



2017/2003(INI)

27.3.2017

OPINION

of the Committee on Employment and Social Affairs

for the Committee on the Internal Market and Consumer Protection

on a European agenda for the collaborative economy
(2017/2003(INI))

Rapporteur for opinion (*): Joachim Schuster(*) Associated committee –
Rule 54 of the Rules of Procedure

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SUGGESTIONS

The Committee on Employment and Social Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas the Commission communication of 6 June 2016 entitled ‘A European Agenda for the collaborative economy’ (COM(2016)0356) stresses the increasing significance of the platform economy and its impact on economic and employment policies, including on growth and jobs, and sets out policy recommendations for the Member States; whereas this communication provides guidelines on applicable Union legislation to help workers, businesses, Member States and society at large benefit from the platform economy;
- B. whereas promoting social justice and protection, as defined in Article 3 TEU and Article 9 TFEU, are also objectives of the EU internal market;
- C. whereas the rates of self-employment (2006: 3.7 %, 2016: 5.6 %) and the proportion of workers taking up second jobs (2002: 3.6 %, 2016: 4.2 %) are on the rise in the EU; whereas there is a lack of employment data for the platform economy; whereas the Commission and the Member States need to better address the social dimension of the platform economy by providing in-depth analysis and data on new forms of employment, by monitoring the evolving regulatory environment, and by encouraging the exchange of best practices among Member States, in order to respond to the social challenges related to this new economy;
- D. whereas the servers and business headquarters of many platforms are located outside the EU and thus fall outside the scope of European law;
- E. whereas the importance of ensuring sufficient capacities to provide adequate social protection at Member State level for people in all forms of employment, including standard and non-standard employment relationships as well as self-employment, was highlighted in Parliament’s report of 20 December 2016 on a European Pillar of Social Rights¹;
- F. whereas the Commission communication is a starting-point for a balanced development of the platform economy, in view of its rapid evolution and the related regulatory loopholes and uncertainties that still have to be tackled, such as precarious forms of work in the platform economy;
- G. whereas the forms of work in the collaborative economy can be differentiated in physical services as work on demand, and in virtual services as crowdwork which is only transmitted via the internet;
- H. whereas the collaborative economy covers such diverse models as crowdfunding, exchange of goods, timebanking and self-consumption groups and the shared use of goods, among other things, and consequently it does not always operate in a digital environment but also operates in community-based contexts, frequently on a non-profit basis; whereas it is practised not only on a global but also on a local scale, and is not

¹ Texts adopted, P8_TA(2017)0010.

exclusively restricted to the economic area but places the emphasis on social, environmental and accessibility aspects;

- I. whereas the platform economy offers opportunities for growth and jobs, inter alia by providing easier entry for people who, among other factors, are distant from the labour market or are looking for new forms of employment with flexible work schedules; whereas it can provide innovative new services; whereas it should ensure good working conditions, social security provision and the reconciliation of (on-demand) work with private life;
- J. whereas access to high-speed broadband is essential for participation in the platform economy and a lack of broadband provision potentially excludes parts of society, such as people living in disadvantaged areas, rural areas and outermost regions, from benefiting from new opportunities;
- K. whereas individuals and service providers using platforms should be better informed about the legal requirements they need to fulfil, in particular with regard to their rights and obligations related to their employment status;
- L. whereas there are no official statistics on the volume of employment in the platform economy;

Introduction

1. Stresses that the Union should underpin the development of the platform economy through the clarification of the applicable legal provisions and shape its course in a socially just, balanced and sustainable manner; recommends that the protection of workers in new forms of employment such as the platform economy should also be mainstreamed in all other policy areas apart from employment and social affairs;
2. Takes note of the various national and local regulatory initiatives concerning the platform economy¹; points out in this context that the growth of the platform economy, and policy reactions to it, reveal the opportunities and challenges related to the development of contracting forms of work and activities that do not easily fit into the traditional categories of subordinated and independent work;
3. Notes that there is no commonly agreed definition of the digital economy based on online platforms ('platform economy', 'collaborative economy', 'sharing economy' etc); points out that the term 'platform economy' seems to be the most objective description, and calls on the Commission to ensure the usage of coherent terminology;
4. Stresses the need for a clear distinction between 'commercial' and 'non-commercial' platforms in order to ensure a level playing field as well as a clear distinction between non-professional peer-to-peer activity at most sharing expenses and goods and service providers acting in their professional capacity; calls on the Commission to encourage the Member States to develop sector-specific definitions and thresholds, in collaboration with relevant stakeholders, in this regard; underlines the importance of recognising

¹ See: European Foundation for the Improvement of Living and Working Conditions (Eurofound), European Observatory of Working Life (EurWork): 'Digitalisation and working life: lessons from the Uber cases around Europe', 2016.

remunerated professional activities in the platform economy as ‘work’ regardless of the terminology (‘gigs’, ‘tasks’, ‘giving rides’, etc);

5. Calls on the Commission to examine how far existing Union rules are applicable to the digital labour market and ensure adequate implementation and enforcement; calls on the Member States, in collaboration with social partners and other relevant stakeholders, to assess, in a proactive way and based on the logic of anticipation, the need to modernise existing legislation, including social security systems, so as to stay abreast of technological developments while ensuring workers’ protection; calls on the Commission and the Member States to coordinate social security systems with a view to ensuring the exportability of benefits and aggregation of periods in accordance with Union and national legislation; encourages social partners to update collective agreements where necessary so that existing protection standards can also be maintained in the digital work world;
6. Calls on the Commission and the Member States to guarantee that the developing online platform economy in the Union is socially and environmentally sustainable, respects labour rights and complies with minimum guarantees regarding platform quality;
7. Calls on the Commission to devise, with the involvement of the social partners, appropriate forms of monitoring and follow-up with regard to the platform economy;
8. Highlights that the collaborative economy has flourished mainly so far in urban areas; calls on the Commission and the Member States to take action to combat the digital divide and guarantee access for everyone without discrimination; stresses in this context the importance of deploying broadband in rural areas in order to enable all regions and people to benefit from the potential of the platform economy, especially in terms of employment; calls on the Member States to strengthen financial and human resources to enable disadvantaged persons to acquire basic digital skills;

Employment relationship

9. States that all workers in the platform economy are either employed or self-employed based on the primacy of facts; highlights that all work in the platform economy must be classified accordingly by the Member States; stresses the need for such a clarification, also with the aim of preventing bogus self-employment and ensuring the protection of the social and labour rights of all workers in the platform economy, irrespective of their official status as employed or self-employed;
10. Notes the Commission’s communication on ‘A European agenda for the collaborative economy’, which provides, inter alia, guidelines for characterising employment relationships in the digital labour market; notes in this context the case-law approach of the European Court of Justice defining the concept of ‘worker’, for the purpose of applying EU law, on the basis of an employment relationship characterised by certain criteria such as the existence of subordination, the presence of remuneration, and the nature of work¹; calls on the Commission to cooperate with all Member States to clarify what constitutes an ‘employment relationship’ in the context of work intermediated by online platforms, taking into account ILO Recommendation No 198 regarding the

¹ See: ECJ C 596/12, paragraph 17 and ECJ C 232/09, Paragraph 39.

determination of an employment relationship;

11. Stresses that all workers need to enjoy adequate protection and security in terms of working conditions, wages, social protection and health and safety, and that the quality of their employment has to be guaranteed at all times, irrespective of whether they perform their work through a platform or not;
12. Reiterates its call for a European Pillar of Social Rights in order to ensure decent working conditions for all, including platform workers; underlines the need to involve social partners and other relevant stakeholders in such an exercise; stresses the need to ensure that all platform workers must enjoy the same social and employment rights, the same health and safety protection, and the same access to lifelong learning as workers in the traditional economy, in line with national law and practice, while encouraging innovation, promoting sustainable and inclusive growth, and guaranteeing a level playing field for businesses;
13. Notes the need to ensure that self-employed workers and professionals who work for platform companies receive professional-level pay and are guaranteed secure time-frames for payment;
14. Stresses the importance of teleworking and smartworking in connection with the collaborative economy, and advocates, in this regard, the need to place these ways of working on an equal footing with traditional ones;

Collective bargaining and competition law

15. Stresses that the freedom of association and collective action, including collective bargaining, are fundamental rights which must apply to all workers, whether they are employees or self-employed; points out that self-employed individuals who are legally considered a sole-member company should have the right to freely associate in order not to be considered as forming a cartel; calls, in this context, on the Commission and the Member States to assess European and national competition law and make adjustments where necessary; calls on the Commission to support the Member States and the social partners in increasing collective bargaining coverage in line with national law and practice and empowering workers in the platform economy;

Level playing field

16. Stresses that potential efficiency advantages of online platforms over the traditional economy should be grounded in fair competition, not wage dumping; stresses that with a view to ensuring a level playing field between the platform economy and traditional businesses, especially SMEs, the platform economy like any other economy, must pay taxes and social contributions and comply with employment and social legislation; underlines the need to adjust related policies accordingly where necessary;
17. Calls on the Commission to publish guidelines on how Union law applies to the various types of platform business models in order where necessary to fill regulatory gaps in the area of employment and social security; believes that the high transparency potential of the platform economy permits good traceability, in line with the aim of enforcing existing legislation; calls on the Member States to carry out sufficient labour inspections with

regard to online platforms and to impose sanctions where rules have been breached, especially in terms of working and employment conditions, as well as specific requirements regarding qualifications; calls on the Commission and the Member States to pay special attention to undeclared work and bogus self-employment in this sector, and to put the platform economy on the agenda of the European Platform Tackling Undeclared Work; calls on the Member States to provide sufficient resources for inspections;

18. Recalls that all platform operators must perform their activities in strict compliance with Union and national legislation; calls for anti-dumping measures to ensure fair competition between platforms based in Member States and platforms based in third countries; stresses the need for effective rules to tackle tax avoidance by online platforms based in third countries providing services or selling goods in the Union;
19. Stresses the need to better address the social dimension of the platform economy; calls, therefore, on the Commission and the Member States, in line with Union law on data protection and in cooperation with social partners, to gather more reliable and comprehensive data on jobs and employment profiles, working and employment conditions, including information on incomes, and skills, qualifications and activities in the platform economy; considers it useful for such data also to be based on interviews with platform workers and information collected by the platforms; calls for an in-depth analysis of work in the platform economy with a view to adjusting existing labour and social legislation where necessary; underlines the importance of best practice exchanges between Member States in this context;
20. Calls on the Member States to ensure adequate social security for self-employed workers, who are key players in the digital labour market; calls on the Member States to adapt existing social protection schemes and to develop new mechanisms of protection, where necessary, to ensure adequate coverage for platform workers as well as non-discrimination and gender equality, reflecting the particular working and career patterns shaped by digitalisation, and to share best practices at European level;
21. Calls on the Commission to examine how far the directive on temporary agency work is applicable to specific online platforms; considers that many intermediating online platforms are structurally similar to temporary work agencies (triangular contractual relationship between: temporary agency worker/platform worker; temporary work agency/online platform; user undertaking/client);
22. Calls on the national public employment services and the EURES network to communicate better on the opportunities offered by the collaborative economy;
23. Recognises that the platform economy can be used for social purposes; calls on the Commission and the Member States to promote social economy models in the platform economy, with particular reference to platforms organised following a corporative model, and to exchange best practices in this regard, given that social enterprises have proven to be resilient during times of economic crisis;

Skills requirements

24. Underlines that digital competences are of the utmost importance for keeping up with the ongoing digitalisation of all aspects of life; calls on the Member States to adapt their

education and training systems to the digital labour market, linking the world of education with the world of work, including fostering of entrepreneurship; points out that as job and skills profiles become more complex, new demands – especially regarding information and communications technology (ICT) skills – are being placed on training as well as on further education and lifelong learning with a view to promoting digital literacy and tackling the existing gender and generational gaps in this context;

25. Emphasises the importance of stronger synergies involving social partners and different educational and training institutions in order to bring teaching and study materials up to date and develop skills strategies; encourages Member States to include digital training in their school curricula from an early age; insists that public investment in vocational education and lifelong learning is necessary to ensure that workers are equipped with the right skills for the digital age; stresses that education and training must be accessible for all workers; believes that new funding opportunities for lifelong learning and training are needed, especially for micro and small enterprises;

Reporting duties and transparency obligations for platform operators

26. Calls for standards on transparency and disclosure obligations for platform operators in order to monitor tax payments, social security contributions and practices regarding the rating of work on platforms and ensure that all relevant information is available to national authorities; encourages the Member States to facilitate the self-reporting obligations of platform workers with simplified tax declarations and to work with online platforms to communicate recorded electronic transactions in order to help combat tax evasion and undeclared work;
27. Notes the concentration of data generated by users in the hands of online platforms, and calls on the Commission and the Member States to ensure the proper functioning of the Digital Single Market and to put in place adequate safeguards for the privacy of users and workers as well as the collection of data;
28. Underlines that consumers should enjoy a high and effective level of protection, regardless of whether services are provided by professionals or peers; highlights, in particular, the importance of protecting consumers in peer-to-peer transactions and looking for solutions which improve security;
29. Emphasises that the economic model of the platform economy is based on users' trust, particularly in online ratings; recalls that ratings of platform workers constitute their digital market value for users; stresses, therefore, the need for platforms to develop certification tools for online ratings in order to ensure the transparency and reliability of information on the quality of services; calls, therefore, on the Commission and the Member States in cooperation with social partners, to facilitate the transferability and accumulation of ratings across platforms in equivalent services;
30. Notes the potential for unfair practices regarding online ratings which may affect the working conditions and entitlements of platform workers and their ability to obtain jobs; is concerned that an arbitrary number of negative client reviews, which may not necessarily reflect work quality and which cannot be challenged, can lead to account deactivation or search result relegation by platforms; considers that any such rating system developed by a platform should be established in consultation with the workers and their

representatives; calls on platforms to notify and provide an arbitration process for platform workers before taking action as a result of ratings scores; highlights that all platform workers should have the right to have unjustified ratings removed; calls on the Commission and the Member States, in collaboration with the social partners, to ensure that workers and users are also able to rate online platforms;

31. Calls on the Commission and the Member States to take decisive steps to prohibit discriminatory and opaque algorithms and software developed or used by online platforms which do not comply with European and national legislation, and to set up monitoring structures to this end;
32. Believes it necessary to take action to enable Member State governments to impose limits on the scope of action of such platforms, in the public interest;
33. Calls on the Commission, the Member States and social partners to provide adequate information to platform workers on working and employment conditions and workers' rights, and on their working relationships with both platforms and users; considers that platforms should play a proactive role in providing information to users and workers regarding the applicable regulatory framework with a view to fulfilling legal requirements;

Health and safety

34. Notes that the platform economy offers new opportunities for people to earn an additional income, for the employment of young people (in particular those seeking casual work and flexible forms of employment allowing them to combine work with study), for the better reconciliation of work and private life, for the reduction of underemployment and unemployment, and for collaborative work; points out, however, that, in some circumstances such developments can also lead to precarious situations; stresses that flexible employment must be covered by existing health and safety provisions, as well as by social protection measures, in order to avoid long-term social and financial implications, and must exclude potential risks such as worker overload and pay levels that are not commensurate with performance; highlights, therefore, the need for labour market flexibility, on the one hand, and for economic and social security for workers on the other; stresses that reducing costs should not mean undermining working conditions or employment standards;
35. Calls on the Commission to produce a study on the effects of digitalisation on workers' wellbeing and work-life balance as well as the societal and environmental consequences; underlines that work in the platform economy should not lead to permanent availability, erosion of traditional working time arrangements, or social isolation which may cause psycho-social conditions such as burnout or depression; advocates, therefore, full compliance with the prescribed rest times, and stresses the need to respect working time arrangements in order to maintain the boundaries of working time as defined by the labour laws of the individual Member States; underlines that the effects of digitalisation on health and safety at work need to be assessed and the provisions of the existing health and safety framework adapted accordingly; recommends that Member States establish a 'right to log off' for work outside the agreed working hours, as a measure for ensuring a good balance between professional and private life; stresses that claiming such a right must not have any negative impact on the rating of platform workers;

36. Stresses that professional service providers in the digital economy must fulfil the same quality, skills and qualification requirements as in the traditional economy, so as to avoid health and safety risks; calls on the relevant authorities, in cooperation with social partners, to develop appropriate monitoring and certification procedures;
37. Recalls that the flexibility, volatility and instability characterising jobs of this kind pass the risks of the market on to workers, and that they therefore give rise to greater social inequality and cause a higher incidence of psychological morbidity than do other jobs; stresses that the sector does not provide sufficient numbers of jobs for the unemployed, the most excluded groups in society or people in rural areas, owing to barriers such as the digital divide or a lack of technological skills.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	22.3.2017
Result of final vote	+: 38 -: 1 0: 8
Members present for the final vote	Mara Bizzotto, Enrique Calvet Chambon, David Casa, Ole Christensen, Lampros Fountoulis, Marian Harkin, Rina Ronja Kari, Jan Keller, <i>Ádám Kósa</i> , Jean Lambert, Jérôme Lavrilleux, Patrick Le Hyaric, Jeroen Lenaers, Javi López, Thomas Mann, Anthea McIntyre, Emilian Pavel, Georgi Pirinski, Marek Plura, Dominique Martin, Joëlle Mélin, Terry Reintke, Sofia Ribeiro, Robert Rochefort, Maria João Rodrigues, Claude Rolin, Anne Sander, Sven Schulze, Jutta Steinruck, João Pimenta Lopes, Romana Tomc, Yana Toom, Marita Ulvskog, Renate Weber, Tatjana Ždanoka, Jana Žitňanská
Substitutes present for the final vote	Maria Arena, Georges Bach, Tania González Peñas, Krzysztof Hetman, Marju Lauristin, Edouard Martin, Alex Mayer, Joachim Schuster, Jasenko Selimovic, Neoklis Sylikiotis, Michaela Šojdrová

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

38	+
ALDE	Enrique Calvet Chambon, Marian Harkin, Robert Rochefort, Jasenko Selimovic, Yana Toom, Renate Weber
ECR	Anthea McIntyre, Jana Žitňanská
EPP	Georges Bach, David Casa, Krzysztof Hetman, Ádám Kósa, Jérôme Lavrilleux, Jeroen Lenaers, Thomas Mann, Marek Plura, Sofia Ribeiro, Claude Rolin, Anne Sander, Sven Schulze, Michaela Šojdrová, Romana Tomc
S&D	Maria Arena, Ole Christensen, Jan Keller, Marju Lauristin, Javi López, Edouard Martin, Alex Mayer, Emilian Pavel, Georgi Pirinski, Maria João Rodrigues, Joachim Schuster, Jutta Steinruck, Marita Ulvskog
Green/EFA	Jean Lambert, Terry Reintke, Tatjana Ždanoka

1	-
NI	Lampros Fountoulis

8	0
ENF	Mara Bizzotto, Dominique Martin, Joëlle Mélin
GUE/NGL	Tania González Peñas, Rina Ronja Kari, Patrick Le Hyaric, João Pimenta Lopes, Neoklis Sylikiotis

Key to symbols:

+ : in favour

- : against

0 : abstention