

Deliveroo: written contribution to European Commission public consultation on Access to Social Protection

Deliveroo is pleased to make this written contribution to the European Commission public consultation on Access to Social Protection.

Deliveroo takes a strong interest in the social protections and employment services available to those who choose to be Deliveroo riders since we consider the interests and wellbeing of riders to be indivisible to the interests and wellbeing of our business.

We very much hope this contribution is valuable to policy-makers and would be happy to provide any further information on request.

Executive summary

- Deliveroo is a fast-growing European food tech company, now operating in 12 countries, including 8 EU Member States. In the past 12 months Deliveroo has worked with over 46,000 riders in EU countries.
- Deliveroo works with self-employed riders because this offers the flexible work riders seek. The key features of a self-employed Deliveroo rider are: riders work across multiple platforms in the same hour; riders have no fixed hours; riders can opt to work where they want; riders have no obligation to work at all. As well as being flexible in nature, this work is well-paid, with riders in all European markets earning well above their local national minimum wage. Riders primarily work with Deliveroo to top up other income. The work opportunities Deliveroo offers should not be compared to traditional employment.
- Deliveroo believes that everyone - regardless of their type of contract - is entitled to certain benefits and security whilst working. In many cases in Europe, however, national employment law constrains the company from offering greater protections to self-employed or independent contractors. On the other hand, those classified as 'employees' can more easily be offered benefits, but don't have full flexibility. Deliveroo thinks this trade-off between flexibility and security should end.
- Should EU policy aim to enable platform workers to have access to more social protections, Deliveroo believes that voluntary schemes accompanied with better information and reduced administrative burden could work well. Another potential solution could be to make clear that the self-employed can receive

benefits without there being a risk to the relationship being reinterpreted by the courts.

- With regards to all proposals in the framework of the European Pillar of Social Rights, Deliveroo believes it should be made clear that individuals who are free to work as and when they choose and do not have to provide personal service are outside the scope of “worker” legislation and will be regarded as fully self-employed.
- Finally Deliveroo would like to draw EU and national policy makers’ attention on the fact that it is vital that the vibrant on-demand economy is not curtailed and able to continue to stimulate job-creation. If Deliveroo continues to grow at the same rate as the increase in the number of partner restaurants globally over the past twelve months for the next two years, it will create around 54000 jobs across the European markets in which it currently operates, in both its partner restaurants and their supply chains. It is important therefore to consider the potential impact on European restaurant sectors should companies such as Deliveroo have their growth potential constrained by being unable to offer the work riders seek.

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About Deliveroo

1. Deliveroo is a food tech company with a mission to bring the world’s best local restaurants to everyone’s home or office. Launched in 2013, Deliveroo is a European start-up success story. Deliveroo operates in 150 cities across 12 countries, mostly in Europe: Belgium, France, Germany, Italy, Ireland, the Netherlands, Spain and the UK, as well as in the United Arab Emirates, Singapore, Australia and Hong-Kong.
2. Deliveroo is a UK-based company headquartered in London, employing over 1,000 people worldwide, paying indirect and payroll taxes across the EU. Each country has a permanent office which locally takes care of the relationships with restaurants and riders, employing permanent staff.

3. Deliveroo works with over 35,000 restaurants and over 30,000 riders worldwide. In the past 12 months we have worked with over 46,000 riders in EU countries. Deliveroo is growing rapidly. In 2017 Deliveroo raised almost \$500 million in new funding. This investment will develop a European tech hub that will help to revolutionise the European food and restaurant sector.

Flexible working

4. Deliveroo works with self-employed riders because this offers the flexible work riders seek. In regular surveys of riders from all European countries in which we operate riders say that working with the freedom to decide when and where to work is a priority for them. Riders want to base work around their lives, not vice versa.
5. In France, 92% of the riders consider that the flexibility of their contract is an important element of their collaboration. 90% of riders in Italy and Germany say the same. In Ireland, 80% of riders say flexibility is the benefit of riding with Deliveroo they value the most, which rises to 85% for the UK and Netherlands. Similar surveys also repeatedly show the overwhelming majority of riders are happy working with Deliveroo and happy with the amount they earn while doing so.
6. Deliveroo's self-employed model has recently been affirmed as legitimate by binding court judgements in the UK and France. The relationship between an employee and an employer, or indeed a "worker" (as that term is understood under domestic and EU laws) and an employer, is fundamentally different to the relationship between a self-employed rider and Deliveroo. In the on-demand economy people can choose where to work, when to work, if to work, can reject work at any point, can finish work at any point, and can work for other companies at any point.
7. The key features of working as a self-employed Deliveroo rider are: riders work across multiple platforms in the same hour; riders have no fixed hours; riders can opt to work where they want; riders have no obligation to work at all.
8. There is no other type of work that allows you to work whenever or wherever you want; allows you to both plan where to work but also cancel right up to the last minute if you wish; and allows you to work for a competitor at the same time.

9. Working with Deliveroo should not be compared to traditional forms of employment, and it is not treated as such by riders. Riders primarily work with Deliveroo to top up other income. In the UK, just 1 in 10 say this is their main income source. In Germany, 75% ride with us alongside another main activity. Furthermore, riders do not work with Deliveroo for periods comparable to those in traditional workplaces. On average, riders work 15 hours a week. In the UK, 64% of riders work between 0-15 hours; 3.8% work between 30-35 hours; 3.2% work 35-40 hours; 2.5% work 40-45 hours.
10. As well as being flexible in nature, this work is well-paid, with riders in all European markets earning well above their local national minimum wage. In the UK, for example, riders earn on average £9.50 per hour; in France they earn €14 per hour; in Spain, Italy and Netherlands €10.50 per hour; in Belgium €16 per hour.

Flexibility and security

11. Deliveroo believes that everyone - regardless of their type of contract - is entitled to certain benefits and security whilst working. Deliveroo therefore understands and shares the European Commission's objectives of providing adequate security to all individuals working in the EU, reflected in the European Pillar of Social Rights initiatives.
12. In many cases in Europe, however, national employment law constrains the company from offering greater protections to riders classified as self-employed or as independent contractors. Independent contractors have full flexibility, but are usually not entitled to certain benefits. On the other hand, those classified as 'employees' can more easily be offered benefits, but don't have full flexibility. We think this trade-off should end.
13. As is well known, while there are certain key tests that are used to determine employment status, such as whether the person is under an obligation to work or to provide services personally, there are also other factors that are taken into consideration in legal judgments. One of these is whether benefits are directly provided to a worker by a company. We have consistently taken legal advice on this matter in the European markets where we operate and there is very clear employment law guidance to the effect that providing benefits directly could lead to courts ruling that the nature of our relationship with our riders has changed

and could impact on riders' status, which in turn would impact the flexibility riders cherish.

14. Deliveroo makes efforts to increase security for our riders where we can. For example, in the UK we have announced the first-ever insurance offer for food delivery riders in the UK on-demand economy, covering sickness and accident, made available through specialist third parties. In France we have introduced free insurance for all riders, made available through AXA. In the Netherlands Deliveroo has taken out insurance to cover for its duty of care, meaning that damages and injuries suffered by freelance cyclists while performing their work are insured by the company.
15. We would like to go further, however, and offer more work-related benefits to our riders, but without compromising the flexibility that comes with self-employment. 75% of Deliveroo riders in the UK say they want to have additional protections but, crucially, only if they are able to retain the flexibility that comes with being self-employed, and this reflects the views of our fleet across Europe.
16. Deliveroo realises that 'on-demand' companies have created new models of labour market participation and consumer consumption, which have as a result created unique policy challenges. It is important that, before any action is taken that could have a significant impact on the viability of the on-demand sector, EU and national public authorities engage with companies who use the 'on-demand' model to deliver solutions that balance flexibility and security.
17. Should EU policy aim to enable platform workers to have access to more social protections, Deliveroo believes that voluntary schemes accompanied with better information and reduced administrative burden could work well, considering the preferences, age and working patterns of those who choose to ride with us.
18. Another potential solution could be to make clear that the self-employed can receive benefits *without* there being a risk to the relationship being reinterpreted by the courts. Ideally, new legislation would make it clear that the self-employed can receive certain benefits based on an accrual basis, whether earnings or the output of work completed, for example deliveries made in the case of Deliveroo. Another potential solution to this problem would be for Member States to create a wholly new category of employment which would provide a level of security while at the same time allowing companies to calculate entitlements based on services

delivered. This could provide those who fall into this new category with both security and a highly flexible relationship.

19. In 2016, the UK Government commissioned an independent Review of Modern Employment Practices. Deliveroo's [submission](#) to this Review outlined in more detail the arguments above. At EU level, we believe that future initiatives on self-employed workers should reflect this, including in the context of the European Pillar of Social Rights. We advocate for a framework in the EU that provides workers with flexibility and security, while ensuring that platforms-based businesses can thrive.

20. In this regard, Deliveroo urges the EU to be mindful of unintended adverse consequences of the current draft Directive on Transparent and Predictable Working Conditions, an initiative put forward in the framework of the EU Social Pillar. Deliveroo understands that it is intended that many individuals working in the on-demand economy should be classified as "workers" under this Directive. However, it makes certain implicit assumptions about how "workers" must work - being compelled to work, and to work "hours" exclusively for one employer - which are at odds with the reality of how people work and want to work with a company like Deliveroo. For example, it is proposed that its provisions be disapplied if workers have an employment relationship equal to or less than 8 hours per month, but not if no guaranteed amount of work is set before employment starts. This would be clearly counterproductive for individual riders working with a company like Deliveroo, as they decide themselves how much they wish to work. It expects the provision of "work schedules" setting out hours and days when performance of work starts and ends, but Deliveroo does not require "set hours", or pay by reference to them. Such steps risk unnecessarily inhibiting flexibility without advancing the security agenda.

21. To mitigate such issues, Deliveroo proposes that it should be made clear that individuals who are free to work as and when they choose and do not have to provide personal service are outside the scope of "worker" legislation and will be regarded as fully self-employed. This would preserve the flexibility riders value and, if our other proposals are adopted, need not adversely impact security. Alternatively, if the EU does wish such individuals to fall within the ambit of worker legislation it should seek to make this fit for purpose for individuals who are neither required to work particular hours nor paid by reference to them, as outlined in paragraphs 16 and 17.

Difficulties in calculating benefit entitlements

22. Should Deliveroo riders be reclassified as 'employees', this would have a considerable impact on the nature of the work we would be able to offer.
23. 'Employee' status for riders would require Deliveroo to pay riders on a per-hour basis and to make available a range of work-related benefits, which would be calculated based on days or hours spent working. It would be extremely difficult to reconcile this with the flexible way of working that characterises the on demand economy and is so valuable for so many.
24. For example, in assessing entitlements to social protections it is unclear how 'working time' would be defined. Riders are not under any obligation to do any minimum amount of work, and when they do choose to make themselves available to perform services by logging on to the app they can reject any particular delivery offered to them. They may also be simultaneously working for other companies while logged in. Additionally, the right of substitution means it may not even be the rider with whom we have a supplier agreement who is working at any given time. It is therefore far from clear that time logged on to the app should simply be equated with 'working time'.
25. Furthermore, it is not clear what would constitute a 'continuous period' of employment in the on-demand economy, where work patterns are highly variable. We do not know whether this would begin from the moment a rider on-boarded, or whether this would be subject to having performed a certain quantity of work across a specific period of time. Similarly, if looking at entitlements to statutory sick pay, it would be impossible to say meaningfully what would constitute an absence when riders have no obligation to work and time worked may vary hugely from one week to the next.
26. As a result, to overcome these difficulties, should a company such as Deliveroo be compelled to offer work-related benefits based on the standard hourly model for calculating entitlements, it would be necessary to require our riders to work in compulsory sessions, arranged with us in advance, during which they would have to work with us exclusively. The result of this would be that demand for work with Deliveroo would likely fall as it would no longer be highly flexible in nature. Deliveroo would work with fewer riders on the road who, unlike now, would operate in fixed shifts. This would be bad for riders, who would not work as they wish; would be bad for customers, whose orders would be denied choice

and speed as a result of fewer riders being on the road; and bad for restaurants, whose would see lower revenue growth from deliveries through the app.

27. It is important to consider in this debate the potential impact on European restaurant sectors should companies such as Deliveroo have their growth potential constrained by being unable to offer the work riders seek. In the European markets in which we operate, Deliveroo creates over 13,000 jobs in its partners restaurants and across their supply chains. If Deliveroo continues to grow at the same rate as the increase in the number of partner restaurants globally over the past twelve months for the next two years, it will create around 54,000 jobs across the European markets in which it currently operates, in both its partner restaurants and their supply chains. This illustrates why it is so vital that the vibrant on-demand is not curtailed and able to continue to stimulate job-creation in the wider economy.

28. Additionally, the economic activity Deliveroo stimulates contributes to growth and tax revenues. Given the company's growth trajectory, these benefits, including job creation, are likely to dramatically rise in future. This is, however, dependent on there being a regulatory environment that enables innovative companies to grow and realise their potential. We hope the economic benefits are considered and not threatened by any potential future policy changes.