28 February 2021

JBCE's Feedback on the Proposal for a European Battery Regulation

As a cross-sector association with member companies operating in different industries and at different stages of the supply chain, JBCE welcome the opportunity to contribute to the public consultation. JBCE believes that the new battery regulation proposal will drive sustainable battery supply chain including recycling process. However, JBCE would like the European Commission to consider the following points.

1. **Requirement for sufficient lead time**
   The relevant sectors of industry require sufficient time to prepare for the new regulations. There are many companies in various industrial sectors that manufacture parts and assemble them over the entire supply chain, so for these companies to prepare for the proposed changes to the regulations (with respect to such things as carbon footprint, and recycled content) there will need to be at least 3 years lead-time.

2. **Carbon footprint**
   JBCE supports calculation of the carbon footprint based on the bill of materials of the battery cell. However declarations for every manufacturing batch should be avoided, in consideration of the feasibility of implementation and the burden for industry and the relevant authorities.

   The PEF methodology for calculating the carbon footprint needs further assessment prior to implementation as a practical tool. JBCE would like to propose that further analysis be undertaken before setting the maximum threshold.

   The timeline for of adopting this methodology is also very challenging and should be adapted through consultations with industry.

3. **Information requirements**
   Producers of batteries need to provide repurposing operators with access to the Battery Management System (BMS), and need to store and disclose the information specified in ANNEX XIII in the European Electronic Exchange System. However, Confidential Business Information (CBI) should be protected, BMS technical changes should be minimized, and, when unavoidable, 3 years lead-time should be provided for implementation.

   It is necessary that overlaps in the information requirement for declaration, labeling, battery passports, and an electronic exchange system be avoided.

4. <u>Need for better alignment with other initiatives and existing legislation</u>

JBCE support the purpose of the new battery regulations for achieving carbon neutrality and accelerating the transition to a truly circular economy. However, it is necessary to avoid duplication of regulations.

For example:

1. In the case of restrictions on hazardous substances, there has to be a clear distinction between the scope of the proposed Battery Regulations and that of the RoHS Directive.

2. Regarding battery performance & durability and BMS information for EV batteries, more representative requirements are already being defined in the UNECE EVE GTR activities, and there is a plan to implement them in Europe as part of vehicle specific legislation.

3. These regulations should pay attention to existing safety requirements for batteries and repaired and re-purposed batteries (and any manipulations made to batteries) should be compliant with the same safety standards.

4. In addition, with regards to the due diligence requirements defined in articles 39 and 72, JBCE urges the commission to avoid duplicating such requirements that are expected to be proposed in the horizontal due diligence legislation which is under consideration as part of the sustainable corporate governance initiative.

5. <u>Hazardous substances (Article 6)</u>

In the draft regulations 'hazardous substances' are identified in Annex I and certain hazard criteria identified under CLP Regulation. It must be noted that certain raw materials used to produce batteries or substances contained in batteries can be identified as 'hazardous' under this Battery Legislation, while these may also be critical to the functioning of the batteries. In JBCE's view, paragraph 3 of Article 8 (socio-economic assessment and availability of alternatives) should apply not only to the foregoing paragraph 2 but also to paragraph 1. While JBCE understands that the EU chemical policy in principle takes a 'hazard-based' approach, JBCE would like to stress that risk assessments would be necessitated in order to use 'hazardous' substances, even though not all of the substances used in batteries are necessarily likely to be released into the environment or come into contact with humans. We also would like to encourage the legislator to be mindful of 'Safe and Sustainable-by-Design' Criteria and Sustainable Product Policy Initiative, which are to be discussed on and set up by the EU according to the Chemicals Strategy for Sustainability.

6. <u>Recycled content (Article 8)</u>

JBCE believe that a numerically binding target for the recycled content of raw materials for cathode materials (mentioned in Article 8) will contribute to improved material circularity in the battery supply chain. However, the production of Lithium Ion Batteries for automobiles is expected to increase steadily in the future, and JBCE are concerned that the absolute amounts of Ni, Co and Li recovered from waste may not be enough to meet the targets. In particular, the quantity of recovered Li is likely to be limited, as it is an element that cannot be recovered by thermal treatment. Hydro-metallurgical treatment is the sole process that can effectively recover Li of a reliable quality, in addition to Ni and Co, but the recovery of those critical metals comes with a certain cost.

In order to make such a technology commercially viable and to hedge market risks from fluctuation in metal prices, additional incentives and/or market conditionality measures should be considered, including such things as a fee to compensate for the costs associated with the dismantling of batteries and recovery of raw materials.

7. **Material recovery**
   There are multiple steps in a recycling process such as crushing, separation and pyrolyzing and each step has different efficiencies associated with them. Furthermore, at each set pf of the process it is not clear which of the various fractions can be considered recycled. Clear criteria for deciding when a material is recycled or when it turns into waste at each step of the recycling process is essential, because batteries consist of variety of components and materials (e.g. plastic, steel and aluminum). Therefore, JBCE believes that a clearer definition of recycling quality is needed. Before setting the recovery rate used to calculate the recycling efficiency as the recovery rate of the material, JBCE would like to propose wide consultations to collect the opinions from the relevant stakeholders.

8. **Rules and conditions for affixing the CE marking (Article 20)**
   As specified in the ANNEX VIII, there are 2 different conformity assessment procedures; 'self-assessment declaration' and 'supervised verification from the Notified Body'. To avoid confusion, we would like the legislator to consider the self-assessment specified in part A of ANNEX VIII.

ABOUT JBCE

Founded in 1999, the Japan Business Council in Europe (JBCE) is a leading European organization representing the interests of about 90 multinational companies of Japanese parentage active in Europe. Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceutical, textiles and glass products.

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