



Antitrust: Commission invites comments on draft Guidelines about collective agreements regarding the working conditions of solo self-employed people

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The European Commission is inviting citizens, businesses, social partners, academia, government bodies and all interested parties to comment on the [draft Guidelines on the application of EU competition law to collective agreements](#) regarding the working conditions of solo self-employed people providing services. The draft Guidelines are part of a [package](#) also including a proposal for a Directive on improving working conditions in platform work and a Communication on harnessing the full benefits of digitalisation for the future of work.

Margrethe **Vestager**, Executive Vice-President for a Europe Fit for the Digital Age and in charge of competition policy said: *"Digitisation is not only affecting how companies do business, but also the way people work. It has created opportunities but also challenges for some people. Even outside the platform economy, some solo self-employed people struggle to have a say on their working conditions. We are consulting on draft Guidelines that aim to bring legal certainty by making clear when competition law does not stand in the way of these people's efforts to negotiate collectively for a better deal"*.

Collective agreements are an important tool to improve working conditions. However, self-employed are in principle considered as "undertakings" and risk infringing Article 101 of the Treaty on the Functioning of the EU (TFEU) if they negotiate collectively their fees and other trading conditions. Therefore, self-employed people are often uncertain whether they can collectively bargain.

The Commission is consulting on draft Guidelines clarifying the circumstances in which competition law does not stand in the way of collective agreements to improve the working conditions of certain self-employed people, i.e. people who work completely on their own and do not employ others.

Based on existing case-law, the draft Guidelines first describe circumstances in which solo self-employed are comparable to workers and thus not subject to Article 101 of the Treaty of the Functioning of the EU (TFEU).

Second, the draft Guidelines also clarify that certain agreements would not trigger the Commission's intervention under Article 101 of the TFEU. This would be the case when solo self-employed have difficulties in influencing their working conditions, because they are in a weak bargaining position.

As labour markets have evolved, both in the online and the offline world, some self-employed people do not enjoy the independence that normally comes with the self-employed status. As a result, some may have difficulties in improving their situation and may face deteriorating working conditions, including lower income.

The draft Guidelines cover a wide range of solo self-employed people: people who are economically dependent or work side-by-side with other workers in the online and offline world, people who work through platforms or, people who negotiate their working conditions with counterparties of some economic strength, or who participate in collective bargaining agreements in line with the Copyright Directive and national labour law provisions.

The draft Guidelines are linked to the [proposal](#) published today to improve the working conditions in platform work, while supporting the sustainable growth of digital labour platforms in the European Union. In this context, the Commission is putting forward today a proposal for a Directive and a Communication on improving working conditions in platform work. However, the scope of the draft Guidelines is not limited to the online platform economy.

Next steps

Interested parties can [submit](#) their comments until 24 February 2022. The Commission will then assess the input of the stakeholders with the aim to publish the final version of the Guidelines in the second quarter of 2022. The impact assessment report will be published together with the final version of the Guidelines. The final Guidelines will bind the Commission in its subsequent interpretation and enforcement of EU competition rules.

Background

The Commission published an inception impact assessment for this initiative on 6 January 2021. Social partners and other stakeholders were [consulted between 5 March and 31 May](#) 2021. The Commission carefully considered all input before publishing the draft Guidelines. An impact assessment report will be published in the second quarter of 2022 together with the final version of the Guidelines.

President **von der Leyen**'s mission letters addressed to Executive Vice-President Margrethe **Vestager** and Commissioner Nicolas **Schmit** underlined the importance in this mandate to “ensure the working conditions of platform workers are addressed.” This particular initiative forms part of the actions seeking to address this issue.

The Commission is committed to ensure dignified and proper working conditions for everyone in Europe, in line with the [European Pillar of Social Rights](#). Collective bargaining can be an important tool for improving working conditions.

The Court has already clarified in the *Albany* and *FNV Kunsten* judgments that collective agreements between employer and worker fall outside Article 101 TFEU. Relying on the rationale of this case law, the draft Guidelines explain the application of Article 101 TFEU on collective agreements for the working conditions of self-employed people and the Commission's enforcement priorities in this regard.

For More Information

[Questions and answers: Draft Guidelines on collective agreements of self-employed people](#)

[Questions and answers: improving working conditions in platform work](#)

[Press release: improving working conditions in platform work](#)

[Factsheet: improving working conditions in platform work](#)

[Proposal for a Directive on improving the working conditions in platform work](#)

[Communication on Better Working Conditions for a Stronger Social Europe: harnessing the full benefits of digitalisation for the future of work](#)

[Draft Guidelines on the application of EU competition law to solo self-employed persons in a weak position](#)

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