

## Comments on the first social partner consultation on EU action on working conditions in platform work

### EuroCommerce

Retail and wholesale is Europe's largest private-sector employer, with 29 million people working in the sector. EuroCommerce represents 5.4 million retail, wholesale, and other trading companies and is the EU-level social partner for the retail and wholesale sector. Our members include national federations in the EU member states, Europe's 36 leading retail and wholesale companies as direct members, and federations representing specific sectors of commerce.

### Summary

- Platform workers should continue to fall into the two distinct categories of labour law as defined by national law and practice: workers or self-employed. **Our members are against creating a third category for platform workers**, as it would lead to a disproportionately increased legal uncertainty for businesses as the existing delimitations are based amongst others on decades of national case law which therefore is currently very reliable and differentiated.
- Instead of legislation at EU level, **platforms should be encouraged to engage with platform workers on their working conditions through voluntary initiatives**. The Commission's DG Competition should clarify how this can be done for self-employed platform workers while respecting EU competition law.
- **Better enforcement of EU and national labour law** can help avoid misclassification of platform workers.

### Background

#### Importance of platforms to the digital transformation of the retail and wholesale sector

The platform economy presents opportunities for retailers and wholesalers in terms of new business models and follow-on services. They seek to improve consumer choice and support their digital transformation towards omnichannel operations. Combining 'bricks-and-mortar' shops with e-commerce helps secure the resilience of the sector, Europe's largest private sector employer with 29 million jobs. Several retailers and wholesalers therefore own, or have chosen to partner with, platform companies, while others rely on platforms for part of their supply chains.

Furthermore, it is strategically important for European retailers to gain access to and develop this technology in order to keep up with their international competitors, in line with the Commission's objective to enhance Europe's technological sovereignty. At the same time, the experiences of these companies with social dialogue at national, sectoral and company level could enable them to play a meaningful role in EU and national debates on how to bring the platform economy more in line with the European social model.

#### Safeguarding the benefits of platform work for platform workers

Platform workers tend to be self-employed with a small but expanding presence on the labour market. Self-employment has considerable advantages over worker status in terms of freedom and self-determination. It allows platform workers to determine independently when they work and for

how many hours. This personal choice over their working time can bring meaningful improvements to an individual's work-life balance.

In addition, the diverse opportunities offered to platform workers by platforms can increase labour market participation as well as support entrepreneurship. Platform work allows entrepreneurs to build or diversify their client portfolios. Another group attracted by platform work are those who are not available for work in traditional 9-to-5 jobs. Finally, individuals who were previously at a distance of the labour market use platform work to gain work experience or improve their skills.

## Key points

We recognise that there are various types of platform work (as [research](#) by Eurofound has demonstrated) with their own specific characteristics and that platform workers are generally classified by national law and practice as 'self-employed' as opposed to 'workers'. However, they will lose the benefits of being self-employed in the process. Many genuine self-employed platform workers will therefore be adversely affected by a 'one size fits all' regulatory approach at EU level.

### **Platform workers classified according to national law and practice as workers**

For those platform workers classified as 'workers', their legal status already entails protection under national labour law. Furthermore, they would soon fall under the scope of the Transparent and Predictable Working Conditions Directive in 2022 and its provisions aimed at increasing the transparency and predictability of their working conditions. **We therefore call upon member states to transpose this Directive in a timely manner to help ensure legal clarity**, taking into account the forthcoming guidance by the European Commission's Transparent and Predictable Working Conditions Directive Expert Group.

### **Platform workers classified according to national law and practice as self-employed**

Most platform workers are currently classified according to national law and practice as 'self-employed'. As such, they will therefore fall outside the Transparent and Predictable Working Conditions Directive. In addition, the regulation of self-employed at EU level does not fall within EU competence.

More generally, legal constraints exist in many members states that prevent employers (such as platforms) from providing social protection to self-employed. However, collective representation of self-employed is already possible on certain aspects of working conditions and training. This is where voluntary initiatives by platforms can add value. **We therefore call upon platforms and platform workers to engage in voluntary initiatives that help facilitate decent and meaningful working conditions for platform workers. The Commission's DG Competition should clarify how this can be done for self-employed platform workers while respecting EU competition law.**

We look forward to further engage in discussions with the EU institutions and relevant stakeholders in the platform economy, based on the exchange of examples of best practice.