

Dear delegates, competition authorities, ladies, and gentlemen,

Presentation of the Recommended Practices for Digital Platforms (RDP)

The digital economy presents different challenges for competition policy stemming from its structure, the existence of market power, its dynamic character, its close relationship with innovation and the importance of personal data handled by digital platforms.

UNCTAD has been conducting economic sector studies on competition and consumer protection for more than 5 years touching on Digital Markets. The conclusions of these studies have varied as they explored the characteristics of digital market, their functioning and evolution. However, given the intrinsic dynamism of the digital economy it is difficult to establish a strategy that serves, on the one hand, the risks posed by the development and growth of digital platforms, in terms of market power and, on the other, to promote innovation in a sector that drives competition and not to eliminate it.

UNCTAD's extensive study, carried out in collaboration with the United Nations Regional Economic Organizations (ECLAC, ECA, ESCAP, ESCWA and UNECE), on economic recovery by boosting competition in MSMEs, prompted us to develop a soft law instrument to address the problems that emerging within the evolution of the digital economy.

Indeed, one of the recommendations of UNCTAD study is to promote the digitalization of MSMEs, but to do so, we believe that it is also necessary to establish a mechanism to discipline the relationships between platforms and MSMEs.

This instrument consists of recommendations that can be implemented by member states in the form of tool called a **recommendation for best practices**.

So, these recommendations are part of the DA Account technical cooperation project implemented by UNCTAD with the aim of facilitating economic recovery after the crisis caused by the covid 19 pandemic, through the strengthening of policies to support MSMEs, through the lens of competition policy.

I would like to briefly highlight the principles and commitments that digital platforms must respect in the relations with MSMEs and other aspects that are essential for these recommendations to be useful to member States and specifically for their implementation at national or regional level. The aim is to improve the business environment and relations between digital platforms and SMEs.

1. First, I would like to make it clear that the recommendations that UNCTAD makes available to all member states (primarily developing countries), the implementation of which is a matter for each member State or regional economic organization.

2. The content of the recommendations is indicative and therefore flexible and adaptable not only to the needs and characteristics of each national or regional system for the protection and promotion of competition, but also to the evolution of digital markets.

3. Given the characteristics that define digital markets (platforms), the recommendations are respectful of the principle of freedom of enterprise. While respecting this basic principle, seek only to facilitate and guide relations between companies and platforms without hindering the evolution of these markets and technological innovation, which is one of the most important characteristics of these markets.

4. The beneficiaries of the recommendations are the companies, including MSMEs that are the focus of this great project. What we offer is an instrument that serves to discipline behavior between MSMEs and platforms and to prevent unfair or abusive actions which may arise due to the asymmetry of economic power that exists between both parties.

5. Recommendations are not intended to defend consumers, but they are a tool that, when used effectively, will improve consumer welfare.

6. For implementation by the member States, it should be implemented as a soft law instrument, such as a code of conduct or code of good practice. It should be implemented voluntarily by digital platforms, adhering to the instrument that is created in this respect and committing themselves to respect the principles (of transparency and fairness) and to comply with the commitments that guarantee

compliance with these principles to create a fair play between companies and digital platforms.

7. I would like to point out that these recommendations do not replace existing competition or digital market regulations, but they are an interesting complement as they can prevent infringements of these rules. However, it is important to note that non-compliance with the recommendations by platforms that have committed to respect them does not prejudice the application of existing regulations.

8. Another aspect that we feel is important to point out is that at the internal level each Member State will decide on how to implement and monitor compliance with the recommendations. They may designate a competent body (which can be the competition authority, or another body linked to the digitization policy of the economy) to oversee managing the implementation of these recommendations. An appropriate strategy to present and disseminate the content of the recommendations in a suitable instrument, promote awareness among businesses, in collaboration with business associations and public bodies responsible for promoting MSMEs. And, fundamentally, to seek the support of digital platforms that provide their services in the territory of the member State concerned.

The competent body should be responsible for establishing mechanisms that provide it with the necessary information to verify and assess the level of compliance with the recommendations by digital platforms.

A complaints box or other mechanisms can be established to facilitate the exchange of information between the competent body and business associations, chambers of commerce and other business-related interlocutors.

Finally, as this is an instrument whose compliance is voluntary, we recommend that the competent body publicize the data on compliance with the recommendations in an annual report showing the level of compliance and the non-compliance found.

This information will have a positive or negative influence on the reputation of the platforms.

9. UNCTAD's role in this fall within its customary mandate, we are at the disposal of our member States interested in the implementation of the recommendations in order to provide them with the technical guidance necessary to make it effective, taking into account the characteristics, the means and the interest of each country.

In other words, technical assistance tailored to the needs of the requesting member State.

We hope that many countries will be interested in implementing these recommendations, given that digital markets and the problems they pose are global, the solutions must also be global.

Thank you very much for your attention