



CCIA contribution on collective bargaining agreements for self-employed

The Computer & Communications Industry Association (CCIA) welcomes this opportunity to offer comments. We support the European Commission's (EC) objective to provide legal certainty for self-employed workers and to ensure that EU competition law does not undermine collective bargaining.

The upcoming consultation by the EC should primarily focus on examining if there is any need for intervention. Collective negotiations may not be needed to ensure appropriate worker welfare as platforms have a business interest and motivation to compete for workers. The existing framework allows for collective bargaining and we already have seen two recent examples under the existing framework: (1) in Denmark, the local Chamber of Commerce and the United Federation of Danish Workers signed an agreement that would provide food delivery drivers with a fixed salary, a pension and sick pay — should their platform choose to sign up; (2) in Sweden a food delivery company (Foodora) came to an agreement with the Swedish Transport Workers' Union, with the agreement including a fixed salary and working hours.

While improved legal guidance and certainty is always welcome, particular features of the digital economy suggest a need for less intervention than in the non-digital context. First of all, self-employed workers have many choices available to them, both between digital intermediaries and increasingly also other short-term flexible work options. As between digital intermediaries, there is significant variation in the contractual terms. Digital intermediaries generally do not restrict access to their applications other than the restrictions imposed by national regulations. Service providers are, therefore, free to choose when, where and if they will work.

CCIA members' commercial contracts with their service providers include a non-exclusivity clause, meaning that self-employed can use multiple apps or set up their own businesses. Service providers value this flexibility, which would not be feasible in a traditional employment relationship in most countries.

Self-employed individuals using online platforms to provide their services often have different interests depending on their personal situation/preferences (e.g. working time or use of multi-homing), and the potential existence of another primary form of employment. The latter should particularly be considered, as many platform workers use the platform to complement other sources of income.

The Commission should also assess the effect of any potential change to the broader sector and neighboring sectors of the economy. In this respect, it is important to note that there are different business factors across the collaborative economy that affect prices such as promotional campaigns to generate demand or initiative to ameliorate the working conditions. Moreover, platforms assess the level of supply and demand, allowing it to optimize the price to match the benefits for both the customer and the service providers. In such settings, reducing the intermediaries' flexibility and ability to compete on a variety of dimensions would likely cause consumer harm.

For the above reasons, CCIA advocates for a channel-neutral approach, regardless of whether the self-employed provides its services 'offline' or 'online'. We believe that a fragmented approach would not benefit the 'gig economy'/platform workers nor businesses. Creating different regimes for individuals who provide their services through platforms or other mediums in the "off-line economy" would create arbitrary distinctions and could slow Europe's digital transformation. Similarly, additional legal certainty would benefit all self-employed workers, regardless of their type of services. Additionally and given the lack of worker exclusivity in the broader sector, the Commission should assess whether a horizontal approach would be a better fit to ensure that self-employed have access to social protections no matter how they provide their services.

About CCIA

CCIA is an international, not-for-profit trade association representing a broad cross section of communications and technology firms. For nearly fifty years, CCIA has promoted open markets, open systems, and open networks. For more, visit www.ccianet.org.