



# DIGITALEUROPE's recommendations for the Critical Raw Materials Act

## Executive summary

Critical raw materials (CRMs) are essential to the twin transition. Studies show the CRM demand for 5G network equipment, photonics, edge computing applications and quantum technologies would grow **15-fold** in a fast-rollout scenario.<sup>1</sup> The EU can spur public and private initiatives to promote responsible, environmentally friendly and socially sustainable CRM production, processing and recycling. Reliable access to these resources is fundamental to promote sustainability, competitiveness and innovation goals in the EU.

DIGITALEUROPE's members are committed to the responsible sourcing and recycling of raw materials, as well as promotion of supply chain identification, traceability, risk assessment, and due diligence.

Of the policy options in the Call for Evidence for an EU CRM Act, DIGITALEUROPE supports:

1. strengthening the EU's CRM value chain, such as through diversification of supply sources and facilitated mining projects in Europe;
2. ensuring a sustainable level playing field across the Single Market, through incentives in existing sectoral legislation for the creation of a European secondary CRM market. The CRM Act should point to recycling opportunities in the existing stock of EU laws, and not introduce duplicative requirements.

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<sup>1</sup> See [here](#) for more info.



## Diversifying EU CRM supply sources

The CRM Act should encourage efforts to identify and develop diverse supplies of CRMs. We highlight especially those at the basis of supply chain vulnerabilities, due to overreliance on single or geographically concentrated sources. Natural scarcity has led to a control by third countries of the global market for rare earth materials, thereby creating a significant supply chain risk. This is an important consideration. CRMs are essential for highly specialised applications that power the digital and green transition. Whenever possible, these initiatives should involve holistic assessments across value chains – including production, refining, processing, and recycling.

To aid these efforts, the EU must therefore:

- **Bolster sourcing of CRMs from within Europe’s borders.** Finland, for example, hosts significant stocks of fourteen primary CRMs (e.g., cobalt, lithium, titanium). The EU must facilitate mining operations to extracting and using them efficiently. It should advance Important Projects of Common European Interests (IPCEIs). It should also streamline EU legislation affecting mining, by improving coherence within the overall stock of CRM-related laws, and by lightening up the legal burden on businesses. The proposed revision of the Industrial Emissions Directive,<sup>2</sup> the Habitats Directive<sup>3</sup> and the Water Framework Directive<sup>4</sup> should be priority areas in this regard.
- **Focus on both short-term and long-term risks in the next review of the EU’s CRM list.**<sup>5</sup> More can be done to complement the outlook on short-term factors with a greater focus on Europe’s long-term twin transition needs. Industry should advise on the “criticality” assessment in the development of the CRM list, including CRMs that should be regarded as pivotal to meet climate and digitalisation goals. The process should be evidence-based and focused on a sector-by-sector supply chain analysis of business concerns.
- **Label EU mining projects as initiatives of “overriding public interest”.** Permitting procedures for mining operations are too lengthy and complex in the EU. The CRM Act should follow the example of Article

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<sup>2</sup> Directive 2010/75/EU of the European Parliament and the Council on industrial emissions

<sup>3</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

<sup>4</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

<sup>5</sup> European Commission, [Critical Raw Materials Resilience: Charting a Path towards greater Security and Sustainability](#), 2020

14 in the EU Chips Act<sup>6</sup> and Article 16d in the Commission's amendment proposal to the Renewable Energy Directive (RED),<sup>7</sup> which aim to speed up permitting procedures for identified projects of "overriding public interest". Permitting provisions should cover mining, refining, processing and especially recycling facilities.

- ▶ **Diversifying sources through deepened cooperation with third countries.** EU's Self-sufficiency in raw materials is an unrealistic goal. The EU must continue to show leadership on the international stage by advancing trade agreement cooperation with like-minded partners and deepening collaboration in relevant international fora, like the EU-US Trade and Technology Council (TTC). Well-designed trade agreements can avoid current and future EU's overreliance on any one CRM supplier. They can also meaningfully reduce the risk of public policies leading to excessive raw material stockpiling.



## Progressing on the twin transition in full alignment with existing legislation

We strongly welcome that the CRM Act's Call for Evidence highlights the argument for recycling. Strengthening the EU waste management system and hierarchy is of paramount importance. Technology to recycle and recover some CRMs is available, although stepping up R&D will be key in making it accessible and cost-effective. There also exists EU legislation in this area. What Europe lacks are competitive incentives to justify business models in this space and create a European market for secondary CRMs, which would even encourage the uptake of recycled content in products entering the Single Market. This is especially important for nanomaterials, where the recovery of often miniscule amounts of CRMs can become extremely expensive. Crucially, there is even a policy opportunity to extend product lifetime by redeploying used products into the market, if still useful. That would put less pressure on the availability of already scarce materials. For every unit whose life is extended, there is one less stock of raw materials to mine.

We believe it is the role of existing sectorial legislation to incentivise the creation of a market for secondary CRMs. Below we outline concrete examples to achieve

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<sup>6</sup> Article 14 on "National fast-tracking of permit granting procedures" in the Commission's proposal for a Chips Act Regulation

<sup>7</sup> Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency

so. The CRM Act should refrain from legislating on these topics, lest it create duplicative requirements for businesses.

- **Waste legislation.** The Act should point to the importance of general CRM circular economy requirements in the upcoming revision of existing legislation. The review of the **WEEE Directive**<sup>8</sup> must address the recycling of electronic and structural materials to reclaim CRMs in a fair and equitable manner, and introduce incentives to integrate recycled content in new materials. Regrettably, the Commission has not used its competences under Art. 8 (5) of WEEE to lay down minimum treatment standards for waste electrical and electronic equipment collected. No action was taken even after a 2020 Commission's report saw the merit of these measures.<sup>9</sup> This is a missed chance to harmonise the Single Market for waste-related products. It must be rectified. Policy stimulus can lead to the reverse logistics approach which is necessary for an environmentally and socially sustainable circular economy. A second example is the revision of the **Waste Framework Directive**,<sup>10</sup> which can harness the circular potential of CRMs, increase transparency in the waste management value chain and set higher standards for collection, sorting and recycling of waste. A final example is the soon-to-be-reviewed **Packaging & Packaging Waste Directive (PPWD)**<sup>11</sup>.
- **Chemicals legislation.** The EU must avoid overlapping notification requirements that can pose barriers to recycling operations. The presence of Substances of Very High Concern (SVHCs) should continue to be reported in existing platforms like the SCIP<sup>12</sup> database and the 4R<sup>13</sup> database. These inventories can meaningfully improve the ability to recycle CRM-containing products and, thus, facilitate CRM extraction. Reporting information should not be duplicated in regulations, such as the ESPR. We also understand that, in the review of the RoHS Directive, the European Commission may consider introducing CRM-related provisions. Finally, we also highlight the work of the Commission's Joint Research

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<sup>8</sup> Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment

<sup>9</sup> European Commission, Study on quality standards for the treatment of waste electrical and electronic equipment (WEEE), 2020. The study recommend such minimum standards are informed by/aligned with the CENELEC standards, [EN 50625 series](#) (see [WEEE Forum Q&A](#)), [EN 50614](#), and on [IEC TR 62635](#)

<sup>10</sup> Directive (EU) 2008/98/EC of the European Parliament and of the Council on waste

<sup>11</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste

<sup>12</sup> Substances of Concern in Products in articles as such or in complex objects (Products) Database (<https://echa.europa.eu/scip>)

<sup>13</sup> More info [here](#)

Centre on recycling by design,<sup>14</sup> as well as the EU Implementing Directives on indicative occupational exposure limit values under the EU's Occupational Safety & Health (OSH) Directive.<sup>15</sup>

- **Ecodesign legislation.** There must be full alignment of the CRM Act with the Digital Product Passport (DPP) under the proposed ESPR if the EU is to improve transparency and traceability of the environmental impacts of products, including their components. If well-designed and promoting differentiated data access rights on a need-to-know basis, the DPP could expand the opportunities for recovery and recycling of CRMs.

More generally, we note that the ESPR has over time integrated many material efficiency requirements in implementing regulations for specific product-groups, such as those on design for dismantling and recovery and on treatment facilities.<sup>16</sup> The Commission can still do more in the future to include more systematically information on the presence of CRMs, building on [EN 45558](#) and [IEC EN 62474](#)II. We do see these efforts in line with the ongoing revision of the Methodology for the Ecodesign of Energy-related Products (MEErP). It will become the default method for ecodesign preparatory and review studies for Energy-related Products (ErP) ecodesign implementing regulations.

- **Supply chain-related legislation:** consistency of the CRM Act with other supply chain-related provisions must also be guaranteed. The Act should highlight the opportunity to strengthen EU capabilities in this space, not introduce regulatory uncertainty. It should build clear links with supply chain legislation and sectorial guidance. Examples are the Conflict Minerals Regulation,<sup>17</sup> the European Partnership for Responsible

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<sup>14</sup> Joint Research Centre, [Safe and Sustainable by Design chemicals and materials: Review of safety and sustainability dimensions, aspects, methods, indicators, and tools](#), 2022

<sup>15</sup> Council Directive of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (89/391/EEC).

<sup>16</sup> On CRMs specifically, GROW LOT 9: Servers and data storage products contains an information requirement to declare the presence of two CRMs in an indicative weight range at component level; cobalt in batteries, and neodymium in hard disk drives.

<sup>17</sup> Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas.

Minerals (EPRM),<sup>18</sup> as well as draft legislation such as that on corporate sustainability due diligence,<sup>19</sup> forced labour product ban<sup>20</sup> and batteries.<sup>21</sup>

The Call for Evidence supporting this Act also elaborates on information requirement on the carbon footprint of production process. We advise the Commission to pay close attention to the difficulty of accurately capturing CO2 emissions outside the direct control of a given manufacturer. The Corporate Sustainable Reporting Directive embedded these considerations in its text, by envisaging delayed implementation of certain reporting requirements for SMEs. Any new provision on carbon footprint transparency should align with the existing EU legislation and internationally recognised industry standards.

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<sup>18</sup> The EPRM is seeking to increase the availability of responsibly sourced 3TG minerals<sup>18</sup> and financing funding projects in conflict-affected/high-risk areas keen to improve mining practices and serve downstream users

<sup>19</sup> Proposal for a directive of the European Parliament and of the Council on corporate sustainability due diligence and amending Directive (EU) 2019/1937

<sup>20</sup> Proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market

<sup>21</sup> Proposal for a regulation of the European Parliament and of the Council concerning concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020

## About DIGITALEUROPE

DIGITALEUROPE is the leading trade association representing digitally transforming industries in Europe. We stand for a regulatory environment that enables European businesses and citizens to prosper from digital technologies. We wish Europe to grow, attract and sustain the world's best digital talents and technology companies. Together with our members, we shape the industry policy positions on all relevant legislative matters and contribute to the development and implementation of relevant EU policies. Our membership represents over 45,000 businesses who operate and invest in Europe. It includes 98 corporations which are global leaders in their field of activity, as well as 41 national trade associations from across Europe.

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**Spain:** Adigital, AMETIC

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**Turkey:** Digital Turkey Platform, ECID

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