

From: [REDACTED]
Sent: lundi 29 novembre 2021 21:43
To: CHIRICO Filomena (CAB-BRETON)
Subject: Draft platform work directive / critical concerns

Dear Filomena,

I am writing to you ahead of the planned adoption of the Commission's proposal for a Directive on improving working conditions in platform work on 8 December on behalf of Wolt. As you may recall, Wolt is a Helsinki-based technology platform, that operates a food, grocery, and retail marketplace and delivery business in 23 countries, employing 4500 people, contracting with more than 120 000 courier partners, and more than 70 000 merchants.

We believe the Commission has identified the right priorities by aiming to clarify the conditions under which individuals working in the platform economy should be presumed to be regarded as employees. If done right, this could increase legal certainty in the platform economy, avoid misclassification of workers, and pave the way for the improvement of working conditions of those who are genuinely self-employed.

However, we are seriously concerned that the draft text circulated by the media would not fulfill those objectives.

- 1. The draft fails to take into account different platform models:** In Wolt's self-employed courier model, our couriers are providing services to Wolt. When a user purchases a product and delivery on our platform, Wolt gets income through a delivery fee that the customer pays, and a sales commission that the merchant pays. Wolt purchases the delivery service from a courier and pays the courier. So the only contracting party of the courier is Wolt. The draft is largely based on a marketplace model (used by e.g. Uber), where the courier transacts with the customer of the platform work service. As a result, many of the provisions make little sense in the context of a service such as ours.
- 2. The draft fails to deliver legal certainty:** the list of criteria triggering the presumption of employment is not exhaustive. This would lead to a new tsunami of case law and years of uncertainty. The EU level presumption should be based on crystal clear criteria that triggers the presumption. Member States should not add any additional criteria.

3. The draft would make collective bargaining agreements for the self-employed impossible: in the draft, platforms' role for setting the price of services would be considered a trigger point for a presumption of employment. This would lead to the race to the bottom on platform worker compensation as workers would compete on price against each other. It would also prevent collective bargaining agreements for self-employed platform workers, as platform workers as – according to the draft – platform workers should be able to individually price their services.

4. The draft would create a third category of workers and prevent anyone providing services over digital platforms the freedoms self-employed have in other parts of the economy: the draft limits self-employment in the platform economy far more than in any other part of the economy, thereby creating a third category of workers specifically for the platform economy, with far more restrictive requirements for self-employment than in other parts of the economy. For example, the draft refers to “verifying the quality of the results of the work” as a trigger point for the presumption of employment. There is no single other area of the economy where a company purchasing services from another company is not allowed to verify the quality of the results of the work from another company it is purchasing services from without a fear of that supplier being considered to be an employee of the company that purchases the service.

I'd be very happy to discuss these over the phone. As said before, we believe Europe has the chance to take global leadership in developing a framework for fair and socially sustainable platform work, which allows European societies to reap the full benefits of flexible work alternatives facilitated by platform technologies while staying true to European values and the European social model. The current draft, however, fails to deliver that.

Best wishes,



