Feedback regarding the proposal for a Regulation on Circularity Requirements for Vehicle Design and on Management of End-of-Life Vehicles (COM(2023)451)

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European Environmental Bureau (EEB)

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Introduction

Due to their considerable size and widespread ownership motor vehicles constitute a significant repository of valuable materials. This makes the automotive industry a pivotal player in saving resources and curbing carbon emissions through circular economy practices.

Circularity in the automotive becomes even more important amidst the ongoing electrification of mobility: in August 2023, the share of battery electric vehicles in new registrations in the EU reached above 20% for the first time. As a result of this transition, the climate and environmental impacts of vehicles are set to shift significantly, from the use stage to the manufacturing and End-of-Life (EoL) stages.

In this context, the EU Commission's proposal for a Regulation on Vehicle Design and on Management of End-of-Life Vehicles (VDEoL), merging the End of Life Vehicles Directive and the 3 R Type-Approval Directive, was long overdue.

We welcome this new integrated law, notably:

- The extension of the scope to cover vehicles beyond passenger cars
- Requirements for increased circularity through improving reusability, repairability, and recyclability, including through strengthening trust in second-hand parts and extended obligations for pre-shredding removal of some components
- An EU-wide harmonized EPR system with harmonized eco-modulation fees
- Conditioning the shipment of used vehicles to "roadworthiness" and more clearly distinguishing used vehicles from waste
- Minimum (plastic) recycled content requirements
- An EU interoperable system for registration and deregistration of vehicles (MOVE-HUB) and strengthened enforcement with 10% of concerned facilities to be checked every year as well as easier control of roadworthiness by customs
- A digital product passport for vehicles ("Circularity Vehicle Passport")

Those intentions are clearly relevant for anchoring the whole sector into a decarbonized and circular economy. Nevertheless, the European Environmental Bureau identifies several missed opportunities outlined in this paper.

1. Sectoral Environmental Footprint

First and foremost, we would like to point out that **the law fails to address the need to decrease the number and size of vehicles on the market as well as the overall material use and footprint of the sector**. While circular measures improve the lifetime of resources used, the best environmental protection is to reduce the demand for materials as much as possible. Improved circularity does not automatically equate to supply reduction but should rather be complementary. Measures are therefore necessary, that address the trend towards more and ever bigger vehicles with an increasing number of resource-intensive electrical components. Measures should be explored that address this worrying trend, such as:

- An overall material footprint reduction target for the sector, potentially with possible tradeable certificates between manufacturers placing products on the EU market.
- Performance requirements for the Environmental or Product Carbon Footprint of the vehicle, focusing on the production of the vehicle. This would incentivize cleaner production of vehicles including improved circularity (e.g., use of recycled content). Such a measure would also align the proposed Circularity Vehicle Passport (CVP) with its equivalent under the Batteries Regulation, as currently, the planned CVP does not include footprint information.
- Strong financial incentives through eco-modulation of EPR fees.
- Defined maximum sizes or fleet limits for the size of vehicles.

2. Scope

While it is positive that the proposal integrates design and EoL aspects and extends the scope to more vehicle categories, **delays in the implementation of key provisions as well as numerous exemptions of certain vehicle categories from important provisions and the delegation of measures to future secondary legislation weaken the proposal significantly**. Against this background, the following should be considered:

- Cut transitional periods for key measures such, e.g., the CVP and the implementation of the EPR scheme.
- Scope extension, with all requirements for M1 and N1 vehicles equally applying to all vehicle categories without long transitional periods. Therefore, all requirements regarding reusability, recyclability and recoverability, the recycled content requirements, the advanced waste treatment requirements, and the establishment of EPR schemes, would apply to all vehicle categories. At the very least, an assessment should be included to consider an expansion of the scope in the future.
- The EEB welcomes the decision to ensure EU harmonisation which will also address key issues such as the uneven implementation of the 3 R Type-Approval and EoL Vehicle Directive, the underdeveloped EU market for secondary materials destined for the automotive sector, and the persistent problem of 'missing vehicles'. However, it should further be considered to expand the legal basis to Article 192(1) of the Treaty on the Functioning of the European Union (TFEU). The regulatory framework associated with Article 114 TFEU pertains to the 3R type-approval Directive 2005/64/EC, designed to ensure the effective functioning of the single market. Conversely, the ELV Directive 2000/53/EC, focusing on EoL vehicles, derives its environmental legal basis from Article 192 TFEU. Article 192 TFEU establishes a specific framework for addressing environmental objectives, including waste management. Given that the new proposal seeks to govern both vehicle design and the handling of vehicles at the end of their life cycle, closely linked to environmental considerations, expanding the legal basis to also include Article 192 aligns more appropriately with the environmental focus of the proposed regulation. Furthermore, in the absence of stronger harmonised requirements within the regulation, it must be ensured that more ambitious measures can still be implemented in the Member States to achieve the objective of a more sustainable automotive and recycling sector through circular design and improved EoL treatment.

3. Transparency and information requirements

The proposed Circularity Vehicles Passport is a pale equivalent of the Batteries Passport and the Digital Product Passport proposed under Ecodesign for Sustainable Products Regulation (ESPR). Particularly no carbon and other footprint information or information on Substances of Concern (SoC) are required.

- Ensuring that the proposal genuinely reduces environmental impact throughout the production and EoL phases of vehicles requires a more comprehensive approach to addressing SoC. This should extend beyond merely limiting heavy metals like lead, mercury, cadmium, and hexavalent chromium, and avoiding reliance on potential future restrictions through a hypothetical future REACH. The current strategy misses an opportunity to establish a unified system for conveying information about SoC and neglects the challenge posed by substances that impede circularity beyond safety considerations. The existence of tools such as the International Material Data System (IMDS) – widely used by leading automotive manufacturers demonstrates the feasibility of tracking substances in vehicles and their parts. In this context, the Chemical Strategy for Sustainability (pg. 6) committed the EU to restrict and ensure traceability of substances in consumer products. Alongside other product groups such as packaging, textiles, and electronics, vehicles contain a wide range of substances and should be included in the scope of "non-toxic material cycles". Effective management of substances in products will require the complementarity of both product and chemical legislation.
- The transition to electric vehicles inevitably entails a shift of the environmental burden from the use phase to the production. Commonly accepted environmental footprint rules and datasets for vehicles will provide an incentive for market differentiation and push manufacturers to reduce impacts from the production stage. Related performance requirements for the type approval of vehicles would address the elephant in the room: the number and size of vehicles on the market as well as the overall material use and footprint of the sector. Footprint information can also facilitate the implementation of additional policies at both the EU and national levels aimed at promoting the production of vehicles with reduced environmental impacts. These measures may include environmental labeling, tax incentives, or eco-modulated fees.

Moreover, this information can contribute to shaping criteria for Green Public Procurement concerning vehicles.

- Additional information that should be provided through the CVP includes the anticipated lifetime, guidelines for repair and disassembly, indication of repairability, accessibility of spare parts, environmentally conscious usage and disposal practices, fuel or energy consumption, materials and pollutants contained, recycled content of materials, environmental or carbon footprint information, and the procedure for product return.
- The long implementation period of 84 months/7 years constitutes a significant and unacceptable delay of one of the key measures.

4. Extended Producer Responsibility

The EEB welcomes the introduction of a mandatory Extended Producer Responsibility (EPR) system. However, **the current proposal focuses on the EoL treatment while neglecting the upper levels of the waste hierarchy, namely, prevention, reuse, and preparation for reuse** as well as the close connection between design aspects and EoL management. A more comprehensive approach is needed that also facilitates collection, repair, and reuse of vehicles, parts, and components. Another gap in the proposed approach is the missing system/obligation to finance treatment in third countries outside the EU.

- Producer responsibility should not only be made responsible for the costs for recycling but cover the entire life cycle of vehicles, from eco-design and repair to reuse and EoL as well as for the costs linked to the monitoring, tracking, and reporting on vehicles. Binding reuse quotas, earmarking a minimum percentage of EPR fees to finance repair and reuse activities, and implementing mandatory testing for the reuse of parts and components before treatment are measures that should be explored. Producers should further be obliged to create awareness not only to increase collection but also regarding reuse and repair as well as the environmentally conscious use of the vehicle.
- To facilitate the collection of EoL vehicles, compulsory collection targets for producers/PROs could be one further option to be explored. Moreover, it is not clear why no further "advanced economic incentives" are considered such as deposit return schemes based on common EU-wide criteria.
- Modulation of EPR fees needs to support the upper levels of the waste hierarchy and particularly address those aspects, that are currently not reflected in the proposal – the number and size of vehicles on the market as well as the overall material use and footprint of the sector. Therefore, further modulation criteria should be considered:
    - The total environmental or carbon footprint of the vehicle
    - Additional bonus for full disclosure of information on SoC (in case this is not made mandatory under the CVP)
    - Repairability, e.g., based on a repair score similar to the one introduced for smartphones and tablets
    - Durability of vehicles, parts, and components

- Regarding the export of old vehicles to third countries, the proposal introduces specific criteria and tries to limit the export of vehicles that are deemed unsuitable for EU roads by making "roadworthiness" a prerequisite for export. However, as the export of roadworthy and reusable vehicles can and will continue to happen, the new law risks creating an unfair double regime for non-EU countries, which will not be covered by the EPR fees. In other words: the EU will delegate the waste management of vehicles exported outside the EU to the receiving countries but keep the fees that were set aside to financially support that process. This puts an unfair burden on the waste management systems of receiving countries outside the EU, which may be less equipped to deal with all waste fractions of a complex product like a vehicle. According to current estimates, 3.4 to 4.7 million EoL vehicles are exported illegally each year to African countries, on top of 1.8 million confirmed exports. Based on these estimates and assuming an average EoL vehicle EPR fee of 46 EUR, the total EPR fees that do not follow vehicles to African countries would range between 294.6 million EUR and 409.4 million EUR.[1] Further considering that 80-90% of vehicle consumption growth in African countries in the next decade is predicted to come from used vehicle imports it is of utmost importance that information travels with the vehicle and as part of the CVP to third countries and that the fees paid by producers are available for EoL management in third countries. Producer responsibility should only end once the vehicle has been verifiably treated to a high standard.
- Shipments of EoL vehicles from the Union to a third country only count towards the fulfillment of obligations and targets if the exporter of the EoL vehicles provides documentary evidence that the treatment took place in conditions that are broadly equivalent to the requirements laid down in the Regulation. However, for this to be effective, it needs to be defined what equivalent conditions are.

[1] For more details, see the EEB study on items shipped for reuse and EPR fees.

Unknown whereabouts of vehicles

The lack of an effective system for real-time information exchange between Member States regarding the registration status of vehicles has led to a significant lack of traceability. In fact, vehicles with unknown whereabouts have been identified as one of the major implementation challenges of Directive 2000/53/EC (Recital 86). The EEB stresses the need to establish a digital and interoperable system to establish full traceability during the entire lifetime of vehicles including information such as the reasons for the cancellation of a registration of a vehicle, especially if a vehicle has been treated as an EoL vehicle in an authorised treatment facility, re-registered in another Member State, exported to a third country outside the Union, or stolen. To address the illegal dismantling or export of vehicles that have been temporarily de-registered, the vehicle owners should be obliged to promptly report any changes in their ownership to the national vehicle registration authority.

5. (Eco)Design requirements

The EEB welcomes the design requirements in the current proposal to be fulfilled for type approval. These will ease dismantling during use and EoL and provide incentives for material circulation through recycled content requirements for plastics. However, the lack of focus on durability, repairability, and reuse as well as little ambition regarding the use of secondary materials present significant missed opportunities.

- The proposal neglects the importance of durability as a key strategy to reduce the environmental burden of vehicles – It reduces environmental impacts associated with resource consumption, production, and disposal by extending the product's lifespan. Measures in this regard should be considered, such as mandatory durability requirements or warranty requirements for new vehicles, parts, and components.
- Provisions on repairability and reusability need to be strengthened to facilitate modular design strategies, minimal need for specialized tools, and the widespread and long-term availability of wear/spare parts and components including software at fair and non-discriminatory prices. Additional provisions that should be considered in this regard include, but are not limited to, a minimum availability period of wear and spare parts as well as for software updates, e.g., 20 years. Concerning the removal and replacement of specific parts and components outlined in Article 7, provisions should extend beyond the EoL of the vehicle. All parts and components must be removable and replaceable throughout the vehicle's operational life for both independent and affiliated vehicle mechanics. The vehicle repair market must remain open, competitive, and affordable. Moreover, an extension of the list for the mandatory, non-destructive removal and replacement of components (currently only electric vehicle batteries and e-drive motors) should be considered.
- The inclusion of recycled content targets for plastics is likely to contribute to the circulation of such materials. However, the EEB calls to increase the ambition to provide an even greater incentive for high-quality recycling, e.g., to 30% as also assessed in the impact assessment study. Further recycled content targets should be included for steel, aluminium, and Critical Raw Materials (CRMs).

6. Treatment

The current proposal still favours recycling over the preferable strategies of reuse and repair that aim to extend the lifespan of products before recycling. Notably, the EoL targets still merge reuse and recycling, while also specifying an energy recovery rate.

- The separation of reuse and recycling targets should be considered. Experience in other sectors shows that if there is no dedicated reuse target, there is also no clear incentive to reuse before recycling. Such targets should be binding not only on the Member State level but also on producers and PROs individually. This approach would create essential incentives for establishing dedicated structures for reuse.
- The list of components to be removed prior to shredding should be extended to also include lightweight materials that are particularly difficult to recycle like (carbon)-fiber reinforced plastics, mono-material aluminium components with a weight above 5 kg, smaller copper and EEE parts, as well as small motors, controllers, actuators, and inverters.