



*Employers entrusted to deliver
Sustainability Growth Innovation*

Position Paper

Response to the first stage consultation of
the Social Partners on Platform Work

7 April 2021

Brussels, 7 April 2021

Do you consider that the European Commission has correctly and sufficiently identified the issues and the possible areas for EU action?

SGI Europe welcomes the in-depth consultation of European Social Partners on a possible action addressing the challenges related to platform work.

The European Commission, in its consultation document, rightly points out the fast development of platform economy in recent years.

This evolution in the EU economy seems to point out to a need for the European Union and National Member states to be attentive of this economic model and the conditions in which platform operate.

It is important first to recognise the significant diversity in platform work.

The Eurofound typology has identified 10 types of platform work in Europe. These 10 types differ by scale of the tasks executed, format of service provision, skills level required, the actor 'allocating' the work, and the matching process. This shows that Platform economy cannot be approached in the one and same way.

The Approach of the Commission is to refer to the distinction between on-location/online, between Highly skilled work and lower skilled work but we should also take into consideration the allocation of tasks done either by the Platform, the client or the worker.

SGI Europe would like to stress that platform work covers many different realities. There is no uniform labour market that can be called "platform work". This significant diversity is the proof that a one size fits all approach should not be applied to "Platform work" at EU level as this appellation may refer to professionals in certain sectors with a high income, level of autonomy and good working conditions as well as to people with precarious working conditions. For SGI Europe and its members, it is crucial that the definition of the status of the people that perform work on digital platforms –and whether they are to be seen as employees or self-employed – remains at the national level in the hands of Member states, national social partners or national courts.

The undifferentiated term "platform worker" used by the Commission is therefore misleading. People providing services with the help of online platforms can be employees but can be – and often are - self-employed.

It is important to recognise that the Covid-19 has unveiled the significant role the platform economy and new forms of work relying on digitalisation, in maintaining an economic and work activity, even in times of crisis.

The platform economy provides new job opportunities and job entry points for different types of jobs and at different skill levels, including for those furthest from the labour market and for the low skilled in particular. Platform work can also offer opportunities for labour market insertion to people with reduced mobility or disabilities.

The Commission rightly points out to new flexible work arrangements opportunities, such as those in the platform economy, by breaking down many of the space, time and organisational boundaries to working, and offering more options in terms of work-life balance and of when and where to work.

Platform work also gives in many Countries the possibility to enter in the regulated labour market, giving a renewed opportunity to tackle undeclared work and the informal economy.

It is possible to promote a platform economy model which is respectful of the worker's rights. For example, Nantes Métropole, French member of SGI Europe, highlighted the social and solidarity economy project of the "Coursiers Nantais" via its "ESS Nantes Factory" system, a funding system designed to support inclusive and sustainable projects. "Coursiers Nantais", while based on a platform economy model offers employee status to deliverers, ensures a distribution of results and is subject to a democratic governance.

Any form of EU action has the responsibility to reconcile the objective of improving working conditions and social protection for platform workers without significantly hampering the unique beneficial aspects of these new forms of work.

Nevertheless, SGI Europe also recognises the challenges which may come with certain type of platform work. Depending on the nature of the service delivered and the context of this delivery, it is important to be aware of such issues as income and working conditions, health and safety issues, access to social protection, qualification and bargaining, when relevant, to tackle unfair competition.

Some individuals providing services online may face more worrying issues than those providing services in the “traditional” economy. Public authorities and private companies in the offline economy are under the framework of strict rules and services of general interest, in particular, are required to respect high standards. Meanwhile Platforms do not have the same rules to respect.

Increased pressure on SGI providers in certain sectors may arise if similar services are offered for much cheaper via platforms due to poor working conditions, for example keeping transportation on the road cheap at the expense of working people and hereby hamper a successful modal shift from road to rail.

It is therefore necessary to have an equal a level-playing field. It is important to ensure that platform work does not trigger a downward spiral in the quality of public services or impede real progress in the fight against climate change.

Do you consider that EU action is needed to effectively address the identified issues and achieve the objectives presented?

EU actions could be justified but it needs to respect the subsidiarity principle in order to allow for the sufficient margins of manoeuvre and to adapt to the diversity of platform work in the different Member states.

As stated above, for SGIEU and its members it is crucial that the definition of the status of the people that perform work on digital platforms –and whether they are to be seen as employees or self-employed – remains at the national level in the hands of Member states, national social partners or national courts. This would allow adapting to the reality of different sectors as well as different branches of law, such as labour law, social security law or even tax law which are foremost national competences.

A definition of employment status at EU level could hamper the necessary flexibility to adapt to future developments of the Labour Market.

It is SGI Europe’s belief that it is foremost for the social partners in cooperation with Member States authorities to foster this adaptation to new circumstances. Fostering now, at EU level, a standard definition of the employment relationship to better address platform work would hinder future developments.

The EC points to the different measures taken at National level and it was important to make the distinction between top-down and bottom-up approaches in particular in many cases valuable efforts made by Employers and Trade-Union organisations to include platform economy actors in their discussions.

SGI Europe would like to point at the positive development of collective bargaining and existing collective agreements for people in platform work and believes that it is unwelcome by the European Commission to refer in some instances to such collective agreements as “narrow in scope” and having little effect on systemic change. Social Dialogue is a process trying to cope with structural shifts in the labour market and it needs Member states and the EU institutions to leave space for it to take place. The ongoing evaluation of the European Competition policy framework to make sure EU competition rules do not stand in the way of collective bargaining for solo self-employed who need it is a step in this endeavour.

EU action could be justified but SGI Europe encourages the European Commission to take a supportive approach to Member states and National Social Partners in their diverse effort to provide a clearer framework for platform economy.

SGI Europe welcomes the references made by the Commission to the already relevant different existing EU-legislative acts in place today.

In response to digital transformation, several legislative initiatives at EU level in recent years have relevance for the wider platform economy, such as the General Data Protection Regulation (GDPR).

The adoption of the Council Recommendation on access to Social Protection in November 2019 establishing minimum standards for the coverage, adequacy, and transparency of some branches of social protection while taking into account the growing diversity of employment relationships (including platform work).

The P2B Regulation promoting fairness and transparency for business users of online intermediation services, which was adopted in summer 2019, and which aims to regulate the online intermediation services provided by platforms, with a view to facilitating transactions between business users and consumers.

The Proposal for a Regulation on a Single Market for Digital Services (Digital Services Act) which aims at establishing a powerful transparency and a clear accountability framework for online platforms.

Following the white paper on Artificial Intelligence, the future proposal of an EU regulation on AI, for the uptake of trustworthy AI use in the EU economy, including in the workplace for all forms of work (listed in the actions for the action plan on the implementation of the Pillar of social rights).

Better implementation of existing rules and awareness of the actors at the national level could already lead to better conditions for the work achieved in the platform economy. This is a key avenue for action of the European Union.

Combating abuse and bogus self-employment includes agencies, such as national labour and social inspections and the judiciary. More effective and intensive exchange of data and information, as well as sharing of good practices between the national inspections, could be envisaged to tackle the common and cross-border challenges posed by platform work.

At EU level, such action is undertaken into the comprehensive remit of the European Labour Authority (ELA). Given the expected growth of platform work in the coming years and the increasing importance of online (and borderless) platform work, specific attention could be devoted to taking this up in the ELA work programme.

If so, should the action cover all people working in platforms, whether workers or self-employed? Should it focus on specific types of digital labour platforms, and if yes which ones?

A first key priority lies in the improvement of the knowledge base on platform economy. Presently, the evidence is quite fragmented and relies on a variety of data sources, methodologies, and conceptualisations, which makes it difficult to conduct comparative research that can yield conclusions or generalisations. Under the guidance of Eurostat, further efforts are needed to gather different types of data. SGIEU believes that EU could play an important role in further gathering such data for increased knowledge.

If the platform worker is defined nationally as an employee there is a comprehensive body of legislation applicable. Therefore, the EU action should be restricted to the non-employees who are in a weaker position regarding working conditions and where there might be gaps in their protection.

If EU action is deemed necessary, what rights and obligations should be included in that action? Do the objectives presented in Section 5 of this document present a comprehensive overview of actions needed?

SGIEU reiterates that the Commission should refrain from proposing any definition of Platform worker, since this is for the national level to decide.

SGI Europe believes that much work could be done with non-legislative instruments which could include, for example, “monitoring in the framework of the European Semester, guidance for ensuring fair platform work or reinforced mutual learning between Member States.”

The European semester could help tackle the issue of a better promotion of access to minimum income (support) schemes and adequate social protection schemes for those working in the platform economy and for self-employed overall. Such schemes could pay particular attention to protection against work accidents and short-term income replacement benefits in cases of illness and unemployment and during periods of income fluctuation.

Better working conditions for platform work could be tackled through a combination of measures, such as the better support and strengthening of collective organisation and bargaining power of platform workers regardless of their employment status.

Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?

As highlighted in this response, SGI Europe considers the working condition of Platform economy to be a complex issue and any action in this realm should aim at reconciling the social policy objectives of the European Union while not hampering the innovative potential that lies in platform economy.

As such SGI Europe is in principle always open to negotiations with its counterparts. We recognise that balanced collective bargaining could contribute to solve many of the issues listed by the European Commission. However, we believe that we need more clarity on the measures the Commission intends to propose and especially on what balance the Commission intends to foster between binding and non-binding instruments before engaging in any form of negotiations. The second stage consultation should bring new information in this regard.