

# Fifteen criteria for a fairer gig economy

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I have been involved in the “gig economy” since 2008, when Lilly Irani and I built Turkopticon, a system used by workers on Amazon Mechanical Turk (“MTurk”) to review clients. One of our motivations was MTurk’s “rejection” feature, which lets clients refuse payment for submitted work—even if they keep and use the work. While there are good arguments for letting clients refuse payment, the current situation legalizes—even normalizes—what would, offline, be called “wage theft.”

Since MTurk’s 2005 launch, the number and diversity of labor “platforms”—Upwork, 99designs, Uber, TaskRabbit, etc.—has exploded. The major advantage these platforms offer workers is easy access to flexible work. But because many serious platform workers must choose between platform work and no work—and because platform operators can close a worker’s account at any time, for any reason—workers are often hesitant to criticize features that benefit clients or operators at workers’ expense. While platform operators should be applauded for expanding access to work, the imbalance of power—in favor of platforms and clients over workers—designed into most platforms signals a decline in worker rights and bargaining power relative to “traditional” work. As declining worker bargaining power is linked to growing economic inequality,<sup>1</sup> and inequality threatens democracy,<sup>2</sup> worker rights in online labor platforms should be of interest for anyone concerned with the present and future of democracy. The criteria below are a small contribution to the international, cross-sectoral effort to develop fairer, more democratic online labor platforms.

These criteria are informed by work at IG Metall, the German Metalworkers’ Union, my employer, but this article is not an official position statement. Readers seeking an official position can find our “Frankfurt Paper on Platform-Based Work” at [crowdwork-igmetall.de](http://crowdwork-igmetall.de) and additional material, including platform ratings, at [faircrowd.work](http://faircrowd.work).

## **1. Workers should not be misclassified as self-employed if they are employees in practice.**

Most platform workers are required to agree that they are self-employed or “independent contractors,” not employees. But some platforms control when and where workers work, penalize them for declining jobs, and set non-negotiable prices and quality standards. Workers on these platforms may in practice be platform employees. Yet thus far courts have considered only a few such cases. A more proactive, robust system for auditing work practices and enforcing employment classification laws is needed. Some national governments are up to the task, but civil society initiatives are also needed.

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<sup>1</sup> See e.g. Florence Jaumotte and Carolina Osorio Buitron, “Inequality and labor market institutions,” International Monetary Fund Staff Discussion Note SDN/15/14, 2015.

<sup>2</sup> See e.g. Christian Houle, “Inequality and democracy: why inequality harms consolidation but does not affect democratization,” *World Politics* 61(4): 589-622, 2009.

**2. Strict rules should govern nonpayment (if it is allowed).** Customers who refuse payment for work should be required to indicate in a legally binding manner that they will not use it, and to explain why it was unusable. Workers should have a right to contest nonpayment; such contestations should be reviewed by a human platform employee. If the review outcome is not acceptable to both customer and worker, a neutral third party, funded by customers, workers, and the platform, can make a final and binding decision.

**3. Task pay terms should be clear.** The time in which the customer agrees to review and pay for work should be stated up front, as should the task-specific conditions under which nonpayment, if permitted, is permitted.

**4. Platforms should review task instructions before publication.** This will reduce the likelihood of unclear instructions leading to unsatisfactory work and nonpayment.

**5. If nonpayment is permitted, rates of payment or nonpayment should not be used to measure worker quality.** It cannot be assumed that customers only refuse payment when work is unusable; customers use imperfect quality control processes and sometimes refuse payment as a cost-reduction strategy. Because nonpayment does not necessarily reflect unsatisfactory work, platforms should not let customers screen workers based on customer (non)payment rates. Measures of work and worker quality should be separated from payment to reduce the effect of erroneous or malicious nonpayment on workers' access to work.

**6. If nonpayment is permitted, customer nonpayment rates should be made visible to workers choosing tasks.**

**7. Pay should at the very least comply with minimum wage regulations in the worker's location.** Additional desirable pay benchmarks include (1) a local living wage and (2) the median local wage earned by workers performing similar work (a) as freelancers, (b) as employees, and (c) as employees with collective agreements.

**8. In the event of technical problems with task or platform, workers should not pay the cost for lost time or work.**

**9. Workers should be able to contest nonpayment, work evaluations, and qualification test outcomes.** In some cases, contestations may be reviewed by a platform employee; in other cases, platform employees will face conflicts of interest and an external mediator will be appropriate. Platforms should contribute to paying for external mediators, along with civil society partners (e.g., unions) and, where appropriate, governments.

**10. Customers and platform operators should respond to worker communications promptly, politely, and substantively.** There is however a limit to customers' and operators' ability to field requests from unusually persistent or "unreasonable" customers or workers. Ideally therefore a transparent process can be devised, in which the appropriate parties agree to respond in a given time to inquiries from a given person on a given topic up to some number of times. If the inquiring party finds the responses inadequate, a neutral third party may make a binding decision.

**11. Workers should know who their customers are and the purpose of their work.** If secrecy is essential, platform operators should work with the customer to disclose some information (e.g., “a Swiss bank”).

**12. Tasks that may be psychologically stressful or damaging (e.g., review of social media content for hate speech, violence, or pornography) should be clearly marked. Workers completing such tasks should have access to counseling or support paid for by the customer and/or platform.**

**13. Workers should have a legally binding way to make their needs and desires heard to platform operators, such as union membership, collective bargaining, and, in countries with such structures, works councils and co-determination rights.** *Even for workers who are truly self-employed, platform operators shape workers’ ability to get work and their bargaining power with customers. Most workers are not independent businesspeople negotiating “eye to eye” with customers and platform operators. The fact that current competition law may in some jurisdictions prohibit self-employed platform workers from organizing and negotiating collective agreements with platform operators is not an argument that platform workers should not be allowed to organize but an argument for revising competition law.*

**14. Worker account deactivations should be reviewed by a human platform employee. Workers should be given reasons for deactivation and have a right to contest it.** First review after a contestation may be by an employee; if this review is also contested, a neutral third party should make a binding decision. Platform operators should not be permitted to (even indirectly) punish workers whose deactivation is overturned on external review.

**15. Workers should be able to view and export a complete human- and machine-readable work and reputation history at any time.**

### **Acknowledgements**

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