



Position paper on the Commission's proposal for a CRM 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.¹ A coherent legal framework is key to accelerating CRM recycling. Along that, digital technological advancements can revitalise mining and extraction operations in the EU, primarily by enhancing environmental sustainability, which would help curb overreliance on single or geographically concentrated sources. AI and data analytics, for instance, can minimise environmental harm and optimise resource use, while automation allows safer, more efficient operations.

Below we outline our feedback on necessary changes in specific sections of the Commission's proposal. These aim to:

- ▶▶ Help to implement the announced Commission's plans for a 25% reduction of reporting burden on EU-operating companies;
- ▶▶ Protect Single Market integrity in the development of a robust EU secondary raw materials market. This is under threat by specific provisions on national circular economy measures in the Act;
- ▶▶ Ensure regulatory consistency between the CRM Act with other draft as well as existing legislation in support of the EU Green Deal, such as the Net Zero Industry Act and the EU eco-design framework.

¹ See [here](#) for more info.



DIGITALEUROPE's feedback

Company risk preparedness

We recommend deleting Article 23, in preference to targeted amendments to Article 20 (2) and (3) which we outline in the next bullet point. Avoiding the introduction of these additional requirements would contribute to the Commission's announced objective to reduce reporting burdens by **25%**.

We believe that company risk preparedness requirements under Article 23 are duplicative, because in-scope "*large companies*" would already fall under the definition of "*key market operators*" under Article 20. The latter will require Member States to identify "*key market operators*" established in their territories, and monitor these operators via regular and proportionate surveys. The results of these surveys would be reported to the Commission, Eurostat and national statistics authorities. Member States would be required to notify the Commission without delay of any major event that may disrupt the operations of "*key market operators*". Article 20 defines the latter as producers involved in the extraction, processing or recycling of CRMs, traders and distributors of CRMs, and downstream companies consuming significant amounts of CRMs.

In addition, we believe that Article 23(2) and (3) requirements are unnecessary since large companies already conduct audits of their supply chains, including stress testing. The results of these audits are then reported to the Board of Directors.

Information obligations for monitoring

We advise the Commission to issue guidance to support Member States in the interpretation of the scope of the "*key market operators*" definition. Consistent implementation of Article 20 is crucial. It would limit the possibility of an unlevel playing field due to Member States' divergent interpretation of in-scope entities. The Act should prevent a scenario where a manufacturing facility falls within the scope of Article 20 obligations in one Member State, but falls outside of it in another. As it stands, the proposal lacks clear criteria to determine which economic operators qualify as "*downstream companies consuming significant amounts of critical raw materials*". It is unclear whether the scope of "*downstream*" users of CRMs in Article 20 would include both manufacturers of components integrating CRMs, i.e. manufacturers with stocks of CRMs not processed into an article, and manufacturers that assemble CRM-containing components into a final product, or whether it is only the former category.

National measures on circularity

- ▶ **We advocate for amendments to Article 25(2) that would reduce fragmentation risks, such as requiring Member States to adhere to relevant Sustainable Finance Taxonomy Regulation (SFTR) Technical Screening Criteria (TSC) and green public procurement provisions in product-specific ecodesign implementation regulations in respect to Article 58 of the Ecodesign Regulation.**

We are fully behind efforts to promote the recycling of CRMs embedded in products. These should be seen as a strategic reserve, holding the same value as virgin CRMs. Recycling is also a more environmentally sustainable choice than extraction, and we have previously underscored the need to enhance product recycling and CRM recovery in future amendments to EU waste legislation. This includes the Waste Framework Directive (WFD), the Waste Electrical and Electronic Equipment (WEEE) Directive, and the Packaging & Packaging Waste Directive (PPWD).

However, while Article 25 seeks to promote recycling, it also gives rise to concerns. These are primarily related to the consequences of Single Market fragmentation due to diverse national approaches, which the Article 25(4) Single Market safeguard in the CRM Act would fail to effectively address. Our key concerns are about Article 25(1)(a)(b) and (c), which commendably aim to boost waste collection rates, reuse of CRM-rich products and components, and promote secondary CRM use, especially through public procurement criteria emphasising recycled content. There are precedents set by the PPWD implementation and the risk of fragmentation it introduced, with the diverging marking and labelling requirements on packaging, i.e. the French Triman logo, being a clear example.

- ▶ **As a general point, we support the safeguard against double regulation in Article 25(2) which specifies that national measures should not apply to products already governed by EU waste legislation, like the WEEE Directive. Correspondingly, we recommend to avoid including Electrical and Electronic Equipment (EEE) products in the Implementing Act under Article 25 (7). The latter will detail products, components, and waste streams deemed to have high CRM recovery potential. Such products are already regulated under the Waste Electrical and Electronic Equipment (WEEE) Directive. We also note that the list would need frequent updates, as specific product uses and recoverability will change over time.**

Recyclability & recycled content of permanent magnets

We believe that recyclability provisions under Article 27 and information requirements for recycled content of permanent magnets under Article 28 should be more appropriately addressed under the Ecodesign framework in product-specific ecodesign implementing regulations. This is a legislative level which is better suited to the introduction of requirements of a highly technical nature, like permanent magnets in electric motors under ENER LOT 30.

Indeed, Articles 27(9) and 28(4) recognise that the Ecodesign Directive's *lex specialis* safeguards take precedence over the CRM Act if ENER LOT 30 and other product-specific lots introduce CRM measures. For example, ENER LOT 30 includes a review clause requiring consideration of the appropriateness of “*adding other types of motors to the scope, including permanent magnet motors*” and “*setting additional resource efficiency requirements ... including identification and reuse of rare earth permanent magnet motors*” by 14 November 2023. This means revisions to ENER LOT 30 intended to improve the circularity of permanent magnet motors will likely make Articles 27 and 28 obsolete for these motors in the near future.

In addition, the Commission's proposed ESPR aims to extend the eco-design framework to almost all tangible products in the Single Market. Requirements would touch various areas such as resource use, efficiency, recycled content, remanufacturing, recycling, and possibly material recovery. **If built upon standards like EN 45555 and EN 45557, these requirements would promote CRM recovery more effectively than additional measures under the CRM Act.**

Importantly, the EU has already integrated material efficiency requirements, including those for CRMs, into product-specific ecodesign implementing measures. An example is GROW Lot 9 (on servers and data storage products). It contains an information requirement on the presence of two CRMs in an indicative weight range at component level, namely cobalt in batteries, and neodymium in Hard Disk Drives (HDD). Future ecodesign implementing regulations could more systematically incorporate information on the presence of CRMs based on standards like EN 45558 and IEC EN 62474. We suggest linking any CRM-related information requirement in ecodesign implementing acts to Annex I, Section 1, and Annex II, Section 2 of the CRM Act, which list strategic raw materials (SRMs) as well as CRMs.

If a CRM/SRM with an information requirement is removed from the Annexes, the requirement becomes obsolete and should automatically lapse. The suitability of any newly added SRMs/CRMs should be assessed in the next revision of each product-specific ecodesign implementing regulation.

Finally, the ongoing revision of the Methodology for the Ecodesign of Energy-related Products (MEErP) should address many of the above considerations. Once adopted in 2023 as expected, it will become the default method for ecodesign preparatory and review studies for Energy-related Products (ErP) ecodesign implementing regulations, including for the revision of ENER LOT 30 and the other product-lots which incorporate permanent magnets.

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