

## Ceemet response to consultation regarding the application of EU competition law on collective bargaining agreements by self-employed

Ceemet would like to refer to its [reply to the first phase consultation of social partners](#) on addressing the challenges related to working conditions in platform work as the key messages contained in that response remain valid for this consultation. In particular, Ceemet would like to refer to its position on the part related to addressing access to collective bargaining and to collective rights.

In this regard, Ceemet and its member associations would like to emphasize, once more, that when addressing the collective representation and bargaining of a person working through a platform, a distinction must be made if this person is considered an employee or self-employed.

Indeed, as pointed out by the Commission itself from a competition law perspective, self-employed are considered themselves undertakings as they carry out their activity on the market as independent economic operators in relation to their principal. For this reason, genuine self-employed fall within the scope of article 101 TFEU that prohibits “*undertakings to collectively bargain their fees and other trading conditions*”, without infringing EU competition law.

Ceemet does not agree, therefore, that competition rules are changed in order to allow genuine self-employed (be it be it a person working through a digital platform or not) to collectively bargain their tariffs and or other trading conditions as this would set a dangerous precedent for well-functioning competition law. Ceemet, however, agrees that competition policy should not act as a barrier to the already existing freedom to form an association.

The situation is different in the case of a platform worker that is being treated as a self-employed while having the characteristics of an employee. In this case, Ceemet and its member associations agree that this constitutes bogus self-employment and this platform worker should be re-classified as an employee and the person should be entitled to all rights and obligations (working conditions) of an employee, including the possibility to access collective bargaining/agreements through trade union membership.

Finally, Ceemet would like to emphasize that it is within the remit of the Member States competences to decide whether a person is qualified as an employee, fully in line with their national practices and in accordance with the criteria established by national labour and social security systems.

Bd A. Reyers Ln 80  
1030 Brussels – Belgium

 [www.ceemet.org](http://www.ceemet.org)

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### About Ceemet

Ceemet represents the metal, engineering and technology-based industry employers in Europe, covering sectors such as metal goods, mechanical engineering, electronics, ICT, vehicle and transport manufacturing.

Member organisations represent 200,000 companies in Europe, providing over 17 million direct and 35 million indirect jobs.

Ceemet is a recognised European social partner at the industrial sector level, promoting global competitiveness for European industry through consultation and social dialogue.

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