► Decent work in the platform economy: Draft Convention and Recommendation – Reply form

On 13 June 2025, the International Labour Conference, at its 113th Session in Geneva, adopted the resolution of the Standard-Setting Committee on Decent Work in the Platform Economy containing proposed Conclusions.[1] The Conference approved proposals for a Convention supplemented by a Recommendation concerning decent work in the platform economy.

In accordance with the resolution and article 46(6) of the Standing Orders of the Conference, the Office has prepared the texts of a draft Convention and Recommendation. Constituents are invited to inform the Office as to whether they have any changes to suggest or comments to make. In addition, the Office invites constituents' views on a number of questions indicated in Report V(3). Replies should be communicated to the Office **no later than 14 November 2025** in order to be considered by the Office.

Governments are requested to indicate if the most representative organizations of employers and workers were consulted before they finalized their replies. For countries that have ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), such consultations are required.

To facilitate the Office's processing of replies, constituents are encouraged to respond in electronic format using the attached form. The use of this form is optional and would assist the Office to efficiently process the high number of expected replies from constituents. Constituents are free to respond in other formats. **All replies should be submitted by email to platformeconomy@ilo.org.**

The comments received will be reflected in the fourth and final report on the standard-setting item, which will be prepared by the Office for the consideration of the Conference at its 114th Session (June 2026).

I. Respondent information

Please provide the following information to assist the Office in processing your reply

1. Country

Click or tap here to enter text.

2. Organization type (government, employers' organization, workers' organization)

Choose an item.

3. Organization name (in full)

Click or tap here to enter text.

4. Abbreviation (if applicable)

Click or tap here to enter text.

II. Consultation

Governments are requested to indicate if the most representative organizations of employers and workers were consulted before they finalized their replies.

Please indicate if consultation took place.

Choose an item.

If yes, please indicate the names of the organizations consulted.

Click or tap here to enter text.

III. General comments

Constituents are invited to provide any general comments they may wish to make on the draft Convention and Recommendation in the box below.

[1] ILO, *Outcome of the Standard-Setting Committee on Decent Work in the Platform Economy*, ILC.113/Record No. 6A and ILO, *Plenary sitting: Outcome of the Work of the Standard-Setting Committee on Decent Work in the Platform Economy*, ILC.113/Record No. 6C.

General comments

- We welcome the Office's acknowledgement of the tripartite consensus that this instrument should be short, high-level, and principle-based, and appreciate its efforts to streamline the instrument to that end.
- We remain concerned, however, that the draft instrument is still very long and too prescriptive. For example: sections that are known by the Office to be extremely controversial—such as the sections on automated systems—have not been shortened at all. There are still seven paragraphs on remuneration or payment in the Recommendation alone. Retaining these provisions in the Blue Report will lead to lengthy debates next June that could have been avoided. We have provided thorough comments on this report in the hopes that the next draft is a realistic basis for consensus among the ILO's constituents, and urge the Office to take full account of them. Where our comments address a specific question posed by the Office in the Brown Report, we have indicated the relevant Brown Report para either in the text or in parentheses.
- We are strongly opposed to reopening provisions that were discussed and agreed to at the ILC, including in the Spanish and French translations. This text is the product of long discussions in the Committee, including in the Drafting Committee, and reflects a hard-earned tripartite consensus. The Office's extraordinary suggestion to unravel almost all of the Committee's achievements risks undermining our prospects for a consensus-based standard next year. If we wish to move forward, the Office must respect the compromises the Committee has already made, instead of revisiting them. Otherwise, the entire text will have to be renegotiated, which is counterproductive and will prevent an outcome. The Employer Group is eager to engage constructively and build on the existing, hard-fought consensus provisions.
- While we respect the outcome of the Committee's vote to pursue a Convention and Recommendation, we would note that pursuing a standalone Recommendation remains the most realistic path for a consensus outcome in 2026. It should be underscored that the standard-setting discussion in June 2025 progressed much more slowly than normal standard-setting processes; the Committee only covered 15% of the provisions, while the norm is 60-100%. Due to significant disagreements and divergent preferences within the Committee, it is the view of the Employer Group that a Recommendation is the best path to achieve a principle-based instrument, allowing flexibility for all national contexts.
- In regards to the Office's comments on the practice of referring to other international labor standards (ILS) in the draft text (para 20), the Employers' Group reiterates our strong disagreement with the explanation provided. Cross-referencing ILS should be avoided, as this neglects the unique context of each standard. It is not common practice, and causes legal uncertainty when implemented. It is also at odds with the Committee's decision to pursue a high-level, principle-based instrument.
- In multiple places, the Office has introduced the phrase "according to the nature of work arrangements and the classification of digital platform workers' status in employment." For clarity, this should be simplified to "*according to the classification of digital platform workers' status in employment*." Including "the nature of work arrangements" will lead to confusion, as this term is less precise and it is unclear how it differs from classification.

IV. Comments on the draft Convention

Constituents are invited to provide any specific comments on, or suggested amendments to, the Articles of the draft Convention in the boxes below. Constituents are also invited to express their views on the Office's commentary and questions relating to each Article.

Please refer to the draft text on page 31 of Report V(3)

Preamble

Preamble – comments

- In the **third** paragraph (growth), we propose replacing "are significantly transforming the way work is organized and performed" with "*has increased opportunities for job creation, earnings, and market access across sectors*." As the Committee has acknowledged, most digital platforms do not "organize" work. We would note that the use of "organize" in this paragraph conflicts with the Committee's definition of digital labour platform, which says that platforms "organize and/or facilitate" work. This distinction is important, as in some jurisdictions, the term "organize" is associated with an employment relationship. Because the vast majority of platform workers are not employees, using "organize" alone would conflict with established law and practice in certain Member States.
- We welcome the inclusion of the **fourth** (economic efficiency) and **fifth** (income opportunities) paragraphs of the preamble. In the fifth, we suggest replacing "employment" with "decent work" to better capture the platform economy. An additional paragraph should be added after the fifth paragraph, that highlights the contributions of the platform economy to formalization. Suggested text:

Recognizing the unique value proposition of digital platform work in offering new pathways for the formalization of work in countries of all development stages.

- The **sixth** paragraph (workers' rights) is unnecessarily negative and should be reframed to recognize the "*importance*" of workers rights and protection in the platform economy, deleting "existing decent work deficits and challenges," which is vague, as well as "relating notably to work arrangements and the central role of technology in the operations of digital labor platforms."
- Delete the **seventh** paragraph (automated systems). As a representative of the Office explained during the ILC, the platforms that use automated systems use them in different ways, and automated systems are widely used outside of the platform economy. Thus there is no need to single out the use of automated systems here.
- Delete the **eighth** paragraph (cross-border operation). Businesses have always operated across borders. This is nothing new.
- Delete the **ninth** paragraph (scope of other labor standards). International labor standards apply to the workers they specify, and it is not appropriate to reopen the scope of existing standards.
- Delete the **tenth** paragraph (supplementing standards), which is unnecessarily negative.
- Finally, we urge the addition of the following paragraph to the preamble:

Acknowledging the need to support the development of new and existing platforms, and MSMEs in particular, through incentives and an enabling environment for sustainable business.

I. Definitions

Article 1 – comments

General: Each of these definitions was discussed at length by the ILO's constituents during the ILC. They reflect the consensus of the ILO's constituents and should not be reopened.

Article 1(a) Digital labour platform

- The Employers' Group firmly disagrees that the use of "and/or" raises a scope issue in this standard (para 26). First, the use of "and/or" is consistent with the ILO's longstanding scope for the platform economy, which includes online- and location-based platforms. This includes both platforms that employ workers as employees and those that provide opportunities for workers who are not in an employment relationship. The definition cannot say "organize and facilitate," as the word "organize" implies an employment relationship in some jurisdictions. As the ILO has long recognized, the vast majority of platform workers are not employees.
- Further, on a practical level, platforms do not "organize" work. The vast majority of platform workers are independent and have the ability to choose whether, when, where, and how they would like to work.
- We reiterate our opposition to re-opening consensus based text (para 29). This definition was thoroughly debated by the Committee, and the use of "and/or" was a compromise solution that prevented this definition from going to a vote. It is unacceptable that the Office has suggested reopening this definition, against the Committee's will and decision.
- If the Office does force a re-opening of this terminology, we underscore that our ultimate preference is "facilitate" or "offers the opportunity to connect," not "organize." However, we respect the Committee's consensus preference for "and/or."

Article 1(b) Digital platform worker

- We reiterate our comments above on the use of "and/or," a compromise solution the Committee agreed to after days of negotiations (para 30). We are committed to reaching a consensus-based outcome and believe that revisiting last year's consensus-based decisions is unproductive.
- If the Office does force a re-opening of this definition, we underscore that our preference is "facilitate," not "organize." As noted above, digital platforms do not "organize" the provision of a service. They offer the opportunity for service requestors and service providers to connect with each other. As the vast majority of platform workers are not employees, they are fully in control of whether, when, where, and how they would like to work.

Article 1(c) Intermediary

- We recognize that this provision reflects the text agreed by the Committee, and can accept the retention of it. The Employers Group is committed to honoring the Committee's decisions at the 2025 ILC and reaching a consensus-based outcome.
- In the spirit of producing a streamlined and principle-based instrument, however, we would also note that this definition could be deleted for two reasons. First, the term "intermediary" is seldom used in the draft text and the intermediaries covered by this definition, in practice, would themselves be digital platforms. Second, intermediaries are already regulated extensively at the national level. Notably, the Office's gap analysis on the platform economy did not identify a regulatory gap regarding the use of intermediaries. Thus, we caution that the inclusion of this definition will lead to confusion.

Article 1(d) Remuneration or payment

- The Employers Group reiterates our firm belief that the definitions agreed to at the 2025 ILC reflect the Committee's will and should not be reopened.
- The Employers Group is opposed to adding "or payment" after "remuneration" to the second part of this definition (para 35). Self-employed workers, regardless of whether they are platform workers, are typically responsible for the costs they incur in the course of their work. In many Member States, self-employed workers and sole proprietors can deduct business expenses from their taxes. These are well established practices across the economy. Platforms have no practical

means to determine workers' costs, as these vary widely depending on the type of service provided and on how each worker organizes their own work.
- Further, this addition would neglect the diversity of business models in the platform economy. On many platforms, prices are set by the worker or negotiated between the worker and service requestor. Platforms often have no control over or visibility into the costs of self-employed workers, which are highly imprecise and variable. It is critical that the distinction between "remuneration" and "payment" is clear and consistent throughout this instrument.
- The Employers Group can accept the Office's semantic proposal to change "national laws, regulations…" to "national laws and regulations" (para 36).

II. Scope

Article 2 – comments

- We support retaining the text that has already been agreed by the Committee. 2(1)(a) in particular has already been discussed at length by the Committee and should not be reopened. We therefore want to keep the scope agreed by Constituents without any change (para 40).
- We also support the addition of a new provision to the scope section. Recognizing that the Committee has agreed that limited exclusions should be possible, it is important to the employers group that any such exclusions not be used to disadvantage certain platforms in comparison to others, or disadvantage digital platforms in comparison to other businesses. To promote fair competition, the employers recommend adding the following text as Article 2(3)bis:

In case of exclusions under paragraph 2 of this Article, the Members shall take measures to ensure that the exclusions and the progressive extension of the application of the Convention do not disadvantage certain digital platforms in comparison to others, or disadvantage digital platforms in comparison to other businesses.

III. Fundamental principles and rights at work

Article 3 – comments

Article 3(1)

- This article should be rephrased for consistency with the 1998 Declaration, which uses the terms "*respect, promote and realize*." Additionally, the FPRW extend not only to workers, but also to businesses. In the interest of shortening the text, there is also no need to include the sub-bullets. We suggest the following:

Each Member shall take measures to respect, promote and realize the fundamental principles and rights at work in the platform economy, taking into account national circumstances.

Article 3(2)

- We appreciate the Office's efforts to streamline the text and support the proposed deletion (para 42).

IV. Occupational safety and health

General: We appreciate the Office's efforts to streamline this text and ensure that it is not overly prescriptive. This instrument's OSH provisions should not conflict with the OSH frameworks that already exist at the national level. Our comments below aim to retain Article 4 as a principle-based provision, aligned with fundamental Conventions 155 and 187.

Article 4 – comments

- We can accept the Office's proposed Article 4(1) (paras 47-48) with the following changes, which reflect the Committee's preference for a streamlined Convention that is not prescriptive:

Each Member shall, in line with national law and practice, and in consultation with the most representative organizations of workers and employers, take appropriate measures to promote a safe and healthy working environment in the platform economy.

- We can accept the Office's proposed Article 4(2) (paras 47-48) with the following two changes. First, Member States already have both economy-wide and sector-specific laws that indicate OSH functions and responsibilities. As States may deem it unnecessary to establish an additional framework for the platform economy, we suggest adding "*if necessary*" after "each Member shall indicate." Second, for clarity, we also suggest changing "others" to "*other relevant parties*."
- We support the Office's proposal to delete the former Article 4(2) on the prevention of occupational accidents from the Convention (para 50). We have included additional comments on this provision in the Recommendation section, calling for its deletion from the instrument in full.

Article 5 – comments

- We appreciate the Office's efforts to streamline the text and support the proposed deletion (para 53).

Article 6 – comments

- We are supportive of retaining Article 6, but only with the addition of "*...if they are in an employment relationship*" to Article 6(b). In the case of an imminent and serious danger to their life or health, workers should inform emergency services, not a digital labor platform.

Article 7 – comments

- We are opposed to the deletion of Article 7 (para 56). If OSH measures are prescribed, workers must also have the duty to comply with them. We propose retaining the text with several clarifications:

Each Member shall take measures to ensure that digital platform workers have the duty to comply with prescribed occupational safety and health measures, take reasonable care for their own safety and the safety of others, and where relevant, cooperate as closely as possible with digital labour platforms in fulfilling their occupational safety and health obligations, without any impact on their classification.

V. Violence and harassment

Article 8 – comments

- This provision should be revised. Everything that follows "in the world of work..." should be replaced with "*when conducting work on or through digital labour platforms.*" This change significantly shortens the article, in line with the Committee's preference for a short and streamlined instrument. Additionally, this change accommodates the fact that C190 is not universally ratified and should therefore not be cross-referenced in another convention. Doing so is not common practice, causes legal uncertainty, and is inconsistent with a principle-based approach.

- Finally, we suggest "when conducting work on or through digital labour platforms" instead of the original text, which better reflects the reality that the vast majority of platform workers are self-employed.

VI. Employment promotion

Article 9 – comments

- Everything that follows "taking into account…" should be deleted, as the vast majority of platform workers are not employees and do not want to become employees. Countless platform workers are independent contractors and sole proprietors by choice, and this must be respected.
- In addition, the reference to "decent jobs" should be replaced by "decent work", which is the appropriate term.
- Additionally, C122 is not universally ratified. As noted in our general comments, cross-referencing ILS is not common practice and causes legal uncertainty. Instructing Member States to take a specific legally-binding instrument into account is at odds with the Committee's decision to take a principle-based approach.

VII. Employment relationship

General: The title of this section should be changed to "work" relationship, as the vast majority of platform workers are not in an employment relationship.

Article 10 – comments

Article 10(1)

- This paragraph should be revised. Member States already have well-established law and practice guiding the classification of workers. Their approaches vary significantly, which this instrument should respect and accommodate. Additionally, the "primacy of facts" principle is just one component of R198. We should not be cherry-picking elements of R198 to include in this provision. Doing so is extremely prescriptive and at odds with the Committee's principle-based approach.
- Further, the application of worker classification laws should be consistent across the economy, and not be applied differently in the platform economy because of vague "specificities." This would be unfair to both platforms and platform workers.
- In light of the above, we propose the following text:

Each Member shall, where applicable, take measures to ensure the appropriate classification of digital platform workers, in line with national laws and regulations.

Article 10(2)

This provision, pertaining to respect for civil and commercial relationships, is of the utmost importance to the Employer Group and we are strongly opposed to its deletion (as proposed in para 61 of the Brown Report). It is a key and distinctive provision in the instrument and should not be deleted for the sake of shortening the text.

VIII. Remuneration or payment

General: We support the Office's suggestion in para 62 of the Brown Report to change the title of this section to "Remuneration or payment."

Article 11 – comments

- We appreciate the Office's efforts to streamline this provision. Input on each of the proposed substantive changes is provided below.
- We can accept the deletion of "including when calculated on a piece-rate basis" (para 65a).
- We can accept the semantic change from "national laws, regulations…" to "national laws *and* regulations…" (para 65b)
- We support the change from "remuneration" to "remuneration or payment" (para 65c)
- While we acknowledge and appreciate the Office's effort to provide flexibility in Article 11(a), which references the adequacy of payment, this line should still be deleted (para 67). As noted previously, the platform economy features a wide variety of business models. On many platforms, workers set their own rates or negotiate a rate directly with the service requestor, meaning platforms have no control over or visibility into workers' earnings. It would be impossible to implement a provision requiring "adequate" pay, as this is entirely up to the worker. Further, we also note that individuals use platforms for an enormous range of personal reasons. Their motivations include not only income generation, but also skills development, psychosocial health, physical activity, and community service. "Adequate" is a highly subjective term.
- Finally, we agree with the spirit of 11(c) the timing of payment or remuneration, but suggest changing "on time" to "*in a timely manner*," given that the majority of platform workers are not employees and not necessarily paid on a particular cadence.

Article 12 – comments

- Article 12 should be deleted in full (para 70). To be clear, paragraph 13 should also be deleted in full (para 123).
- The Employers certainly believe that deductions should be transparent and comply with any national laws, regulations, or collective agreements. Indeed, numerous Member States already have regulations on such deductions, including commission rates.
- That said, given that the vast majority of platform workers are not employees, the transactions that platforms facilitate are business transactions. It is not the mandate of the ILO to regulate business transactions.
- Platforms offer workers an opportunity to reach a broader customer base for the services they wish to provide. The companies that build and maintain these platforms incur significant costs— including technology, marketing, safety requirements, customer support, and others depending on the business model. As with any other business, platforms must be able to charge for the use of their product or service. Restricting a company's ability to charge its customers would compromise business sustainability and conflict with basic principles of business freedom.

Article 13 – comments

- We can support the Office's proposal to delete Article 13 by consolidating portions of it into Article 21 (para 73).

IX. Social security

Article 14 – comments

- We firmly agree that Member States should ensure access to sustainable social protection systems. At the same time, this provision should acknowledge and respect the well-established differences between the needs of employed and self-employed workers, as well as the underlying basis for the laws that distinguish between these two groups. We suggest the following revision:

"Each Member shall take measures to ensure that digital platform workers have access to sustainable social security protection on terms no less favourable than those applicable to other workers with the same classification, in accordance with national law."

X. Impact of the use of automated systems

Article 15 – comments

- The Employers Group continues to have concerns about this provision and does not support it. Automated systems are widely used by businesses outside of the platform economy. Trying to address the use of algorithms in the platform economy will lead to uneven, unfair, and contradictory regulations. Further, regulating technology is not the ILO's mandate, and this provision is both impractical and counterproductive. However, in the spirit of remaining good negotiation partners, and with the goal of reaching a consensus-based outcome, we recognize that this provision was adopted by constituents and can agree to it. We are committed to honoring the compromises we reached in the room.

Article 16 – comments

- We have several significant concerns with this provision pertaining to the FPRW, as drafted. First, all of the FPRW are equally important; it is inappropriate to single out just two of them. In addition, both (a) and (b) have aspects that would make them extremely difficult to implement:
- In (a), the term "indirect discrimination" is very broad. Businesses cannot be responsible for discrimination that they are not deliberately perpetrating.
- In (b), first and foremost, we should note that automated systems have improved the safety of all users. Platforms use algorithms to not only promote efficiency, but also rapidly identify cases of fraud and abuse. Second, this provision would also be impossible to implement. Establishing a causal relationship between the use of an automated system and an accident or undefined psychosocial hazard is completely impractical, given the multiple external factors involved that are unrelated to the interaction between the worker and the platform.
- We suggest the following revision:

Each Member should encourage that digital labour platforms' use of the automated systems referred to in Article 15 does not infringe on the fundamental principles and rights at work.

Article 17 – comments

- This provision should be deleted. It is not the ILO's mandate to regulate technology.
- This provision is incredibly broad and goes far beyond current regulatory trends. A worker could say anything that happens through a platform "impacts their working conditions or access to work." To provide an example: a home services platform may use mapping tools to recommend a work offer to the nearest available worker. This mapping system would make millions of automated decisions every day, including to avoid traffic congestion, reflect new geographic data, and improve accuracy. Under this provision, each of these decisions could be subject to a written explanation. Implementing this provision would thus involve the review of millions of basic decisions and block day-to-day business operations, for both large and small platforms. It would stifle the platform economy—which is currently driving economic growth around the world.
- We urge the ILO to recall that globally, the majority of demand for platform work is fueled by MSMEs. These types of requirements would put platforms out of business, and thus pose significant challenges for the MSMEs that currently take advantage of them.
- Further, it also raises significant privacy concerns for the general public. For example, an algorithmic matching system may capture information that should not be disclosed—such as

private addresses, service requester preferences (including personal data), and other sensitive details. The language is so broad that workers could be entitled to request access to this information, thereby undermining the platform's ability to safeguard user privacy.
- In general, we oppose the Office's suggestion to use "review conducted by a human being" instead of "human review" (para 81). Creating a new term is unnecessary and likely to cause confusion.
- In general, we are supportive of replacing "payment" in the scenario outlined in paragraph 82 of the Brown Report with "disbursement due to them."

XI. Protection of digital platform workers' personal data and privacy

Article 18 – comments

- This provision should be deleted.
- Data privacy is an important topic across the economy. As there will be a dedicated expert meeting on data protection in 2027, we should avoid creating new regulations just for the platform economy, which would lead to confusion and incoherence. We should not create a hierarchy of privacy protection between platform and non-platform workers.
- Additionally, this provision does not recognize in any way the legitimate purposes for which data is collected. It also neglects to acknowledge that regulations should be consistent with not only international instruments, but also national law and practice.

Article 19 – comments

- This provision should be deleted (para 87). We do not support the retention of any portion of Article 19 in the instruments.
- There will be a dedicated expert meeting on data protection in 2027. As the Brown Report observes in paragraph 86, well-developed national and international data privacy laws already exist and apply in this context. We should not create a hierarchy of privacy protection between platform and non-platform workers. The issue of data protection requires a whole-of-economy approach.

New Section: Protection of the rights of digital labour platforms

General: The Employers Group proposes the addition of this section to ensure that the Convention enables platform companies to operate and flourish.

New 19bis: *Each Member shall ensure that the measures in this instrument protect and do not interfere with or compromise commercially sensitive information, intellectual property or trade secrets of digital labour platforms.*

New 19ter: *Each Member shall ensure that the measures in this instrument do not put digital labour platforms at a competitive disadvantage compared to other enterprises.*

New 19quater: *Each Member shall create an enabling environment for the advancement of digital technologies that can optimize labor markets and enhance productivity.*

New Section: Strengthening work opportunities in the platform economy

General: The Employers Group proposes the addition of this section to ensure that the Convention enables the platform economy to continue contributing to economic growth, development, and formalization.

New 19quin: *Each Member shall support and provide incentives to digital labour platforms, and to MSMEs in particular, to promote the creation of productive employment and decent work.*

New 19sexies: *Each Member shall invest in technology education in the labour market to strengthen innovation, upskill entrepreneurs, and ensure that workers and MSMEs take advantage of the opportunities created by the platform economy.*

New 19septies: *Each Member shall simplify business registration for self-employed platform workers, to strengthen social protection participation and contributions and to facilitate formalization where needed.*

XII. Suspension or deactivation of account and termination of employment or engagement

General: The title of this section should be shortened to "*Suspension or deactivation of accounts*."

Article 20 – comments

- The Employers Group is entirely in agreement that the world of work should be free from discrimination and understands that this draft text pertaining to suspension and deactivation is well intentioned. The reality, however, is that Member States already have all of the tools they need to identify and prevent discrimination. We have numerous international instruments, including the FPRW, that address discrimination, as well as additional laws and protections at the national, sub-national, and regional level. This legislation is robust and there is no need to address discrimination here, again.
- Second, we also need to recognize that most deactivations are legitimate. Platforms do not deactivate users because they want to. There are bad actors who attempt to misuse platforms, and they need to be removed to keep all users safe.
- Finally, the term "unjustified grounds" is highly subjective.
- Despite our significant concerns with this article, we could accept the following revision:

"Each Member shall encourage digital labour platforms to make available information about the grounds for deactivation and suspension."

XIII. Terms and conditions of employment or engagement

Article 21 – comments

- We are supportive of the Office's proposal to consolidate Article 13 into Article 21 (para 90). We also support the Office's proposal to add "or payment" after "remuneration" in this provision (para 92). However, we also suggest the following revision to Article 21:

Each Member shall take measures to ensure that digital platform workers are informed of the terms and conditions of their employment or engagement and receive information on their remuneration or payment and any deductions made.

- We urge the deletion of "through written contracts" and "regular." Terms and conditions are themselves contracts, so there is no need to specify "through written contracts." Additionally, receiving information on a "regular" cadence is not necessarily helpful or applicable to workers. Payment to a worker may occur upon completion of a large project, for example.

- We also suggest the deletion of "in an appropriate, verifiable and easily understandable manner," as this phrasing is highly subjective.

Article 22 – comments

- This provision should be deleted in full. Workers and businesses have always operated across jurisdictions. This is nothing new. Accordingly, there is no need to rewrite well established principles of international law. This would cause significant legal uncertainty.

XIV. Protection of migrants and refugees

Article 23 – comments

- We are supportive of the Office's proposed revision (94).

XV. Dispute resolution and remedies

Article 24 – comments

- This provision should also extend to platforms. Additionally, it should also acknowledge differences in classification status. Suggested revision:

Each Member shall take measures to ensure that platform workers and digital labour platforms have access to effective dispute resolution mechanisms and remedies on par with those available to enterprises generally and those available to workers with the same classification of status in employment, according to national law and practice.

New 24bis:
In implementing Article 24, each Member shall take measures to build and strengthen national capacities to effectively implement national labour legislation and policies.

XVI. Compliance and enforcement

Article 25 – comments

- We can accept the Office's proposed change (96).

XVII. No less favourable treatment

Article 26 – comments

- "A comparable situation" should be replaced with "*within the same classification, and that digital labour platforms are not put at a competitive disadvantage compared to other enterprises*." First, the term "with the same classification of status in employment" is more precise, and second, this provision should also ensure that platforms do not experience less favorable treatment.

XVIII. Implementation

Article 27 – comments

- "*In accordance with national law and practice*" should be added to the end of this provision, to ensure coherence at the national level.

Article 28 – comments

- The Employers Group continues to oppose the inclusion of intermediaries in this instrument. As noted above, the intermediaries covered by this instrument would also be considered digital platforms, creating significant confusion. Intermediaries are a longstanding feature of the world of work and are thoroughly regulated. However, we recognize that the Committee has already decided to include a definition of "intermediary" in Article 1. We respect that this definition reflects the consensus position of the Committee, and are committed to honoring the compromises the Committee has already reached. Thus in the spirit of compromise and in hopes of moving forward, we can agree to the inclusion of Article 28 with several revisions.
- "The use of intermediaries is permitted" should be replaced with "*intermediaries are involved*," which is more accurate given that intermediaries are permitted in most countries, but may not necessarily be involved.
- "Determine and allocate" should be replaced with "*distinguish*." The Committee has clearly expressed its desire for a streamlined document; there's no need to use both of these verbs.

Where intermediaries are involved, Members should distinguish the respective responsibilities of digital labour platforms and intermediaries in accordance with national law and practice, to ensure compliance with the provisions of the Convention.

Article 29 – comments

- We propose consolidating Article 29 and Article 30 into a single provision (below), using the same text that is also used in Article 22 of the recent Convention on Biological Hazards in the Working Environment (C192). In line with longstanding ILO practice, this formulation does not reference organizations that are not the most representative social partners ("organizations representing digital labour platforms and digital platform workers"). Such references should be deleted.

Each Member shall give effect to the provisions of this Convention, in consultation with the most representative organizations of employers and workers, through laws and regulations as well as through collective agreements or any other measures consistent with national conditions and practice.

Article 30 – comments

- This article as drafted is extremely prescriptive. Implementation should be left up to governments to determine. Accordingly, we propose deleting this Article in favor of the consolidation proposal described under Article 29.

New 30bis: Measures taken by a Member to implement this instrument should not be used as a criterion, basis or evidence for reclassification or to establish a presumption of employment.

- Including this provision would ensure that this standard complements Member States' existing labor relations frameworks.

XIX. Normative language

Article 31 – comments

Click or tap here to enter text.

V. Comments on the draft Recommendation

Constituents are invited to provide any comments on, or suggested amendments to, the Paragraphs of the draft Recommendation in the boxes below. Constituents are also invited to express their views on the Office's commentary and questions relating to each Paragraph.

Please refer to the draft text on page 38 of Report V(3)

Preamble

Paragraph 1 – comments

Click or tap here to enter text.

I. Freedom of association, social dialogue and the role of employers' and workers' organizations

Paragraph 2 – comments

- The reference to collective bargaining should be deleted, as the vast majority of platform workers are not employees. In most Member States, self-employed workers cannot engage in collective bargaining because it would be anticompetitive.
- The phrase "including, where appropriate, at the cross-border level" should be replaced with *"where applicable*." ILO instruments apply at the national level. The ILO should not be encouraging Member States to interfere in the labor relations frameworks of other states. Given the significant differences in national law and practice, the phrase "where applicable" would give Member States necessary flexibility.

Paragraph 3 – comments

- In line with longstanding ILO practice, and to avoid fragmentation of the tripartite system, the reference to organizations that are not the most representative ("organizations representing digital labour platforms and digital platform workers") should be removed.

Paragraph 4 – comments

- The Employers Group opposes the proposed change in para 106 of the Brown Report to put direct obligations on social partners, and, instead, supports the original text, with the addition of "*where applicable and in line with organizations' rules and national laws*," for legal clarity.
- The flexibility in the original draft is important, as this provision should accommodate situations where platform workers are sole proprietors and may choose to join an employer organization in their capacity as a business.

Paragraph 5 – comments

- This paragraph pertaining to information disclosure should be deleted for several reasons. First, it presumes that all platform workers are engaging in "negotiations." As noted previously, the vast majority of platform workers are not employees. In most Member States, self-employed

workers cannot engage in collective bargaining, as this would be anticompetitive. This paragraph conflicts with well established law and practice in many countries.
- Second, the requirement to provide "all information relevant and necessary" is dismissive of intellectual property rights and the laws Member States already have in place to protect competitively sensitive information. This provision is vague about not only the information platforms would be expected to turn over, but also whom they would be expected to give it to. Further, depending on the platform, they may have statutory confidentiality obligations in respect of customer data that may not be possible to waive by merely entering into an agreement with a negotiating workers' organization.
- A blanket requirement to share sensitive information with a variety of organizations runs contrary to basic business freedom and is unacceptable to the Employer Group.

II. Occupational safety and health

Paragraph 6 – comments

- The Employers Group opposes the text proposed by the Office pertaining to OSH responsibilities, prevention of diseases and injuries and access to sanitary facilities and in response to para 109 and 112 of the Brown Report. While we understand that this paragraph is well-intended, it should be deleted in its entirety.
- As the Office notes, these protections do not apply to all platform workers. First, in the case of employed platform workers, Member States certainly should not be re-indicating responsibilities relating to long hours, insufficient rest, sanitary facilities, and drinking water. The responsibilities of employers to their employees on these issues are clear and well established.
- Access to sanitary facilities and resting spaces is an important public policy goal, but it is not specific to platform work. Self-employed platform workers, by definition, decide when, where, and how to work, and the challenges they face in accessing such facilities are no different from those faced by other self-employed or independent workers who operate in public and private spaces across the economy. Addressing gaps in access to sanitary facilities and drinking water is therefore a matter of general infrastructure and urban policy, as it affects not only workers but also other populations. This responsibility properly rests with governments and municipalities, and it cannot be addressed effectively through obligations on digital platforms alone.

III. Employment promotion

New Paragraph pre-7: *Members should create an enabling environment for digital labour platforms, in particular MSMEs, to support the creation of decent work opportunities.*

Paragraph 7 – comments

- We would support this text pertaining to education opportunities with several revisions, as in its current form, it is dismissive of the reason millions of platform workers choose to engage in platform work. These individuals value the flexibility of platform work and the ability to be their own boss. They do not want to become employees. Additionally, the strategies below should fit into broader national strategies meant to benefit the entire workforce. Suggested text:

Members should promote opportunities for labour-market relevant education, training and lifelong learning for skills development of digital platform workers, as part of national strategies, to respond to changing technology and labour market conditions, and to improve access to decent work.

Paragraph 8 – comments

- We welcome this provision.

IV. Employment relationship

General: In light of our position regarding Paragraph 9, this section is not needed. Should it be retained, we suggest the title of this section should be changed to "work" relationship, as the vast majority of platform workers are not in an employment relationship.

Paragraph 9 – comments

- In the spirit of streamlining the text, we oppose the proposal in para 115 of the Brown Report, and suggest deleting this paragraph. This provision is instructing governments to review their laws, a core function of government.

V. Remuneration and working time

General: We are supportive of the proposal in para 116 of the Brown Report to change "remuneration" to "remuneration or payment" in the title of this section.

Paragraph 10 – comments

- In response to the Office's question in para 118 of the Brown Report, no, the text should read "remuneration," not "remuneration or payment." "Payment" is associated with self-employment, and it does not make sense to talk about a minimum wage for self-employed workers for multiple reasons. First, minimum wages are linked to employment. Second, self-employed platform workers have the opportunity to work as much or as little as they choose. The opportunity to be your own boss is one of the key benefits (and inherent risks) of working as an independent contractor or sole proprietor. Third, in the vast majority of cases, platform workers are paid by task, not time.
- We should also note the multiple operational challenges of this paragraph in the case of self-employed workers, who make up the vast majority of the platform economy. Depending on the platform model, platform workers routinely set their own rates, negotiate their rate with the service requestor, or work on multiple platforms at the same time. The worker may also be a sole proprietor who secures some clients through platforms and others through other means. In these cases, platforms have no visibility into or control over what a worker is earning, making this provision impossible for them to enforce.
- Finally, "that is applicable to other workers in a comparable situation" is vague, unnecessary, and should be deleted. We suggest the following text:

Members should, as appropriate, take measures to ensure that digital platform workers <u>who are employees</u> receive remuneration which is at least equivalent to the statutory or negotiated minimum wage.

Paragraph 11 – comments

- In response to the Office's question in para 120 of the Brown Report, no, the text should read "minimum remuneration," not "remuneration or payment." It does not make sense to talk about a minimum payment for self-employed workers for the reasons stated above. If retained, this paragraph should deal exclusively with the remuneration of employed platform workers.
- As discussed in regards to Article 1(d), while employed platform workers may be entitled to compensation for expenses or other costs, self-employed workers are responsible for the costs they incur in their work. This is well established across the economy. Platforms do not have visibility into or control over the costs of self-employed workers.
- Paragraph 11(b) on tips and other gratuities should be deleted. Member States have differing laws and practice when it comes to how tips and gratuities are handled; it is best to leave this complexity out of this provision.

Paragraph 12 – comments

- Tips belong to the worker. Given the differences in national law and practice on tipping, however, we would suggest adding "*in accordance with national law and practice*" to this paragraph.

Paragraph 13 – comments

- The Employer Group opposes the Office proposal in paras 122-124 of the Brown Report. Paragraph 13 should be deleted in its entirety.
- First, to be clear, the Employer Group is fully aligned with the Fair Recruitment Principles, and wholeheartedly agrees that no employer should be charging administrative fees of their employees.
- Self-employed platform workers, on the other hand, use platforms as a tool to offer and market their services to a broader client base. As noted above, platform companies incur significant costs in building and maintaining their platform (which include the technology, marketing, user experience optimization, customer support, and other costs depending on the business model). Companies can only operate their platform if they are permitted to deduct or charge a fee from those who use it to find a service or secure a work opportunity. The practice of taking a commission is customary and permitted. Limiting the ability of platforms to deduct fees would stifle the platform economy. It is also deeply concerning that the ILO intends to regulate a fundamental business freedom, namely companies' ability to charge their clients.

Paragraph 14 and 15 – comments

- We oppose the Office's proposal in para 126 of the Brown Report pertaining to compensation methods. This paragraph should be deleted.
- This provision, while well intended, is unworkable. The vast majority of platform workers are self-employed. There is no scenario where a self-employed platform worker is not working *and* not completely in control of how they spend that time. When self-employed platform workers are not actively completing tasks, they could be doing anything: declining tasks, completing a task on another platform, working a full-time job, studying, taking care of personal commitments, scrolling social media, etc. Platforms could not provide compensation for the time workers spend not working without either drastically reducing workers' flexibility or severely violating their privacy.
- Also, this provision would introduce enormous inequalities and inconsistencies across the economy. Self-employed workers who are not platform workers are not entitled to pay while they are waiting to secure their next client.
- This also raises fiscal concerns for countries; if workers and businesses are entitled for compensation despite zero economic activity, social security systems would collapse.
- We also oppose the Office's proposal in para 129 of the Brown Report. This provision should be deleted. Employed platform workers already have these protections, and they are not applicable to the self-employed. Kindly see additional comments above.

Proposed Paragraph 15bis - comments

- We are firmly opposed to the Office's proposal, in para 130 of the Brown Report, to include a new paragraph (15bis), which would require the compensation of independent contractors for their expenses. As noted multiple times above, self-employed workers are responsible for their expenses, regardless of whether they are platform workers. In many Member States, platform workers who are self-employed can deduct business expenses from their taxes. These longstanding and economy-wide practices should not be usurped in this fashion.
- To reiterate our points above: Digital platforms do not have visibility into the expenses of self-employed workers, and they could not have this visibility without significantly restricting the flexibility that platform workers enjoy. Many workers use multiple platforms at the same time. Many workers use platforms to secure a portion of their clients, while using other means to secure the rest. In cases such as these, the obligations of a given platform would be impossible to determine. This paragraph should be deleted from future drafts.

Paragraph 16 – comments

- The ability to decline a task when one does not wish to work is only applicable to self-employed workers.
- To provide a general response to the Office's question in para 132 of the Brown Report: No, we are opposed to the phrase "considering the nature of their work arrangements and the classification of their status in employment." "*The classification of their status in employment*" is shorter and clearer.
- We suggest the following revision:

Members should take measures so that digital platform workers who are self-employed can, as appropriate, decline a task or disconnect from a digital labour platform when they do not wish to work.

VI. Social security

Paragraph 17 – comments

- We suggest a streamlining of this provision and therefore also oppose the Office's proposal in para 134 of the Brown Report. Everyone should have access to sustainable social security systems, and platforms are already playing a critical role in helping governments build the tax base to finance them. We suggest the following text:

Members should take measures to ensure appropriate financing of sustainable social security systems.

Paragraph 18 – comments

- As noted above, it is the position of the Employers Group that everyone should have access to sustainable social security systems. To ensure clarity and flexibility for Member States, we suggest the following revision to this paragraph:

Where coverage of the national social security system is limited, Members should endeavour to progressively and fiscally sustainably extend its scope, as appropriate, so that it provides access for all digital platform workers.

Paragraph 19 – comments

- We are supportive of the Office's proposal in para 140 of the Brown Report to delete this paragraph.

Paragraph 20 – comments

- We are supportive of the Office's proposal in para 140 of the Brown Report to delete this paragraph.

VII. Impact of the use of automated systems

General: This section is unacceptable to the Employer Group and should be deleted from the instrument. While these paragraphs may be well intended, they conflict with well established legal and regulatory frameworks on IP and competitively sensitive information, and interfere with basic business freedom. Regulating technology is outside of the mandate of the ILO, and recommending measures as extraordinary as these would be inconsistent with the Committee's preference for a principle-based approach.

Paragraph 21 – comments

- This paragraph pertaining to notification to competent authority should be deleted for three reasons.
- First, this proposal is very broad and would become an obstacle to innovation and economic growth if implemented. It would also be an extraordinary interference in the operations of private businesses. Businesses across the economy use a wide range of algorithms for many different purposes, and they have done so for decades. It is completely unreasonable that businesses should have to notify the government about such use. It is discriminatory that only platform companies should have to do this, and it would be a fundamentally incoherent and uneven approach to regulating technology.
- Second, requiring platform companies to notify the government about their use of automated systems would be a drain on public resources. Platforms implement automated systems that serve thousands of purposes, including to improve efficiency, promote safety, prevent fraud, and ensure the basic operation of the platform. The Yellow Report acknowledges that many governments said they lacked the capacity to implement this provision.
- Finally, this provision is also dismissive of jurisdictions that do not permit self-employed workers to engage in collective bargaining.

Paragraph 22 – comments

- This paragraph regarding monitoring and evaluation with non-business entities should be deleted. While we certainly agree that social dialogue is important, it would be a completely unreasonable intrusion in the operations of private businesses to expect them to consult workers and worker representatives in the development and use of technology.
- Additionally, this technology is typically protected as competitively-sensitive information and intellectual property. A blanket requirement to involve external actors in the evaluation of technology would clearly conflict with Member States' well established laws in these areas.

Paragraph 23 – comments

- This paragraph regarding intrusive information disclosure should be deleted. It is unreasonable and discriminatory to require platform companies to notify the government about their use of technology. Additionally, the Office should note that numerous governments in the Yellow Report indicated that they do not have the capacity to receive and manage this sort of notification. This paragraph would be a counterproductive drain on public resources and a blocker to innovation and growth.

Paragraph 24 – comments

- This paragraph regarding contents of collective agreements should be deleted. As previously noted, the vast majority of platform workers are self-employed. In most Member States, self-employed workers are not permitted to engage in collective bargaining, as this would be anticompetitive.

VIII. Protection of digital platform workers' personal data and privacy

Paragraph 25 – comments

- We are supportive of the Office's proposal in para 143 of the Brown Report to delete this paragraph.

Proposed Paragraph 25bis – comments

- In response to para 87 in the Brown Report, we reiterate our opposition to including the sub-paragraphs pertaining to data processing anywhere in the instruments. Data regulation is outside the ILO's mandate, and this granular level of regulation is prohibitive of business operations and innovation.

Paragraph 26 – comments

- This paragraph regarding data portability should be deleted. As multiple governments observed in the Yellow Report, implementing this provision would present numerous operational challenges. First, platforms may use different methods of compiling and reflecting ratings information. The technology that platforms use is also fundamentally different. Platforms are independent businesses and should have the freedom to develop their own product. It is not possible to take ratings data from one platform and incorporate it into another.
- Additionally, platforms cannot share ratings data without sharing code and other highly business-sensitive information, violating long-standing IP principles.
- Attempting to move personal data from one platform to another would also introduce serious data protection risks.

New section: Protection of the rights of digital labour platforms

In the spirit of improving the balance in the instruments, the Employer Group suggest a section pertaining to the rights of digital labor platforms.

New Paragraph 26bis: *Each Member should ensure that the measures in this instrument protect and do not interfere with or compromise commercially sensitive information, intellectual property or trade secrets of digital labour platforms.*

IX. Terms and conditions of employment or engagement

Paragraph 27 – comments

- This paragraph should be deleted, as it is extraordinarily prescriptive and at odds with the Committee's principle-based approach.

X. Protection of migrants and refugees

Paragraph 28 – comments

- While we have no opposition to this paragraph, we can accept the Office's proposal in para 147 to delete it.

XI. Dispute resolution and remedies

Paragraph 29 – comments

- This provision as drafted, regarding dispute resolution jurisdictions, extends far beyond the mandate of this committee. The laws that govern the resolution of international disputes are well established. We suggest the following revision:

Members should take measures to promote digital platform workers' access to dispute resolution mechanisms and remedies.

Paragraph 30 – comments

- This paragraph should be deleted. This provision pertains to immigration law and should not be addressed by this standard.

XII. Compliance and enforcement

Paragraph 31 – comments

- We are supportive of the Office's proposal in para 152 to delete this paragraph.

Paragraph 32 – comments

- We are supportive of the Office's proposal in para 154 to delete this paragraph.

Paragraph 33 – comments

- The Employers Group believes that this provision regarding formalization and imposing reporting obligations should be significantly reframed to better reflect the realities of the platform economy. We suggest the following revision:

Members should ensure that, where needed, measures are in place to reduce barriers to the transition to the formal economy and facilitate the formalization of informal workers, tackle undeclared activities and promote an enabling environment for sustainable enterprises.

XIII. Implementation

Paragraph 34 – comments

- We are supportive of the Office's proposal in para 159 to combine points 75 and 76. However, in line with longstanding ILO practice and the ILO's tripartite system, the reference to organizations that are not the most representative ("organizations representing digital labour platforms and digital platform workers") should be removed.

Paragraph 35 – comments

- We appreciate the spirit of this provision and would support it with slight modifications. We suggest replacing "should" with "*may*" and replace "statistics and other data needed" with "*statistical data*." These changes would afford Member States greater flexibility.

New Paragraph 35bis: *Measures taken by a Member to implement this instrument should not be used as a criterion, basis or evidence for reclassification or to establish a presumption of employment.*