# A workers' agenda for e-commerce

## WTO Public Forum 2018 - working session report

**On 3 October 2018, the ITUC, together with TUAC and ITF lead a working session entitled 'A worker' agenda for e-commerce' at the WTO's Public Forum in Geneva.**

Panel

- G. Altintzis (ITUC) - moderator
- A. Byhovskaya (TUAC) - panellist
- V. Figueroa (ITF) – panellist

The panel and audience discussed a series of challenges arising from the use of new technologies, and in particular e-commerce that demonstrate the need for building collective power on the one hand, and taking steps to apply existing regulation and create new regulation and compliance mechanisms where necessary, and keep them up to date.

Data, as the connector between all areas of the economy and society, is a trade issue, a technology issue and is rapidly becoming a political issue.

New technologies bear opportunities. For instance, they can help increase traceability in global value chains, and help address labour and environmental shortcomings. In addition, we could use technology to make production safer by optimising processes and occupational health and safety as well as saving energy and mitigating $CO_2$ emissions (bearing in mind the high energy footprint of data centers). But it not all rosy. Data offers the potential to effectively monitor and regulate working conditions and apply incentives to companies so as to enforce or exceed labour standards.

An uncontrolled digital environment has created giant and extremely profitable companies that pay very little tax. The size of some companies and their enormous share in data ownership are creating problems in terms of labour-capital balance and market power concentration. They are also exacerbating traditional information asymmetries in market economies. The concentration of digital tech companies in the US and China creates problems for the national security and local control in other states.

It is important therefore to regulate the methods of data collection, the processing and use of data, and data repurposing including selling to third parties.

In particular, regulation should address various aspects related to workers' data. For instance, algorithmic bias and data control makes hiring and firing less transparent. Workers do not have an explicit right to explanation. By using techniques of Digital Taylorism, employers monitor workers and evaluate their efficiency with a view to implementing labour discipline. Artificial Intelligence (AI) plays a key role in this regard. AI processes data automatically and decides whether someone is hired or fired, and it manages work processes and squeezes out middle managers in operations.

Due to the extent of use of such technologies and the number of people it affects, governments should step in to write the rules that would effectively protect workers and take a human-centred approach for the workplace. In this regard, data privacy regulations should include workers' data issues. Given each workplace's specificities, an effective method of addressing many of the challenges is resolution by collective agreements at the company and sectoral level, including with the establishment of tri-partite specialised bodies that have control over data use. Further to these, governments should adopt and reinforce the right to disconnect.

Governments should engage the public in a wide-ranging debate on data and its uses. People may decide that some forms of data should simply not be collected. Democratic control of data is essential. People should have their right to privacy guaranteed. One option would be a National Data Fund which would collate all digital data, and would then charge private companies for access to specific types of data. Other data to be used for public interest projects would be made accessible free of charge. Individual citizens would be able to determine what data they agree to sharing and with whom. Such a fund could be run as a government department, or as a publicly-funded, but autonomous body, an arrangement similar to that of the BBC in the UK today. For these options to work data needs to be held nationally, and needs to be controlled at national level.

Online platforms both collect vast reams of data on people, and shape the information these people are exposed to. They should therefore be obliged to sign up to national laws on what data they can and cannot collect, and they should also make the algorithms that determine what is news and what is not, available for public analysis.

Online platforms create a jurisdictional ambiguity in terms of applying national legislation. Governments should come together to regulate different aspects by applying regulation on online platforms, including taxation, the payment and management of social contributions, compliance with labour law, payment of at least minimum living wages, and training policies.

Online platforms are mostly built on algorithms that determine the service provider's (worker's) payment who often have low bargaining power if any. To this end, governments should establish fair treatment and competition rules, such as portability of rankings among platforms, and actively support platform workers in other ways to increase their individual right to redress and explanation and collective power. Further to this, competition law does not permit self-employed workers to unionise, and governments and competition authorities should update the laws to allow for this possibility.

Current freedom in data flows and the global reach of the internet have created an unprecedented market of scale. This is leading towards the creation of an unequal digital ecosystem with checkpoints and extreme market power concentration. Consumers and data producers, all of us, need protection from monopolies. Governments should update competition law in this regard, too.

Also, the rules that apply on data processing are those of the country where data are stored. A regulatory race to the bottom is happening and companies naturally search out the country with the lowest protection – and largest freedom for them. In order to mitigate this problem, governments should act at international level to agree international rules on taxation of digital companies, data flows, uses of data and on access to information.

Government regulation and enforcement is necessary – to protect workers, to protect personal data, to avoid market power abuses and protect economic freedom, to industrialise/digitalise, and to ensure that taxes and contributions are paid where value is

created. In the absence of a global regulatory system on e-markets, data localisation is required for governments to regulate effectively.

Coupling free data flows with trade agreements will just tie governments' hands from regulating and taking action to address all these challenges.

The impact on the attainment of SDGs should be taken into account too. Trade agreements would ban the ability of countries to require technology transfer. A pro-worker rule should safeguard tech transfer and by doing so increase the ability of developing countries to improve government capacity to use data for social benefit, as well as stimulate the emergence of local technology companies to create good quality local employment.