Our association of Italian freelancers, ACTA, brings together self-employed professionals from a wide range of professions (approximately 200). It is recognized by government authorities, including Italy’s National Council of Economics and Labor (Consiglio Nazionale dell’Economia e del Lavoro), and has been asked by the governments of a number of other countries to express its opinion on legislative measures regarding freelancers, and especially the Statute of Self Employment, which became law on 22 May 2017.

Our association is a sister organization of the United States Freelancers Union.

We are glad to respond to the request for consultation on the Digital Services Act, and in particular the topics covered by section V, Self-Employed Individuals and Platforms.

Self-employed workers are placed into a condition of vulnerability for a number of reasons. (a) They do not benefit of adequate welfare protections; (b) After the 2008 crisis, self-employed workers have seen their compensation and income progressively reduced; (c) The Coronavirus pandemic has lowered their annual income of the 50, 60% at European level.

As an association that brings together self-employed workers from different professions, we believe that only a small portion of self-employed (10%) work in the interest of digital platforms. As a result, it would be a mistake to consider the digital work as the predominant form of working activity performed by freelancers and other independent contractors.

It is worth recognizing self-employed workers’ right to collective bargaining; a right which is actually denied by EU competition law that aligns self-employed workers with business undertakings.

Notwithstanding, the right to collective bargaining provides only a partial solution to the problem of the self-employed worker’s lack of the bargaining power which is necessary to improve working conditions and to higher the level of pay. This is because the majority of self-employed workers work in the interest of a number of clients and, thus, they are forced to an individual negotiation. It is necessary to adopt new measures and tools to prevent the race to the bottom of fees.

1. The Covid-19 pandemic has made it clear that the self-employed are an extremely vulnerable category as far as social welfare is concerned, and this for two main reasons: the absence of social buffers and a general lowering of the level of pay, especially in sectors that call for specialized skills, high levels of cultural preparation and creative talent. Self-employed workers do not enjoy the same social security safeguards as ordinary employees, nor are they protected by collective agreements when it comes to wages.
2. After the 1970’s and the onset of the “post-Fordist” era, characterized by ongoing deindustrialization and growth in the services sector, a large number of “new professions” came into being, providing services to businesses and individuals in the fields of culture, leisure activities, tourism and entertainment, all of which brought to the fore a new generation of freelance workers. The development of information technology, the Internet, the use and spread of computers and mobile phones, has made it possible to work remotely as a subcontractor to large businesses and public-sector bodies. Despite being covered by the Italian social security system, this new generation of self-employed workers does not benefit from the same employment protections as ordinary employees, especially during periods of unemployment, while in other instances, such as sickness or maternity, the protection is inadequate. But where freelancers find themselves most vulnerable is in dealing with clients, seeing that they are unable to collectively stipulate conditions for their work, but must negotiate individually, placing them into a condition of inequality when it comes to bargaining power.
3. Under European norms and statutes, freelancers are not considered “workers” but “undertakings”, on a par with business enterprises, meaning that, if they join together to negotiate fees, they are establishing a trust, or an entity that stands in conflict with competition law. For freelancers to be able to benefit from collective-bargaining agreements, **this paradoxical prohibition must be abolished**, so that the self-employed can be treated as what they actually are, meaning individual workers who provide their professional services to a number of different clients for whatever time is needed to carry out their assigned tasks. Thanks precisely to the “intermittent” nature of their work, such workers have become a valuable resource, ensuring the high level of flexibility required by the competitive demands of our system.
4. Many freelance workers offer their services on a platform. It is our experience, however, **that only a small portion of the self-employed** work on, or with the intermediation of, a digital platform (our studies say less than 10%). In other words, it would be a serious mistake to view platforms as the predominant mode of activity among first- and second-generation freelancers, whether the work in question is that of physicians and attorneys or delivery-persons and web designers. Secondly, a clear distinction should be made between platforms that serve as a marketplace in which supply and demand are brought together, or for public bidding on specific service assignments (such as translation work from one language to another), and other platforms that in realty are tools for organizing the activities of self-employed workers who service the same enterprise, as in the case of the various food-delivery and private-transportation enterprises (such as Uber). This distinction is especially important when it comes to collective bargaining, seeing that, while individual food-delivery workers could very well band together and enter into negotiations with the company that runs their platform, thus engaging in collective bargaining, a translator who bids on a platform, offering a certain price for a translation assignment, will always wind up competing with other translators, in a process that inevitably favors those offering the lowest bid. So whereas the first type of platform can serve to establish a uniformity of intent and make possible collective bargaining, the second will only heighten existing divergences, setting off a process of self-exploitation.
5. Looking at statistics on self-employment in the countries of Europe, the sectors of traditional self-employment (commerce and farming) are clearly in steep decline, whereas growth is strong among freelance professionals, meaning that an increasing percentage of the self-employed are knowledge workers. Such individuals make heavy use of “digital services”. In fact, it is safe to say that, without digital technology, the self-employment of today would not be able to function. But the increasing presence of self-employed workers in the more highly qualified professions has not been matched by similar progress when it comes to income and social prestige. On the contrary, individual freelancers are most likely to become a new category of the working poor. Such workers must be allowed to freely exercise the right to collective bargaining, once the absurd statute that treats them as “undertakings” has been abrogated. The result would be at least a partial lessening of the ruinous downward pressure on fees, which has proven especially severe in the wake of the 2008 economic crisis. Giving the self-employed the freedom, whenever possible, to engage in collective bargaining to obtain better working conditions would eliminate, in part, one of the main causes of their vulnerability in terms of social welfare, in addition to increasing their capacity to contribute to the public social security system. Because of the lower the level of compensation they receive for their services, the less they will be able to contribute to social welfare expenses, especially when it comes to illness, maternity leave, unemployment and pensions.
6. But giving freelance workers the right to engage in collective bargaining is not enough. All too often, it is not even feasible, with an apt example being instances in which a freelancer provides his or her services to a number of clients. Collective bargaining can occur only when a certain number of freelancers work for the same client: in other words, when the workers are many, but there is only one client. In most cases, however, given the growing fragmentation of labor, the prevailing situation is one in which each individual worker also has a number of other clients. This puts freelancers at a serious disadvantage in the market, ultimately proving to be the chief cause of their vulnerability. As we see it, the situation can only be improved by introducing new forms of regulations to prevent the prices for professional services from falling below a certain threshold, so as to guarantee decent levels of compensation. In addition to union efforts, this will require initiatives on the part of other subjects as well (an interesting example is the Decent Work Cities movement).

**To conclude:**

**Self-employed workers are placed into a condition of vulnerability for a number of reasons. (a) They do not benefit of adequate welfare protections; (b) After the 2008 crisis, self-employed workers have seen their compensation and income progressively reduced; (c) The Coronavirus pandemic has lowered their annual income of the 50, 60% at European level.**