Batteries Regulation 2023/1542
Implementing Regulation on access rights to certain parts of the battery passport
Public consultation
ADPA submission

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Notice

This document is the detailed position from ADPA with a view to the European Commission's public consultation on the draft Implementing Regulation on access rights to certain parts of the battery passport complementing the Batteries Regulation 2023/1542.

ADPA remains of course available to discuss it further with relevant institutions and fellow stakeholders.

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Executive summary

The objective of the Regulation (EU) 2023/1542 concerning batteries and waste batteries is to "make batteries sustainable throughout their entire life cycle - from the sourcing of materials to their collection, recycling and repurposing"[1].

While not being sector specific, it also applies to batteries used in the automotive sector. The servicing, repair, maintenance and end-of-life treatment (from recycling to repurposing) of vehicles – including their batteries – is already addressed in at least three other recent EU legislations, under different, complementary angles:

- Type Approval Regulation (EU) 2018/858, including the recent Delegated Regulation 2026/699 (hereunder TAR);
- Motor Vehicle Block Exemption Regulation (EU) 2023/822, including its Supplementary Guidelines (hereunder MVBER);
- End-of-Life Vehicle Regulation (EU) 2026/1738 (hereunder ELVR).

While ADPA welcomes the addition of battery-specific provisions under the Batteries Regulation and its future Implementing Regulation, concerns arise that the proposed draft would actually create a gap with these existing legislations and could lead to limit the repair, reuse, repurpose, remanufacture and recycle automotive batteries, in direct opposition with the legitimate objectives of the lawmaker.

Without substantial alterations to the draft Implementing Regulation, this could easily be remedied if the role of publishers of technical information would be duly recognized, in line with existing legislations.

[1] European Commission, https://environment.ec.europa.eu/topics/waste-and-recycling/batteries_en

The role of publishers of technical information

Publishers of technical information are specialised companies that purchase, collect, structure, standardise, enrich and distribute technical information originating primarily from manufacturers, transforming it into comprehensive, reliable multi-brand databases covering different vehicle makes and models and enabling professionals to access and use it in an affordable, efficient and safe manner.

Besides being a sector where the European leadership worldwide is incontestable, thanks to enabling European Union's legislations, these actors provide multiple benefits[2]:

- Standardisation and simplification: They harmonise increasingly complex technical information from multiple vehicle manufacturers, including terminology, procedures and wiring diagrams, into consistent, structured and user-friendly databases.
- Efficiency and productivity: They enable multi-brand operators to access and understand technical information through a single platform, reducing time spent navigating proprietary manufacturers portals, interpreting different formats and undertaking manufacturer-specific training.
- Cost-effectiveness and affordability: They provide comprehensive, multi-brand technical information through affordable subscriptions, significantly reducing the costs of accessing multiple manufacturers databases, training technicians and managing various administrative processes.
- Reliable and comprehensive access to information: They offer operators a structured, consistent and dependable source of technical information covering all vehicle makes and models, supporting efficient and accurate repair and maintenance operations.
- Innovation and added value: They enrich manufacturers-provided information through innovative solutions, such as advanced diagnostic tools that interpret incomplete diagnostic trouble code information and suggest potential repair solutions.
- Competition and consumer choice: They help independent operators remain commercially viable and competitive with authorised networks, limiting manufacturers' ability to monopolise the aftermarket and ensuring consumers can access high-quality, affordable services during the entire lifecycle of their products.

The role of publishers of technical information has been historically recognized by the European Union lawmakers, who directly acknowledged their critical contribution for the repair, maintenance and end-of-life treatment of vehicles and their components when referencing them **in various relevant and recent legislations granting them access to manufacturers' technical information**:

- The Type Approval Regulation (EU) 2018/858[3];
- The Motor Vehicle Block Exemption Regulation (EU) 2023/822[4];
- The End-of-Life Vehicle Regulation (EU) 2026/1738[5].

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[2] Ricardo, *The Motor Vehicle Block Exemption Regulation (MVBER): An essential piece of legislation for providing repair and maintenance information in the automotive aftermarket*, March 2021, https://www.adpa.eu/wp-content/uploads/2026/07/MVBER-Review-Final-Report-24.3.2021.pdf

[3] Article 3(45): "'independent operator' means a natural or legal person, other than an authorised dealer or repairer, who is directly or indirectly involved in the repair and maintenance of vehicles, and include […] publishers of technical information"

[4] Supplementary Guidelines, §62: "the notion of independent operators includes […] publishers of technical information and publishers of vehicle-generated data"

[5] Article 3(19): "'repair and maintenance operator' means a natural or legal person who pursues a professional activity directly or indirectly involving the repair and maintenance of vehicles, including […] publishers of technical information"

Issue with the current wording of the draft implementing regulation

Potentially, **the draft implementing regulation would deprive those performing operations on the battery to benefit from a multi-brand solution for accessing relevant technical information**, despite such a single-stop-shop, multi-brand solution playing an important role for the safety, the affordability and the efficiency of repair, maintenance and end-of-life treatment operations, and therefore for the overall competitiveness of the sector. It would force them into:

- Handling multiple access methods, with different search functions, methodologies, terminologies, etc, rendering the performance of their job more time-consuming, more expensive, and less safe. That would unequivocally undermine the very objectives of the legislation;
- Being exclusively dependent on a single source of brand-specific technical information (the manufacturer), putting the latter in a gatekeeper position towards potential competitors (e.g. deterrent fees) and creating issues when access is down for technical reasons (e.g. downtime of the manufacturers' servers for maintenance).

In particular:

- Article 1 of the draft implementing regulation never mentions publishers among the "persons with a legitimate interest" to access parts of the battery passport. This creates an inconsistency with other legislations also relevant for the repair, maintenance and end-of-life treatment of vehicles and their components, and therefore legal uncertainty.
- Worse, Article 2.4 in general and 2.4.e in particular potentially prevent the publishing of technical information in multi-brand solutions, by putting the manufacturer in a position to choose who may (or may not) publish some sets of technical information – while the sharing of technical information, including in the perspective of publishing, is not a discretionary option for manufacturers, but an obligation, under TAR 2018/858[6], MVBER 2023/822[7], and ELVR 2026/1738[8].

Finally, **the current wording doesn't include any requirements as to technical and commercial conditions for the information to be made available to legitimate operators**. The TAR 2018/858, the MVBER 2023/822 and the ELV 2026/1738 all have acknowledged that this was a critical topic to ensure the materialization of the access and to prevent potential abuses.

[6] Article 61(1): "Manufacturers shall provide to independent operators unrestricted, standardised and non-discriminatory access to vehicle OBD information, diagnostic and other equipment, tools including the complete references, and available downloads, of the applicable software and vehicle repair and maintenance information"

[7] Supplementary Guidelines, §62: "qualitative selective distribution agreements […] may be caught by Article 101(1) of the Treaty if […] one of the parties acts in a way that forecloses independent operators from the market, for instance by failing to release to them inputs such as technical information"

[8] Article 11(1): "manufacturers shall, for new vehicle types that have been type-approved, provide […] publishers of technical information […] unrestricted, standardised and non-discriminatory access to the information"

Potential solution to materialize the objectives of the legislation while increasing legal certainty

The implementing regulation would considerably improve legal certainty as such, and the ability to perform operations on batteries, by including publishers of technical information among the "persons with a legitimate interest" where needed and allowing the publishing of technical information where relevant, in line with other pertinent legislations.

Article 1 – Including publishers of technical information where needed

Article 1.1 is about access to "information referred to in point 2(a) and (c) of Annex XIII to that Regulation", which is "detailed composition, including materials used in the cathode, anode and electrolyte" and "dismantling information, including at least: exploded diagrams of the battery system/pack showing the location of battery cells, disassembly sequences, type and number of fastening techniques to be unlocked, tools required for disassembly, warnings if risk of damaging parts exist, amount of cells used and layout".

The items of information in 2(c) are consistent with the ones referred to in the TAR 2018/858[9], the MVBER 2023/828[10] and ELVR 2026/1738[11]. It would therefore be consistent to include publishers of technical information in the list of persons with a legitimate interest having access to them. Since it is not entirely relevant for publishers to have access to the items in 2(a), it might be necessary to split Article 1 into two different articles, one for access to 2(a) (which can remain unchanged) and one for access to 2(c) (which needs to include publishers of technical information).

Article 1.1.	The following natural or legal persons shall be considered persons with a legitimate interest for the purposes of Article 77(2), point (c), of Regulation (EU) 2023/1542 and shall have access to the information referred to in point 2(a) ~~and (c)~~ of Annex XIII to that Regulation: (a) repairers of batteries; (b) remanufacturers of batteries; (c) any natural or legal person carrying out repurposing of batteries; (d) waste management operators carrying out treatment; (e) recyclers; (f) vocational training centres for battery repair, repurposing or remanufacturing.

[9] Annex X, §2.5: "The vehicle OBD information and vehicle repair and maintenance information shall include the following: […] technical manuals […] wiring diagrams […] information provided concerning, and delivered by means of, proprietary tools and equipment"

[10] Supplementary Guidelines, §65: "particular examples of technical information include software, fault codes and other parameters, together with updates, which are required to work on […] battery management systems for electric vehicles with a view to introducing or restoring settings recommended by the supplier, […] repair and maintenance procedures, working solutions resulting from practical experience and relating to problems typically affecting a given model or batch, and recall notices as well as other notices identifying repairs"

[11] Annex VI, §1: "(a) original equipment number; (b) location; (c) weight; (d) type of battery chemistry; (e) instructions for safe discharging of the battery; (f) technical instructions on removal and replacement, including the sequence of all steps and types of joining, fastening, sealing techniques; (g) tools or technologies required for the access, removal and replacement of the electric vehicle batteries and light means of transport batteries."

Article 1.1.a (new)	The following natural or legal persons shall be considered persons with a legitimate interest for the purposes of Article 77(2), point (c), of Regulation (EU) 2023/1542 and shall have access to the information referred to in point 2~~(a) and~~ (c) of Annex XIII to that Regulation: (a) repairers of batteries; (b) remanufacturers of batteries; (c) any natural or legal person carrying out repurposing of batteries; (d) waste management operators carrying out treatment; (e) recyclers; (f) vocational training centres for battery repair, repurposing or remanufacturing**;** **(g) publishers of technical information**.

Article 1.2 is about access to "information referred to in point 2(b) of Annex XIII to that Regulation", which is "part numbers for components and contact details of sources for replacement spares".

These items of information are consistent with the ones referred to in the TAR 2018/858[12] and the MVBER 2023/828[13]. It would therefore be consistent to include publishers of technical information in the list of persons with a legitimate interest having access to them.

Article 1.2.	The following natural or legal persons shall be considered persons with a legitimate interest for the purposes of Article 77(2), point (c), of Regulation (EU) 2023/1542 and shall have access to the information referred to in point 2(b) of Annex XIII to that Regulation: (a) repairers of batteries; (b) remanufacturers of batteries; (c) any natural or legal person carrying out repurposing of batteries; (d) the purchaser of the battery**;** **(e) publishers of technical information**.

Article 1.3 is about access to "information and data referred to in point 2(d) of Annex XIII to that Regulation", which is "safety measures".

These items of information are consistent with the ones referred to in the TAR 2018/858[14] and the ELVR 2026/1738[15]. It would therefore be consistent to include publishers of technical information in the list of persons with a legitimate interest having access to them.

[12] Annex X, §2.5: "The vehicle OBD information and vehicle repair and maintenance information shall include the following: […] an unequivocal identification of the vehicle, system, component or separate technical unit for which the manufacturer is responsible […] component and diagnosis information"

[13] Supplementary Guidelines, §66 : "particular examples of technical information include […] parts catalogues […] The part code and any other information necessary to identify the correct car manufacturer-branded spare part to fit a given individual motor vehicle […] also constitute technical information, as do the activation codes needed to install certain replacement parts.".

[14] Annex X, §2.5 as amended by Regulation 2026/699 introducing new §2.5.13: "The vehicle OBD information and vehicle repair and maintenance information shall include the following: […] vehicle type specific information necessary for the safe handling of parts and components, in particular information necessary for the protection against electric, thermic and chemical hazards from traction batteries; as available to the vehicle manufacturer or its partners"

[15] Article 11.1 : "manufacturers shall, for new vehicle types that have been type-approved, provide […] publishers of technical information […] access to the information […] enabling access to, and safe removal and replacement [of various components and systems]" & Annex VI, §1.e: "instructions for safe discharging of the battery;"

Article 1.3.	The following natural or legal persons shall be considered a person with a legitimate interest for the purposes of Article 77(2), point (c), of Regulation (EU) 2023/1542 and shall have access to the information and data referred to in point 2(d) of Annex XIII to that Regulation: (a) any natural or legal person referred to in paragraphs 1 and 2; (b) any establishment or undertaking that is permitted in accordance with Article 23 of Directive 2008/98/EC and Article 6(2), first subparagraph, of Directive 2000/53/EC of the European Parliament and of the Council3 to carry out treatment operations on end-of-life vehicles; (c) treatment facilities of waste from electrical and electronic equipment**;** **(d) publishers of technical information**.

Article 1.4 is about access to "information referred to in point 4 of Annex XIII to that Regulation", which is "(a) the values for performance and durability parameters referred to in Article 10(1), when the battery is placed on the market and when it is subject to changes in its status; (b) information on the state of health of the battery pursuant to Article 14; (c) information on the status of the battery, defined as 'original', 'repurposed', 're-used', 'remanufactured' or 'waste'; (d) information and data resulting from its use, including the number of charging and discharging cycles and negative events, such as accidents, as well as periodically recorded information on the operating environmental conditions, including temperature, and on the state of charge."

These items of information are consistent with the ones referred to in the TAR 2018/858[16] and the MVBER 2023/822[17]. It would therefore be consistent to include publishers of technical information in the list of persons with a legitimate interest having access to them.

Article 1.4.	The following natural or legal persons shall be considered persons with a legitimate interest for the purposes of Article 77(2), point (c), of Regulation (EU) 2023/1542 and shall have access to the information referred to in point 4 of Annex XIII to that Regulation: (a) the purchaser of the battery; (b) any third party acting on behalf of a person referred to in point (a)**;** **(c) publishers of technical information**.

Article 2 – Removing undue limitations to publishing

Article 2 should not undermine the obligation for vehicle manufacturers to make technical information available to independent operators, including for the purpose of publishing. It would directly undermine the TAR 2018/858, the MVBER 2023/822 and the ELVR 2026/1738, creating major legal uncertainties as to whether a manufacturer can discretionarily choose whether to share technical information with legitimate operators or not. In order to avoid to extend the rights of publishing beyond what was initially conceived, this right could be limited to echo and support the purposes defined in the points (a) and (b).

[16] Annex X, §2.5: "The vehicle OBD information and vehicle repair and maintenance information shall include the following: […] service handbooks, including service and maintenance records […] component and diagnosis information (such as minimum and maximum theoretical values for measurements)"

[17] Supplementary Guidelines, §66: "particular examples of technical information include software, fault codes and other parameters, together with updates, which are required to work on […] battery management systems for electric vehicles with a view to introducing or restoring settings recommended by the supplier"

Article 2.1	The persons referred to in Article 1(1), (2) and (4), shall have access to the information referred to in point 2(a) to (c) and point 4 of Annex XIII to Regulation (EU) 2023/1542 only for the purposes of the following activities: (a) evaluating the status and residual value of the battery and its capability for further use; and (b) repair, preparation for re-use, preparation for repurposing, repurposing, remanufacturing or recycling of the battery, or choosing between those operations**;** **(c) publishing technical information for the purposes of points (a) and (b)**.
Article 2.6 (new)	**By way of exception to paragraph 4, publishers of technical information may use, download, share, publish, and re-use the information referred to in point 2(a) to (d) and point 4 of Annex XIII to Regulation (EU) 2023/1542, in line with the purposes mentioned in Article 2.1 of this legislation.**

New article 2bis – Securing fair access conditions

Adding a short article on the conditions for access to technical information from the manufacturers could easily avoid potential abuses – a concern which is precisely at the origin of the aftermarket rules in the TAR 2018/858, the MVBER 2023/822, the ELVR 2026/1738 but also Euro 7 2024/1257. In order to ensure legal certainty and reduce divergences with other legislations, a wording echoing the ELVR 2026/1738[18], which is the latest legislation to address the issue, could be useful.

Article 2bis (new)	**Manufacturers shall provide legitimate operators unrestricted, standardised and non-discriminatory access to the information listed in the legislation.** **Manufacturers shall ensure cooperation with the legitimate operators by establishing necessary communication platforms to provide and keep up-to-date the information referred to in the legislation.** **The manufacturers shall provide the information referred to in the legislation free of charge. The manufacturers may collect reasonable and proportionate charges from legitimate operators to the extent necessary to cover the actual administrative costs incurred for making the required information accessible through communication platforms.**

[18] Articles 11.1 & 11.3