

Digital Services Act package: open public consultation

Fields marked with * are mandatory.

Introduction

The Commission recently [announced](#) a Digital Services Act package with two main pillars:

- first, a proposal of new and revised rules to deepen the Single Market for Digital Services, by increasing and harmonising the responsibilities of online platforms and information service providers and reinforce the oversight over platforms' content policies in the EU;
- second, ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants.

T h i s

c o n s u l t a t i o n

The Commission is initiating the present open public consultation as part of its evidence-gathering exercise, in order to identify issues that may require intervention through the Digital Services Act, as well as additional topics related to the environment of digital services and online platforms, which will be further analysed in view of possible upcoming initiatives, should the issues identified require a regulatory intervention.

The consultation contains 6 modules (you can respond to as many as you like):

1. **How to effectively keep users safer online?**
2. **Reviewing the liability regime of digital services acting as intermediaries?**
3. **What issues derive from the gatekeeper power of digital platforms?**
4. **Other emerging issues and opportunities, including online advertising and smart contracts**
5. **How to address challenges around the situation of self-employed individuals offering services through online platforms?**
6. **What governance for reinforcing the Single Market for digital services?**

Digital services and other terms used in the questionnaire

- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* 2 I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* 3 First name

Cathrine Hernandez

* 4 Surname

FESTERSEN

* 5 Email (this won't be published)

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* 7 Organisation name

255 character(s) maximum

UNI Europa - The European Services Workers Union

* 8 Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

10 Are you self-employed and offering services through an online platform?

- Yes
- No

16 Does your organisation play a role in:

- Flagging illegal activities or information to online intermediaries for removal
- Fact checking and/or cooperating with online platforms for tackling harmful (but not illegal) behaviours
- Representing fundamental rights in the digital environment
- Representing consumer rights in the digital environment
- Representing rights of victims of illegal activities online
- Representing interests of providers of services intermediated by online platforms
- Other

17 Is your organisation a

- Law enforcement authority, in a Member State of the EU
- Government, administrative or other public authority, other than law enforcement, in a Member State of the EU
- Other, independent authority, in a Member State of the EU
- EU-level authority
- International level authority, other than at EU level

Other

18 Is your business established in the EU?

- Yes
- No

19 Please select the EU Member States where your organisation is established or currently has a legal representative in:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

20 Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

43785827982-59

* 21 Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |

- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago

- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen

- Czechia
- Lebanon
- Saint Helena
Ascension and
Tristan da
Cunha
- Zambia
- Democratic
Republic of the
Congo
- Lesotho
- Saint Kitts and
Nevis
- Zimbabwe
- Denmark
- Liberia
- Saint Lucia

* 22 Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

I. How to effectively keep users safer online?

This module of the questionnaire is structured into several subsections:

First, it seeks evidence, experience, and data from the perspective of different stakeholders regarding illegal activities online, as defined by national and EU law. This includes the availability online of illegal goods (e.g. dangerous products, counterfeit goods, prohibited and restricted goods, protected wildlife, pet trafficking, illegal medicines, misleading offerings of food supplements), content (e.g. illegal hate speech, child sexual abuse material, content that infringes intellectual property rights), and services, or practices that infringe consumer law (such as scams, misleading advertising, exhortation to purchase made to children) online. It covers all types of illegal activities, both as regards criminal law and civil law.

It then asks you about other activities online that are not necessarily illegal but could cause harm to users, such as the spread of online disinformation or harmful content to minors.

It also seeks facts and informed views on the potential risks of erroneous removal of legitimate content. It also asks you about the transparency and accountability of measures taken by digital services and online platforms in particular in intermediating users' access to their content and enabling oversight by third parties. Respondents might also be interested in related questions in the module of the consultation focusing on online advertising.

Second, it explores proportionate and appropriate responsibilities and obligations that could be required

from online intermediaries, in particular online platforms, in addressing the set of issues discussed in the first sub-section.

This module does not address the liability regime for online intermediaries, which is further explored in the next module of the consultation.

1. Main issues and experiences

A. Experiences and data on illegal activities online

Illegal goods

1 Have you ever come across illegal goods on online platforms (e.g. a counterfeit product, prohibited and restricted goods, protected wildlife, pet trafficking, illegal medicines, misleading offerings of food supplements)?

- No, never
- Yes, once
- Yes, several times
- I don't know

3 Please specify.

3000 character(s) maximum

4 How easy was it for you to find information on where you could report the illegal good?

Please rate from 1 star (very difficult) to 5 stars (very easy)



5 How easy was it for you to report the illegal good?

Please rate from 1 star (very difficult) to 5 stars (very easy)



6 How satisfied were you with the procedure following your report?

Please rate from 1 star (very dissatisfied) to 5 stars (very satisfied)



7 Are you aware of the action taken following your report?

- Yes
- No

8 Please explain

3000 character(s) maximum

9 In your experience, were such goods more easily accessible online since the outbreak of COVID-19?

- No, I do not think so
- Yes, I came across illegal offerings more frequently
- I don't know

10 What good practices can you point to in handling the availability of illegal goods online since the start of the COVID-19 outbreak?

5000 character(s) maximum

Illegal content

11 Did you ever come across illegal content online (for example illegal incitement to violence, hatred or discrimination on any protected grounds such as race, ethnicity, gender or sexual orientation; child sexual abuse material; terrorist propaganda; defamation; content that infringes intellectual property rights, consumer law infringements)?

- No, never
- Yes, once
- Yes, several times
- I don't know

18 How has the dissemination of illegal content changed since the outbreak of COVID-19? Please explain.

3000 character(s) maximum

19 What good practices can you point to in handling the dissemination of illegal content online since the outbreak of COVID-19?

3000 character(s) maximum

20 What actions do online platforms take to minimise risks for consumers to be exposed to scams and other unfair practices (e.g. misleading advertising, exhortation to purchase made to children)?

3000 character(s) maximum

21 Do you consider these measures appropriate?

- Yes
- No
- I don't know

22 Please explain.

3000 character(s) maximum

B. Transparency

1 If your content or offering of goods and services was ever removed or blocked from an online platform, were you informed by the platform?

- Yes, I was informed before the action was taken
- Yes, I was informed afterwards
- Yes, but not on every occasion / not by all the platforms
- No, I was never informed
- I don't know

3 Please explain.

3000 character(s) maximum

In the services sectors we have seen examples services being forced into platform work where the workers would be doing the same job as the employed worker, however, are then classified as self-employed, and sometimes even limiting their right to freedom of association and right to collective action, such as collective bargaining.

The Danish Government recently placed all interpretation in the hands of the platform Easytranslate. Up until then the authorities had booked interpreters from a list of approved names. Easytranslate demanded all interpreters sign up as self-employed and cut their rates substantially. They were also forced to accept very problematic contracts to even log on to the platform. Easytranslate did not accept that the so-called self-employed workers negotiate a higher price, nor were they allowed to work for other interpretation services. The Danish Competition Authorities did not question this.

This resulted in an uproar amongst the interpreters. The majority of them refused to accept the terms. As a result, Easytranslate could not provide the interpreters needed urgently in courts, prisons etc. The ones they did send did often not meet the required quality standards – which caused additional uproar amongst judges, lawyers, and doctors.

Easytranslate's lawyer said that the trade unions were in violation of anti-trust laws for organising the interpreters and facilitating their resistance towards Easytranslate. UNI Europa's affiliate replied that a lot of them were not self-employed and those who did have at VAT number the union considered to be bogus self-employed since Easytranslate did not allow them to set their own prices or work for other interpreter companies.

A Letter from the Danish Competition Agency created a state of panic amongst the interpreters that the union was trying to organise. Since it was sent in copy of the union it was also implied that they had done something wrong. The Copenhagen branch of the union decided to take the authorities to court.

As matters stand today, Easytranslate withdrew from the contract since they were not able to meet the supply demands. The court case is on hold pending a negotiation between the trade union and the Competition Authorities. It is a costly affair for the trade unions and workers. This example is furthermore a bad example of public procurement practices, which means that it is not unlikely that the next interpretation service who will win the public tender will do the same.

There are sectors in which the number of bogus self-employed has grown exponentially. Digitalisation has accelerated the process of decentralisation of the work, with the consequent increase of self-employed, bogus self-employed, a la pièce or freelancers in the sector.

In other words, the technological revolution has facilitated the subcontracting of activities, serving as an excuse for many employers to reduce employment and make the sector's working conditions more precarious.

4 If you provided a notice to a digital service asking for the removal or disabling of access to such content or offering of goods or services, were you informed about the follow-up to the request?

- Yes, I was informed
- Yes, but not on every occasion / not by all platforms
- No, I was never informed
- I don't know

5 When content is recommended to you - such as products to purchase on a platform, or videos to watch, articles to read, users to follow - are you able to obtain enough information on why such content has been recommended to you? Please explain.

3000 character(s) maximum

Algorithms are well-known to be a possible source of different kinds of discrimination, as they are often built on stereotypes and limited diversity in data sets and in the design team. Artificial Intelligence may reinforce inequalities and stereotypes by building existing biases and prejudices into the algorithms and programmes of AI based applications.

UNI Europa's affiliates' experience shows to a larger degree that the use of algorithmic management in HR processes like recruitment or evaluation processes – whether in-house in a company or through unemployment agencies or temporary agencies -can create discriminatory results. By perpetrating stereotypes and using biased data, an algorithm does not provide fair and objective outcomes. This can lead to encouraging low paid jobs to workers with experience in low paid jobs, suggesting low-paid jobs rather to women than to men etc. For this reason, UNI Europa encourages a human in control approach to the use of AI in the workplace. You can find UNI Europa ICTS's position paper on Artificial Intelligence:
<https://www.uni-europa.org/2019/12/shaping-the-new-world-of-work-how-unions-should-address-artificial-intelligence-ai/>

C. Activities that could cause harm but are not, in themselves, illegal

1 In your experience, are children adequately protected online from harmful behaviour, such as grooming and bullying, or inappropriate content?

3000 character(s) maximum

2 To what extent do you agree with the following statements related to online disinformation?

	Fully agree	Somewhat agree	Neither agree not disagree	Somewhat disagree	Fully disagree	I don't know/ No reply
Online platforms can easily be manipulated by foreign governments or other coordinated groups to spread divisive messages	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To protect freedom of expression online, diverse voices should be heard	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Disinformation is spread by manipulating algorithmic processes on online platforms	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Online platforms can be trusted that their internal practices sufficiently guarantee democratic integrity, pluralism, non-discrimination, tolerance, justice, solidarity and gender equality.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3 Please explain.

3000 character(s) maximum

UNI Europa supports the removal of illegal content, but we underline the necessity to consider that unwanted content can sometimes be categories as illegal content when politically sensitive.

4 In your personal experience, how has the spread of harmful (but not illegal) activities online changed since the outbreak of COVID-19? Please explain.

3000 character(s) maximum

5 What good practices can you point to in tackling such harmful activities since the outbreak of COVID-19?

3000 character(s) maximum

D. Experiences and data on erroneous removals

This section covers situation where content, goods or services offered online may be removed erroneously contrary to situations where such a removal may be justified due to for example illegal nature of such content, good or service (see sections of this questionnaire above).

1 Are you aware of evidence on the scale and impact of erroneous removals of content, goods, services, or banning of accounts online? Are there particular experiences you could share?

5000 character(s) maximum

The use of illegal content can easily be abused to silence voices of opposition. The DSA must ensure that freedom of expression is guaranteed across all EU member states and must contain concrete measures to protect journalists and media workers as well as all citizens from hate speech and any forms of violence online. The DSA should further build on the revised Audiovisual Media Services Directive, and the Copyright in the Digital Single Market Directive to promote cultural diversity and

investment in the creation of original European creative content and to ensure fair remuneration of creators for the use of their works and performances online by collective bargaining mechanisms.

The following questions are targeted at organisations.

Individuals responding to the consultation are invited to go to section 2 here below on responsibilities for online platforms and other digital services

3 What is your experience in flagging content, or offerings of goods or services you deemed illegal to online platforms and/or other types of online intermediary services? Please explain in what capacity and through what means you flag content.

3000 character(s) maximum

4 If applicable, what costs does your organisation incur in such activities?

3000 character(s) maximum

5 Have you encountered any issues, in particular, as regards illegal content or goods accessible from the EU but intermediated by services established in third countries? If yes, how have you dealt with these?

3000 character(s) maximum

6 If part of your activity is to send notifications or orders for removing illegal content or goods or services made available through online intermediary services, or taking other actions in relation to content, goods or services, please explain whether you report on your activities and their outcomes:

- Yes, through regular transparency reports
- Yes, through reports to a supervising authority
- Yes, upon requests to public information
- Yes, through other means. Please explain
- No , no such reporting is done

8 Does your organisation access any data or information from online platforms?

- Yes, data regularly reported by the platform, as requested by law
- Yes, specific data, requested as a competent authority
-

Yes, through bilateral or special partnerships

- On the basis of a contractual agreement with the platform
- Yes, generally available transparency reports
- Yes, through generally available APIs (application programme interfaces)
- Yes, through web scraping or other independent web data extraction approaches
- Yes, because users made use of their right to port personal data
- Yes, other. Please specify in the text box below
- No

10 What sources do you use to obtain information about users of online platforms and other digital services – such as sellers of products online, service providers, website holders or providers of content online? For what purpose do you seek this information?

3000 character(s) maximum

11 Do you use WHOIS information about the registration of domain names and related information?

- Yes
- No
- I don't know

13 How valuable is this information for you?

Please rate from 1 star (not particularly important) to 5 (extremely important)	
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14 Do you use or are you aware of alternative sources of such data? Please explain.

3000 character(s) maximum

The following questions are targeted at online intermediaries.

A. Measures taken against illegal goods, services and content online shared by users

1 What systems, if any, do you have in place for addressing illegal activities conducted by the users of your service (sale of illegal goods -e.g. a counterfeit product, an unsafe product, prohibited and restricted goods, wildlife and pet trafficking - dissemination of illegal content or illegal provision of services)?

- A notice-and-action system for users to report illegal activities
- A dedicated channel through which authorities report illegal activities
- Cooperation with trusted organisations who report illegal activities, following a fast-track assessment of the notification
- A system for the identification of professional users ('know your customer')
- A system for penalising users who are repeat offenders
- A system for informing consumers that they have purchased an illegal good, once you become aware of this
- Multi-lingual moderation teams
- Automated systems for detecting illegal activities. Please specify the detection system and the type of illegal content it is used for
- Other systems. Please specify in the text box below
- No system in place

2 Please explain.

5000 character(s) maximum

3 What issues have you encountered in operating these systems?

5000 character(s) maximum

4 On your marketplace (if applicable), do you have specific policies or measures for the identification of sellers established outside the European Union ?

- Yes
- No

5 Please quantify, to the extent possible, the costs of the measures related to 'notice-and-action' or other measures for the reporting and removal of different types of illegal goods, services and content, as relevant.

5000 character(s) maximum

The dire psychosocial conditions of content operators of information services, as reported extensively by different media. Workers in charge of content moderation of information service platforms report that the task

leaves psychological scars as a result of the amount of content with hate speech, sexual abuse, and violence they have to review daily.

Content moderators are subcontracted by the most of the social media platforms to validate or remove the posts tagged as inappropriate either by other users or by AI systems. For example, Accenture manages content moderation work centres for Facebook in three European cities (Warsaw, Lisbon, and Dublin). Moderating such brutal content takes a severe psychological toll, sometimes even causing to post-traumatic stress disorder.

6 Please provide information and figures on the amount of different types of illegal content, services and goods notified, detected, removed, reinstated and on the number or complaints received from users. Please explain and/or link to publicly reported information if you publish this in regular transparency reports.

5000 character(s) maximum

7 Do you have in place measures for detecting and reporting the incidence of suspicious behaviour (i.e. behaviour that could lead to criminal acts such as acquiring materials for such acts)?

3000 character(s) maximum

B. Measures against other types of activities that might be harmful but are not, in themselves, illegal

1 Do your terms and conditions and/or terms of service ban activities such as:

- Spread of political disinformation in election periods?
- Other types of coordinated disinformation e.g. in health crisis?
- Harmful content for children?
- Online grooming, bullying?
- Harmful content for other vulnerable persons?
- Content which is harmful to women?
- Hatred, violence and insults (other than illegal hate speech)?
- Other activities which are not illegal per se but could be considered harmful?

2 Please explain your policy.

5000 character(s) maximum

3 Do you have a system in place for reporting such activities? What actions do they trigger?

3000 character(s) maximum

4 What other actions do you take? Please explain for each type of behaviour considered.

5000 character(s) maximum

5 Please quantify, to the extent possible, the costs related to such measures.

5000 character(s) maximum

6 Do you have specific policies in place to protect minors from harmful behaviours such as online grooming or bullying?

- Yes
- No

7 Please explain.

3000 character(s) maximum

C. Measures for protecting legal content goods and services

1 Does your organisation maintain an internal complaint and redress mechanism to your users for instances where their content might be erroneously removed, or their accounts blocked?

- Yes
- No

2 What action do you take when a user disputes the removal of their goods or content or services, or restrictions on their account? Is the content/good reinstated?

5000 character(s) maximum

3 What are the quality standards and control mechanism you have in place for the automated detection or removal tools you are using for e.g. content, goods, services, user accounts or bots?

3000 character(s) maximum

4 Do you have an independent oversight mechanism in place for the enforcement of your content policies?

- Yes
- No

5 Please explain.

5000 character(s) maximum

D. Transparency and cooperation

1 Do you actively provide the following information:

- Information to users when their good or content is removed, blocked or demoted
- Information to notice providers about the follow-up on their report
- Information to buyers of a product which has then been removed as being illegal

2 Do you publish transparency reports on your content moderation policy?

- Yes
- No

3 Do the reports include information on:

- Number of takedowns and account suspensions following enforcement of your terms of service?
- Number of takedowns following a legality assessment?
- Notices received from third parties?
- Referrals from authorities for violations of your terms of service?
- Removal requests from authorities for illegal activities?
- Number of complaints against removal decisions?
- Number of reinstated content?

- Other, please specify in the text box below

4 Please explain.

5000 character(s) maximum

5 What information is available on the automated tools you use for identification of illegal content, goods or services and their performance, if applicable? Who has access to this information? In what formats?

5000 character(s) maximum

6 How can third parties access data related to your digital service and under what conditions?

- Contractual conditions
- Special partnerships
- Available APIs (application programming interfaces) for data access
- Reported, aggregated information through reports
- Portability at the request of users towards a different service
- At the direct request of a competent authority
- Regular reporting to a competent authority
- Other means. Please specify

7 Please explain or give references for the different cases of data sharing and explain your policy on the different purposes for which data is shared.

5000 character(s) maximum

The following questions are open for all respondents.

2. Clarifying responsibilities for online platforms and other digital services

1 What responsibilities (i.e. legal obligations) should be imposed on online platforms and under what conditions?

Should such measures be taken, in your view, by all online platforms, or only by specific ones (e.g. depending on their size, capability, extent of risks of exposure to illegal activities conducted by their users)? If you consider that some measures

should only be taken by large online platforms, please identify which would these measures be.

	Yes, by all online platforms, based on the activities they intermediate (e.g. content hosting, selling goods or services)	Yes, only by larger online platforms	Yes, only platforms at particular risk of exposure to illegal activities by their users	Such measures should not be required by law
Maintain an effective 'notice and action' system for reporting illegal goods or content	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maintain a system for assessing the risk of exposure to illegal goods or content	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Have content moderation teams, appropriately trained and resourced	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Systematically respond to requests from law enforcement authorities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperate with national authorities and law enforcement, in accordance with clear procedures	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperate with trusted organisations with proven expertise that can report illegal activities for fast analysis ('trusted flaggers')	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Detect illegal content, goods or services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In particular where they intermediate sales of goods or services, inform their professional users about their obligations under EU law	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Request professional users to identify themselves clearly ('know your customer' policy)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provide technical means allowing professional users to comply with their obligations (e.g. enable them to publish on the platform the pre-contractual information consumers need to receive in accordance with applicable consumer law)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Inform consumers when they become aware of product recalls or sales of illegal goods	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperate with other online platforms for exchanging best practices, sharing information or tools to tackle illegal activities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Be transparent about their content policies, measures and their effects	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maintain an effective 'counter-notice' system for users whose goods or content is removed to dispute erroneous decisions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other. Please specify	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2 Please elaborate, if you wish to further explain your choices.

5000 character(s) maximum

The European Commission should guarantee that the highest working standards for workers apply in all companies.

3 What information would be, in your view, necessary and sufficient for users and third parties to send to an online platform in order to notify an illegal activity (sales of illegal goods, offering of services or sharing illegal content) conducted by a user of the service?

- Precise location: e.g. URL
- Precise reason why the activity is considered illegal
- Description of the activity
- Identity of the person or organisation sending the notification. Please explain under what conditions such information is necessary:
- Other, please specify

4 Please explain

3000 character(s) maximum

5 How should the reappearance of illegal content, goods or services be addressed, in your view? What approaches are effective and proportionate?

5000 character(s) maximum

6 Where automated tools are used to detect illegal content, goods or services, what opportunities and risks does their use present as regards different types of illegal activities and the particularities of the different types of tools?

3000 character(s) maximum

AI is limited in its accuracy, especially for expression where political and/or contextual cues are necessary. Trade union content can be wrongly or maliciously judged as illegal. This is yet another reason to call that humans should remain in control of AI technology.

7 How should the spread of illegal goods, services or content across multiple platforms and services be addressed? Are there specific provisions necessary for addressing risks brought by:

- a. Digital services established outside of the Union?
- b. Sellers established outside of the Union, who reach EU consumers through online platforms?

3000 character(s) maximum

Digital services and sellers established outside the union reaching EU workers and consumers should abide to the legislation of the EU and its member states. With the adoption of the GDPR, the EU has already proven its capacity to enact effective European legislation for digital services regardless of the country of origin of the service provider. It is worth to retrieve the words of Commission Breton in the frame of the launching of this consultation: "We want to propose clear rules before the end of the year to define the responsibilities of platforms in protecting our citizens and values, without making them liable for all content. Certain fundamental rules must apply to everyone, from the smallest online shop to the major platforms. We are also thinking about specific rules for gatekeeper platforms. Just as we did for the protection of personal data, Europe has the opportunity to set the global standard on platform regulation. I have always said that it is up to the platforms to adapt to us, and not the other way around".

8 What would be appropriate and proportionate measures for digital services acting as online intermediaries, other than online platforms, to take – e.g. other types of hosting services, such as web hosts, or services deeper in the internet stack, like cloud infrastructure services, content distribution services, DNS services, etc.?

5000 character(s) maximum

9 What should be the rights and responsibilities of other entities, such as authorities, or interested third-parties such as civil society organisations or equality bodies in contributing to tackle illegal activities online?

5000 character(s) maximum

Trade unions represented within the platforms should be involved in the design and data management of AI used by the platform, not least in the case where their workers are affected by the data collection etc.

The labour Inspectorate should be mandated and properly equipped to prevent digital labour companies from violating labour legislation.

An independent public authority could be dedicated to the monitoring of digital platforms and AI technologies and should address the specificities of the workplace. Such authority could be equipped with regulatory powers and trade unions should be significantly represented in its decision-making bodies. The idea of an EU Agency on AI would be innovative.

10 What would be, in your view, appropriate and proportionate measures for online platforms to take in relation to activities or content which might cause harm but are not necessarily illegal?

5000 character(s) maximum

11 In particular, are there specific measures you would find appropriate and proportionate for online platforms to take in relation to potentially harmful activities or content concerning minors? Please explain.

5000 character(s) maximum

12 Please rate the necessity of the following measures for addressing the spread of disinformation online. Please rate from 1 (not at all necessary) to 5 (essential) each option below.

	1 (not at all necessary)	2	3 (neutral)	4	5 (essential)	I don't know / No answer
Transparently inform consumers about political advertising and sponsored content, in particular during election periods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provide users with tools to flag disinformation online and establishing transparent procedures for dealing with user complaints	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tackle the use of fake-accounts, fake engagements, bots and inauthentic users behaviour aimed at amplifying false or misleading narratives	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transparency tools and secure access to platform data for trusted						

researchers in order to monitor inappropriate behaviour and better understand the impact of disinformation and the policies designed to counter it	<input type="radio"/>					
Transparency tools and secure access to platform data for authorities in order to monitor inappropriate behaviour and better understand the impact of disinformation and the policies designed to counter it	<input type="radio"/>					
Adapted risk assessments and mitigation strategies undertaken by online platforms	<input type="radio"/>					
Ensure effective access and visibility of a variety of authentic and professional journalistic sources	<input type="radio"/>					
Auditing systems for platform actions and risk assessments	<input type="radio"/>					
Regulatory oversight and auditing competence over platforms' actions and risk assessments, including on sufficient resources and staff, and responsible examination of metrics and capacities related to fake accounts and their impact on the manipulation and amplification of disinformation.	<input type="radio"/>					
Other (please specify)	<input type="radio"/>					

13 Please specify

3000 character(s) maximum

14 In special cases, where crises emerge and involve systemic threats to society, such as a health pandemic, and fast-spread of illegal and harmful activities online, what are, in your view, the appropriate cooperation mechanisms between digital services and authorities?

3000 character(s) maximum

15 What would be effective measures service providers should take, in your view, for protecting the freedom of expression of their users? Please rate from 1 (not at all necessary) to 5 (essential).

	1 (not at all necessary)	2	3 (neutral)	4	5 (essential)	I don't know / No answer
High standards of transparency on their terms of service and removal decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Diligence in assessing the content notified to them for removal or blocking	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Maintaining an effective complaint and redress mechanism	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Diligence in informing users whose content/goods/services was removed or blocked or whose accounts are threatened to be suspended	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
High accuracy and diligent control mechanisms, including human oversight, when automated tools are deployed for detecting, removing or demoting content or suspending users' accounts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Enabling third party insight – e.g. by academics – of main content moderation systems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other. Please specify	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

16 Please explain.

3000 character(s) maximum

17 Are there other concerns and mechanisms to address risks to other fundamental rights such as freedom of assembly, non-discrimination, gender equality, freedom to conduct a business, or rights of the child? How could these be addressed?

5000 character(s) maximum

Whilst consumers can rate workers, the opposite is not always the case – or even if a rating is collected, it is not always made available to workers. Unscrupulous platform users can take advantage of this information asymmetry, for example by refusing to pay for already completed tasks on quality grounds. Platforms should

also develop a system which allows workers to challenge ratings, for example when a low rating was given by a consumer in retaliation for a worker's refusal to bend the rules or worse. Platforms' rating systems' should be monitored on its impact on different segments of the workforce, to ensure that the operation of rating algorithms does not lead to discrimination against particular group [Prassl (2018)]

18 In your view, what information should online platforms make available in relation to their policy and measures taken with regard to content and goods offered by their users? Please elaborate, with regard to the identification of illegal content and goods, removal, blocking or demotion of content or goods offered, complaints mechanisms and reinstatement, the format and frequency of such information, and who can access the information.

5000 character(s) maximum

19 What type of information should be shared with users and/or competent authorities and other third parties such as trusted researchers with regard to the use of automated systems used by online platforms to detect, remove and/or block illegal content, goods, or user accounts?

5000 character(s) maximum

20 In your view, what measures are necessary with regard to algorithmic recommender systems used by online platforms?

5000 character(s) maximum

21 In your view, is there a need for enhanced data sharing between online platforms and authorities, within the boundaries set by the General Data Protection Regulation? Please select the appropriate situations, in your view:

- For supervisory purposes concerning professional users of the platform - e. g. in the context of platform intermediated services such as accommodation or ride-hailing services, for the purpose of labour inspection, for the purpose of collecting tax or social security contributions
- For supervisory purposes of the platforms' own obligations – e.g. with regard to content moderation obligations, transparency requirements, actions taken in electoral contexts and against inauthentic behaviour and foreign interference
- Specific request of law enforcement authority or the judiciary

- On a voluntary and/or contractual basis in the public interest or for other purposes

22 Please explain. What would be the benefits? What would be concerns for companies, consumers or other third parties?

5000 character(s) maximum

The labour inspectorate should be given access to data of digital platforms in order to guarantee labour law enforcement and securing compliance. It will also play a key role in dealing effectively against fraud and undeclared work.

23 What types of sanctions would be effective, dissuasive and proportionate for online platforms which systematically fail to comply with their obligations (See also the last module of the consultation)?

5000 character(s) maximum

In order to ensure effective compliance and to combat abuse, appropriate enforcement mechanisms, dissuasive sanctions and redress mechanisms should be established. Instruments for sanctioning violations relating to data protection and commercialisation of data may draw inspiration for existing sanctions and mechanisms under the GDPR and the EU competition policy framework, such as orders to end the violation, adjust processes and behaviours and/or imposing penalties and fines.

Concerning labour violations by platforms, labour inspectorates should be entitled to enforce sanctions on online platforms in the same way as for offline service providers, as regards abuses linked to for examples undeclared work, false self-employment, non-payment of wages and social security contributions, etc. Given the considerable control and influence platforms exercise over individual platform workers, it should be possible to hold platforms liable and impose sanctions for violations resulting from such control and influence, including for violations originating from the use of platform algorithms.

24 Are there other points you would like to raise?

3000 character(s) maximum

Art.88 GDPR, on processing data in the context of employment should be used as leverage for enhanced data protection for workers. Such data could specifically relate to recruitment, performance, management, planning and organisation of work, equality and diversity in the workplace, health and safety at work, and dismissals. Furthermore, trade union representatives should be involved in monitoring the compliance with the GDPR of a given AI system at the workplace. The aim is to lay down measures to safeguard the human dignity, legitimate interests and fundamental rights, with particular regard to the transparency of processing data, the transfer of personal data within a group of undertakings, or a group of enterprises engaged in a joint economic activity, and monitoring systems at the workplace.

Whenever workers' data is collected and processed at the workplace or in the frame of the enterprise operations, workers' freely given, specific, informed and unambiguous consent is key as well as prior information and consultation of their representatives. However, and as ruled by the GDPR, for the majority of data processed at work, the legal basis cannot and should not be the consent of the employees due to the unbalanced nature of the employer and employee relationship. Processing may be necessary on other grounds, e.g. for the performance of a contract or it may be imposed by law. When consent is used as a legal basis for data processing, consent should therefore in principle only be valid if supported by a collective agreement and it is renewed throughout the process of data processing. The same logic needs to apply

when the employer processes workers' data for further/other uses that were not foreseen before. Likewise, sectorial and cross-sectorial collective agreements are key instruments, when it comes to reaching agreements on workers' data going beyond the company level.

II. Reviewing the liability regime of digital services acting as intermediaries?

The liability of online intermediaries is a particularly important area of internet law in Europe and worldwide. The E-Commerce Directive harmonises the liability exemptions applicable to online intermediaries in the single market, with specific provisions for different services according to their role: from Internet access providers and messaging services to hosting service providers.

The previous section of the consultation explored obligations and responsibilities which online platforms and other services can be expected to take – i.e. processes they should put in place to address illegal activities which might be conducted by users abusing their service. In this section, the focus is on the legal architecture for the liability regime for service providers when it comes to illegal activities conducted by their users. The Commission seeks informed views on how the current liability exemption regime is working and the areas where an update might be necessary.

2 The liability regime for online intermediaries is primarily established in the E-Commerce Directive, which distinguishes between different types of services: so called 'mere conduits', 'caching services', and 'hosting services'.

In your understanding, are these categories sufficiently clear and complete for characterising and regulating today's digital intermediary services? Please explain.

5000 character(s) maximum

As platforms have taken and combined multiple roles either acting as intermediaries or as vertically-integrated platforms, the current EU legal framework struggles to capture liability issues, while neither the case law of the Court of Justice of the European Union has provided sufficient guidance. This has resulted in fragmentation. Instead of aiming for increased harmonisation of conditions for exemption, any future legal framework should introduce clear legal obligations relating to liability, including employers' obligations. Societal challenges have changed the nature and scale of platform generated activities, necessitating increased legal responsibility ranging from liability for content to products and services. Consequently, the categorization of services should be updated in the law to take into account notably the functions and services of the platforms. Special liability is needed for actors such as online marketplaces, for damages, contract performance and guarantees. Intermediaries should become liable for user-uploaded content if they refuse to remove content that has been declared illegal by a court decision.

Platforms are rarely developed without any commercial interest. Any intermediary function is ultimately designed, deployed and maintained by a physical or legal person which should be held liable. The competitive advantage of platforms cannot consist in the fact that they are omitted/exempt from similar requirements as comparable physical providers of content, goods and services. By introducing a clearer and broader liability for platform, such legal obligations will also be more effectively taken into consideration by their developers.

If platforms are able to capitalise on intermediation, they should also be presumed to be liable based on a reversed burden of proof to the advantage of any third party who has suffered damage and who should be able to claim compensation based on joint and several liability towards the platform. Liability should entail both material and non-material damages, including violations of fundamental rights. The liability rules should apply equally to all platforms regardless of their size, market status or market power.

For hosting services, the liability exemption for third parties' content or activities is conditioned by a

knowledge standard (i.e. when they get 'actual knowledge' of the illegal activities, they must 'act expeditiously' to remove it, otherwise they could be found liable).

For hosting services, the liability exemption for third parties' content or activities is conditioned by a knowledge standard (i.e. when they get 'actual knowledge' of the illegal activities, they must 'act expeditiously' to remove it, otherwise they could be found liable).

3 Are there aspects that require further legal clarification?

5000 character(s) maximum

In short: 'information society service' depend on the degree of control and influence that the platform has over the service provided. Such control by the platform over individual providers of labour should result in liability as employer.

The concept of 'information society services' must be further clarified while remaining restrictively defined, so as to ensure that the Digital Services Act does not undermine the scope of the Services Directive 2006/123 /EC and the country of destination principle as the fundamental principle governing the provision of physical services, as opposed to the country of origin principle as set out by the E-commerce Directive for the purpose of information society services. For this reason, the concept of 'information society services' must also in the future legal framework be defined strictly, thus making sure that the country of origin principle is not misused to undermine the level playing-field by circumventing applicable rules regarding services performed in the territory of the host Member State.

In this regard, the case law of the CJEU regarding the concept of 'information society services' should be consolidated in law. In C-434/15 Uber, the Court held that a digital "intermediation service [...] must be regarded as being inherently linked to a transport service" (§ 41). In other words, digital services that are inherently linked to the provision of a physical service should not be considered as a free-standing information society service, but rather as a tool facilitating the provision of a physical service, and should therefore bound by the rules regulating the physical service in question in order to ensure a level playing-field among service providers active in the market of the host Member State in accordance with the country of destination principle. This principle must be upheld to ensure the quality of services, protection of workers, consumers, the environment and the public interest, as these overriding interests have a stronger connection to the Member State where the actual service is performed, delivered or consumed. From the judgement it is also clear that the classification as an 'information society service' depend on the degree of control and influence that the platform has over the service provided (§ 39). Such control by the platform over individual providers of labour should result in liability as employer, as further elaborated in our reply to Question 7 in this Chapter.

4 Does the current legal framework dis-incentivize service providers to take proactive measures against illegal activities? If yes, please provide your view on how disincentives could be corrected.

5000 character(s) maximum

It is much questionable whether the introduction of a "Good Samaritan" protective clause that exempts online service providers from liability when acting in good faith is desirable as a means to provide further legal clarity. The major disadvantages are that it does not provide any legal certainty nor predictability. It does not either provide effective remedy to complainants whose rights were infringed, and it encourages excessive take-downs on the intermediary's own initiative. Case law shows that courts do not hold platforms using Good Samaritan mechanisms to be liable and consequently risks depriving the regulation of platform liability from any effet utile.

5 Do you think that the concept characterising intermediary service providers as playing a role of a 'mere technical, automatic and passive nature' in the transmission of information ([recital 42 of the E-Commerce Directive](#)) is sufficiently clear and still valid? Please explain.

5000 character(s) maximum

In line with the case law of the CJEU (e.g. C-434/15), the liability should be linked to the degree of control that the platform has over the service provided. In this regard, the concept of control must be further clarified, especially when it comes to the collaborative economy and for the purpose of establishing employer status for online platforms providing services through individual providers of labour (see our reply to Question 7 in this Chapter).

6 The E-commerce Directive also prohibits Member States from imposing on intermediary service providers general monitoring obligations or obligations to seek facts or circumstances of illegal activities conducted on their service by their users. In your view, is this approach, balancing risks to different rights and policy objectives, still appropriate today? Is there further clarity needed as to the parameters for 'general monitoring obligations'? Please explain.

5000 character(s) maximum

The current boundaries between duties of care, filtering and general monitoring are not clear. The prohibition of a monitoring obligations is a key provision for the protection of the right of freedom of expression, personal data and privacy, although some aspects might need clarification. Conducting content monitoring and filtering with automatic tools would have inevitable detrimental effects on the right to freely share, access content online and to data protection and have technical drawbacks. Instead, clarification is needed regarding voluntary monitoring, specific monitoring and the use of the Good Samaritan protection. The law needs to define, harmonize and make mandatory the notice-and-action mechanism for the different types of content. The law can oblige intermediaries to verify the notified content, and notify or respond to the notifier or content uploader. Trade unions can make effective use of this mechanism to notify an intermediary about potentially illegal content.

7 Do you see any other points where an upgrade may be needed for the liability regime of digital services acting as intermediaries?

5000 character(s) maximum

In short: The Digital Services Act should simply establish that platforms which largely determine the terms and conditions of engagement and provision of services should in fact be held liable as employers. No additional or intermediary employment categories are needed or desirable to rectify this problem, as digital workers must not be considered as second-class workers.

In clarifying the liability of online platforms, it should be recognised that platforms exercising significant control and influence over users in their capacity as individual providers of labour should in fact be held liable not only as sellers of services, but also as employers in relation to workers working in the platform economy. performing the physical services. This is in particular the case when the information society service provided by the platform is inherently linked to the provision of a physical service, as held by the CJEU in C-434/15

Uber, where the platform also exercised significant control over the conditions of the driver and the transport service in question. According to the Court “Uber exercises decisive influence over the conditions under which that service is provided by those drivers. On the latter point, it appears, inter alia, that Uber determines at least the maximum fare by means of the eponymous application, that the company receives that amount from the client before paying part of it to the non-professional driver of the vehicle, and that it exercises a certain control over the quality of the vehicles, the drivers and their conduct, which can, in some circumstances, result in their exclusion.” (§ 39).

The concept of control and influence is decisive and should therefore be consolidated and further clarified. Control and influence resulting in the liability of platforms may take expressions such as: the service contract being concluded through the platform, including the terms and conditions set out therein as well as the price for the service and the pay obtained by the labour provider; the platform withholds the identity or contact details of the labour provider until the conclusion of the service contract; the marketing is focused on the platform rather than the labour provider; the payment for the service takes place through the platform, which also has the right to withhold payments and make deductions based on complaints; the platform monitors the conduct of the labour provider, including ratings and handling of complaints; labour providers are not able to contest reviews, complaints and compensations as these are handled by the platform; labour providers are not free to accept or decline tasks, or if they do so it will have an effect on their performance reviews and future tasks; etc.

The current disruptive model of platforms is based on the pressure on workers' rights while not respecting the legal obligations of employers, thus creating unfair competition with companies in the sectors in question. However, no additional or intermediary employment categories are needed or desirable to rectify this problem, as digital workers must not be considered as second-class workers. In order to ensure decent working conditions for all workers and a level playing-field between online and offline businesses providing comparable services, the Digital Services Act should simply establish that platforms which largely determine the terms and conditions of engagement and provision of services should in fact be held liable as employers, with all the obligations this entails. However, it is not for the Digital Services Act or any ex ante legislation of platforms to define the conditions of workers working in the platform economy as this pertains to social policy and should be regulated by existing labour legislation and collective bargaining.

III. What issues derive from the gatekeeper power of digital platforms?

There is wide consensus concerning the benefits for consumers and innovation, and a wide-range of efficiencies, brought about by online platforms in the European Union's Single Market. Online platforms facilitate cross-border trading within and outside the EU and open entirely new business opportunities to a variety of European businesses and traders by facilitating their expansion and access to new markets. At the same time, regulators and experts around the world consider that large online platforms are able to control increasingly important online platform ecosystems in the digital economy. Such large online platforms connect many businesses and consumers. In turn, this enables them to leverage their advantages – economies of scale, network effects and important data assets- in one area of their activity to improve or develop new services in adjacent areas. The concentration of economic power in then platform economy creates a small number of 'winner-takes it all/most' online platforms. The winner online platforms can also readily take over (potential) competitors and it is very difficult for an existing competitor or potential new entrant to overcome the winner's competitive edge.

The Commission [announced](#) that it 'will further explore, in the context of the Digital Services Act package, ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants'.

This module of the consultation seeks informed views from all stakeholders on this framing, on the scope, the specific perceived problems, and the implications, definition and parameters for addressing possible issues deriving from the economic power of large, gatekeeper platforms.

[The Communication 'Shaping Europe's Digital Future'](#) also flagged that 'competition policy alone cannot address all the systemic problems that may arise in the platform economy'. Stakeholders are invited to provide their views on potential new competition instruments through a separate, dedicated open public consultation that will be launched soon.

In parallel, the Commission is also engaged in a process of reviewing EU competition rules and ensuring they are fit for the modern economy and the digital age. As part of that process, the Commission has launched a consultation on the proposal for a New Competition Tool aimed at addressing the gaps identified in enforcing competition rules. The initiative intends to address as specific objectives the structural competition problems that prevent markets from functioning properly and that can tilt the level playing field in favour of only a few market players. This could cover certain digital or digitally-enabled markets, as identified in the report by the Special Advisers and other recent reports on the role of competition policy, and/or other sectors. As such, the work on a proposed new competition tool and the initiative at stake complement each other. The work on the two impact assessments will be conducted in parallel in order to ensure a coherent outcome. In this context, the Commission will take into consideration the feedback received from both consultations. We would therefore invite you, in preparing your responses to the questions below, to also consider your response to [the parallel consultation on a new competition tool](#).

1 To what extent do you agree with the following statements?

	Fully agree	Somewhat agree	Neither agree not disagree	Somewhat disagree	Fully disagree	I don't know/ No reply
Consumers have sufficient choices and alternatives to the offerings from online platforms.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
It is easy for consumers to switch between services provided by online platform companies and use same or similar services provider by other online platform companies ("multi-home").	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
It is easy for individuals to port their data in a useful manner to alternative service providers outside of an online platform.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
There is sufficient level of interoperability between services of different online platform companies.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
There is an asymmetry of information between the						

knowledge of online platforms about consumers, which enables them to target them with commercial offers, and the knowledge of consumers about market conditions.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is easy for innovative SME online platforms to expand or enter the market.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Traditional businesses are increasingly dependent on a limited number of very large online platforms.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are imbalances in the bargaining power between these online platforms and their business users.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses and consumers interacting with these online platforms are often asked to accept unfavourable conditions and clauses in the terms of use/contract with the online platforms.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Certain large online platform companies create barriers to entry and expansion in the Single Market (gatekeepers).	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Large online platforms often leverage their assets from their primary activities (customer base, data, technological solutions, skills, financial capital) to expand into other activities.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When large online platform companies expand into such new activities, this often poses a risk of reducing innovation and deterring competition from smaller innovative market operators.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Main features of gatekeeper online platform companies and the main criteria for assessing their economic power

1 Which characteristics are relevant in determining the gatekeeper role of large online platform companies? Please rate each criterion identified below from 1 (not relevant) to 5 (very relevant):

Large user base	
Wide geographic coverage in the EU	
They capture a large share of total revenue of the market you are active/of a sector	
Impact on a certain sector	
They build on and exploit strong network effects	
They leverage their assets for entering new areas of activity	
They raise barriers to entry for competitors	
They accumulate valuable and diverse data and information	
There are very few, if any, alternative services available on the market	
Lock-in of users/consumers	
Other	

2 If you replied "other", please list

3 Please explain your answer. How could different criteria be combined to accurately identify large online platform companies with gatekeeper role?

3000 character(s) maximum

The main features of a gatekeeper may therefore vary depending on whether the services offered by the platform take the expression of a search engine, marketplace or the provision of labour intensive services.

A clear example of an online platform with a gatekeeper role is Amazon. UNI's attached report argues that Amazon in particular is known for its exceptionally low profit margins, particularly in its European eCommerce business, which has consistently lost money. Forgoing profit for the sake of growth, Amazon invests nearly all funds right back into its business in the form of capital expenses, thus keeping profit and free cash flows artificially low. It is likely that investors are fueling Amazon's aggressive expansion strategy. Self-regulation of the market fails where "deep pocket" investors constantly support (and fund) such an excessive business model, and where such expansion even results in tax benefits. Amazon's apparent monopsony is an important issue as well, as it is leading to destructive competition on the back of workers. Horizontal and vertical restraints and the mere size of the Amazon conglomerate reduce profit margins of competing retailers, suppliers, and logistics companies. It seems reasonable to suppose that this is reducing such actors' freedom to play fair in the social realm. Moreover, there is actual evidence that, in their efforts to keep up with unfair competition by Amazon, such actors are left without any choice but to reduce overall working conditions and suppress wages.

The size of the platform, be it in terms of geographic coverage, market share or turn-over may be relevant, but is not necessarily decisive for whether it can act as a gatekeeper. It is rather the behaviour of the platform which creates negative impacts on the market and on fair competition. Digitalisation and data easily allows for economies of scale. E.g. also an SME in terms of size may have a large user base and possess big quantities of data, which may potentially be used in an anti-competitive way. Consequently, it is important that the regulatory framework does not open up for SME exceptions. It is important that relevant existing rules apply equally across the board for both online and offline services, in order to not distort fair competition.

As regards the lock-in effects, the use of algorithms and customer ratings tends to tie workers to specific platforms. Similarly, platforms may penalise workers who are simultaneously active on multiple platforms in search for the gig which offers the best terms. Ratings should therefore be portable, allowing workers to move between platforms and deploy their skills as and when necessary, receiving adequate compensation and recognition for past work. In terms of regulatory design, Jeremias Prassl recommends the GDPR as a starting point, which requires personal 'data portability'.

4 Do you believe that the integration of any or all of the following activities within a single company can strengthen the gatekeeper role of large online platform companies ('conglomerate effect')? Please select the activities you consider to strengthen the gatekeeper role:

online intermediation services (i.e. consumer-facing online platforms such as e-commerce marketplaces, social media, mobile app stores, etc., as per [Regulation \(EU\) 2019/1150](#) - see glossary)

- search engines
- operating systems for smart devices
- consumer reviews on large online platforms
- network and/or data infrastructure/cloud services
- digital identity services
- payment services (or other financial services)
- physical logistics such as product fulfilment services
- data management platforms
- online advertising intermediation services
- other. Please specify in the text box below.

5 Other - please list

1000 character(s) maximum

Digital platforms can define the price of a service, define working arrangements, assign clients, manage algorithms, handle payments, control advertising, etc. this compromises competition.

Platforms like Amazon and Facebook have a concerning impact on the competition of the finance sector. They can easily get an unfair advantage by only advertising their own financial products. This advantage is amplified by the requirements of the PSD II legislation, requiring financial institutions to share their customers' data with other companies if the customer agrees. The permission to obtain customer data is much easier for platforms. This distorts competition. Therefore, platforms should ensure equal opportunity for all companies to advertise through them.

Similarly, in many mobile payment applications, e.g. Amazon Pay, the parent companies are not obliged to make their apps available for use by other payment service providers, yet they can freely get the customers' data.

Emerging issues

The following questions are targeted particularly at businesses and business users of large online platform companies.

2 As a business user of large online platforms, do you encounter issues concerning trading conditions on large online platform companies?

- Yes
- No

3 Please specify which issues you encounter and please explain to what types of platform these are related to (e.g. e-commerce marketplaces, app stores, search engines, operating systems, social networks).

5000 character(s) maximum

4 Have you been affected by unfair contractual terms or unfair practices of very large online platform companies? Please explain your answer in detail, pointing to the effects on your business, your consumers and possibly other stakeholders in the short, medium and long-term?

5000 character(s) maximum

The following questions are targeted particularly at consumers who are users of large online platform companies.

6 Do you encounter issues concerning commercial terms and conditions when accessing services provided by large online platform companies?
Please specify which issues you encounter and please explain to what types of platform these are related to (e.g. e-commerce marketplaces, app stores, search engines, operating systems, social networks).

5000 character(s) maximum

7 Have you considered any of the practices by large online platform companies as unfair? Please explain.

3000 character(s) maximum

The following questions are open to all respondents.

9 Are there specific issues and unfair practices you perceive on large online platform companies?

5000 character(s) maximum

First remark concerning Amazon, then general remark:
Regarding Amazon, there are a number of practices that are of significant concern:

Structural Concerns/Systemic Challenges

- Sheer size and conglomerate business structure
- Aggressive growth/ expansion strategy
- Cross-subsidization capability
- Deep vertical integration
- "Killer acquisitions"

Anti-Competitive Conduct

- Predatory pricing
- Self-preferencing of own products or services
- Tying/bundling of additional services
- Exploitation of data
- Demanding unjustified benefits
- Price parity clauses

Effect on Freedom to Compete/ Foreclosure

- Monopsony/ buying power
- Total dependence of entire industries
- Industry-wide lowering of profit margins
- Destructive competition/ dumping
- Market concentration

Spillover Effects on Workers' Rights

- Lowering of worker conditions (e.g. workplace safety)
- Wage suppression
- Alignment of precarious employment conditions.

See attached submission for details.

General remark:

Platform do not recognise their obligations as employers, although they exercise considerable control and influence over workers working in the platform economy. This arrangement leaves workers working in the platform economy in a vulnerable position without labour rights and social protection. Furthermore, this artificial arrangement to a large extent unrightfully shifts the economic risks from the platforms to the workers working in the platform economy. As a result, workers working in the platform economy find themselves in a vulnerable situation also in terms of civil liability and insurance. For example, in the specific case of platform companies in the transport and delivery sectors, platform companies should be liable in the event of accidents involving their workers.

In terms of data collection and use, the consent of workers is not properly informed, as information is often hidden or difficult to access, or actualisation of apps set tracing application as default option. Workers must receive clear and transparent information of the purpose and the use of the collection of their data. Collection of workers' data must be done in consultation with and participation of the trade union representatives.

Algorithmic management create and reinforce discrimination. Algorithms are by no means neutral, but reflect the biases of their developers which is exacerbated by the processing of the data collected through machine-learning. The discrimination which is reproduced in a set of data will reproduce the same behaviour by the algorithm and the decision will be wrongly understood as objective algorithmic results.

In the context of the platform economy, the use of ratings and reviews fuel algorithmic decision-making. These evaluations are based on personal perceptions and therefore subjective. Based on these biases, the

behaviour of the algorithm may reproduce this discriminatory behaviour and enhance the prejudgment towards certain categories of workers (ethnic groups, women, etcetera). Consequently, discriminatory behaviour of consumers can also be reproduced by the algorithm of the platform when acting in its capacity as employer. In this sense, platforms should be held liable to tackle this kind of discrimination arising towards their workers.

Whilst consumers can rate workers, the opposite is not always the case – or even if a rating is collected, it is not always made available to workers. Unscrupulous platform users can take advantage of this information asymmetry, for example by refusing to pay for or withhold part of the payment of already completed tasks on quality grounds (Prassl, 2018). The use of rating and reviews may result in lock-in effects since they cannot be transferred from one platform to another. Bad ratings or reviews can also result in the suspension of a workers working in the platform economy based on arbitrary grounds, without any possibility to contest or scrutiny a one-sided decision. It must be ensured that workers have access to redress mechanisms and that they are able to transfer ratings and avoid an arbitrary suspension.

10 In your view, what practices related to the use and sharing of data in the platforms' environment are raising particular challenges?

5000 character(s) maximum

Exclusive platform ownership of data, coupled with lacking transparency and access to data, not only obstructs effective regulation of anti-competitive market behaviour but also undermines worker agency. The first fundamental principle in the 'Declaration of Philadelphia' of the International Labour Organization (ILO), is that "labour is not a commodity". Workers' rights and working conditions stem from this principle. In this regard, AI and data strategies involving workers' data and workers' privacy are not a commodity either. Such data should not be extracted and processed for business profit or for any other commercial use. Currently, tracing applications barely provide for the necessary security, in particular in terms of anonymisation and pseudonimisation of the data collected and stored and access to it. Therefore, security of data storage and access is key. The EU and the Member States need to remain in control. It should be technically feasible and secure to ask an organisation to transfer the individual's personal data to another organisation, or to receive the data in an interoperable format. By doing this, individuals should get control over their data and organisations should demonstrate their compliance with EU data protection and privacy rules. Appropriate and effective sanctions should deter from any violations of data protection rules. The consent of workers is not properly informed, as information is often hidden or difficult to access, or actualisation of apps set tracing application as default option. Workers must receive clear and transparent information of the purpose and the use of the collection of their data. Collection of workers' data must be done in consultation with and participation of the trade union representatives. The Data Protection Officers should be informed. Workers must be able to make a free and voluntary decision. Through collective bargaining, workers have the right to access and to determine how their data is used. Data access, storage and processing compliance with GDPR is key and should be fully guaranteed also in the context of platforms. This is particularly true when it comes to the exercise of unambiguous and informed consent but also the right to access information on digital platforms and AI applications: the right to rectification, the right to erasure (thus extending "the right to be forgotten" to the work environment), the right to restrict processing, the right to data portability (as transferring the personal data of a worker can be of particular interest in certain contexts, as ratings), the right to object (request ceasing of processing of the personal data of a worker) and the right not to be subject to a decision based solely on automated processing.

The Commission's standpoint, when claiming that individuals allow the use of the data they generate on the basis of explicit and unambiguous consent, is controversial. Situations such as data collection (not least in the light of the coronavirus spread) where consent is based on opting out of a system, or practically inexistent or "forced", have proven the contrary. In addition, risks brought by biased and malicious

management of data cover potential issues of discrimination, unfair practices and “lock-in effects” and cybersecurity threats. It should be reminded that non-discrimination is a fundamental right to be complied with.

The Commission’s data strategy calls for the establishment of mechanisms to make it easier for individuals to allow the use of the data they generate for the public good, a concept that the strategy refers to as “data altruism”. UNI Europa questions the altruism objectives that may be pursued for commercial purposes and it expresses concern about violation of privacy and surveillance, mostly in vulnerable situations like the employment relationship.

11 What impact would the identified unfair practices can have on innovation, competition and consumer choice in the single market?

3000 character(s) maximum

The lack of targeted regulation as well as the lack of a level playing-field between comparable online and offline services, platforms may build their competitiveness on lower standards rather than competing based on quality services and innovation. The innovative nature of a business model cannot lie in the fact that platform can operate in a regulatory vacuum without obligations.

In order to reduce platform control in the market, targeted regulation of platform must address not only competition issues between platforms but also labour related concerns within platforms, so as to introduce limits and liabilities as regards both types of powers and controls exercised by platforms. Platforms must be attributed employer obligations, in order to enable worker agency and ensure fair competition in the relevant service markets (online/offline) as well as in the labour market. Nevertheless, Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

We argue that the identified unfair practices not only negatively impact innovation, competition, and consumer choice but also threaten a broader set of important European principles. We argue that more basic democratic values and overall social goals must be taken into account. Regulatory scrutiny should not be strictly limited to competition matters. So far, Amazon has not used its power as a force for social good – it has avoided taxes, squeezed small and medium-sized businesses (as well as global logistics companies), dumped prices, and dragged down labour conditions. This gives rise to a rather pessimistic outlook as to whether Amazon will act with social responsibility in the future. Therefore, UNI Europa wishes to highlight the need to consider the impact of Amazon’s business conduct on social achievements that have been hard-fought for decades.

The most common rationale underlying regulatory intervention could be market failure. However, that regulatory intervention is also based on further considerations is nothing new. Rather, the existing legal framework, notably Articles 151 and 153 of the Treaty on the Functioning of the European Union (“TFEU”), requires that, where possible, account is taken of all the Union’s (social) policy goals. Under these circumstances, UNI Europa proposes the consideration of additional regulatory rationales as justification for a more suitable and fine-tuned regulatory intervention, notably the protection of the rights of workers and the maintenance of social solidarity.

12 Do startups or scaleups depend on large online platform companies to access or expand? Do you observe any trend as regards the level of dependency in the last five years (i.e. increases; remains the same; decreases)? Which difficulties in your view do start-ups or scale-ups face when they depend on large online platform companies to access or expand on the markets?

3000 character(s) maximum

13 Which are possible positive and negative societal (e.g. on freedom of expression, consumer protection, media plurality) and economic (e.g. on market contestability, innovation) effects, if any, of the gatekeeper role that large online platform companies exercise over whole platform ecosystem?

3000 character(s) maximum

In accordance with the International Labour Organisation (ILO) Convention on Freedom of Association and Protection of the Right to Organise (Convention 87), in most European states, trade unions have the right to recruit and represent non-standard workers. However, some platform companies challenge the collective organisation of workers working in the platform economy by exerting varying degrees of resistance, especially those exercising a gatekeeper role in the market. This behaviour ranges from downright refusal to engage to more subtle mechanisms, such as the questioning of existing frameworks and the organisation of alternative mechanisms of worker representation (Prassl, 2018). As previously mentioned, there are also reports of cases where workers have been “disconnected” from the platform as a result of having joined a union or organised workers on the platform. Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

The control and abuse of market power exercised by platforms may put a downward pressure of working conditions of workers performing comparable tasks in the traditional economy, as well as make it more difficult for physical competitors to enter the relevant sector. Alternatively, platforms may exercise their dominance to push existing companies, be they physical or digital, out of the market due to the lack of a level playing-field as regards applicable rules and obligations. Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

14 Which issues specific to the media sector (if any) would, in your view, need to be addressed in light of the gatekeeper role of large online platforms? If available, please provide additional references, data and facts.

3000 character(s) maximum

According to the 2017 results of the Media Pluralism Monitor (<https://cmpf.eui.eu/media-pluralism-monitor/mpm-2017-2/>), "market concentration is a source of medium or high risk for media pluralism in all of the EU countries, without exception. The economic difficulties of different traditional media outlets [...] suggest that media concentration is a phenomenon that is unlikely to recede in the future [...] a possible decline in market plurality remains a ubiquitous element of risk". The EU must take antitrust measures to diversify media ownership and combat concentration and monopolies of media ownership.

Independent journalism is a public good, and the failure to achieve a diverse and plural media represents a market failure. The EU should do more to support public service media, including initiatives to find new and sustainable funding models.

The EU should also do more to support independent media and investigative journalism, including transnational collaborative platforms. It should also support initiatives to find new ways to fund quality journalism, including non-profit models and new socially sustainable and inclusive economic models.

UNI Europa supports proposals for the 2021-2027 budget to introduce a EUR 61 million budget for Creative Europe, dedicated to quality journalism, including media pluralism and media literacy. UNI Europa calls for larger and more strategic public investment in professional journalism and media.

In addition, national and EU legislation against media monopolies and dominant market positions should be monitored, enforced systematically, and strengthened. EU initiatives on monitoring media independence and ownership in Europe, such as the Media Pluralism Monitor, should be further supported.

The EU should continue to promote self-regulatory measures and bodies such as ethical codes and press councils to reinforce high standards of journalism, including in digital and social media. The EU must promote equal access to information for all media and oppose the arbitrary exclusion of journalists from government events and information for political reasons.

Regulation of large online platform companies acting as gatekeepers

1 Do you believe that in order to address any negative societal and economic effects of the gatekeeper role that large online platform companies exercise over whole platform ecosystems, there is a need to consider dedicated regulatory rules?

- I fully agree
- I agree to a certain extent
- I disagree to a certain extent
- I disagree
- I don't know

2 Please explain

3000 character(s) maximum

The lack of regulation allow digital platforms to act as gatekeepers and thereby engage in abuse of their dominant position, not only in regard to other digital platforms but also in relation to physical service providers offering comparable services directly in the traditional market, but also in relation to the workers active on the platform. In order to ensure a level playing-field, existing regulation must apply equally to digital platforms and physical services, when the end-services are comparable. This must also include labour legislation, social protection, access to collective bargaining and protection under applicable collective agreements.

The competitive advantage of digital platforms cannot be built on the fact that rules which apply to comparable services delivered directly through service providers in the traditional market would not apply to platforms. Innovation cannot justify abuse of dominance or exploitation, be it in the service market or labour market. Digital markets are not separate markets, but deeply intertwined with the traditional economy. Separate rules for digital platforms providing comparable services cannot be justified. The legislator should ensure that platforms who are not able to comply with existing rules are not allowed to lawfully operate and compete.

In order to prevent abuses of power between platforms and companies in the market, existing competition rules must be properly enforced. Dedicated regulation is also needed to address the specific issues that

pertain to competition in a digital environment. However, regulation of competition is not enough to effectively also address abuses of power within platforms, which can only be remedied by ensuring the effective application and enforcement of existing labour legislation, recognising platforms as employers with all the obligations this entails. However, it is not for the DSA or any ex ante legislation of platforms to define the conditions of workers working in the platform economy as this pertains to social policy considerations. Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

Dedicated ex ante regulation is necessitated by the dominance digital giants exercise on the economy, democracy, politics and our societies. Such regulation must address abusive behaviours of platforms across different policy areas. E.g. it must limit the exploitation of personal data for commercial purposes. The use of data must also be connected to tax regulation, ensuring that taxes are paid where the data-based profit is generated. Similarly, the use of data must be thoroughly considered when examining the behaviours of platforms in the use of competition law. Dedicated rules must apply equally to all platforms and companies pursuing business in the EU, in order to prevent unfair international competition and European dependency on foreign digital giants.

3 Do you believe that such dedicated rules should prohibit certain practices by large online platform companies with gatekeeper role that are considered particularly harmful for users and consumers of these large online platforms?

- Yes
- No
- I don't know

4 Please explain your reply and, if possible, detail the types of prohibitions that should in your view be part of the regulatory toolbox.

3000 character(s) maximum

Based on our findings, UNI Europa submits that the current structural and systemic challenges warrant regulatory

intervention through the following measures:

- Regulating Amazon in particular: With a view to Amazon in particular, in addition to the obligations listed below, the regulation should enable the following:
 - o Structural separation: Allow for a structural separation of its different business divisions. This would (i) increase transparency as regards cash flow within the corporation, (ii) disincentivise any form of selfpreferencing or tying and (iii) prevent predatory pricing as well as any form of unfair cross-subsidization. It is the best way to efficiently control the otherwise inherent conflict of interest.
 - o Ban on exploitation: Vigorously monitor and prevent Amazon from, directly or indirectly, demanding unjustified benefits vis-à-vis dependent sellers, with means such as rebates, procurement of extra services (ads, logistics) as a condition to access the marketplace or as criterion for their ranking.
 - o Ban on AI-based predatory pricing via third-party data: Prohibit the use of data gathered via Amazon's marketplace activities on the success/pricing of products for Amazon's own offerings.

In order to ensure fair competition between digital platforms, regulatory action in the field of competition is required to address abuses of a dominant position resulting in vertical restrictions of competitions. Examples of abusive behaviours which should be forbidden e.g. the absence of portability of ratings, limitations for users to operate simultaneously on similar platforms, or different kinds of exclusionary practices. Similarly,

predatory practices whereby services are offered at artificially low prices in order to establish themselves in a new geographical area or new service sector should be prohibited.

Platforms also abuse their dominant position by claiming that the services they sell are provided by independent contractors rather than workers working in the platform economy. Still, the platforms define the conditions and working arrangements of these individual providers of labour, supervising their behaviour and performances, setting prices and remuneration and allocating clients. Consequently, such practices could be comparable to vertical restrictions of competition. However, power abuses within the platform cannot be remedied by competition law alone but requires effective application and enforcement of existing labour legislation, ensuring decent working conditions offline as well as online. For this purpose, it must be possible to recognise platforms as employers. Nevertheless, it is not for the DSA or any ex ante legislation of platforms to define the conditions of workers working in the platform economy as this pertains to social policy considerations. Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

5 Do you believe that such dedicated rules should include obligations on large online platform companies with gatekeeper role?

- Yes
- No
- I don't know

6 Please explain your reply and, if possible, detail the types of obligations that should in your view be part of the regulatory toolbox.

3000 character(s) maximum

As explained above in question 4, power abuses within a platform providing labour intensive services cannot effectively be remedied by competition law alone, but platforms exercising considerable control and influence over their workforce must be considered employers with all the obligations this entails.

The current model of platform companies is based on the pressure on workers' rights while not respecting the legal obligations of employers, thus creating unfair competition with other companies in the sectors in question. The architecture of digital platforms draw their competitive advantage from the commodification of labour, resulting in an increased control of the conditions under which the workers working in the platform economy perform their tasks. Characteristics such as their instantaneous substitutability shifts the economic risk from the platform to the worker, thereby exacerbating their precarious situation.

Some platform companies tend to identify themselves as a provider of a digital match-making service rather than as an employer and the person or company that wants work as a customer. However, how the parties identify themselves is of less importance. If an employment relationship is determined, the employer cannot evade legal obligations. Whether there is an employment relationship or self-employment and when someone can be categorized as a worker or employer should be determined based on the actual conditions. In some cases, it might be the platform, in others it might be the actual user of the work, the service buyer. Indications of a platform exercising such influence and control as characterised by an employment relationship may take expressions such as: the service contract being concluded through the platform, including the terms and conditions set out therein as well as the price for the service and the pay obtained by the labour provider; the platform withholds the identity or contact details of the labour provider until the conclusion of the service contract; the marketing is focused on the platform rather than the labour provider; the payment for the service takes place through the platform, which also has the right to withhold payments and make deductions based on complaints; the platform monitors the conduct of the labour provider, including ratings and handling of complaints; labour providers are not able to contest reviews, complaints

and compensations as these are handled by the platform; labour providers are not free to accept or decline tasks, or if they do so it will have an effect on their performance reviews and future tasks; etc.

7 If you consider that there is a need for such dedicated rules setting prohibitions and obligations, as those referred to in your replies to questions 3 and 5 above, do you think there is a need for a specific regulatory authority to enforce these rules?

- Yes
- No
- I don't know

8 Please explain your reply.

3000 character(s) maximum

An independent public authority could be dedicated to the monitoring of AI technologies and should address the specificities of the workplace. Such authority could be equipped with regulatory powers and trade unions should be significantly represented in its decision-making bodies. The idea of an EU Agency on AI would be innovative. However, we would prefer to opt for the existing EU bodies and complement their mandate with AI related dimension, in coordination with dedicated national authorities.

As regards digital platform companies providing labour intensive services, the labour inspectorates at national level and the European Labour Authority (ELA) should be involved to guarantee the effective enforcement also when it comes to the compliance of platform companies with relevant labour legislation. ELA should play a role in guaranteeing the coordination of social security systems and combating fraud and undeclared work also with regard to platforms.

Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

9 Do you believe that such dedicated rules should enable regulatory intervention against specific large online platform companies, when necessary, with a case by case adapted remedies?

- Yes
- No
- I don't know

10 If yes, please explain your reply and, if possible, detail the types of case by case remedies.

3000 character(s) maximum

11 If you consider that there is a need for such dedicated rules, as referred to in question 9 above, do you think there is a need for a specific regulatory authority to enforce these rules?

- Yes
- No

12 Please explain your reply

3000 character(s) maximum

13 If you consider that there is a need for a specific regulatory authority to enforce dedicated rules referred to questions 3, 5 and 9 respectively, would in your view these rules need to be enforced by the same regulatory authority or could they be enforced by different regulatory authorities? Please explain your reply.

3000 character(s) maximum

14 At what level should the regulatory oversight of platforms be organised?

- At national level
- At EU level
- Both at EU and national level.
- I don't know

15 If you consider such dedicated rules necessary, what should in your view be the relationship of such rules with the existing sector specific rules and/or any future sector specific rules?

3000 character(s) maximum

Digital platform companies should observe the applicable regulations which appertain to the specific sector in which they operate. European case law (C-434/15 Uber) has already ruled that platform companies providing labour intensive services should be regarded as e.g. transport companies (and not digital information society service companies) and therefore they should abide to the existing legal responsibilities at European and national level, including the respective collective agreement which regulates working conditions of its workers.

16 Should such rules have an objective to tackle both negative societal and negative economic effects deriving from the gatekeeper role of these very large online platforms? Please explain your reply.

3000 character(s) maximum

Both. As outlined above in our replies to questions 4 and 6, competition regulation is needed to address power abuses between platforms, whereas internal power abuses within the platform can only be addressed by ensuring the applicability and enforcement of existing labour and social legislation.

Firstly, in economic terms, ensuring fair competition and the application of homogeneous rules for platforms throughout the EU would equally serve businesses and workers, providing legal predictability and certainty and a sound level playing field for all.

Secondly, as regards the expected social effects, the possibility to recognise a platform as an employer would improve the working conditions of workers of digital platforms by guaranteeing fundamental rights, labour rights (including those laid down in the applicable sectoral agreement) and access to social protection. However, it is not for the Digital Services Act or any ex ante legislation of platforms to define the conditions of workers working in the platform economy as this pertains to social policy considerations. Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

17 Specifically, what could be effective measures related to data held by very large online platform companies with a gatekeeper role beyond those laid down in the General Data Protection Regulation in order to promote competition and innovation as well as a high standard of personal data protection and consumer welfare?

3000 character(s) maximum

Improved transparency and access to data is crucial in increasing worker agency and democratisation of AI and data governance within platforms. By increasing the bargaining power of workers in relation to the platform, the risk of dominance of the platform will also be mitigated.

Trade unions must play a significant role in the new governance of data and AI and the EC must ensure that GDPR rights are fully guaranteed in the employment context. This is particularly true when it comes to the exercise of unambiguous and informed consent but also the right to access information on AI applications, the right to rectification, the right to erasure (thus extending "the right to be forgotten" to the work environment), the right to restrict processing, the right to data portability (as transferring the personal data of a worker can be of particular interest in certain contexts, as ratings), the right to object (request ceasing of processing of the personal data of a worker) and the right not to be subject to a decision based solely on automated processing". Another point which may be worth mentioning is data interoperability, which is hindered by big platforms.

18 What could be effective measures concerning large online platform companies with a gatekeeper role in order to promote media pluralism, while respecting the subsidiarity principle?

3000 character(s) maximum

19 Which, if any, of the following characteristics are relevant when considering the requirements for a potential regulatory authority overseeing the large online platform companies with the gatekeeper role:

Institutional cooperation with other authorities addressing related sectors – e. g. competition authorities, data protection authorities, financial services authorities, consumer protection authorities, cyber security, etc.

- Pan-EU scope
- Swift and effective cross-border cooperation and assistance across Member States
- Capacity building within Member States
- High level of technical capabilities including data processing, auditing capacities
- Cooperation with extra-EU jurisdictions
- Other

20 If other, please specify

3000 character(s) maximum

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21 Please explain if these characteristics would need to be different depending on the type of ex ante rules (see questions 3, 5, 9 above) that the regulatory authority would be enforcing?

3000 character(s) maximum

22 Which, if any, of the following requirements and tools could facilitate regulatory oversight over very large online platform companies (multiple answers possible):

- Reporting obligation on gatekeeping platforms to send a notification to a public authority announcing its intention to expand activities
- Monitoring powers for the public authority (such as regular reporting)
- Investigative powers for the public authority
-

Other

23 Other – please list

3000 character(s) maximum

Labour inspections controlling the conditions of workers on the platform, including making sure that false self-employment is not used as a way of platforms to evade employer obligations. Similarly, it must be ensured that trade unions are able to reach out to workers working in the platform economy to organise and safeguard their working conditions and detecting abuse.

24 Please explain if these requirements would need to be different depending on the type of ex ante rules (see questions 3, 5, 9 above) that the regulatory authority would be enforcing?

3000 character(s) maximum

25 Taking into consideration [the parallel consultation on a proposal for a New Competition Tool](#) focusing on addressing structural competition problems that prevent markets from functioning properly and tilt the level playing field in favour of only a few market players. Please rate the suitability of each option below to address market issues arising in online platforms ecosystems. Please rate the policy options below from 1 (not effective) to 5 (most effective).

	1 (not effective)	2 (somewhat effective)	3 (sufficiently effective)	4 (very effective)	5 (most effective)	Not applicable /No relevant experience or knowledge
1. Current competition rules are enough to address issues raised in digital markets	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. There is a need for an additional regulatory framework imposing obligations and prohibitions that are generally applicable to all large online platforms with gatekeeper power	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
3. There is a need for an additional regulatory framework allowing for the possibility to impose tailored remedies on individual large online platforms with gatekeeper power, on a case-by-case basis	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. There is a need for a New Competition Tool allowing to address structural risks and lack of competition in (digital) markets on a case-by-case basis.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. There is a need for combination of two or more of the options 2 to 4.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

26 Please explain which of the options, or combination of these, would be, in your view, suitable and sufficient to address the market issues arising in the online platforms ecosystems.

3000 character(s) maximum

As outlined above in our replies to questions 4 and 6, competition regulation is needed to address power abuses between platforms, whereas internal power abuses within the platform can only be effectively addressed by ensuring the applicability and enforcement of existing labour and social legislation. Competition regulation should apply across the board, ensuring fair competition between all types of online platforms. In order to ensure a level playing-field between the digital and the traditional economy, regulation should ensure that digital platforms providing services which take physical expressions (e.g. transport services) are bound by the same relevant rules as physical companies providing comparable services. As regards labour intensive services, more of a case-by-case approach with regard to the specific circumstances may be needed to identify the platforms which exercise considerable control and influence over their workforce, and thereby should qualify as employers with all the obligations that this entails under existing labour and social legislation. All rules should apply equally regardless of the size of the platform. For this purpose it must be possible to recognise platforms as employers. Nevertheless, it is not for the Digital Services Act or any ex ante legislation of platforms to define the conditions of workers working in the platform economy as this pertains to social policy considerations. Regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

27 Are there other points you would like to raise?

3000 character(s) maximum

As will be developed in Chapter V below, competition rules currently constitute an obstacle to collective bargaining for workers working in the platform economy and other non-standard workers, including self-employed workers. Safeguarding the fundamental right to collective bargaining for all, by clarifying that it falls completely outside the scope of competition law, will rebalance the internal power relations in platform companies, and consequently also have a calibrating effect on the dominant position in the market.

IV. Other emerging issues and opportunities, including online advertising and smart contracts

Online advertising has substantially evolved over the recent years and represents a major revenue source for many digital services, as well as other businesses present online, and opens unprecedented opportunities for content creators, publishers, etc. To a large extent, maximising revenue streams and optimising online advertising are major business incentives for the business users of the online platforms and for shaping the data policy of the platforms. At the same time, revenues from online advertising as well as increased visibility and audience reach are also a major incentive for potentially harmful intentions, e.g. in online disinformation campaigns.

Another emerging issue is linked to the conclusion of 'smart contracts' which represent an important innovation for digital and other services, but face some legal uncertainties.

This section of the open public consultation seeks to collect data, information on current practices, and informed views on potential issues emerging in the area of online advertising and smart contracts.

Respondents are invited to reflect on other areas where further measures may be needed to facilitate

innovation in the single market. This module does not address privacy and data protection concerns; all aspects related to data sharing and data collection are to be afforded the highest standard of personal data protection.

Online advertising

1 When you see an online ad, is it clear to you who has placed it online?

- Yes, always
- Sometimes: but I can find the information when this is not immediately clear
- Sometimes: but I cannot always find this information
- I don't know
- No

2 As a publisher online (e.g. owner of a website where ads are displayed), what types of advertising systems do you use for covering your advertising space? What is their relative importance?

	% of ad space	% of ad revenue
Intermediated programmatic advertising through real-time bidding		
Private marketplace auctions		
Programmatic advertising with guaranteed impressions (non-auction based)		
Behavioural advertising (micro-targeting)		
Contextual advertising		
Other		

3 What information is publicly available about ads displayed on an online platform that you use?

3000 character(s) maximum

4 As a publisher, what type of information do you have about the advertisement placed next to your content/on your website?

3000 character(s) maximum

5 To what extent do you find the quality and reliability of this information satisfactory for your purposes?

Please rate your level of satisfaction	
--	--

6 As an advertiser or an agency acting on behalf of the advertiser (if applicable), what types of programmatic advertising do you use to place your ads? What is their relative importance in your ad inventory?

	% of ad inventory	% of ad expenditure
Intermediated programmatic advertising through real-time bidding		
Private marketplace auctions		
Programmatic advertising with guaranteed impressions (non-auction based)		
Behavioural advertising (micro-targeting)		
Contextual advertising		
Other		

7 As an advertiser or an agency acting on behalf of the advertiser (if applicable), what type of information do you have about the ads placed online on your behalf?

3000 character(s) maximum

8 To what extent do you find the quality and reliability of this information satisfactory for your purposes?

Please rate your level of satisfaction



The following questions are targeted specifically at online platforms.

10 As an online platform, what options do your users have with regards to the advertisements they are served and the grounds on which the ads are being served to them? Can users access your service through other conditions than viewing advertisements? Please explain.

3000 character(s) maximum

11 Do you publish or share with researchers, authorities or other third parties detailed data on ads published, their sponsors and viewership rates? Please explain.

3000 character(s) maximum

12 What systems do you have in place for detecting illicit offerings in the ads you intermediate?

3000 character(s) maximum

The following questions are open to all respondents.

14 Based on your experience, what actions and good practices can tackle the placement of ads next to illegal content or goods, and/or on websites that disseminate such illegal content or goods, and to remove such illegal content or goods when detected?

3000 character(s) maximum

15 From your perspective, what measures would lead to meaningful transparency in the ad placement process?

3000 character(s) maximum

16 What information about online ads should be made publicly available?

3000 character(s) maximum

17 Based on your expertise, which effective and proportionate auditing systems could bring meaningful accountability in the ad placement system?

3000 character(s) maximum

18 What is, from your perspective, a functional definition of 'political advertising'? Are you aware of any specific obligations attached to 'political advertising' at national level ?

3000 character(s) maximum

19 What information disclosure would meaningfully inform consumers in relation to political advertising? Are there other transparency standards and actions needed, in your opinion, for an accountable use of political advertising and political messaging?

3000 character(s) maximum

20 What impact would have, in your view, enhanced transparency and accountability in the online advertising value chain, on the gatekeeper power of major online platforms and other potential consequences such as media pluralism?

3000 character(s) maximum

21 Are there other emerging issues in the space of online advertising you would like to flag?

3000 character(s) maximum

Smart contracts

1 Is there sufficient legal clarity in the EU for the provision and use of “smart contracts” – e.g. with regard to validity, applicable law and jurisdiction?

Please rate from 1 (lack of clarity) to 5 (sufficient clarity)



2 Please explain the difficulties you perceive.

3000 character(s) maximum

3 In which of the following areas do you find necessary further regulatory clarity?

- Mutual recognition of the validity of smart contracts in the EU as concluded in accordance with the national law
- Minimum standards for the validity of “smart contracts” in the EU
- Measures to ensure that legal obligations and rights flowing from a smart contract and the functioning of the smart contract are clear and unambiguous, in particular for consumers
- Allowing interruption of smart contracts
- Clarity on liability for damage caused in the operation of a smart contract
- Further clarity for payment and currency-related smart contracts.

4 Please explain.

3000 character(s) maximum

5 Are there other points you would like to raise?

3000 character(s) maximum

The sustainability of the independent journalism lies in its ability to finance itself through its readers.

Meanwhile large digital platforms profit by using the content of news agencies without the news agencies receiving fair compensation. National governments to refrain from prioritising online advertisement and approving laws against door drops.

House services suppliers (telephone, electricity, gas...) are increasingly seen to push their customers to move to digital communications, for instance through offering better prices. This turn towards digital communication negatively impacts the Post and Graphical sectors. Furthermore, the digital communication discriminates citizens in terms of access to services on the basis of digital literacy (especially for the elder)

and income (the ability to have an internet connection). Such companies should refrain from prioritising online communication by any means, including offering lower prices to those customers who accept moving to digital communications.

V. How to address challenges around the situation of self-employed individuals offering services through online platforms?

Individuals providing services through platforms may have different legal status (workers or self-employed). This section aims at gathering first information and views on the situation of self-employed individuals offering services through platforms (such as ride-hailing, food delivery, domestic work, design work, micro-tasks etc.). Furthermore, it seeks to gather first views on whether any detected problems are specific to the platform economy and what would be the perceived obstacles to the improvement of the situation of individuals providing services through platforms. This consultation is not intended to address the criteria by which persons providing services on such platforms are deemed to have one or the other legal status. The issues explored here do not refer to the selling of goods (e.g. online marketplaces) or the sharing of assets (e.g. sub-renting houses) through platforms.

The following questions are targeting self-employed individuals offering services through online platforms.

Relationship with the platform and the final customer

1 What type of service do you offer through platforms?

- Food-delivery
- Ride-hailing
- Online translations, design, software development or micro-tasks
- On-demand cleaning, plumbing or DIY services
- Other, please specify

2 Please explain.

E-Commerce, Tourism, Finance, ICTS, Cleaning, Property Services, Graphical & Packaging, Hair & Beauty, Post,

3 Which requirements were you asked to fulfill in order to be accepted by the platform(s) you offer services through, if any?

4 Do you have a contractual relationship with the final customer?

- Yes
- No

5 Do you receive any guidelines or directions by the platform on how to offer your services?

- Yes
- No

6 Please explain what type of guidelines or directions you receive.

Some of today's platform companies have taken over the functions of a traditional company: they coordinate production, match supply and demand, organise, control and appraise the workforce, where necessary even making them "redundant" by disconnecting them.

Although the worker is not bound by a standard employment contract, it cannot be denied that, for a certain period of time, the worker provides services for and under the direction of another person in return for remuneration. The platform and the end user effectively exercise direction and control over the worker because, when accessing the platform, the worker accepts that the platform exercises general control over the provision of work and dictates the terms and conditions of employment.

Workers working in the platform economy are typically classified as own-account workers. However, like employees, they often have limited control over their work (for instance, in some cases they cannot set prices, they do not handle their payments or complaints received, they are required to wear uniforms, they are sometime requested to be available for work full-time, they cannot choose the order of their tasks, and they have to conform to rules and standards) and/or are dependent on their clients/employers in other ways (e.g. financially). Control may be exerted via technology-enabled monitoring, with the algorithm taking the place of a traditional manager.

For the purpose of improving the conditions of these workers, it is important to note that regulation to protect workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights and according to the TFUE social policy chapter. It cannot be addressed via any another legal base.

7 Under what conditions can you stop using the platform to provide your services, or can the platform ask you to stop doing so?

Workers working in the platform economy are neither guaranteed to work nor obliged to accept it. As stated in previous questions, workers of some digital platform companies are "dismissed" (logged off from the company platform) for starting organising workers, undertaking industrial action, or questioning the company's policy.

8 What is your role in setting the price paid by the customer and how is your remuneration established for the services you provide through the platform(s)?

With on-location platform-determined work (like Deliveroo), workers and workers' representatives are not engaged in any negotiation or consultation about the wage setting. With online platform-determined (like Amazon Turk) platforms do not set any prices but leave it to the discretion of the worker and the client to agree on an hourly or fixed amount and mode of payment which in practice leads to a downward competition in fixing the price of labour.

9 What are the risks and responsibilities you bear in case of non-performance of the service or unsatisfactory performance of the service?

The rejection of a task request from a worker in a digital platform has consequences on the ratings obtained by the customer, no matter the cause and without the possibility of challenging the rating by any redress mechanism. A poor rating or complaint may also result in the payment of the services and thus also the remuneration of the worker being one-sidedly withheld in part or in whole by the platform. Repetitive unsatisfactory behaviour may also result in the worker being one-sidedly disconnected from the platform, without any possibility of challenging the decision.

Situation of self-employed individuals providing services through platforms

10 What are the main advantages for you when providing services through platforms?

3000 character(s) maximum

Online workers working in the platform economy are aware of both the positive and the negative aspects of working conditions in this type of work. Workers working in the platform economy and trade unionists (Voss, 2018), nearly 50% of all respondents also felt that, all in all, platform work has more benefits than it does disadvantages. Around 75% indicated that they worked for an online platform because they liked the kind of flexibility and suggested autonomy of this type of work.

Motivations for taking up crowd work are complex and diverse. As said above, for it is a positive choice yet it should also be considered that for a significant percentage (50%) platform work is chosen only as a last resource of making ends meet [HUWS, U. et al. The platformisation of work in Europe. FEPS and UNI Europa. Brussels, 2019. Available at: <https://www.feps-europe.eu/resources/publications/686:the-platformisation-of-work-in-europe.html>]

11 What are the main issues or challenges you are facing when providing services through platforms? Is the platform taking any measures to improve these?

3000 character(s) maximum

The overarching challenge of workers working in the platform economy is the fact that the platforms do not recognise them as workers, but claim the workers to be self-employed. Similarly, this Commission consultation wrongly depart from the presumption that these individual providers of labour are self-employed rather than workers. However, the conditions under which these workers operate are not in any way characterised by the autonomy or flexibility which is fundamental to genuine self-employment. Workers working in the platform economy are under the control and influence of platforms, unable to set their own prices, define their own working arrangements and conditions, handle their own clients, reviews and complaints, etc.

Workers working in the platform economy across all countries (Voss, 2018) expressed, with very similar comments, criticism of their working conditions, mentioning their treatment not as human beings but as anonymous production factors (more than 75%) or the fact that they faced more social security risks than other workers (more than 80%). Additionally, more than 80% of respondents thought that the operating systems, workflows and algorithms in use were not transparent, while only one third of the survey participants felt that their remuneration was fair.

The employment status of online workers working in the platform economy is a key issue that was

repeatedly highlighted in comments. Excluding some very few exceptions (all of them working remotely via the internet and in free occupations such as translations or managing local services), respondents emphasised the contradiction between their legal status as self-employed and their experience as dependent workers. Some participants also commented that while they felt like independent workers, they didn't have the same rights as self-employed workers, namely setting their own rates, declaring business expenses and making decisions about working hours. All these are decided by the platforms they work with.

Lastly, in terms of occupational safety and health, work in digital platform companies involves risks such as exposure to electromagnetic fields, visual fatigue, musculoskeletal problems and other health risks related to specific sectors and to Covid-19. Psychosocial risks include isolation, stress, technostress, technology dependency, information overload, burnout, posture disorders, online harassment, and overall precarious working conditions. Finally, job insecurity, which is known to contribute to the overall poor health of non-standard workers, is characteristic of working on an online platform.

12 Do you ever have problems getting paid for your service? Does/do the platform have any measures to support you in such situations?

3000 character(s) maximum

Platforms workers face the following three problems in terms of getting paid for their work: unpaid time searching for work; contest among workers to apply downturn pressure on wages; and appropriation of intellectual property.

Not all work performed by workers working in the platform economy is compensated. ILO found through a survey in 2016 that Mechanical Turk workers spend 20 minutes unpaid out of every hour of work searching for tasks (Berg, 2016). In this and other platforms, unhappy clients (or at least claiming to be so) with the work performed can refuse to pay the worker but nevertheless keeping the outcome of the work without explanation. Amazon rarely mediates in these cases (Degryse, 2016; Berg, 2016b). Amazon Mechanical Turk establishes that ownership rights, including intellectual property, remain with the client even when work has been rejected. This proceeding is justified by the signing of 'satisfaction' clauses in the contract which allows the rejection of unsatisfactory work by the client without justification. Alternatively, the payment received by the platform from the client may be one-sidedly withhold from the platform worker in full or in part based on complaints from clients, without any involvement of the worker in the handling of the complaint.

Platforms specialized in creative work usually give the intellectual property rights to the client and not the worker [HOLTS, K.; COATES, M.; SPENCER, N.H.; HUWS, U. The platformisation of work in Europe. FEPS and UNI Europa. Brussels, 2019. Available at: <https://www.feps-europe.eu/resources/publications/686:the-platformisation-of-work-in-europe.html>]. The design platform CoContest sets a competition among all bidders for a work by which only the top three out of ten competing designers are rewarded [KILHOFFER, Z. et al. The Platform Economy and Industrial Relations. Research report, 2017/12. CEPS. Brussels, 2017].

13 Do you consider yourself in a vulnerable or dependent situation in your work (economically or otherwise), and if yes, why?

In short: Platform workers should fundamentally have the same conditions as other employed and self-employed workers.

As outlined above, workers working in the platform economy indeed find themselves in a both vulnerable and dependent situation in relation to the platform. Workers working in the platform economy find themselves in a vulnerable situation as regards their working conditions, occupational health and safety,

wages, social protection, protection against discrimination and unfair dismissal. Their status may be characterised as dependent as the work and the conditions under which work is performed are not characterised by the freedom and flexibility of genuinely self-employed persons. Rather, platforms operate with conditions which characterise them as employers. Consequently, all workers operating via platforms must be guaranteed the right to organise and bargain collectively.

We oppose a narrative whereby the fundamental right to access collective bargaining would be dependent on whether workers are in a vulnerable position as opposed to self-employed workers. It is not for the European Commission or competition law to determine who “needs” access to collective bargaining, as such an approach would undermine the autonomy of social partners and violates the fundamental right of both workers and self-employed to access collective bargaining.

We reject any approach whereby certain sectors or professions would be excluded from the fundamental right to bargain collectively. Also e.g. medical doctors and dentists must have the right join forces to defend their working conditions towards health companies and the fact that (so far) these categories of workers have enjoyed good wages should not be misunderstood as the creation of cartels. In order for different professional groups to access collective bargaining, what is decisive is not whether workers or self-employed persons are dependent or vulnerable or not, but rather whether they (through their trade union) have a counter-part with whom they can bargain collectively as part of genuine social dialogue.

Platform workers should fundamentally have the same conditions as other employed and self-employed workers.

The Digital Services Act should enable platforms to be recognised as employers, thus making them legitimate actors to engage in collective bargaining with trade unions. For the rest, the DSA is however the wrong instrument/vehicle to enquiry on workplace related issues, in particular as there is no legal base for the lead DG (DG competition) to carry on public consultation on such issues. According to the TFEU, social policy chapter, the Commission should consult the European social partners. Any issue aiming at protecting workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

14 Can you collectively negotiate vis-à-vis the platform(s) your remuneration or other contractual conditions?

- Yes
- No

15 Please explain.

It is not for the Digital Services Act or any ex ante legislation of platforms to define the conditions of workers working in the platform economy as this pertains to social policy considerations and collective bargaining. The DSA is the wrong instrument/vehicle to enquiry on workplace related issues, in particular as there is no legal base for the lead DG (DG competition) to carry on public consultation on such issues. According to the TFEU, social policy chapter, the Commission should consult the European social partners. Any issue aiming at protecting workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

As outlined above, the possibilities of workers working in the platform economy to engage in collective bargaining remain limited to several reasons. Firstly, many platforms refuse to engage in collective bargaining with their workers, as they refuse to recognise their responsibility as employers. Secondly,

workers' initiatives to organise and bargain collectively have in some cases been eradicated by the platforms by one-sidedly disconnecting identified workers from the platform. Thirdly, competition law creates legal uncertainty and blurs the legitimate right of workers working in the platform economy to exercise their fundamental right to organise and bargain collectively.

The absence of a guaranteed right to organize has not prevented local trade union initiatives from trying to enter into negotiations with the platform companies, which the platform companies have often refused, although in a few cases also accepted. Despite potential retaliation by platform companies, mass communication networks provide a tool for workers working in the platform economy' associations. There is a need of giving trade unions digital access rights to communication channels between the app and the workers working in the platform economy. As real meetings become more challenging, virtual communication and mobilisation networks become more important.

Recently, some digital transport platform companies have been trying to launch internal channels of communication and dialogue between the platform company and its riders/drivers. Some platform companies have also promoted unilaterally charters of "decent work" for delivery couriers. In this false social dialogue, the co-determination and protection of trade union rights is illusory. We are well aware that even in countries where there are trade union protections against the dismissal of staff representatives, this protection is incomplete. So how can we imagine that a delivery courier without a contract, without social rights, without an obligation for the platform to provide him with work, can be protected in the exercise of his trade union rights? Without the means to coordinate, how could the "representatives" develop common demands?

The following questions are targeting online platforms.

Role of platforms

17 What is the role of your platform in the provision of the service and the conclusion of the contract with the customer?

18 What are the risks and responsibilities borne by your platform for the non-performance of the service or unsatisfactory provision of the service?

19 What happens when the service is not paid for by the customer/client?

20 Does your platform own any of the assets used by the individual offering the services?

- Yes
- No

22 Out of the total number of service providers offering services through your platform, what is the percentage of self-employed individuals?

- Over 75%
- Between 50% and 75%
- Between 25% and 50%
- Less than 25%

Rights and obligations

23 What is the contractual relationship between the platform and individuals offering services through it?

3000 character(s) maximum

24 Who sets the price paid by the customer for the service offered?

- The platform
- The individual offering services through the platform
- Others, please specify

25 Please explain.

3000 character(s) maximum

26 How is the price paid by the customer shared between the platform and the individual offering the services through the platform?

3000 character(s) maximum

27 On average, how many hours per week do individuals spend offering services through your platform?

3000 character(s) maximum

28 Do you have measures in place to enable individuals providing services through your platform to contact each other and organise themselves collectively?

- Yes
- No

29 Please describe the means through which the individuals who provide services on your platform contact each other.

3000 character(s) maximum

30 What measures do you have in place for ensuring that individuals offering services through your platform work legally - e.g. comply with applicable rules on minimum working age, hold a work permit, where applicable - if any?

(If you replied to this question in your answers in the first module of the consultation, there is no need to repeat your answer here.)

3000 character(s) maximum

The following questions are open to all respondents

Situation of self-employed individuals providing services through platforms

32 Are there areas in the situation of individuals providing services through platforms which would need further improvements? Please rate the following issues from 1 (no improvements needed) to 5 (substantial issues need to be addressed).

	1 (no improvements needed)	2	3	4	5 (substantial improvements needed)	I don't know / No answer
Earnings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Flexibility of choosing when and /or where to provide services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transparency on remuneration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Measures to tackle non-payment of remuneration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Transparency in online ratings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Ensuring that individuals providing services through platforms can contact each other and organise themselves for collective purposes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Tackling the issue of work carried out by individuals lacking legal permits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Prevention of discrimination of individuals providing services through platforms, for instance based on gender, racial or ethnic origin	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Allocation of liability in case of damage	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other, please specify	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

33 Please explain the issues that you encounter or perceive.

3000 character(s) maximum

It should be clarified that the points listed above should be improved, not only for those who should be classified as workers, but also for the who wish to be considered to be self-employed. It covers in general the so-called non-standard workers.

Earnings. Wage levels of workers working in the platform economy are often reported as falling significantly below applicable minimum thresholds.

Ensuring that individuals can organise themselves. . In order to ensure fair work in the platform economy, workers should be allowed to engage collectively in trade unions: from organising workers and engaging in information and consultation exchanges with platforms through to collective bargaining and co-determination (when appropriate).

Tackling the issue of work carried out by individuals lacking legal permits. On 29 May 2020, the Milan Court has ordered Uber Eats to be put under special investigation on charges of illicit intermediation (gangmastering) and labour exploitation of migrants and asylum seekers assigned to deliver food during the pandemic. For the judges of Milan, Uber Italy, through labour brokerage companies, have exploited migrants and asylum seekers. The court said the company withheld pay from the riders, threatened them and subjected them to retaliatory actions. However, this is a phenomenon that goes beyond Italy. The French media and trade unions reported Glovo prohibits subcontracting, but its general director in France said the use of undocumented migrants was “a big problem.” A common practice has been riders (Glovo, Deliveroo, Uber Eats) renting out their accounts to undocumented migrant workers and taking a cut. Platforms and their intermediaries should be sanctioned under criminal law, and adequately compensation, at least of due wages for the workers as laid done in the Employers’ Sanctions Directive. Similarly, in the case C-434/15 Uber, the EU Court of Justice held that the platform was not an information society service but in fact a transport service, and therefore also subject to obligations relating to relevant licences and authorisations required.

Access to the fundamental right to bargain collectively. The answer to this is elaborated in the upcoming questions.

Social protection. Self-employed and non-standard workers lack adequate social protection throughout the EU, with notable disparities from one country to another. It should not be ignored the fact that labour protection legislation is a necessary precondition for access to social protection and that non-standard workers are mainly prevented from being covered by this legislation. Also, the legislative loopholes that do not provide de facto social protection for atypical workers should be tackled. As regards to the scope of

social protection for non-standard workers, a comprehensive approach should be taken in which non-standard workers enjoy the same protection as ordinary workers independent of whether employed or self-employed.

34 Do you think individuals providing services in the 'offline/traditional' economy face similar issues as individuals offering services through platforms?

- Yes
- No
- I don't know

35 Please explain and provide examples.

3000 character(s) maximum

Most challenges experienced by workers working in the platform economy are similar to those of precarious workers, self-employed and other non-standard workers in the traditional economy. In fact, the amount of problems which relate only to workers working in the platform economy (e.g. ratings, portability of data, redress mechanisms) is quite limited.

In the Media, Arts and Entertainment sector, many of the issues described apply to sectoral workers in an offline context: a context that is generally characterised by high levels of self-employment and short-term project-based working and a strong culture of freelancing.

This work is often performed on a self-employed basis. This may be the preferred approach of the employer or, in some cases, there are fiscal incentives that may improve short-term incomes for workers in a predominantly low-wage sector. Digital change has also made distance collaboration more viable, further driving the trend towards self-employment. The contractual status has little impact on the nature of work itself, however, which will still often be in a set time and place with no possibility of substitution or similar. It can even lead to situations where, workers may perform the same task side by side while being engaged with different contractual statuses (examples of this might include: stagehands engaged for a specific production; orchestra substitutes; freelance technicians working for a broadcaster; guest performers on a TV production etc).

It does however significantly impact on the rates of pay for such work. The application of competition rules, designating such self-employed workers as undertakings, means that they are not eligible to be represented by their trade unions in collective bargaining, on the grounds that this would constitute price-fixing. This application of competition rules to established collective bargaining relationships has removed self-employed workers in the sector from the scope of collective bargaining in countries incl. EI, the NL, SE, DK and the CZ, as the EAEA has reported to the Commission in the framework of its recent process to address collective bargaining for self-employed. In many instances, the competition authority further warned unions not to recommend any minimum rates to members. Thus self-employed could get rates below those unions and employers had previously joint established as a fair minimum.

While not all competition authorities in the EU have targeted collective bargaining agreements in the sector which cover self-employed workers, the instances that have arisen have exerted a chill effect on collective bargaining generally. While 'offline' employers do not necessarily share the reluctance of platforms to be designated as employers and engage in collective bargaining, they will not engage where there is doubt regarding the legality of such negotiations.

36 In your view, what are the obstacles for improving the situation of individuals providing services

1. through platforms?
2. in the offline/traditional economy?

3000 character(s) maximum

Through Platforms: the lack of any employer counterpart for standard setting via collective bargaining is a major obstacle to improving conditions. Ensuring that platforms assume responsibility and a real commitment to collective bargaining is vital in this regard. Collective bargaining can also improve the quality and the sustainability of work, delivering social benefit by addressing other issues related to work and working conditions, such as holiday, skills development, access to training etc.

In the offline economy: self-employed workers in the offline economy among others in the Media Arts and Entertainment sector share the difficulties described above that arise from the designation that they are undertakings for the purposes of competition law.

Being self-employed may also in some cases deprive them from any enjoyment of their right to freedom of association, where labour codes (such as that in Romania for example) simply do not recognise them as workers, despite the clarity Article 11 of the European Convention of human rights and the fact that ILO Conventions 98, 151 and 154 extend collective bargaining rights to all employers and workers and all subjects and according to the 2012 General Survey the right to collective bargaining should also cover organisations representing self-employed workers (ILO General Survey, para. 209). Restrictive interpretation of competition rules may also impact on the possibility for unions, who do represent self-employed workers. Where there is any doubt about the possible legality of such negotiations, it will have a chill effect on them. UNI Europa affiliates report that employers advance the argument of competition rules to refuse collective bargaining on behalf of self-employed workers (see report: https://fia-actors.com/fileadmin/user_upload/News/Documents/2016/October/EN-Future-Work_2016.pdf).

The European Committee of Social Rights has affirmed that Article 6§2 of the European Social Charter grants also self-employed the right to engage in collective bargaining, observing that “an outright ban on collective bargaining of all self-employed workers would be excessive as it would run counter to the object and purpose of this provision” (European Committee of Social Rights, Irish Congress of Trade Unions (ICTU) v. Ireland Complaint No. 123/2016, 12 September 2018, § 40). Similarly, the ILO Committee on Freedom of Association has extended the right to collective bargaining to self-employed. The Committee has held that the criterion for a person to enjoy freedom of association is “not based on the existence of an employment relationship, which is often non-existent, for example in the case of agricultural workers, self-employed workers in general or those who practise liberal professions, who should nevertheless enjoy the right to organize” (ILO (2018): Compilation of decisions of the Committee on Freedom of Association, § 387).

37 To what extent could the possibility to negotiate collectively help improve the situation of individuals offering services:

through online platforms?	
in the offline/traditional economy?	

38 Which are the areas you would consider most important for you to enable such collective negotiations?

3000 character(s) maximum

There needs to be clarity regarding the right to freedom of association of self-employed workers and the rights of unions to represent those workers and this should be reflected in labour codes across the EU; There needs to be a clear understanding that collective bargaining by unions on behalf of their self-employed

workers is collective bargaining and not price fixing and should not fall within the remit of EU competition law. Collective bargaining should never be conditional upon competition rules. Neither workers, nor non-standard or self-employed workers should be considered undertakings for the purpose of competition law. Wage setting does not in any way constitute price fixing. Labour is not a commodity.

There needs to be a renewed engagement with the recognition of social dialogue and collective bargaining as the best and most adapted tools to regulate labour markets and that a strong and well-functioning social dialogue is to the benefit of all. Promoting it should lie at the heart of efforts and ambitions for a social Europe. The social pillar is based on the aspiration that social justice is the foundation of the European social market economy and at the heart of the European Union. Strong social dialogue that offers protections to workers is a vital component of ensuring decent work and tackling inequality. It must play a key role in promoting social fairness and prosperity as the cornerstones for building the “resilient society with the highest standards of well-being in the world” to which we aspire.

The Commission’s work under the new start for social dialogue needs to continue and industrial relations systems in Europe must be fostered if they are to stay the pace in the rapidly changing world of work. There needs to be a renewed commitment to ensuring that employers engage with collective bargaining, not mobilising all possible resources and arguments in order evade it, whether online or offline.

39 In this regard, do you see any obstacles to such negotiations?

3000 character(s) maximum

The restrictive application of competition law to collective bargaining and the fear and the chill effect that this has exerted continues to be a significant obstacle to collective bargaining on behalf of self-employed workers across the services sectors. There needs to be legal clarity for employers and unions regarding their right to collectively bargain for self-employed workers. Competition law must be interpreted in the light of fundamental rights, for the purpose of fully excluding collective agreements from the remit of Article 101 TFEU and national competition rules. Collective bargaining is a universal fundamental and cannot be made conditional on competition rules. Wage-setting is not price-fixing, labour is not a commodity.

Rather than taking an approach where collective bargaining is guaranteed only for some but not for all, by attempting to identify those who “need” to be able to enjoy protection under collective agreements, the European Commission should use the Digital Services Act to recognise digital platforms as employers, thus attributing them the same obligations as traditional companies operating in the same sector, but also making them legitimate actors to engage in collective bargaining with trade unions representing workers working in the platform economy.

For the purpose of improving the conditions of workers working in the platform economy, the DSA is the wrong instrument/vehicle to enquiry on workplace related issues, in particular as there is no legal base for the lead DG (DG competition) to carry on public consultation on such issues. According to the TFEU, social policy chapter, the Commission should consult the European social partners. Any issue aiming at protecting workers working in the platform economy should rest under and be elaborated by the relevant competent Cabinet/DG on Jobs and social rights.

40 Are there other points you would like to raise?

3000 character(s) maximum

Ensuring access to freedom of association and collective bargaining for self-employed workers should be a strong part of the EU’s broader commitment to promoting social dialogue and a social vision for Europe. Collective defence of workers’ interest and collective bargaining are intrinsic elements of the social policy chapter of the TFEU, Art. 153 e) and f) thereof. In its role to ‘recognise and promote the role of the social partners at its level, taking into account the diversity of national systems’, the Union ‘shall facilitate dialogue between the social partners, respecting their autonomy’ (Art. 152 TFEU). In this respect, and according to Art. 154 (2) TFEU, ‘before submitting proposals in the social policy field, the Commission shall consult

management and labour on the possible direction of Union action'. This is the role of DG Employment, Social Affairs and Inclusion and it is vital it continue to take the lead in developing the labour and social policy response needed to address this issue. Close consultation of social partners will be key to achieving this. As European social partners, we are very keen to contribute to this process on behalf of our sector's workforce.

VI. What governance for reinforcing the Single Market for digital services?

The EU's Single Market offers a rich potential for digital services to scale up, including for innovative European companies. Today there is a certain degree of legal fragmentation in the Single Market . One of the main objectives for the Digital Services Act will be to improve opportunities for innovation and '[deepen the Single Market for Digital Services](#)'.

This section of the consultation seeks to collect evidence and views on the current state of the single market and steps for further improvements for a competitive and vibrant Single market for digital services. This module also inquires about the relative impact of the COVID-19 crisis on digital services in the Union. It then focuses on the appropriate governance and oversight over digital services across the EU and means to enhance the cooperation across authorities for an effective supervision of services and for the equal protection of all citizens across the single market. It also inquires about specific cooperation arrangements such as in the case of consumer protection authorities across the Single Market, or the regulatory oversight and cooperation mechanisms among media regulators. This section is not intended to focus on the enforcement of EU data protection rules (GDPR).

Main issues

1 How important are - in your daily life or for your professional transactions - digital services such as accessing websites, social networks, downloading apps, reading news online, shopping online, selling products online?

Overall	
Those offered from outside of your Member State of establishment	

The following questions are targeted at digital service providers

3 Approximately, what share of your EU turnover is generated by the provision of your service outside of your main country of establishment in the EU?

- Less than 10%
- Between 10% and 50%
- Over 50%
- I cannot compute this information

4 To what extent are the following obligations a burden for your company in providing its digital services, when expanding to one or more EU Member State(s)? Please rate the following obligations from 1 (not at all burdensome) to 5 (very burdensome).

	1 (not at all burdensome)	2	3 (neutral)	4	5 (very burdensome)	I don't know / No answer
Different processes and obligations imposed by Member States for notifying, detecting and removing illegal content/goods/services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Requirements to have a legal representative or an establishment in more than one Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Different procedures and points of contact for obligations to cooperate with authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other types of legal requirements. Please specify below	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

6 Have your services been subject to enforcement measures by an EU Member State other than your country of establishment?

- Yes
- No
- I don't know

8 Were you requested to comply with any 'prior authorisation' or equivalent requirement for providing your digital service in an EU Member State?

- Yes
- No
- I don't know

10 Are there other issues you would consider necessary to facilitate the provision of cross-border digital services in the European Union?

3000 character(s) maximum

11 What has been the impact of COVID-19 outbreak and crisis management measures on your business' turnover

- Significant reduction of turnover
- Limited reduction of turnover
- No significant change
- Modest increase in turnover
- Significant increase of turnover
- Other

13 Do you consider that deepening of the Single Market for digital services could help the economic recovery of your business?

- Yes
- No
- I don't know

14 Please explain

3000 character(s) maximum

The following questions are targeted at all respondents.

Governance of digital services and aspects of enforcement

The 'country of origin' principle is the cornerstone of the Single Market for digital services. It ensures that digital innovators, including start-ups and SMEs, have a single set of rules to follow (that of their home country), rather than 27 different rules.

This is an important precondition for services to be able to scale up quickly and offer their services across borders. In the aftermath of the COVID-19 outbreak and effective recovery strategy, more than ever, a strong Single Market is needed to boost the European economy and to restart economic activity in the EU.

At the same time, enforcement of rules is key; the protection of all EU citizens regardless of their place of residence, will be in the centre of the Digital Services Act.

The current system of cooperation between Member States foresees that the Member State where a provider of a digital service is established has the duty to supervise the services provided and to ensure that all EU citizens are protected. A cooperation mechanism for cross-border cases is established in the E-Commerce Directive.

1 Based on your experience, how would you assess the cooperation in the Single Market between authorities entrusted to supervise digital services?

5000 character(s) maximum

2 What governance arrangements would lead to an effective system for supervising and enforcing rules on online platforms in the EU in particular as regards the intermediation of third party goods, services and content (See also Chapter 1 of the consultation)?

Please rate each of the following aspects, on a scale of 1 (not at all important) to 5 (very important).

	1 (not at all important)	2	3 (neutral)	4	5 (very important)	I don't know / No answer
Clearly assigned competent national authorities or bodies as established by Member States for supervising the systems put in place by online platforms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Cooperation mechanism within Member States across different competent authorities responsible for the systematic supervision of online platforms and sectorial issues (e.g.						

consumer protection, market surveillance, data protection, media regulators, anti-discrimination agencies, equality bodies, law enforcement authorities etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Cooperation mechanism with swift procedures and assistance across national competent authorities across Member States	<input type="radio"/>	<input type="radio"/>				
Coordination and technical assistance at EU level	<input type="radio"/>	<input type="radio"/>				
An EU-level authority	<input type="radio"/>	<input type="radio"/>				
Cooperation schemes with third parties such as civil society organisations and academics for specific inquiries and oversight	<input type="radio"/>	<input type="radio"/>				
Other: please specify in the text box below	<input type="radio"/>	<input type="radio"/>				

3 Please explain

5000 character(s) maximum

For digital services take the expression of physical services, and for which the principle of destination rather than the country of origin therefore applies, other authorities tasked with supervision of physical services should be involved. When it comes to digital labour platform companies, this involved the labour inspectorate at national level and the European Labour Authority (ELA) for digital platforms operating in more than one European country. ELA should play a role in guaranteeing the coordination of social security systems and combating fraud and undeclared work. Also, the Fundamental Rights Agency (FRA) could be mandated to enforce European antidiscrimination legislation in digital platforms.

4 What information should competent authorities make publicly available about their supervisory and enforcement activity?

3000 character(s) maximum

5 What capabilities – type of internal expertise, resources etc. - are needed within competent authorities, in order to effectively supervise online platforms?

3000 character(s) maximum

The DSA should not alter the scope of the Services Directive, and the principle of control of the country of delivery should remain the unconditional rule for the provision of physical services, as well as when information society services take physical expression in the host Member State. Also, digital services that are inherently linked to the provision of a physical service should not be considered as an information society service, but rather as a tool facilitating the provision of a physical service. They should thus be bound by the rules regulating the physical service in question.

6 In your view, is there a need to ensure similar supervision of digital services established outside of the EU that provide their services to EU users?

- Yes, if they intermediate a certain volume of content, goods and services provided in the EU
- Yes, if they have a significant number of users in the EU
- No
- Other
- I don't know

7 Please explain

3000 character(s) maximum

Yes, regardless the number of user and the turnover of the platform in the EU.

8 How should the supervision of services established outside of the EU be set up in an efficient and coherent manner, in your view?

3000 character(s) maximum

Digital services and sellers established outside the union reaching EU workers and consumers should abide to the legislation of the EU and its member states.

9 In your view, what governance structure could ensure that multiple national authorities, in their respective areas of competence, supervise digital services coherently and consistently across borders?

3000 character(s) maximum

The Fundamental Rights Agency could be given a reinforced mandate to prosecute discriminatory practices of digital platforms, and the European Labour Authority should play a role in guaranteeing the coordination of social security systems and combating fraud and undeclared work in these platforms.

10 As regards specific areas of competence, such as on consumer protection or product safety, please share your experience related to the cross-border cooperation of the competent authorities in the different Member States.

3000 character(s) maximum

11 In the specific field of audiovisual, the Audiovisual Media Services Directive established a regulatory oversight and cooperation mechanism in cross border cases between media regulators, coordinated at EU level within European Regulators' Group for Audiovisual Media Services (ERGA). In your view is this

sufficient to ensure that users remain protected against illegal and harmful audiovisual content (for instance if services are offered to users from a different Member State)? Please explain your answer and provide practical examples if you consider the arrangements may not suffice.

3000 character(s) maximum

12 Would the current system need to be strengthened? If yes, which additional tasks be useful to ensure a more effective enforcement of audiovisual content rules?

Please assess from 1 (least beneficial) – 5 (most beneficial). You can assign the same number to the same actions should you consider them as being equally important.

Coordinating the handling of cross-border cases, including jurisdiction matters	
Agreeing on guidance for consistent implementation of rules under the AVMSD	
Ensuring consistency in cross-border application of the rules on the promotion of European works	
Facilitating coordination in the area of disinformation	
Other areas of cooperation	

13 Other areas of cooperation - (please, indicate which ones)

3000 character(s) maximum

14 Are there other points you would like to raise?

3000 character(s) maximum

Final remarks

If you wish to upload a position paper, article, report, or other evidence and data for the attention of the European Commission, please do so.

1 Upload file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

2 Other final comments

3000 character(s) maximum

This submission complements the submission made jointly between UNI Europa and UNI Global Union (i.e. Contribution ID: 5b5fe060-694e-481a-9151-7fe972733206 Date: 07/09/2020 10:42:08). We are happy to share with the European Commission the joint Report “Accounting for Workers’ Rights When Regulating Amazon & Other Giants”, which elaborates on the responses provided in this consultation

UNI Europa supports the contribution of mad by the European Arts and Entertainment Alliance.

General Remarks to the Consultation Process of the DSA:

UNI Europa is concerned with the process of the DSA and its connection to platform workers. Platform work will, at least partly, be included in the DSA. We have serious objections to this for two reasons: firstly, because it is unwise not to deal with an important topic such as platform work separately, and secondly, because the unions have not yet been consulted. We would like to stress that it is precisely the labour law aspects of platform work that are conducted in the European Union that in our opinion are necessary to pierce sham constructions. Various platform companies try to avoid the regular obligations for employers, employment agencies and brokerage firms by incorrectly presenting themselves as a new 'type' of companies to which regular labour law does not apply. Ignoring labour law in this way has very negative social consequences. Therefore, the full involvement of trade unions on the subject of platform work is essential.

The EC’s Platform Work Summit was scheduled on September 22 to thoroughly discuss the employment conditions and working conditions of platform workers and to develop legislation on this. Unfortunately, it now appears that the European Commission has decided to include the subject of platform work in whole or in part in the DSA. As a result, the subject will not receive the precise and principled attention it deserves. The implications of regulations regarding platform work are far-reaching, especially given the competitive position that the platform companies occupy on the labour market. Decisions regarding platform work will affect the entire labour market. Therefore, this topic cannot be treated as just one of the many topics of the DSA.

Furthermore, we are aware that the consultation for the DSA has already been launched before the ETUC and European Trade Union Federations, including UNI Europa, have been able to provide input on this. This is an unusual practice when it comes to labour market issues. We therefore strongly recommend that the ETUC and the European Trade Union Federations are actively involved on any consultation or legislation on this topic, especially given the major labour market implications.

Finally, we stress the importance to deal with the subject of platforms and platform workers separately and not make them both part of the DSA. Moreover, now and in the future trade unions should be consulted on any initiatives regarding platform workers.

Useful links

[Digital Services Act package \(https://ec.europa.eu/digital-single-market/en/digital-services-act-package \)](https://ec.europa.eu/digital-single-market/en/digital-services-act-package)

Background Documents

[\(BG\) Речник на термините](#)

[\(CS\) Glosř](#)

[\(DA\) Ordliste](#)

[\(DE\) Glossar](#)

[\(EL\) á](#)

[\(EN\) Glossary](#)

[\(ES\) Glosario](#)

[\(ET\) Snastik](#)

[\(FI\) Sanasto](#)

[\(FR\) Glossaire](#)

[\(HR\) Pojmovnik](#)

[\(HU\) Glosszrium](#)

[\(IT\) Glossario](#)

[\(LT\) Žodynėlis](#)

[\(LV\) Glosārijs](#)

[\(MT\) Glossarju](#)

[\(NL\) Verklarende woordenlijst](#)

[\(PL\) Słowniczek](#)

[\(PT\) Glossrio](#)

[\(RO\) Glosar](#)

[\(SK\) Slovnk](#)

[\(SL\) Glosar](#)

[\(SV\) Ordlista](#)

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