



The Danish trade association, the Danish Association of Certified Translators and Interpreters (DACTI), hereby provide our response to the consultation launched by the EU Commission regarding a revision of the competition rules (Article 101 of the TFEU) and to the initiative regarding platform work (Article 153).

The response comprises the completed questionnaire as well as this covering letter which provides further details.

Our response is made on behalf of DACTI, yet we note that the problems apply to large parts of the European market for translation and interpreting services. This is supported by feedback from a large number of translators and interpreters given in connection with the Roadmap hearing which ran from 6 January – 8 February 2021 (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Collective-bargaining-agreements-for-self-employed-scope-of-application-EU-competition-rules_en)

DACTI welcome the EU Commission's initiatives, as our members are genuine solo self-employed who carry out a liberal profession independently, i.e. without any employees.

DACTI would like for our members – including other solo self-employed translators and interpreters – to gain access to collective representation and bargaining, and we thus support **option 4** in the EU Commission's proposal for a revision of Article 101 (1) of the TFEU.

The solo self-employed translators and interpreters in Denmark find themselves in a grey area where the current competition rules and market developments make it difficult for them to make a living from their income; for example, the fees they earn for their services must cover their own salary, holiday pay, health insurance, pension, children's sick days, maternity/paternity leave, professional training etc. as well as the costs of operating their one-man enterprises, including office rent, business insurance etc.

If trade associations or groups of solo self-employed were given the right to negotiate with the platform companies/providers of jobs, this would benefit not only thousands of solo self-employed, but also the sector at large, professional standards and, ultimately, the buyers of the core services. In Denmark, for example, certain exceptions are made to the competition law at state level where certain professions are allowed to negotiate fees and conditions with the authorities.

Certain professions, including lawyers, medical practitioners, accountants and similar, are highly specialised spheres of competence where the services performed by these professionals do not lend themselves to platforms/tenders unless requirements are made to professional training. This also applies to translators and interpreters, whose services require special competence and education. In order to maintain professional standards, one solution could be to set up a nationally approved list of translators and interpreters, where candidates are accepted on the basis of defined competence requirements and ensure that only approved/certified translators and interpreters may conduct collective bargaining with platform companies.

Historically, Denmark has been a pioneering country within the field of linguistics. As early as in the 1700s, translators were a professional group of good repute. Other EU countries have taken inspiration from the Danish model and professional training of translators and interpreters which used to include a licence to practice as a state-authorised translator and the introduction of a State-Authorised Translators Act in 1966.

Over a number of years, the profession's status as a recognised professional group has been weakened by the Danish state which has, for example, removed the authorisation, repealed the State-Authorised Translators Act and removed the licence to practice as a translator as at 1 January



2016. However, this has not reduced the relevance or necessity of the profession. On the contrary: The need for correct translation and communication at a high professional and specialised level is growing in line with the internationalisation and as a result of the European Single Market. According to Danish competition law, translators and interpreters who are solo self-employed are not allowed to engage in umbrella trade agreements, and the possibilities for working as an independent translator and interpreter in a one-man business are undermined as platform companies win public tenders to an increasing extent, language courses at university level are discontinued, and there is a lack of political will to ensure regulation and requirements to professional competence.

In Denmark, in 2019, there was a state tender worth a total of DKK 0.5 bn (approx. EUR 67,239,000) for translation and interpreting services for the Danish police and courts. Until then, approx. 20 per cent of these assignments had been performed by professionally trained translators, but after the State-Authorised Translators Act was repealed etc., no requirements were made to the sole provider, a platform company, to ensure that the core services, translation and interpreting, were to be performed by professionally trained translators.

As a consequence, professional translators and interpreters were required to compete with unskilled labour on the digital platform and supply their services under working conditions, which, with their professional experience, they knew it was not possible to meet in practice. Therefore, the majority of the trained interpreters decided not to join the platform. In the aftermath of deciding not to work for fees and on conditions which had been fixed in advance, several members of DACTI were contacted by the Danish Competition and Consumer Authority (*Konkurrence- og Forbrugerstyrelsen*) which found that there was reason to assume that they had performed a not specifically defined “coordinated effort” and were “threatened” with fines and prison sentences in accordance with the stipulations of the Danish competition law. Incidentally, the government agency was compelled to cancel the contract with the platform company after less than 9 months, as the supplier was unable to attract and supply a sufficient number of qualified translators and interpreters.

In other words, the members of DACTI – professionally trained translators and interpreters – are a good example of an actual profession which is being undermined by market developments. The situation, in which our members find themselves, cannot be compared to Wolt couriers, for example, whose jobs do not require specific training or knowledge. Our members have university degrees on master's level and have specialised knowledge about legal, financial and technical language. There is a need for these competences, both in the public sector, where our members provide translation and interpreting services in the health services and the legal system, as well as in the business sector, where professional translators perform translation services at a highly specialised level.

We therefore find that there is an urgent need to be able to negotiate with and, if possible, to conclude agreements with platform companies. In the above example, if the trained interpreters had had this opportunity, they would have been able to negotiate not only fees but also, to a great extent, working conditions with the platform company instead of being pressed out of the market. Our members' status is difficult to define as they are neither employees nor employers in the traditional sense of the word, and this leaves them in an insecure position in relation to the development that characterises some parts of the labour market. The Danish authorities – the principal buyer of translation and interpreting services – are pushing this development by exposing



translation and interpreting services to competition in such a manner that these services must be provided via platforms.

There is a lack of knowledge, both in Denmark and other EU countries, about the professional qualifications that are required to provide competent translation and interpreting services.

The Danish Association of Certified Translators and Interpreters' response to the European Commission's initiative regarding platform work:

Question 1: Do you consider that the European Commission has correctly and sufficiently identified the issues and the possible areas for EU action?

No, the European Commission has failed to sufficiently take into account that translation and interpreting services are professional services which do not lend themselves to being put out to tender and managed by platform companies as the service providers are solo self-employed. Gathering the service providers on one platform and not giving them the opportunity, either jointly or in small groups, to negotiate terms as a result of restrictive competition law causes imbalance and a biased negotiation position in favour of the platform company and to the detriment of the individual provider as a player in the labour market regarding fees and working conditions in general.

The work performed by translators and interpreters often concern the free movement of goods, persons, services and capital in the EU. This is the case in major building and construction projects, where companies from all over the EU are awarded entire public tenders or parts thereof. It is also the case in the numerous situations where EU citizens live and study and/or work in another member state and need language assistance. If our profession continues to be subjected to deprofessionalisation as a result of the increasing spread of platform solutions and unequal possibilities for solo self-employed providers on the one hand and platform companies on the other to negotiate, this will have a detrimental effect on the free movement of goods, persons, services and capital in the EU. The market for translation and interpreting services is already dysfunctional for the reasons stated above. If solo self-employed are increasingly being caught between platform companies and the lack of access to collective representation and negotiation regarding fees and working conditions in general, this will further exacerbate the existing problems.

Question 2: Do you consider that EU action is needed to effectively address the identified issues and achieve the objectives presented?

Yes, EU action is needed – please see the response to question 3.

Question 3: If so, should the action cover all people working in platforms, whether workers or self-employed? Should it focus on specific types of digital labour platforms, and if yes which ones?

In order for solo self-employed translators and interpreters to find it advantageous to offer their services via platforms, there must be a requirement for professional training and the right to collective bargaining. As mentioned above, certain professions, including lawyers, medical practitioners, accountants and similar, are highly specialised spheres of competence and the services performed by these professionals do not lend themselves to platforms/tenders unless requirements



are made to professional training. This also applies to translators and interpreters, whose services require special competence and education. Traditionally, platform companies set no or very low entry barriers to providers of translation and interpreting services, and thus, unskilled workers may offer a service which, on the face of it, appears to be a professional translation, but in reality is not, and where the providers do not have the necessary qualifications. And precisely because it is a translation, it is not possible for outsiders (providers of jobs, clients etc.) to check the quality of the translation. Students and people offering these services as a sideline occupation contribute to a reduction of pay levels for the professionals who work in this line of business as their full-time occupation. In other words, there is a world of difference between the qualifications required by a Wolt courier and the qualifications required by a professional translator/interpreter. In addition, there is the question of working conditions and the lack of employment rights.

Platforms may be a good tool to manage services performed by unskilled workers, but it is necessary to keep in mind that the more complex the service, the less it lends itself to platform work unless requirements are made to qualifications and professionalism. If this is not the case, the only measurable parameter for the services will be the price.

Question 4: If EU action is deemed necessary, what rights and obligations should be included in that action? Do the objectives presented in Section 5 of this document present a comprehensive overview of actions needed?

If trade associations or groups of solo self-employed were given the right to negotiate with the platform companies/providers of jobs, this would benefit not only thousands of solo self-employed, but also the sector at large, professional standards and, ultimately, the buyers of the core services. In order to maintain the professional standards, one solution could be to set up a nationally approved list of translators and interpreters, where candidates are accepted on the basis of defined competence requirements and ensure that only approved/certified translators and interpreters may conduct collective bargaining with platform companies.

Question 5: Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?

Yes, the Danish Association of Certified Translators and Interpreters would like to initiate a dialogue, as there is a continued and increasing need for translation and interpreting services in Denmark and other EU countries. In particular, there is a pressing need to ensure that the qualified translators and interpreters, who are already working as solo self-employed, stay active in the market and are given the right to collective bargaining to ensure that they are not forced out of the market. This would amount to *de facto* outsourcing of the services offered by the profession, and would complicate (if not make impossible), a much needed upgrading of skills among existing and/or future untrained translators and interpreters in the market. In Denmark, the average age of the professionally trained translators and interpreters is 50+ years, and the knowledge, competence and experience that they hold will disappear should they be forced out of the market due to the conditions described above.