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Draft ILO platform work standard locks out transport workers

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Responsible investment, corporate governance, and labour relations.



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The ILO's social partners (Employers' group, Workers' group and governments) held the first of two scheduled discussions about new standards intended to produce "decent work in the platform economy." The **ILO outcome** has little chance of reaching millions of app-based (platform) workers due to 20th century ILO institutional arrangements trying to adapt to a highly effective 21st century business strategy.

The discussion follows a decades-long erosion of formal employment and the corresponding ILO standards. More than 2.5 billion informal and platform workers remain effectively locked out of the discussion of labour standards that are supposed to help them.

What is clear to app-based workers now more than ever is ILO's tripartite governance, the standards it produces and the laws that follow, are incompatible with the needs of App-based workers outside of an employment relationship.

No consensus on binding standards

The first discussion failed to reach consensus on binding standards. After 10 days of deliberations lasting deep into the night, 75% of the binding standards have not been discussed. The discussion required a roll call vote that had razor-thin (57%) support for the binding standards of a convention.

In concluding remarks, the Employers and the United States cited the lack of consensus to suggest reverting to a non-binding recommendation. It would take as few as two ILO Member countries to change their position and reverse the 7 point margin.

The misclassification trap

Since 2006, the social partners have focussed on employee classifications. App-based transport workers are trapped until that debate gets resolved. In any event, reclassifying mass-groups of workers involves litigation that would bankrupt most unions of the world. The ILO may be the best chance to restore industrial balance that is needed to resolve the dispute. Unfortunately, the draft standards prolong the debate.

ILO excludes impacted workers and their chosen representatives

The ILO rules and institutional arrangements prevent meaningful participation by the subject businesses and labour organisations representing independently contracted workers.

The App-managing enterprises argue they are not employers and the 154 million impacted "platform" workers (nearly as many as the entire [global trade union movement](#)) have eluded traditional union representation.

The Employers' group includes affected enterprises in their national networks regardless of employer classification. Ironically, being classified as independent contractors, app-based workers would be businesses and presumably be able to participate in the Employers' group.

Traditional trade union governance structures are not yet equipped for app-based worker representation. Laws in ILO Member countries frequently deny app-based worker representatives a place in their delegations. For instance, when defined as independent contractors, app-based workers are unable to meet the legal definition of "trade union" and are denied registrations. App-based workers are forced to exist outside national systems for industrial relations.

As a result, app-based workers and their newer representative organisations are not meaningfully involved in the ILO standard setting processes.

The ILO background reports for the discussion excluded input submitted by app-based worker representatives. Ninety-two percent (92%) of Workers' input to the discussion did not come from impacted app-based workers.

If wishes were horses . . .

By 2006, businesses had transitioned millions of formal employees to informal work categories in extensive supply chains. In the 1990s, an ILO discussion failed to produce a binding convention on contract labour. (See the analysis in a working paper by [De Stefano, et al 2021](#)) As a consolation, the ILO lowered its expectations in developing ILO Recommendation 198 – The Employment Relationship Recommendation.

Recommendation 198 ushered in the final evolution of informalisation – platform work. The Recommendation made it possible for enterprises to cite "legitimate commercial contracts" to make workers independent.

The results speak for themselves. Since R. 198 was adopted in 2006 informal work grew to 2 billion, app-based work grew to 154 million, and all the leading app-managing transport enterprises were formed.

In 2025, the Workers' group may wish for Recommendation 198 to end informality and begin the global reclassification of app-based transport workers. But wishes aren't horses and app-based riders are left begging.

Behind every app-based worker's struggle lies an enterprise, not a platform

One may believe that "digital labour platform" means an enterprise, but the Employers' Group insists the platform is its own entity. In fact, the term digital labour platform only seems to exist in social dialogue at the ILO. Consensus about the words in the convention does not equal consensus on interpretation.

As adopted, *Digital labour platform* ("DLP") means a "legal or natural person." This will not withstand scrutiny. App-based workers know the *platform* as neither.

The DLP definition is further watered down by the condition "*Organises and/or facilitates*." No consensus was reached after a lengthy debate. The largest enterprises never report organising labour as part of their business models. As for facilitate,

- Uber's "sole performance obligation in the transaction is to connect Drivers and Merchants with end-users to facilitate the completion of a successful ridesharing trip or delivery." - 1
- Doordash "facilitates deliveries to consumers from non-partner merchants." It acts "as an agent for the consumer in facilitating the delivery of products by connecting consumers with Dashers." In the U.S. it provides Dashers with "access to certain banking services. . . that facilitate access to their earnings." Doordash implies, but never explicitly says it facilitates labour. - 2
- Delivery Hero describes a mission to "deliver an amazing experience, fast, easy and to your door." It offers technology, artificial intelligence and dispatch software that "facilitates a fast and efficient order delivery." - 3

Digital platform worker is conditioned on "a person employed or engaged to work."

"Employed" already rules out most of the 154 million app-based workers. Unless everyone is reclassified, the entire scope of the convention hinges on a worker proving they are "**engaged [by the Digital Labour Platform]** to work." As with the definition of digital labour platform, the use of the term "engagement" varies at the largest companies.

- Uber says its business depends on its "ability to attract and engage Drivers, consumers, Merchants, Shippers and Couriers, as well as contractors and consultants that support [its] global operations." - 1
- Doordash implies workers (aka dashers) initiate "engagement with our platform" but describes its own engagement when referring to employees, contractors and consultants. - 2
- Delivery Hero uses "three main engagement models: direct employment (where riders are employed by Delivery Hero's subsidiaries), freelance (where are self-employed), or third-party providers under contract for delivery services." - 3

Sunk worker costs, remuneration, and payments

Theoretically the definition of *Remuneration and payments* could cover workers. However, this is complicated by the 20th century definition of remuneration being applied to 21st century standards. Remuneration again requires an employment relationship and cannot be applied to App-based transport workers in the [top 15 countries](#).

Payments most closely reflects app-based worker experiences. App-based transport workers pay to work on a platform and operating expenses are their main issue. Workers cover maintenance, licensing, and borrow against depreciating assets. Often, this places them in a deep financial hole before ever receiving payment for their services. Unless all costs can be included in assessments of minimum income, workers will continue to operate at a loss.

But this is not how remuneration works and none of these hidden worker costs are considered by the convention as it is drafted. The details of *Remuneration* have not been discussed but the momentum decidedly favours the enterprises. As drafted, the ILO discussion in 2026 will be open to piece-rate (!) work relationships and unlimited allowances for deductions from what is owed to the worker to the "extent prescribed by national laws, regulations or collective agreements" which largely do not exist in this sector.

The third rail is independent contractors

Independent contractor relationships have not been discussed. The unspoken third category means Member countries can maintain their existing independent contractor exclusions from the standards or come up with another set of standards.

The Scope of the convention covers employed or self-employed workers. The same dichotomy we have today is preserved in the agreed coverage of the Convention and Recommendation. If workers are not one of those two classifications, what happens? The discussion is not able to answer this.

Flexibility means excluding millions of workers

The draft permits exclusions of "limited categories" of workers and platforms from coverage. This should have been more narrowly tailored to limited numbers of workers, not broad categories.

Limiting to even one category can exclude millions of workers. For example, App-based transport work could be eliminated altogether, regardless of the size of the workforce. The only condition being "special problems of a substantial nature" provides all the opening Uber, Doordash, and Delivery Hero will need in many ILO Member countries.

"Special and substantial" problems could include interstate commerce, interfering in legitimate commercial contracts, or maintaining an essential service. (remember Covid lockdowns?) It doesn't take a lot of imagination to predict arguments used to exclude entire segments citing "special and substantial problems."

A) The app-based transportation category operates with independent commercial contracts with each rider using their platform. (Draft convention, paragraphs 20 and 21, which is reinforced by referencing ILO Recommendation 198)

B) Mandating minimum wages, union representation, and occupational health and safety interferes with true commercial relationships, anti-

C) Other economic segments are affected by the app-based transportation segment.

Ignoring the approaching comet

Locking App-based workers and their representatives outside ILO standards, the next evolution of work becomes even more problematic: driverless vehicles, no work, no classification, no misclassification. If app-based transport workers are not covered by these standards, what happens in the future workless transition?

App-based work (misclassified as it may be) is only a brief stopover on the way to a total de-classification of App-based work. Driverless activities are the true intent of flexible work relationships sought by the Employers' group. By making workers self-employed, enterprises will be free to eliminate trade unions with impunity.

Time favours no worker

The double discussion prevents standards, preserves no standards in the medium term, and promotes unregulated transport work into the 2030s. The soonest a Convention will occur is June 2026 and Member countries have until 2027 to begin ratification. In the near term, the prospects for workers are slim to none.

References: 1 - Uber Technologies, Inc. 2024 10-K. 2 - Doordash 2024 10-K. 3 - Delivery Hero Combined Management Report 2024.

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