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## Position paper

# Reduction of reporting obligations

## Proposals for the Omnibus Package to simplify sustainability reporting and supply chain due diligence obligations

The German Association of Energy and Water Industries (BDEW) in Berlin and its regional organisations represent more than 2,000 companies. The spectrum of members ranges from local and municipal to regional and supra-regional companies. They represent around 90 per cent of electricity sales, a good 60 per cent of local and district heating sales, over 90 per cent of natural gas sales, over 95 per cent of energy networks, 80 per cent of drinking water production and around a third of wastewater disposal in Germany.

BDEW is entered in the lobby register for the representation of interests vis-à-vis the German Bundestag and the Federal Government as well as in the European transparency register for the representation of interests vis-à-vis the EU institutions. In addition to the recognised Code of Conduct pursuant to Section 5 (3) sentence 1 LobbyRG and the Code of Conduct pursuant to the Register of Interest Representatives (europa.eu), BDEW's representation of interests is also based on the BDEW internal compliance guideline in the interests of professional and transparent activities. National register entry: R000888. European register entry: 20457441380-38

## 1 Summary

BDEW believes it is crucial to alleviate the extensive requirements imposed on companies in the areas of sustainability reporting (CSRD and Taxonomy) and supply chain due diligence obligations (CSDDD). Therefore, BDEW supports the European Commission's initiative to address this through an Omnibus Package. The package should adhere to the following principles:

1. **Moratorium on new or tightened requirements:** This is particularly important for the upcoming review of the Taxonomy Regulation and its delegated acts, as well as the announced sector-specific reporting standards for the energy and water industries under the CSRD.
2. **Targeted simplification and clarification:** This effort must go beyond merely eliminating duplicate reporting obligations in various legal acts and should result in a noticeable reduction in reporting obligations for companies without undermining the legal acts as a whole.

Specifically, BDEW proposes the following key changes:

### › **Corporate Sustainability Reporting Directive (CSRD)**

- Align the CSRD thresholds with the CSDDD thresholds and postpone the initial reporting obligation by two years without affecting companies' financing or insurability.
- Refrain from developing mandatory sector-specific reporting standards (ESRS) and instead develop voluntary standards.
- Prevent double reporting by recognizing the CSRD for the reporting obligations of other EU legal acts (e.g., Energy Efficiency Directive).

### › **Taxonomy Regulation**

- Introduce a materiality requirement for disclosure obligations.
- Eliminate the obligation to disclose information on the Taxonomy conformity of operating expenditures (OpEx).
- Waive the mandatory proof of the "do no significant harm" criteria for economic activities within the EU.
- Ensure compatibility of Taxonomy requirements with specialized legislation (such as the Energy Efficiency or Renewable Energy Directives).

### › **Corporate Sustainability Due Diligence Directive (CSDDD)**

- Focus on direct business relationships
- Remove civil liability
- Interpret the Directive as an "obligation to endeavour", similar to the German Supply Chain Act (LkSG).

## 2 Introduction

During the last legislative period, several regulations were passed at EU level, requiring companies to disclose more information on the sustainability of their business practices along their entire supply chain. This initiative began with the Taxonomy Regulation, a system for categorising sustainable business activities. It was followed by the Corporate Sustainability Reporting Directive (CSRD), which significantly expanded both the scope and the amount of sustainability-related disclosure obligations. Finally, the Corporate Sustainability Due Diligence Directive (CSDDD) was introduced, focusing on supply chain due diligence obligations for companies. Germany had already introduced similar, though less extensive obligations at the national level with the Supply Chain Act (LkSG).

The German energy and water industries are committed to the climate, energy and environmental policy goals of the European Union. BDEW, therefore, advocates for maintaining the Green Deal objectives in the context of the discussions on enhancing Europe's competitiveness. Companies in the energy industry are already deeply engaged in the transformation towards climate neutrality. Similarly, the water industry, operating as a circular economy, has an inherent interest in environmental protection and resource conservation. In this context, sustainability-related disclosure obligations can be an instrument to promote corporate behaviour worldwide that aligns with our own climate, environmental and social policy goals. However, sustainability reporting must not become an end in itself; it must always be evaluated based on its contribution to achieving our climate policy goals while simultaneously strengthening our competitiveness.

Throughout the legislative processes for the aforementioned legal acts, BDEW has emphasised that regulatory requirements must not overburden companies. Otherwise, these requirements will divert resources that companies could use to advance the energy transition. Initial experiences of BDEW member companies with the implementation of the Taxonomy and CSRD as well as the preparations for the implementation of the CSDDD have shown that the scope and level of detail of the requirements adopted over the past five years place a disproportionate burden on companies and, at the same time, do not effectively fulfil their goal of supporting companies in their transformation towards climate neutrality.

From BDEW's perspective, level 1 legislation (Directives and Regulations) should only be revised if absolutely necessary to achieve the set objective, ensuring regulatory planning security for the companies concerned. It should be noted that many companies have already initiated projects to prepare for the reporting obligations. However, BDEW believes that adjustments to the level 2 texts (delegated acts) will not be sufficient to significantly alleviate the burden on companies regarding sustainability reporting and supply chain due diligence obligations. Therefore, BDEW supports the plans for an Omnibus Package to simplify the Taxonomy,

CSRD and CSDDD, and calls on the Commission, the European Parliament and the EU Member States to use the package to significantly reduce the complexity of these three legal acts and, consequently, the scope of the reporting obligations.

A stronger focus on reporting and the group of companies subject to reporting requirements does not jeopardise the EU's energy, climate and environmental policy goals. On the contrary, it enables companies, particularly small and medium sized companies (SMEs), to concentrate on their core tasks of advancing the energy transition and ensuring a sustainable water supply. Furthermore, simplifications do not necessarily mean that interested stakeholders receive significantly less information about companies, as key information is typically published anyway. Streamlining the requirements and eliminating redundant reporting or audit obligations could therefore reduce the workload without significantly diminishing transparency. However, merely eliminating duplicate reporting obligations will not be sufficient to achieve a noticeable reduction in the burden on companies.

The following two principles should guide the upcoming Omnibus Package and other sustainability reporting processes:

1. **Moratorium on new or tightened requirements:** There should be a halt on introducing completely new requirements or tightening existing ones in the areas of sustainability reporting and supply chain due diligence obligations. This is particularly important in the upcoming review of the Taxonomy Regulation and its delegated acts. The announced sector-specific standards in the CSRD for the energy and water industries should also remain fully voluntary rather than mandatory, as sector-specific approaches are already being developed and implemented in these sectors.
2. **Targeted simplification and clarification:** Existing regulations on sustainability reporting and supply chain due diligence obligations should be simplified and clarified. This effort must go beyond merely eliminating duplicate reporting obligations in various legal acts and should result in a noticeable reduction in reporting obligations for companies without undermining the legal acts as a whole.
  - a. As a first step, the relevant EU Directives and Regulations must be reviewed and revised (level 1). During this period, the ongoing drafting or review of implementing legislation (level 2) based on them should be suspended.
  - b. In a second Omnibus Package, the implementing legislation at EU level (level 2) must also reviewed, revised and clarified as quickly and consistently as possible in line with the changes previously made to the overarching legislation (particularly delegated acts on the EU Taxonomy and the sustainability reporting standards in the CSRD). For example, it is necessary to harmonise the information on

energy efficiency in wastewater with the Energy Efficiency Directive (EED) and the Taxonomy Regulation in analogy to the Drinking Water Directive. This also applies to non-legislative guidelines, which, if necessary for implementing the requirements, should always be published with sufficient lead time before the reporting obligations come into force.

For national implementation, the Commission should collaborate with EU Member States to ensure harmonisation in line with the EU's internal market. The delay in transposing the CSRD into German law is causing uncertainty for many companies. National "gold plating" and divergent or duplicate regulations should be minimised as much as possible.

Additionally, new requirements should generally be subject to an implementation period of at least two full calendar years from the date of publication in the EU Official Journal, providing companies with sufficient preparation time. Short-term implementation obligations within one financial year must be avoided.

Specific proposals for amendments to the CRSD, Taxonomy and CSDDD can be found in the annex. We are happy to provide further practical examples of these amendments as part of the Omnibus Package. The resulting adjustments to the associated delegated acts are not yet the subject of this paper and will part of a separate position paper.

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### 3 Annex: Concrete proposals for changes to the CSRD, Taxonomy and CSDDD

The proposed amendments contained in the following table relate exclusively to level 1 legislation. In a second step, BDEW believes that consistent amendments to level 2 legislation are required – in particular the delegated acts on disclosure obligations under the Taxonomy and ESRS – in order to significantly reduce the burden on companies.

Proposed amendment	Article	Justification
<b>Corporate Sustainability Reporting Directive (CSRD); <u>Directive 2013/34/EU</u></b>		
Harmonisation of the threshold values for sustainability reporting (CSRD) and supply chain due diligence obligations (CSDD).	<p><b><u>Article 19a, paragraph 1:</u></b></p> <p><b><i>“1. <del>Large undertakings, and small and medium-sized undertakings, except micro undertakings, which are public interest entities as defined in point (a) of point (1) of Article 2</del> undertakings to which one of the following conditions applies shall include in the management report information necessary to understand the undertaking’s impacts on sustainability matters, and information necessary to understand how sustainability matters affect the undertaking’s development, performance and position.</i></b></p> <p><b><i>(a) The company had more than 1 000 employees on average and had a net worldwide turnover of more than EUR 450 000 000 in the last financial year for which annual financial statements have been or should have been adopted;</i></b></p>	<p>Setting up the processes required for reporting not only ties up large amounts of human resources (many companies would have to significantly expand their sustainability departments) but is also associated with high costs (IT systems, external consultants, etc.).</p> <p>Although these aspects apply equally to all companies in principle, SMEs (often municipal utilities in the energy and water industry) are particularly affected, as they have fewer human and financial resources at their disposal and the potential benefits of sustainability reporting, such as easier access to capital, are usually less apparent to them.</p> <p>Smaller companies should therefore be relieved and exempted from the mandatory disclosure obligations by harmonising the threshold values from the CSRD with the threshold values of the CSDDD. Reporting by</p>

	<p><b><i>(b) the company is a small and medium-sized undertaking, except micro undertakings, which is a public-interest entity as defined in point (a) of point (1) of Article 2.</i></b></p> <p><b><u>Article 29a, paragraph 1:</u></b></p> <p><i>"1. Parent undertakings of a <del>large</del> group <del>as referred to in Article 3(7)</del> that fulfils the criteria in Article 19a paragraph 1a shall include in the consolidated management report information necessary to understand the group's impacts on sustainability matters, and information necessary to understand how sustainability matters affect the group's development, performance and position."</i></p>	<p>smaller companies on a voluntary basis should of course remain possible.</p> <p>After a few years of experience with the implementation of the CSRD, it may be possible to examine the extent to which lowering the threshold with reduced reporting obligations (e.g. by applying the voluntary reporting standards for SMEs) would make sense and be manageable for the companies concerned.</p>
<p>Postponement by two years of the reporting obligation for companies not yet required to report</p>	<p><b><u>Article 5, paragraph 2:</u></b></p> <p><i>"2. Member States shall apply the measures necessary to comply with Article 1, with the exception of point (14):</i></p> <p><i>[...]</i></p> <p><i>b) for financial years starting on or after 1 January <del>2025</del> 2027:</i></p> <p><i>[...]</i></p> <p><i>c) for financial years starting on or after 1 January <del>2026</del> 2028</i></p> <p><i>[...]"</i></p>	<p>The majority of companies subject to reporting requirements have already started preparing for the first-time reporting in 2026 in view of the currently applicable requirements.</p> <p>However, in view of the large scope of the reporting obligations, it would greatly relieve the burden on companies not covered by the proposed increase in thresholds that are required to report for the first time to be able to take more preparation time if necessary and to publish their first reports on a voluntary basis at most (without a review obligation).</p>

	<p>Similarly, changes in the following subsections of paragraph 2. The option already provided for in the ESRS to omit certain data points in the first one to two years of reporting must also be adapted in the further course of the review process.</p>	
<p>Waiver of the development of mandatory sector-specific reporting standards</p>	<p><b>Article 29b, paragraph 1:</b></p> <p>"[...]</p> <p><i>In the delegated acts referred to in the first subparagraph the Commission shall, by 30 June 2024, specify:</i></p> <p><b><del>(i) complementary information that undertakings are to report with regard to the sustainability matters and reporting areas listed in Article 19a(2), where necessary;</del></b></p> <p><b><i>(ii) information that undertakings are to may voluntarily report that is specific to the sector in which they operate.</i></b></p> <p>"[...]"</p>	<p>In Germany, the water industry has developed a standard for the double materiality test and the allocation of the respective data points. Sector-specific standards have also been developed as a by-product because many ESRS can only be understood through a sector-specific interpretation.</p> <p>The energy industry within BDEW is also developing corresponding models and will work out sector-specific features.</p> <p>Further mandatory standards by EFRAG harbour the risk of overwriting existing standards and thus leading to duplication of work.</p> <p>At the same time, sector-specific standards can also support companies in reporting if they define and specify key topics and specific disclosures for organisations in specific sectors. Instead of mandatory standards, voluntary sector-specific standards should therefore be developed in order to leave it up to the companies themselves to decide whether their use makes sense for them. Already established industry</p>



		standards, such as the GRI Standards, should be adopted as far as possible.
Adjustment of reporting obligations for group companies that would not be required to report under CSRD on their own	<b>Article 29 a</b>	<p>In the context of consolidated group reporting, companies may still be included in the scope of consolidation even though they may not be very significant for the group, but are not yet so insignificant that their inclusion can be completely dispensed with.</p> <p>Inclusion in the consolidated financial statements also forces these companies to prepare a report for CSRD and Taxonomy. In this case, the so-called group privilege becomes a burden for small companies, as there is a risk that the companies will have to bear internal and external expenses when included in consolidated financial statements, even though they are only actually affected by a few reporting obligations in the end.</p> <p>The possibility of a point-based and justified exclusion of corresponding consolidated companies from sustainability reporting should therefore be examined (e.g. in the form of a materiality requirement).</p>
Simplification and shortening of the minimum requirements for the sustainability reports	<p><b>Article 29d:</b></p> <p><i>“1. Undertakings subject to the requirements of Article 19a of this Directive shall, <b>from 1 January 2030</b>, prepare their management report in the electronic reporting format specified in Article 3 of Commission Delegated Regulation (EU) 2019/815 (*20) and shall mark up their sustainability reporting, including the</i></p>	Implementing the requirements for sustainability reporting in accordance with CSRD is a considerable effort, especially for companies that are reporting externally on sustainability issues for the first time. The realisation of machine readability (tagging) with the parallel initial introduction of the CSRD requirements is a

	<p><i>disclosures provided for in Article 8 of Regulation (EU) 2020/852, in accordance with the electronic reporting format specified in that Delegated Regulation.</i></p> <p><i>2. <b>From 1 January 2030</b>, parent undertakings subject to the requirements of Article 29a shall prepare their consolidated management report in the electronic reporting format specified in Article 3 of Delegated Regulation (EU) 2019/815 and shall mark up their sustainability reporting, including the disclosures provided for in Article 8 of Regulation (EU) 2020/852, in accordance with the electronic reporting format specified in that Delegated Regulation.”</i></p>	<p>noticeable burden. This concerns both capacity limits and technical limits in terms of data availability.</p> <p>It should first be specified when companies are obliged to apply tagging. In addition, a later, gradual introduction of the tagging requirement should be foreseen so that current delays in regulation are taken into account, complexities and the requirements can ultimately be implemented appropriately and in a reduced manner.</p>
<p><b>Taxonomy Regulation; <a href="#">Regulation 2020/852/EU</a></b></p>		
<p>Addition of a materiality requirement analogous to the CSRD</p>	<p><b>Article 8:</b></p> <p><i>“1. Any undertaking which is subject to an obligation to publish non-financial information pursuant to Article 19a or Article 29a of Directive 2013/34/EU shall include in its non-financial statement or consolidated non-financial statement information on how and to what extent the undertaking’s <b>financially material</b> activities are associated with economic activities that qualify as environmentally sustainable under Articles 3 and 9 of this Regulation.</i></p> <p><i>2. In particular, non-financial undertakings shall disclose the following:</i></p>	<p>Limiting the disclosure requirements in the EU Taxonomy would relieve the burden on companies by allowing them to dispense with the sometimes very time-consuming proof of Taxonomy compliance for economic activities that are not relevant to the company. It could also create more consistency with the CSRD and thus avoid duplicate data reporting.</p> <p>At the same time, the omission of this information would have no relevant impact on the quality of the sustainability report. On the contrary, focusing on material information would actually improve the quality of the reports.</p>

	<p>(a) the proportion of their <b>financially material</b> turnover derived from products or services associated with economic activities that qualify as environmentally sustainable under Articles 3 and 9; and</p> <p>(b) the proportion of their <b>financially material</b> capital expenditure <del>and the proportion of their operating expenditure</del> related to assets or processes associated with economic activities that qualify as environmentally sustainable under Articles 3 and 9.”</p>	<p>For practical implementation, value limits should be set in relation to the share of an economic activity in total turnover and/or CAPEX, when an economic activity is deemed to be material.</p> <p>However, the required materiality requirement should continue to allow companies to voluntarily disclose information on Taxonomy conformity also for non-financially material economic activities.</p>
<p>Deletion of the obligation to disclose information on operating expenditures (OpEx)</p>	<p><b>Article 8, paragraph 2:</b></p> <p>2. In particular, non-financial undertakings shall disclose the following:</p> <p>[...]</p> <p>(b) the proportion of their <b>financially material</b> capital expenditure <del>and the proportion of their operating expenditure</del> related to assets or processes associated with economic activities that qualify as environmentally sustainable under Articles 3 and 9.”</p>	<p>Operating Expenditures are not a relevant control parameter for companies. The disclosure of the taxonomy-eligible or taxonomy-compliant share of OpEx therefore has no significant added value, but nevertheless generates a great deal of reporting effort.</p> <p>Instead, the focus of Taxonomy reporting should be on capital expenditure (CapEx), as this gives a clear indication of the direction in which a company is developing.</p>
<p>Waiver of the mandatory proof and reporting on the "do no significant harm" (DNSH) criteria for projects located in the EU, which must already comply with existing EU environmental and social standards.</p>	<p><b>Article 17, paragraph 3 (NEW):</b></p> <p><b>"3. In addition to paragraphs (1) and (2), an economic activity carried out within the European Union may always be presumed not to significantly harm one or more of the environmental objectives set out in Article 9."</b></p>	<p>For economic activities within the European Union, companies already have to comply with a large number of climate, environmental and nature conservation regulations that ensure that they do not significantly compromise any of the environmental objectives set out in the Taxonomy Regulation.</p>

		<p>The assessment of the DNSH-criteria has so far been very time-consuming. By waiving this requirement for economic activities located in the EU, companies could be significantly relieved without reducing the level of protection of the Taxonomy to a relevant extent.</p>
<p><b>Corporate Sustainability Due Diligence Directive (CSDDD), <a href="#">Directive 2024/1760/EU</a></b></p>		
<p>Focusing due diligence obligations on direct business relationships</p>	<p>In particular, Articles 7, 8, 10, 11, 12, 14 and 15 of the CSDDD, as well as Article 3g on the definition of "chain of activity".</p> <p>In addition, the requirements in the CSRD and the ESRS for the inclusion of indirect business partners and the upstream and downstream value chains must also be adapted in the interests of consistency.</p>	<p>It is very difficult for companies to influence the actions of their indirect business partners. Although it is understandable that the supply chain must also be considered and evaluated beyond direct business relationships, the possibility for companies to exert influence must be given greater consideration, especially for the obligations to prevent and remedy negative impacts.</p> <p>Analogous to the German Supply Chain Act, a clearer differentiation should be made in the CSDDD between direct and indirect business partners (in Germany, direct and indirect suppliers) and the due diligence obligations to be performed depending on the respective business relationship.</p> <p>Adjustments are also required with regard to the term "chain of activity" (Article 3 g)) in order to harmonise with comparable definitions, e.g. in the CSRD, and thus avoid ambiguities in reporting.</p>

Deletion of civil liability	<p><b>Article 25, paragraph 9:</b></p> <p><del><b>“9. Decisions of supervisory authorities regarding a company’s compliance with the provisions of national law adopted pursuant to this Directive shall be without prejudice to the company’s civil liability under Article 29.”</b></del></p> <p><b>Article 29:</b></p> <p><del><b>“Civil liability of companies and the right to full compensation</b></del></p> <p><del><b>1. Member States shall ensure that a company can be held liable for damage caused to a natural or legal person, provided that:</b></del></p> <p><del><b>[...]</b></del></p> <p><del><b>7. Member States shall ensure that the provisions of national law transposing this Article are of overriding mandatory application in cases where the law applicable to claims to that effect is not the national law of a Member State.”</b></del></p> <p><b>Article 36, paragraph 2:</b></p> <p><del><b>“(f) the effectiveness of the enforcement mechanisms put in place at national level and of the penalties and the rules on civil liability;”</b></del></p>	<p>Extensive civil liability creates enormous legal uncertainty and the risk of excessive legal disputes for companies with complex supply chains. Instead, analogous to the German Supply Chain Act, a “obligation to endeavour” should be imposed on companies.</p>
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