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FEAD Feedback on the new European Commission proposal for Regulation concerning batteries and waste batteries

FEAD welcomes the European Commission's proposal for a Regulation concerning batteries and waste batteries, fully in line with the Green Deal and the new Circular Economy Action Plan.

From a waste management perspective, FEAD is convinced this proposal is following the right course of action to achieve the circular economy with more and more ambitious targets in terms of **quantity** and **quality**.

Having a **strong battery value chain** is of strategic value and importance for Europe as well as for our industry. Recycling in a safe manner is an important activity in this value chain, from an economic and resource point of view.

In the following, FEAD presents its comments to the main important points of the Commission's proposal:

- **Lack of a mandatory deposit refund system**

Incorrectly disposed lithium batteries and accumulators pose a high risk to people and the environment. Fire incidents in sorting systems for lightweight packaging-, paper-collection, commercial waste processing, etc. mean a risk in the operation of the system, sometimes causing considerable damage to property and weakening the circular economy, as capacities for the necessary processing and treatment facilities are reduced.

Among the safety risks outlined, it is necessary to return 100 percent lithium batteries and accumulators from a wide variety of waste streams to the battery collection.

This can only be achieved through a mandatory return for particularly critical material flows, in addition to a high collection rate for all device batteries. The collection target should therefore be increased to at least 80 percent across the EU in order to achieve the return of the battery systems to recycling and ensure it is permanent. At the same time, the introduction of a mandatory return to increase the willingness to collect and the effective management of critical battery flows in particular is essential.

In this point there is a central interest of the circular economy, which should also be supported by all actors involved in the market in terms of resource conservation.

- **Mandatory recycled content**

We welcome the great accomplishments of the European Commission with the introduction of an EU-wide roll out of **mandatory recycled content** in industrial, electric vehicles, automotive batteries, with levels of 12% cobalt, 85% lead, 4% lithium, 4% nickel by 2030 and 20% cobalt, 85% lead, 10% lithium, 12% nickel by 2035.

The market currently fails to provide incentives for the uptake of recycled raw materials and prevents the transition to a circular economy for batteries. Mandatory recycled content in products is an essential regulatory measure for an increased demand for

recycled raw materials and for the creation of a **stable and competitive market for recycled raw materials in Europe**. The mandatory requirement of recycled content in batteries will create visibility and a reliable legal framework that triggers innovative investments in recycling of batteries. It will also decrease the environmental footprint of batteries and help ensure the strategic availability of critical raw materials in Europe.

However, the effective functioning of a circular economy requires mandatory recycled content to apply to all kind of batteries, including portable batteries, as well as higher levels of recycled content in new batteries. Therefore, FEAD calls the European legislator for also addressing mandatory recycled content in portable batteries and to fix more ambitious requirements in regard to the levels of mandatory recycled content.

Regarding the determination of the methodology for the calculation and verification of recycled content by an implementing act until 31 December 2025, FEAD calls for an earlier determination in order to be able to adapt recovery processes accordingly.

- **Increased recycling and recovery targets**

In general, FEAD welcomes ambitious recycling efficiency and material recovery targets for batteries. Regarding the Commission's proposal, we consider that targets for recycling efficiency of 75% for lead-acid, 65% for lithium-based and 50% for all other waste batteries by 2025 and increased levels of 80% for lead-acid and 70% for lithium-based batteries by 2030 are very high and may be difficult to achieve. For material recovery as well, targets of 90% for cobalt, copper, lead and nickel and 35 % for lithium by 2026, as well as increased targets of 95% for cobalt, copper, lead and nickel and 70% for lithium by 2035 may be difficult to achieve. Essentially, the achievement of the proposed ambitious targets totally depends upon the rules for calculation and verification of the proposed recycling efficiency and material recovery.

For the determination of the calculation and verification rules, FEAD stresses that a differentiated approach is needed between portable batteries and all other categories of batteries, and also different chemical types of batteries should be addressed separately.

FEAD reminds of the importance of increased demand through mandatory recycled content as necessary condition to achieve new ambitious recycling targets. While the increased recycling targets apply to all types of batteries, mandatory recycled content should also apply to portable batteries for closing the material loop for this stream too.

As regards the future calculation and verification of recycling efficiencies and recovery of materials, FEAD reminds that it is necessary to establish a performant data gathering including the quality of recycling in order to create a level-playing field among recyclers in Europe. Low carbon footprint recovery processes should be supported.

- **Ensuring higher collection**

The return of a high proportion of the material flow is a prerequisite for a modern and circular economy for which all actors in the value chain must take responsibility. "Responsible recycling" must be given the same importance as "responsible sourcing", for even at the end of the product life cycle there are problems with non-transparent material flows, informal actors and "irresponsible activities". With increasing energy density in batteries, there is also an increased risk of a fire hazard in the event of improper handling and incorrect disposal of batteries which materializes in dangerous fires in waste plants.

FEAD welcomes the **increase of portable battery collection targets** from currently 45% to 65% in 2025 and 70% in 2030. However, for achieving proper handling and correct disposal of batteries, higher collection targets of **80%** for all types of batteries are needed, excepting for automotive batteries for which collection targets of 100% should apply. In a context of a constantly growing market for **batteries powering light means of transport, FEAD urges the European legislator to include those batteries into the same collection targets as portable batteries as soon as possible.**

For ensuring the collection of batteries, the supply of recycling facilities and the uptake for recycled raw materials due to mandatory recycled content, batteries must also be attributed a value. FEAD therefore calls the European legislator to introduce a European-wide mandatory deposit refund system and take back responsibilities for retailers.

- **Eco-design, marking and hazardous substances**

Electrical and electronic equipment that can be operated wholly or partly on batteries or accumulators must be designed in such a way that waste derived from them can be removed easily, discharged without prior pack-disassembly and can ensure easy access to a hole for the fire-hose. With the easy removal and replacement of portable batteries being dependent upon removal by independent operators, the financial cost still remains and makes removal unattractive. In order to make removal easier, it is necessary to make removal of portable batteries depend upon removal without tools by end users only.

Uniform marking of devices is also crucial to help consumers use and handle correctly the devices and accumulators, to safely remove batteries and to ensure a proper and ecologically sound disposal. In regard to labelling, FEAD supports the setting up of colour coding for batteries in order to facilitate their sorting and collection.

We welcome the effort performed on the restriction in the use of hazardous substances in batteries to protect human health and the environment and to reduce the presence of such substances in waste, allowing for a safe recycling at reasonable costs.

- **EPR schemes**

FEAD stresses the necessity to duly take into consideration the existing and successful B2B schemes/contracts that provide for collection, sorting, treatment and recycling. The extension of EPR schemes (extended producer responsibility) should not be the silver bullet for all different types of batteries but remain a tool for better collecting and recycling only for waste flows that are more difficult to capture, for instance originating from households. Collecting, and recycling industrial batteries should remain under open market rules, which have proven to be efficient in delivering optimized investments and services.

- **Enforcing the control of illegal movements of battery waste**

FEAD calls for an effective **control and enforcement** mechanism for the exports of used batteries to avoid illegal shipments.

- **Responsibility for sales via online marketplaces**

In recent years, the booming online trade has led to a growing number of batteries being put on the market in Europe with no license fee paid for by (foreign) producers in infringement of mandatory EPR legislation on batteries. This free riding problem burdens the financing of the EPR system on batteries through uncovered costs, as more batteries have to be collected, sorted and recycled than those for which license has been paid for.

FEAD welcome the introduction of requirements for distributors to provide end-of-life information on batteries through their online marketplaces. Nonetheless, this measure does not solve the problem of uncovered costs of the EPR system on batteries. To consequently address this free-rider problem, level playing field must be restored between online marketplaces and stationary retailers in Europe. The same rules must apply to producers, distributors, online marketplaces or fulfilment companies as to stationary retailers.

First, the proposal should clarify that take back obligations equally apply to sales via stationary distributors and sales via online marketplaces. It must be ensured that batteries provided for through an online marketplace can be taken back within a reasonable distance for end user throughout the EU, in the same way as it would apply to sales via stationary distributors.

Second, online marketplaces that intentionally or negligently provide batteries from distributors and/or producers who are not registered or not properly registered must be considered as producers for the purposes of this Regulation. Similarly, fulfilment companies that intentionally or negligently dispatch batteries from online marketplaces, distributors and/or producers on behalf of a producer, distributor or online marketplace that are not or not properly registered must also be considered as producers within the meaning of this Regulation.