to a minimum.	This is an important driving force but does not replace proper market surveillance of the proposed battery regulation. How will this be applied and followed-up?
Article 73 Exercise of the delegation		
4	Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.	Since the commission will influence the next steps and further implementation through a large number of delegated acts. It is of great importance that not only member state experts are consulted but that also **the industry is involved**, not only battery manufacturers but also manufacturers where batteries are an integral part of their end product.