Getting platform workers out of the legal grey zone

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A milestone in the digital gig economy

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on improving working conditions in platform work

(Text with EEA relevance)

{SEC(2021) 581 final} - {SWD(2021) 395 final} - {SWD(2021) 396 final} -
{SWD(2021) 397 final}
Overview

• 1) Labour platforms and digital Taylorism
• 2) The Platform Work Directive and its effects
• 3) Why Platform Cooperativism?
Labour platforms and digital Taylorism

• Are platform workers employees or self-employed?

  • Challenges for the legal perspective
    • 1) Employment status rooted in Fordist labour relations
    • 2) Stark contrast between “the worker” and workers’ perspective

  • Sociological opportunities
    • Focus on capillary power-relations
    • Grey zone between employment and entrepreneurship
• Digital Taylorism
  • “It would be possible to write quite a history of the inventions, made since 1830, for the sole purpose of supplying capital with weapons against the revolts of the working class.” (Marx, *Capital: Volume I*)

• Struggle for control over the labour process
  • Algorithmic management as capital’s weapon
  • Separation of the moments of conception and execution
  • Real subsumption of human freedom through *ex post* surveillance
Labour platforms and digital Taylorism

- Different forms of unbalanced power-relations

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PWD and its effects

• Historic moment (13 December 2023): PWD agreement
  • Many preliminary fears and criticisms seem abated
  • Preliminary victory (but no online labour platforms)

• 1) Employment status
  • Presumption of employment if 2/5 indicators apply
  • Member-states can add indicators but only to workers’ benefit

• 2) Algorithmic management
  • Right to transparency
  • Human oversight
  • Restrictions on personal data processing

• 3) No use of intermediaries
• Now what?

• Member-states have two years to translate the PWD into national law, but …
  • Council and EP still need to approve of the agreement
  • Member-states can make alterations
  • Issue of enforceability

• How will platform companies react?
  • Paolo Ganino (Uber): “We remain committed to Europe.”
  • Risk of wilful non-compliance (Glovo in Spain)
  • Risk of market withdrawal
PWD and its effects

Deliveroo confirms Dutch exit next month

Natasha Lomas @riptari / 2:32 PM GMT+2 • October 19, 2022

Turkish food delivery startup Getir to leave Spain - union

Reuters 30 June 2023 • 2-min read

Platform Work - How Helpling's bankruptcy exposes the flaws of the debate on the gig economy - January 26, 2023

Jan 26, 2023 - Martijn Arets - The context of the case, what is (not) new about a domestic cleaning platform, an overview of what changes the platform has made over the years. And a proposal for a debate

MARTIjn ARETS (LinkedIn • Twitter)

After a long legal battle, platform for domestic cleaners Helpling in the Netherlands filed for bankruptcy. The bankruptcy marks the end of a not uncontested battle with Dutch trade union FNV, which claimed the bankruptcy as a "belated victory" in the Dutch media.
Why Platform Cooperativism?

• Move toward traditional social bargaining has risks
  • 1) Unintended side-effects
  • 2) Self-management versus ‘antipower’ (Pettit)

• Need for a Plan B
  • Employment status is good, but need for a safety net
  • Aiming higher than a "seat at the table"
Why platform cooperativism?

- Platform cooperativism
  - Labour platforms organised as coops
  - CoopCycle, BestellenBij, Stocksy United, Smart, Drivers Cooperative, Up&Go, etc.
  - Collective ownership and governance of digital commons
Why platform cooperativism?

- Strategy for platform cooperativism
  - Direct competition is unrealistic
  - ‘Diachronic competition’
    - Platform companies depend on favourable regulatory ecosystem
    - Scaling solidarity and venture socialism
    - Example: Austin, US (2016)
Conclusion

• 1) “Digital Taylorism”-approach offers a helpful lens into the power-relations of the gig economy

• 2) The PWD is a political victory, yet risks on the horizon

• 3) Platform cooperativism offers a safety net and potential escape from domination in the gig economy