

FEAD Feedback on the Proposal for a Regulation on circularity requirements for vehicle design and on management of end-of-life vehicles

FEAD, the European Federation for Waste Management and Environmental Services, representing the private waste and resource management industry across Europe **welcomes** the Commission's Proposal for a Regulation on end-of-life vehicles (ELVs Regulation) as part of the new Circular Economy Action Plan (CEAP) and the European Green Deal.

Among different waste flows, ELVs are important in terms of yearly generated volumes, growth rates, embedded valuable raw materials, environmental issues, and illegal markets. The evolution that has taken place in the vehicle sector in recent years has involved several changes: from the type of materials to make vehicles lighter, more efficient and less polluting, to the breakthrough of electric vehicles.

FEAD supports the new Proposal on End-of-Life Vehicles shifting from a Directive to a Regulation. A Regulation is the most appropriate legal tool to ensure **harmonisation among the different Member States**. The legislative initiatives proposed to implement the Green Deal, such as the revision of the Waste Framework Directive, the Batteries Regulation, the revision of the WEEE Directive, the POPs Regulation, the CRMs Regulation and the ELVs Regulation should set a coherent framework to boost Europe's green and digital transition to a circular economy.

FEAD believes that the proposed ELVs Regulation has a key role in terms of:

- setting **circularity requirements** for the type-approval of vehicles, the **sustainable management** of end-of-life vehicles and the **export** of used vehicles
- **improving the tracking** of "go missing" vehicles
- creating a **demand for recycled materials**.

Scope & Definitions

FEAD welcomes the extended scope proposed in the Regulation as this will promote sound and safe treatment of various vehicle types. We, however, stress that **the proposed transition period of 5 years** in Article 2 **seems excessive and should be reduced to 3 years after entry into force**. In addition, the current proposal foresees a transitional period for these new vehicle types via exemptions, without any means of re-evaluating these exemptions. FEAD stresses that principles to stimulate circularity and recycling should be applicable to all vehicles.

FEAD welcomes the alignment of several definitions with existing EU legislation, and, in specific, the reference to recycling as defined in the Waste Framework Directive as this excludes backfilling. We do note that some definitions refer to legislation which has not yet been approved, while others are not fully aligned with existing legislation. **FEAD calls for a better coherence of terms across the different legislations.**

Vehicle design and production

FEAD supports the **improvement of vehicle design and production to foster circularity**. More effort is still needed to ensure recyclability, for example:

- **Reducing the number of different polymers present in a vehicle.** Despite of the fact that most polymeric materials in a vehicle can be recycled with mechanical treatment processes, the presence of many different polymers is a challenge to recycling (there are currently 39 different types of basic plastics and polymers used to build an automobile)¹.
- The presence of **resins, additives and fillers such as glass fibre, carbon fibre and glass beads** makes the mechanical recycling of the plastics difficult, if not impossible. These substances **should only be used if not avoidable for the sake of safety**, but rather being substituted with mechanically recyclable materials, whose ecological impact is much more favourable than the one occurred with substances that are chemically recycled. More specifically to carbon fibres, if they are used in vehicle parts in which abrasion occurs, e.g. in brake discs, they can generate highly hazardous carcinogenic fine dust during the operating phase. Therefore, these should be included in the list of substances of concern of Article 5(1).
- **Parameters for assessing the recyclability of vehicles should be included in the Regulation.** Specifications for the use or avoidance of composite materials or alloys that are difficult to recycle could be considered.
- **FEAD welcomes the limitation of substances of concern in new vehicles.** Moreover, specific provisions on limitations on intentionally added PFAS in new vehicles are necessary. While a PFAS restriction is currently under development, it will take several years before this will be finalized and be effective. It is known that intentionally added PFAS are widely used in vehicles and as a result will be present in ELVs. We stress the need for additional provisions to limit intentionally added PFAS as soon as possible in vehicles.

Reuse and recycling targets

FEAD strongly supports the ambitious recycling and recovery targets to boost the circularity of ELVs. The reuse, recycling and recovery targets shall be calculated based on the weight of vehicle delivered to the waste management operators and not placed on the market.

However, **reuse and recycling target should not consider the mass of the vehicle that contains restricted substances**, especially, but not only, Persistent Organic Pollutants (POPs) that are typically present in ELVs. The methodology should be aligned with the one in the WEEE Directive, where the recycling target applies only to the amount of WEEE that does not contain restricted substances².

Similarly, the recycling target of 30% set for plastic waste from ELVs under Article 34 (1), should be counted from the mass of POP-free plastics only.

¹ Towards recycled plastic content targets in new passenger cars and light commercial vehicles, July 2023, JRC SCIENCE FOR POLICY REPORT, JRC129008_01

² Annex VII of the Directive 2012/19/EU lists a number of mixtures and components that have to be removed from any separately collected WEEE, in which hamper substances are mentioned according to Article 11.2 which defines the 'Recovery targets' and the methodology that must be used to calculate targets, after a proper treatment in accordance with Article 8.2.3

The adoption of **economic incentives to promote the re-use of refurbished or remanufactured spare parts is well supported.**

Collection targets

In the management of end-of-life vehicles, as FEAD already supported in relation to the proposed Packaging and Packaging Waste Regulation, it is important to start from the first steps of the recycling chain, i.e., the collection. This is well reflected in the proposal, which dedicates the entire Section 3 of Chapter 4, to the “Collection of ELVs”. In particular, Article 23 sets important measures, such as the establishment of collection systems, including collection points for ELVs that have been placed for the first time on the market in the territory of a Member State.

On collection, we would like to stress the following points:

- There are no collection targets proposed. FEAD **advocates for setting collection targets** in order to achieve the envisaged recycling targets and to facilitate the collection of end-of-life vehicles in the authorised collection facilities. However, FEAD does not present a proposal containing a concrete collection target because this would need further studies and assessment of the possible methodologies that can be used. Nevertheless, the general idea should be **setting the highest possible value that is technically and economically achievable.**
- FEAD asks for more clarification, with reference to Article 20, in terms of costs of collecting and communicating data to the competent authorities and on how average costs of collection, recycling and treatment operations are calculated.

Minimum recycled content for plastics and minimum share of recycled metals and rare earth elements

FEAD strongly welcomes the adoption of a minimum recycled content **of 25 % for recycled plastic from post-consumer waste**, as well as the minimum share of recycled steel and aluminium, magnesium and their alloys and Rare Earth Elements (REEs). However, **6 years is quite a long transitional period and should be reduced to 5 years.** This provides the necessary time for plants and infrastructure to be built and to be able to meet the targets.

The proposed recycled content targets represent a greatly needed incentive, especially to further develop recycling from ELVs, increase recyclates demand and ensure the eco-design of new vehicles. However, FEAD stresses that this **must not lead to a priority access to recycled materials by producers.**

In addition, to the already proposed targets, the Commission should also set recycled content targets for other materials not listed under Article 6, such as glass. Creating a market driven demand for recycled glass will promote more high-quality recycling of glass from ELV's.

To foster compliance, FEAD strongly advocates for **extending the declaration on recycled content present in vehicles**, which is foreseen for a list of materials in Article 10(1), also **to plastics.** To prove the presence of a certain amount of recycled content of these materials, a **third-party certification is needed and should be requested by the Regulation.**

Quality of recycled material

FEAD supports the mandatory removal of parts and components for reuse and recycling prior to shredding as determined by Article 30. Even though the pre-dismantling process, as an additional step, increases the costs, the higher value of the outcome recycled material can justify the *modus operandi*. However, this may not always be the case, and there should be, therefore, the possibility to decide to dismantle or not some components, according to whether it makes sense from a market perspective. Moreover, **improved design in Post Shredder Technologies (PST) and shredding plants may yield better outcomes in the longer term**. Any mention of improved practices will be very much dependent upon ATF size and quantity of material handled.

On this note, the list foreseen in **Annex VII, Part B and C** is partly too severe and should be reconsidered. **The waste management operators should have the possibility to consider on a case-by-case basis, whether a removal is the favourable option or not**, also considering the market demand. For instance:

- **Engines (No. 4, Annex VII, Part C) and gearboxes (No. 6, Annex VII, Part C)** should be moved from the list of the mandatory parts to be removed **to allow for treatment via PST when dismantling for re-use or recycling makes no sense (e.g. the engine is too worn out)**.
- Regarding **windshields (No. 7, Annex VII, Part C)**, we suggest the same modification to enable a technology neutral approach. Further PST innovation could enable high quality recycling of glass. In both cases (PST or removal), we stress the need of sufficient quality for the glass to be able to be re-used in the glass recycling sector. An assessment of recycled content targets for glass seems a better approach to stimulate glass removal/recycling from ELV's.
- Regarding **dashboards (No.10, Annex VII, Part C) and headlights (No.12, Annex VII, Part C)** we do not see an added value of having these components mandatorily removed as there is no market for these components.
- Regarding the **infotainments systems (No.11, Annex VII, Part C)**, we do not see an added value of removing these components either. Technological development of these components is fast and, thus, no re-use market will exist for these components, as they will be outdated (consider, e.g., an average lifespan of a car of 18 years). All these components can be recycled using PST technology, while including an extra removal step will not increase re-use or recycling of these components.
- Finally, **airbags (Annex VII, Part B (2a))** should not be mentioned among the components, parts and materials that shall be removed from ELV's either, since their neutralisation is safer when they are still in the car.

In terms of requirements concerning the removed parts and components, FEAD believes that:

- The **documentation obligation under Article 31(1) is an extreme burden put on operators that should be removed from the proposal**. Equally, Article 49(1) refers to some obligations that seem excessive for both waste management operators and national authorities.
- **Annex VII, Part F** of ELV legislation, could include a cross-reference to the Batteries and Batteries Waste Regulation that requires operators of treatment facilities to hand over waste

batteries resulting from the treatment on end-of-life vehicles to producers or PROs or waste selected management operators.

As far as **Annex VII, part E on 'Components and parts not to be reused'** is concerned, we believe that the **safety components referred to must also be able to be sold, through a functionality control protocol and provided that the seller assumes full responsibility and guarantee for the spare part sold**. Authorised Treatment Facilities (ATFs) must be able to sell these parts to companies that remanufacture them or directly to the consumer if they apply the protocol and guarantee of functionality.

FEAD does not support the provision foreseen in Article 28(3), according to which **the mixing between ELVs and WEEE and packaging waste when shredded**, is not allowed. This obligation should be deleted, since it is not pragmatic and would hinder the current processing methods. Input to a shredder is optimized by metal type, size etc. and such a prohibition would only cause extra costs with no environmental benefits.

EPR system for producers

FEAD **welcomes the adoption of a harmonised EPR system** to be carried out through an effective communication with ATFs to ensure the proper dismantling of ELVs. Yet, FEAD wants to point out that Article 16 on EPR should reflect that the responsibility of meeting reuse, recycling and recovery targets in Article 34 lays with the producers and not with the waste management operators. Again here, this must not lead to a priority access to recycled materials by producers.

FEAD also supports the Commission's proposal to make the designation of producer responsibility organisations (PROs) mandatory. The introduction of these PROs should, however, not hamper existing well-functioning markets for ELV's recycling, e.g., by holding or abusing of a dominant market position. The EPR system should act as a tool, supporting open and fair competition, maintaining the right of access to ELV's for all actors. The independent functioning of this market, including material ownership and consequent treatment of the recycled materials should be guaranteed under this regulation.

In view of the frequent situation encountered today in several Member States, where PROs are exclusively managed by producers with little to no competition and in the position of becoming a prescriber of technologies and objectives (sometimes in a monopoly situation), **a number of FEAD members welcomes the Commission's proposal to enable waste management operators' fair access to PRO's governing bodies** to address such situations. At the same time, PROs are also exclusively managed by waste management operators in other Member States, where they operate and compete in a free market as private companies, with excellent results for all parties involved. Therefore, the involvement of producers (or any other stakeholders) is neither necessary nor desired in such other cases.

As already stated, **FEAD supports the pre-dismantling step to increase the quality of the output recycled material**. As financial support will be required to cover the increased recycling costs derived from pre-dismantling, EPR schemes and fees should take these higher costs into account.

Finally, **FEAD considers that an appointed representative for extended producer responsibility for each Member State**, as it is mentioned in Article 22, paragraph 2 (a), **is not necessarily required**.

Certificate of Destruction in electronic format

FEAD welcomes the **Certificate of Destruction (CoD) in electronic format** released by ATFs as the easiest way to **assure the communication between Member States** and prevent cases where the CoD from the MS where it was issued is different from the one in the Member State where the vehicle is registered. The period within which the vehicle should be destroyed, and the CoD is to be issued, should be specified (e.g., within one year from the reception by the ATF).

FEAD believes that this is also undoubtedly a tool that can facilitate to avoid 'unknown whereabouts', vehicles that are deregistered but without a Certificate of Destruction. The digitalization of the CoD will **improve the traceability process**, since the information listed in Annex IX can be available at any time once after the deregistration.

Particular consideration needs to be made for **states outside of the EU but with direct trading links** e.g., ELVs processed in Northern Ireland may be registered in Republic of Ireland and vice versa. This step would need to ensure that databases in the UK, for example, can be linked with other EU databases to **ensure a cohesive electronic record is always available**.

For what concerns the **costs** related to the CoD (Article 25), FEAD asks for more clarification.

On-line sales of used components and illegal dismantling operations

FEAD welcomes Article 15, in which it is established that ATFs should be recognised by a competent authority by means of a permit. These recognised facilities need to comply with their obligations – set in Article 27 – and have the competence to issue a Certificate of Destruction. This is an **important measure in preventing illegal dismantling** operations and the on-line sale of used components. FEAD believes that more clarity can be shed on this by **fostering the institution of the MOVE-HUB electronic system developed by the Commission**, a tool that can be very useful in exchanging information about the vehicle between national vehicle registers and electronic systems on roadworthiness of the Member States.

To prevent illegal dismantling operations, the Regulation should determine that **vehicle parts may only be dismantled for the purpose of vehicle maintenance**. The dismantling of parts from vehicles outside authorised facilities should be prohibited. Member States shall penalise behaviour that does not comply with this rule.

The proposal determines that any part or component put back on the market must be accompanied by a document certifying its history, with reference to the vehicle from which it was derived and the ATF from which it was dismantled (Annex VII, Part D). In terms of traceability, we also believe that it is necessary to **add the transaction number (invoice) in this list**.

Clear distinction between 'end-of-life vehicle' and 'roadworthy vehicle' in export

FEAD welcomes **the important distinction between 'end-of-life vehicle' and 'roadworthy vehicle'**. It must be noted that, before treatment, ELVs are hazardous waste and, as per the Waste Shipment Regulation, their export from the EU to non-OECD countries is banned. Therefore, only 'roadworthy vehicles' can be exported.

FEAD wants to underline that this roadworthiness of vehicles should be assessed and certified. Simple compliance declarations open the door to frauds. **Mandatory road worthiness tests**³ already exist in the EU and should be used for the purposes of the ELVs Regulation. This can be an effective tool to verify the road worthiness of the vehicles before their export, in order to preserve the safety of the people living in the third countries where used vehicles are exported and to make sure that the export concerns a still-usable vehicle and not an ELV. Therefore, Article 38(4b) should be adapted. A roadworthiness certificate should be issued by the Member State of the last registration.

In this sense, FEAD also believes that **specific targets for the controls on export should be set**. Even though inspections are welcomed, Article 46 could be amended introducing a letter (d) in paragraph 1, that mentions '*export of used vehicles*' among the activities that need to be inspected by the Member States.

In general, better cooperation between the authorities involved (Articles 44 and 47 of the proposal) is very much welcomed. This is strictly necessary to improve the current system and ensure better monitoring of ELVs.

Sensitive information

Business data must be protected under all circumstances. Some provisions, such as Article 9, Article 30 in relation to Annex VII, Part G, of the proposal, require providing information that could be considered sensitive or requirements that could be too severe. FEAD considers that the requests in the mentioned articles should be revised to ensure the protection of trade secrets.

Alignment with current practices in place

Better alignment with the current practices already in place in Member States is needed. This is the case, specifically, of Annex I, in terms of criteria for the assessment of the reparability of vehicles. Here, one criterion to assess whether a vehicle is technically irreparable depends on if it has been submerged in water to a level above the dashboard. In Belgium this level is already set at the seats level. Better alignment with existing criteria in Member States will avoid having to change current practices that are well established and effective.

Delegated and Implementing Acts

FEAD believes that **the number of delegated and implementing acts** to be adopted from the Commission **should only cover a limited number of specific, technical matters**. Aspects such as *the methodology for calculation and verification of the rates of reusability, recyclability and recoverability of a vehicle* in Article 4(3), are of primary importance for waste management companies and cannot be postponed.

Those decisions being taken by the Commission in delegated and implementing acts could jeopardise the business plans, due to the lack of possibility to carry out a prior risk assessment. FEAD well understands the technical nature of some delegated and implementing acts but believes that the essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power (Article 290 TFEU).

For the required delegated and implementing acts, FEAD strongly requests to be considered in the decision-making process and to be involved by the Commission as a relevant stakeholder.

³ https://ec.europa.eu/commission/presscorner/detail/en/MEMO_12_555

Bureaucratic hurdles and stronger enforcement

FEAD believes that unnecessary bureaucracy should be avoided. For instance, in Article 29 in conjunction with Annex VII, Part B, point 3, the requirement around the exact time at which the depollution took place constitutes an irrelevant requirement. The date of the treatment must be sufficient.

Moreover, in Annex IX, regarding the information to be included in the CoD, FEAD believes that **the obligation to include information on the nationality of the holder or owner should be deleted.** This information does not contribute to achieve the objective of the proposed Regulation to improve the overview of end-of-life vehicles on the market, but only creates unnecessary additional bureaucracy.

In Article 27(5) **all established environmental management systems should be accepted.** More flexibility should be granted to the waste management industry here.

With regard to the provisions on the enforcement of the Regulation (Art. 46 et seq.), **further tightening appears necessary** as the obligations for manufacturers - such as those relating to documentation and information (Art. 11 et seq.) - are not covered by the provisions on sanctions.

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