

Brussels, 26 February 2021

## Orgalim comments on a proposal for a Regulation for Batteries and Waste Batteries

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Orgalim, representing Europe's technology industries, welcomes the opportunity to comment on [a new proposal for a Regulation for Batteries and Waste Batteries](#), revealed by the European Commission on 10 December 2020.

By introducing a wide range of new sustainability requirements, the proposal paves the way for greener, circular and better performing batteries on the market. As continuously improving the performance and overall sustainability of products, including batteries, is at the core of European technology industries' commitment and competence, Orgalim has already welcomed in June 2020 the Commission's efforts in setting sustainability requirements for batteries in our position paper "[Orgalim comments on the development of sustainability requirements for batteries under a New Regulatory Framework for Batteries](#)". We very much welcome and support that the Commission's proposal reflects Orgalim's recommendations for sustainable sourcing of raw materials and the carbon footprint requirements.

Please see below the recommendations from our industries on the new proposal for a Regulation for Batteries and Waste Batteries, which are also relevant for any similar future legislative initiative considered within the new Sustainable Products Initiative:

- **Turning a Directive into a Regulation ensures harmonisation, yet some parts of the proposal are a step away from the New Legislative Framework.** We recognise that replacing the current Batteries Directive with a proposal for a Regulation is a step towards achieving a level playing field for batteries at the EU level because the Regulation will apply automatically and uniformly to all EU countries as soon as it enters into force. **Our industries are concerned that some parts of the new proposal for Battery Regulation represent a step away from the very successful New Legislative Framework.**
- **Standards must be developed by standardisation committees** and not by the Commission. It is of the utmost importance that the standards will be developed under the standardisation 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 standardisation organisations and stakeholders. We are very much concerned that the Commission is planning to task the development of standards to the Joint Research Centre if the relevant harmonised standards developed by CEN CENELEC "are not sufficient" (Article 16.b). We therefore strongly recommend removing Article 16 in its entirety.
- **Reduce the number of secondary acts and involve the industry as early as possible in their development.** Regarding the very high number of delegated and implementing acts included in the

Battery Regulation proposal, we believe that their number should be reassessed and focused on areas where they will have the most impact. To achieve the best policy result, the upcoming delegated and implementing acts should be developed in cooperation with stakeholders including the industry experts.

- **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 a consequent unnecessary administrative burden to maintain and operate several labelling systems. A data support platform, based on standardised data, would ease the circularity of the material flows and tackle the structural problems, yet its interoperability in terms of information exchange and system performance should be workable and based on either QR codes or cloud services.
- **The proposed use of third-party verification must be proportionate, workable and contribute to the circular economy.** The introduction of third-party verifications for several requirements such as carbon footprint, supply chain due diligence and energy labelling is another reason for concern for our industry. In particular, we highlight the cost of performing the life cycle analysis and feasibility in terms of technology production and enforceability of the requirements. We also stress that the impartiality of test laboratories is of high importance and must be ensured by Market Surveillance Authorities.
- **Market surveillance to protect the EU battery industry from unfair competition and EU citizens from non-compliant products is of high importance.** We would welcome clarification about the plans from the Commission to test, verify and enforce the criteria included in this new proposed Regulation for batteries imported into the EU – in particular for products entering the EU market via online platforms. This is a growing problem for all kind of products and not only for batteries.
- **Legislative fragmentation and double regulation must be avoided.** For example, hazardous substance management in batteries should follow a risk-based approach and double regulation or duplication of processes set out within REACH should be avoided.
- **The recycling requirements should reflect market developments.** It would not be workable to meet high demands for recycled materials if the battery market grows faster than the available opportunities for recycling. Furthermore, we question whether it is appropriate and purposeful to build such a long-term roadmap for a technology which is still in the stages of constant improvement and progress. It is important to address technological and market developments in this regard and to evaluate whether the measures and target values are realistic and proportionate. The recycling efficiencies laid down in Article 57 and Annex XII should be based on evidence gathered from available technologies and processes.
- **Empower SMEs with adequate support:** The proposal is quite complex and contains an extensive list of sustainability requirements, making it challenging to be fully grasped, in particular from the perspective of an SME with limited resources. Therefore, the Commission's support in enabling and empowering SMEs to fully understand and deliver on the requirements would be needed and welcomed.
- **Definitions in all circular economy related measures should be coherent and based on standards.** For example,
  - The definitions of remanufacturing, 2nd life and repurposing of products are needed in any EU legislation and should be harmonised, coherent for all products and in line with international standards.
  - The term batch is not defined, and we recommend the reference to batch to be removed as it refers to an old technology. In addition, the regulation states that carbon footprint and other measures

should be implemented “per batch” which is not possible in practice as batteries are produced in a continuous production process where raw materials and components are refilled continuously.

- The definition of hazardous substance refers to hazard classes instead of using the definition of Substances of Very High Concern.
  - The definition of supply chain due diligence differs from the one in the consultation on an Initiative on Sustainable Corporate Governance.
  - The definition of industrial batteries should be clarified for Non-road mobile machinery to avoid different interpretations.
- **Reassess numerical targets when calculation methodologies are available.** Numerical targets, for example for recycled content, are already established in the proposal, but the methodologies to calculate them are not: this makes it extremely complicated to assess the impact of the proposed measures, with negative consequences for business certainty. It will be paramount to reassess the targets once the methodologies have been developed. It is also important to keep all stakeholders involved in this process, including the industry experts.
- **Rules on incorporating management system should consider different challenges,** such as associated increased costs and the difficulty of estimating the lifetime of batteries. The Regulation should not impose specific technical solutions on how to link the battery with its management system. The duty to include the management system for every battery is a driver for unnecessary waste.

Orgalim represents Europe’s technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU’s largest manufacturing sector, generating annual turnover of €2,298 billion, manufacturing one-third of all European exports and providing 11.55 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.