



Response by the Danish Government to the Inception Impact Assessment regarding Collective bargaining agreements for self-employed – scope of application of EU competition rules

The Danish Government appreciates the opportunity to comment on the EU Commission's Inception Impact Assessment for collective bargaining agreements for self-employed.

We welcome the Commission's initiative concerning the applicability of EU competition law to collective bargaining by self-employed, as certain elements of the competition rules in some cases can restrict the access to collective bargaining. In this context, the Danish Government is especially concerned with the pay and working conditions for solo self-employed and employees performing low-skilled, repetitive and easily replaceable tasks, often providing their labour through digital labour platforms.

With a view to the text presented by the Commission, The Danish Government:

- Supports the Commission's general objectives of the proposed legislative initiative, as this approach could be able to solve some of the problems related to collective bargaining for platform workers.
- Agrees that the competition rules must not stand in the way of ensuring decent working conditions. The right to collective bargaining is a fundamental labour right and a cornerstone of the Danish labour market model, where the social partners regulate wage and working conditions primarily through collective agreements.
- Underlines that it must be up to the individual Member State to determine when and under which conditions solo self-employed persons may negotiate collectively. The Danish Government stresses that definitions such as "solo self-employed", "false/bogus self-employed" and "employee" should be national competence as well.
- Suggests that there should be a national flexibility to achieve the purpose set out in the directive either by applying the directive's rules or by collective agreements between the social partners, as it is known from several labour law directives.

Competition law prohibits undertakings from fixing prices and forming cartels to the detriment of consumers. The Danish Government acknowledges that competition rules constitute a cornerstone of the market economy and ensure that undertakings compete by delivering innovative prod-

ucts and services of high quality at competitive prices. We therefore suggest that the proposed initiative allow for collective bargaining of fees, i.e. pay and working conditions, not the price charged to customers.

Furthermore, the Danish Government supports that the proposed exemption to competition rules should not lead to harmful cartel activities, e.g. anticompetitive coordination in sectors outside the scope of the Commission's initiative, but should focus on those in need of protection.

As the Danish Government recognises that the proposed initiative constitutes a fundamental change in the competition rules, we encourage the Commission to examine the economic impact and consider any risks of circumvention thoroughly, in order to provide the best possible starting point for the upcoming discussions of the initiative.

The Danish Government notes that the Commission states in the inception impact assessment that it is also working on an initiative to improve the working conditions of people providing services through platforms, as announced in the Commission Work Programme 2021. We welcome further details on how the latter initiative will work together with the present proposal.

Finally, The Danish Government expects to elaborate further on our position towards the Commissions initiative as part of the public consultation process of the upcoming impact assessment.