

What a year 2020 has been with so much disruption across the sector, including COVID-19, supply chain compliance, the surge to online, the consumer experience and, of course, Brexit (which we set out in our [Global Challenges Facing Retailers](#) guide earlier this year). As retailers head into the Golden Quarter, we wish you successful trading and prosperous times in 2021.

To support you as you plan for 2021, we want to highlight some key trends, legislation updates and best practices to protect and enhance your business.



Compliance Pressures 2021

In 2021, the call for greater corporate transparency on Environmental, Social and Corporate Governance (ESG) issues will only amplify as ESG factors prove themselves not just to be non-financial considerations, but also material drivers of financial performance and business resilience. Pressure will continue to come, not just to ensure legal compliance but from customers, the workforce, supply chains, society, investors and shareholders. The power of social media is also a factor to be considered where there is a failure to live up to the values and focus of ESG measures. Good corporate behaviours will be vital. In addition, the increasingly complex regulatory regime has increased the exposure faced by businesses. This is particularly acute, as the regulatory scrutiny extends to actions of third parties acting on your behalf across the supply chain.

 <p>Customers Delivering fair competition, reliable, trustworthy digital ecosystems and transparency around products and services.</p>	 <p>Workforce Diversity and inclusion, employee wellbeing, upskilling and retraining, and fair executive remuneration.</p>	 <p>Supply Chain Developing partnership models, providing a fair chance for new market entrants and adhering to human rights across the supply chain.</p>	 <p>Society Demonstrating support to communities and people's wellbeing, paying a fair share of taxes, validating ethical use of data and stewardship of the environment.</p>	 <p>Shareholders Continuous innovation, sustained investments and sustainable shareholder returns.</p>
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The consequences of inadequate compliance programmes are very real, including unlimited fines, loss of operating licences and damage to reputation and revenues. Businesses require a well-designed and well-implemented compliance programme to mitigate this risk and to detect/address systemic weaknesses.

Access our [quick checklist](#) to assess your compliance against a number of risk factors or contact [Jonathan Chibafa](#) to discuss further.

To Vaccinate, or Not Vaccinate, That Is the Question

So a government-approved vaccination becomes available and you really want your employees to take it. Can you just insist, or does the development of the vaccine turn out to have been the easy bit?

Section 2 Health & Safety at Work Act 1974 requires the employer to take all reasonably practicable steps to reduce workplace risks to their lowest practicable level. Given that an effective vaccine is being held out as the salvation of the civilised world, it will be hard for an employer to argue that provision of the vaccine (if available to it at a containable cost) would not fall within the measures required under that obligation. Section 2 creates a criminal offence but the same principles will inevitably apply for the employer's duties of care in contract and tort. So, basically, yes, an employer could insist. As a minimum, an employer would be obliged to encourage employees in very robust terms to make their own arrangements to be vaccinated and to provide their employer with the evidence that they have done this.

The Health & Safety at Work Act also places a duty on employees to protect their colleagues and to cooperate with their employer to enable compliance with their statutory obligations.

To find out more, access our [blog post](#) or contact [David Whincup](#).

CMA Moves to Investigate “Green” Claims

On 2 November 2020, the UK Competition and Markets Authority (CMA) announced that it will be investigating descriptions and labels used to promote products and services claiming to be “eco-friendly” and whether they could mislead consumers.

The concern for the CMA is that an increase in demand for sustainability could lead to businesses making misleading, vague or false claims about the environmental impact of the goods or services. Clearly, this is an issue that overlaps with the ESG agenda.

Primarily, the CMA’s investigation will be focusing on the industries where consumers appear to be most concerned about misleading “green” claims. If the CMA finds evidence that businesses are misleading consumers, it will take enforcement action.

The CMA has released questionnaires for consumers, businesses and stakeholders on what consumers expect from eco-friendly products, how often they come across green claims and how these affect their buying decisions. The call for information closes on 14 December. By summer 2021, the CMA aims to produce guidance for businesses on how they can best be transparent in the manner in which they market goods and services in relation to claims about environmental impact.

To find out more about this area, including the UK government guidance on how to make an accurate environmental claim for a product, service or organisation, or the UK Advertising Standards Authority (ASA) rules on environmental claims, please read our [blog post](#).

If you need help in managing green claims or other environmentally friendly messaging, please contact [Carlton Daniel](#) or [Francesco Liberatore](#).

Business Viability and Brexit

The UK will leave the EU single market, Customs Union, and VAT and excise duty area on 31 December. From 1 January 2021, the UK will operate its own external border as a sovereign nation. Is your business ready for the looming deadline of Brexit? Dealing with Brexit and the ongoing uncertainties about the COVID-19 pandemic mean retailers could be in for a tough ride over the next few months, possibly much longer if the UK continues to face restrictions and possible additional tariffs, supply challenges and economic uncertainty due to Brexit.

Some retailers need to make difficult decisions about their future viability or how best to manage their resources, which is not easy in the current environment. These decisions need to be taken carefully in light of directors’ duties to act in the best interest of the company and its creditors. Directors may decide that part of the business is no longer viable and retaining employees, taking on further debt or even continuing the business may not be in the company’s best interests.

Our [detailed brochure](#) contains a number of guides to help navigate these difficult decisions, but the key for all retailers and their directors is to plan and, if appropriate, act now and take advice to minimise the risk of personal liability. It is not all doom and gloom and there are ways to mitigate pressure points facing retailers, such as workforce consolidation, optimising cash flow and managing creditor pressure, accessing additional financial support, adapting their real estate portfolio, dealing with impending changes in the tax regime and having a strategy for Brexit.

Listen to our [recent webinar](#) to find out more or contact [John Alderton](#) if you want to discuss any issues relating to business viability or restructuring requirements.

