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# DIGITALEUROPE comments on the draft implementing regulation on labelling of batteries

## Executive summary

DIGITALEUROPE welcomes the opportunity to provide feedback to the **draft delegated act laying down rules on harmonised specifications for the labelling requirements in Articles 7 and 13 of Regulation (EU) 2023/1542**. DIGITALEUROPE appreciates the European Commission is submitting an implementing regulation to ensure marking and labelling requirements are implemented and enforced in a harmonised way. In line with the European Commission's goal to cut all administrative costs by at least 25% and estimated saving potential of up to 37.5 bn (Eurostat), we have identified regulatory provisions in this implementing regulation as a candidate for consideration. We agree with European Commission Dombrowski that "simplification is not deregulation" and see a path to achieving the same environmental standard in a less burdensome way.

DIGITALEUROPE is concerned that the current version of the draft is attempting to achieve its objectives with measures that are so specific that they introduce further complexity into what already is a short implementation timeline and overly complex marking regulation. DIGITALEUROPE invites the European Commission to reconsider the implementing regulation with a view to simplifying compliance burden rather than adding further complexity into what is already the most extensive set of marking requirements our industry is subject to. DIGITALEUROPE observes major inconsistencies in the implementing regulation and would like to ask the European Commission to reconsider the current draft.



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## The importance of the QR code

**As part of its Digital Single Market Strategy and Regulatory Simplification exercise, we encourage the European Commission to look into the possibility of leveraging all possibilities the Battery Regulation allows for digitisation of markings, such as through a QR code solution, to be used as alternative to markings on the battery.**

Digitising information does not change the obligations of manufacturers in any way: it makes it possible for manufacturers to provide more information to authorities and potentially in a much more informative and interactive way, which is important as regulatory requirements grow in complexity. No specialised technology is needed for surveillance authorities, just mass-market consumer devices such as smartphones, with either a cellular or wifi connection. Yet, it will greatly help reduce the administrative burden for companies operating within the Single Market, small and medium enterprises in particular.

In February 2027, the QR code (Art. 13(6)) is supposed to be introduced and to host Art. 13(1-5) information. While the Battery Regulation itself is ambiguous on the matter, the implementing regulation omits to clarify that information hosted on the QR code does not need to be shown on an additional harmonised label. Considering size and compliance complexity, it is of paramount importance to address this oversight. Most of the batteries in our products will not be able to host the CE symbol, the crossed-out wheellie bin symbol, the harmonised label as well as the QR code, but we can ensure the availability of all information through the QR code.

In addition, DIGITALEUROPE would like to point out that Art 13(7) of the EU Battery Regulation explicitly states that where is not possible or not warranted on account of the nature and size of the battery to print the labels or the QR code on the battery, these markings shall be affixed to the packaging and to the documents accompanying the battery. **The draft implementing act inappropriately limits this flexibility in some cases, going beyond the legal mandate:**

- ▶▶ **Batteries incorporated in products:** QR code marking on the product instead of the packaging/documentation of the product.
- ▶▶ **Non-rechargeable symbol:** does not provide an alternative option, suggesting that only marking on the battery is acceptable.
- ▶▶ **Separate collection symbol:** does not provide an alternative option, suggesting that only marking on the battery is acceptable.

**Concretely, DIGITALEUROPE requests the following addition for inclusion in Art 7 of the implementing regulation:** *“From 18 February 2027, all batteries shall be marked with a QR code as described... and shall provide the*

information indicated in Art. 13(6) according to the category to which it belongs. **Information provided in the QR code does not need to be displayed physically on product, or packaging, or accompanying documents.**"



## Lack of prioritisation

DIGITALEUROPE observes that the implementing regulation makes a prioritisation for the information requirements of Art. 13(1) to Art. 13(3) and some extent Art. 38(6), 38(7), **but that it stays silent on a prioritisation should the battery not be able to host all requirements covered by Art. 13, 20, 38 and 41. The QR code shall be the highest priority, as it can address all marking requirements.** We notice the particular importance assigned to the CE mark in Europe, whereas other jurisdictions world-wide may put priority on the crossed-out wheelie bin or other markings. The EU Battery Regulation should not be an obstacle to realising worldwide designs for batteries. Beyond the QR code, manufacturers should be enabled to prioritise.

**DIGITALEUROPE suggests the addition of the following sub-paragraph in Art.7**

*"Where the surface of the battery is not large enough to display all labels and information required in Art. 13, 20, 38 and 41, the QR code can host the information. ~~In such a case, the manufacturer should apply the following prioritisation for inclusion on the battery, to ensure that the CE mark remains on the battery next to the QR code if possible, and if size still allows followed by the crossed-out wheelie bin.~~"*



## Marking provisions for batteries incorporated into products

**Art. 2(2) of the draft implementing regulation acknowledges that batteries incorporated into products may need a specific consideration. However, DIGITALEUROPE strongly disagrees with the proposed requirement. The Commission wishes to require products leveraging Art. 11(2) to have a label on the product surface.** A similar proposal was made by the European Parliament during the trilogue negotiations for all batteries incorporated into products and rejected by the Member States during the negotiations. The European Commission does not have a mandate to bring this proposal, albeit for a subset of products, back into the regulation. Under Art 13(1), 13(2) and 13(3), the marking is only required on battery, packaging or accompanying documentation. The regulation does not make any provisions for product markings as it is not a product regulation. If anything, it ought to consider the opposite: portable batteries incorporated into products should have the option to provide the information digitally, regardless of removability and replaceability.

Additionally, incorporated batteries are not a standalone product but a component, and hence do not have their own packaging or accompanying documents. Some manufacturers source batteries to their exclusive specifications, whereas others are using off-the-shelf batteries. The regulation needs to be flexible enough to account for both scenarios of managing the requisite information. As an example, in the case of button cell batteries used as fungible components during manufacturing, it becomes impractical to replicate information provided by suppliers on another medium such as the product surface or packaging.

Our batteries are typically small in size and would mostly be unable to host all required marking and labelling information. DIGITALEUROPE has outlined this problem in the past already and asked for a clear prioritisation of the markings. **In the case of batteries that are sold as an integral part of an electronic device, the information requirements can be delivered in a less burdensome but more effective way, and DIGITALEUROPE sees no justification for the additional burden proposed:**

- ▶▶ **Information of interest for end-users during a repair** (e.g. Art 13(1), Art. 13(2), 13(4): manufacturers are required to provide spare parts including batteries according to Art. 11(7) of Regulation 2023/1542. It would be more appropriate to ensure that the spare parts provision happens with compatible batteries as stipulated in Art. 11(6). Art. 11(1) requires already that manufacturer provide information including instructions and safety information on a publicly available website in an easily understandable way for end-users.
- ▶▶ **Information of interest for recyclers** (e.g Art. 13(1)): manufacturers are required to make removal instructions available to recyclers and already do so, for instance with the I4R Platform. Additional information like in Art. 13(1) should not be made available on the product surface, as the product with incorporated batteries serves as the enclosure to the battery and at end of life will have often been subject to aesthetic or even catastrophic damage, making it impossible to read out a QR code. It is far more likely that the battery itself has been protected by the (damaged) enclosure and once made accessible, the QR code can be read out, if required. Products making use of Art. 11(2) professional reparability design are no different in this aspect from other products with incorporated batteries.
- ▶▶ **Information for enforcement authorities** (e.g Art. 20, 38, 41): this information is only marginally and partially in scope of the implementing regulation, and information provision to enforcement authorities happen through the Declaration of Conformity.

**DIGITALEUROPE proposes the following change to Art. 2(2)**

*“In the case of button cell batteries, the information listed in Annex I, for non-rechargeable, or Annex II for rechargeable, shall be printed on the accompanying packaging or made available through a QR code printed on the packaging or the document accompanying the battery such as the one referred to in Part C of Annex VI of Regulation EU 2023/1542 and Article 7 of this Regulation.*

*For portable batteries incorporated into products ~~which need not be readily removable and replaceable by the end user, as stipulated in Art. 11(2) of Regulation (EU) 2023/1542,~~ the information referred to in Annexes I or II, as applicable, shall be provided through a QR code, on either the packaging, the battery, or accompanying documentation. ~~In this case, the QR code shall be visible, at least, on the surface of the products where it is incorporated, and optionally on the surface of the battery itself. In case the QR code is displayed on the surface of the product, an icon depicting a portable battery shall be displayed side by side with it to avoid confusion. In line with Art. 11(7) of Regulation 2013/1542, manufacturers of compatible spare part batteries should make them available to end users including accompanying replacement instructions, safety instructions and the information required by Art. 13.”~~*



## Prescriptiveness instead of simplification

The European Commission needs to strike a fine balance between harmonisation and simplification. DIGITALEUROPE recognises the need to provide guidance to ensure a level playing field but notices several instances where the implementing regulation errs on the side of prescriptiveness, creating unnecessary implementation burden and complexity.

### Examples:

- ▶▶ Art. 2(2) prescribes an additional battery icon next to the QR code whereas no such requirement is set in the Regulation itself, and without clear cost-benefit analysis.
- ▶▶ All annexes prescribe a type face (Calibri) when a simple “legible type face” would do as a requirement
- ▶▶ Electric files of all necessary icon design should be provided in case of requiring the icons.
- ▶▶ The formulation in Art. 3 prescribing the battery label size is focusing on icon size and font size, risking a battery label to be disproportionately big, whereas a maximum size for the label would be simpler to prescribe. In fact, as acknowledged in the Blue Guide, legibility is not a question of relative but of absolute size requirements. There is no need for font size 25 to ensure legibility when font size 5.7 is considered readable by the same legislation.

- ▶▶ Art.3 prescribes minimum coverage of 5%. However, it is not clear what the denominator "printable or engravable surface area of the battery and packaging" exactly means. To avoid confusion and as long as the regulation considered font size 5.7 is readable, such minimum coverage percentage is considered not necessary.
- ▶▶ Art.6(2) prescribes to indicate chemical name when a substance listed in Annex 1 is contained lower than threshold (excepting Hg, Pb and Cd). However, given it is impossible to proof "containing zero", any substance added to Annex 1 must automatically be indicated the chemical name regardless of concentration.
- ▶▶ Art.6 (2) and (3) prescribe to indicate additional chemical logo and/or chemical name beneath the wheelie bin symbol but such requirement is not set out in the Regulation in the first place. It may result in causing huge burden and complexity for manufacturers by obliging to change labelling design frequently.
- ▶▶ Art 9 prescribes making information available in any language a Member State considers is "easily understood" by end-users. For marking requirements on such a small product or component incorporated in a device, this is a disproportionate cost to business, as it risks the need to develop artwork for every Member State, and product lines for every Member State. A multitude of languages can only be provided digitally, for instance through the QR code.

**A modernised Single Market that promotes cross-border provision of services and cross-border movement of goods is the backbone of a more prosperous and competitive Europe.** Differences between member states on required regulatory information and language localisation requirements create barriers to the free movement of goods across the Single Market. Each time a product requires movement to a different Member State within the EU, product markings, packaging and/or printed documentation must be replaced, leading to increased costs and waste.



## Overlap in implementation timelines

The marking requirements of relevance to our sector in Regulation 2023/1542 have the following implementation timelines attached to them:

Requirement	Article	Implementation Timeline	Implementing regulation additional timeline
CE symbol	Art. 20	18 August 2024	
Manufacturer info	Art 38(7)	18 August 2024	
Importer info	Art 41(3)	18 August 2024	
Batch/serial number	Art 38(6)	18 August 2024	

Crossed out wheelie bin	Art. 13(4)	18 August 2025	
General info	Art. 13(1)	18 August 2026	18 months after publication of delegated act, assumed February 2027
Capacity	Art 13(2)	18 August 2026	18 months after publication of delegated act, assumed February 2027
Non-rechargeable, minimum average duration	Art 13(3)	18 August 2026	18 months after publication of delegated act, assumed February 2027
QR code	Art 13(6)	18 February 2027	

**The implementing regulation covers information required in Art 13 and Art. 38, but despite the cross-over of information requirements does not result in a harmonised implementation deadline across the requirements.** Capacity marking and crossed-out wheelie bin are already marking requirements under the previous EU Battery Directive, which further complicates the matter as the Directive is repealed as of August 2025 (except for capacity marking requirement which continues until August 2026).

**DIGITALEUROPE requests the Commission to harmonise implementation timelines for Art. 13 and Art. 38/41, where impacted by this implementing regulation, to February 2027.**

**In summary, DIGITALEUROPE is concerned that the implementing act goes beyond the powers attributed to it by the Regulation. It covers markings not covered by the provision empowering the Commission to issue an implementing act (e.g. chemical symbols), it establishes requirements for marking products where no such provisions exist in the regulation itself, and it omits important elements of flexibility (QR code only). The draft does not consider space constraints sufficiently. The current draft does not deliver harmonisation, but additional complexity. DIGITALEUROPE urges the Commission to consider where it can be flexible rather than prescriptive in the spirit of simplification.**



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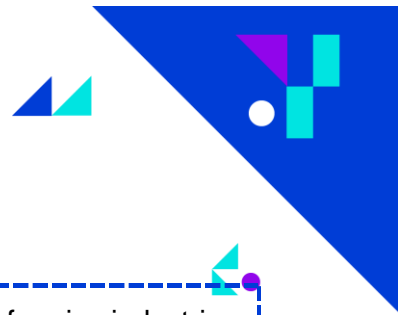
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## About DIGITALEUROPE

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 corporations which are global leaders in their field of activity, as well as national trade associations from across Europe.