

Welcome

We are delighted to welcome you to our new quarterly newsletter focusing on the global hot topics for advertising, media and consumer brand executives. To support you as we progress through 2021 and beyond, we want to highlight some key trends, legislation updates and best practices from across the globe to protect and enhance your business.

Join our Global Advertising, Media & Brands Events (in Partnership With BDO)

2021 has provided unique challenges for businesses operating across the advertising, media and brands industry. Aside from the impact of the pandemic, we are seeing a changing and challenging landscape due to increasing economic, consumer, regulatory and compliance pressures.

With increased exposure as a result of these pressures, Squire Patton Boggs and BDO will be hosting four webinars to support the advertising, media and brands industry in navigating these challenges:

- November 11, 2021 – Global Data, Technology and Tax
- November 30, 2021 – M&A Landscape, Post-COVID-19 Transaction Trends and Tips, and Top Five Due Diligence Risks
- January 12, 2022 – Global Anti-counterfeiting and Brand Protection Trends, and Top Five AMB Hot Topics
- February 2, 2022 – The Rise of ESG and Global Workplace Challenges

Click [here](#) to register or contact [Claudia Stephen](#).

In This Edition

- [Brands' Influencer Marketing Practices in Regulators' Crosshairs on Both Sides of the Atlantic](#)
- [Global HR Audit](#)
- [China Publishes New Draft Measure on Cross-Border Data Transfer](#)
- [Workplace View – Australia](#)
- [Digital Services Act and Digital Markets Act – Do You Know Your Potential Obligations and Penalties for Non-compliance?](#)
- [Sustainability Outlook European Union: Key Developments In EU Sustainability Law and Policy](#)
- [The Proposed New EU Regulatory Regime for Artificial Intelligence \(AI\)](#)



- [Practical Considerations for Prize Draws – New Guidance Issued by the ASA](#)
- [The Rise of “Voice Cloning” Provides More Evidence of the Need for Urgent Legal Reform in the UK](#)
- [UK Regulators Show Unjustified Green Claims in Advertising the Red Light](#)
- [Server Test Showdown? The Conflicting Rulings Over Whether Embedding a Social Media Post Violates the Copyright Act](#)
- [OECD Statement on Pillars One and Two Leaves Many Questions Unanswered](#)
- [OFAC Releases Sanctions Compliance Guidance for the Virtual Currency Industry](#)
- [Federal Circuit Allows Service by Alternative Means Under Rule 4\(f\)\(3\) in Patent Cases](#)

Blogs

To keep up to date with our latest news, please sign up to our useful blogs:

[Our Global IP & Technology Law Blog](#) is a source for news and insights into international legal issues involving intellectual property and technology, such as trademark and brand protection, patent prosecution and protection; trade secrets, data protection and privacy; and advertising and media issues.

[Consumer Privacy World](#) is a source of news and insights on cybersecurity, privacy and data protection regulations and developments impacting businesses around the globe.



Global

Brands' Influencer Marketing Practices in Regulators' Crosshairs on Both Sides of the Atlantic

The influence of influencers on social media is a modern day phenomenon that marketers harness to develop more organic and grassroots connections with consumers, and influencers are able to monetize those connections. It is a symbiotic relationship, though one that is not necessarily clear to consumers.

When an influencer gets something of value to promote a product, that may impact how a consumer interprets that endorsement, and thus consumer protection authorities worldwide have long required clear, conspicuous and effective disclosures of those kinds of material connections. Recently authorities in the US and the UK have turned up the heat on influencer marketing practices. We break these efforts down for you so that you can adapt your influencer marketing programs to avoid problems.

To find out more, [access our guide](#) or contact [Marisol C. Mork](#), [Alan L. Friel](#), [Carlton Daniel](#) or [Rosa Barcelo](#).

Global HR Audit **GLOBAL HR AUDIT**

Newly launched Global HR Audit is a simple-to-use, innovative tool that helps employers determine the HR documents and policies they should have in 29 countries around the world, as well as any they should consider having on a global basis.

Why?

Today's employer faces a number of challenges, from managing flexible and hybrid working borne out of the pandemic, to meeting diversity and inclusion expectations and demonstrating the worth of their workforce to investors. HR documents and policies underpin these issues, whether a business is in startup phase, in expansion or an established industry player. They demonstrate the employer brand and help showcase its values, an increasingly important component in finding and retaining the right talent.

Global HR Audit enables businesses to pinpoint quickly the documents and policies they need in each jurisdiction of operation, as well as those they may wish to consider if they are aiming to go beyond just compliance. The list of mandatory, strongly recommended and "nice to have" HR documents and policies contains further in-depth reading via links to [Global Edge](#), our award-winning employment law resource. Global Edge is a customizable tool that provides clear, reliable and up-to-date answers to key employment law topics around the world and maps out future legislative change to help HR professionals and in-house legal counsel stay ahead.

Access our Global HR Audit Tool [here](#).



Asia Pacific

China Publishes New Draft Measure on Cross-Border Data Transfer

On October 29, 2021, China released the Draft Measures on Data Cross-Border Security Assessment (the Draft Measures) for public comments. Following its two previous versions in 2017 and 2019, this new draft is developed based on the very recent adoption of the Personal Information Protection Law (PIPL) and the Data Security Law, and provides the detailed requirements on the security assessment organized by the Cyberspace Administration for cross-border data transfer. Most importantly, the Draft Measures clarify the definition of "large volume" personal information under PIPL in connection with data localization and cross-border transfer, and also add new circumstances that will significantly expand the application of government security assessment.

The public comment period of the Draft Measures will expire on November 28, 2021.

For further information on the circumstances data processors are required to pass government security assessment for cross-border transfer of data, please read our [full article](#) or contact [Lindsay Zhu](#) or [Katherine Fan](#).

Workplace View – Australia

The latest edition of Workplace View, our quarterly Labor & Employment newsletter, includes information as follows:

- Our **lead article** looks at the vaccinations of workers in Australia against COVID-19. We address key questions such as if employers can require their staff to be vaccinated and what options are available to them should an employee refuse or be unable to be vaccinated.
- We also take a look at **long service leave** and if service completed overseas for another company in a group counts for the purpose of long service leave.
- In our **Events Update**, we provide details of our final webinar for the year to be held on December 9, 2021.
- In our **Q&A** section, we answer your most commonly asked questions about the Fair Work and Casual Employment Information statements.

For further information, please view our [newsletter](#) or contact [Nicola Martin](#).



Europe

Digital Services Act and Digital Markets Act – Do You Know Your Potential Obligations and Penalties for Non-compliance?

The rapid development of digital services and digital markets carries many benefits; however, the EU Commission (EC) is concerned that this also leaves gaps in current legislation. For this reason, the EC proposed new rules governing digital services and digital markets with the aim to create a safer digital space and establish a level playing field across platforms in the European Economic Area (EEA).

Although the proposals are subject to change, being on the front foot in understanding your potential obligations and corresponding rights under the proposed new rules will not only ensure that you are positioned for compliance in 2023 (based on the EC's proposal), but it will also help you understand where the legislation may impact your business and whether you wish to become more actively involved in the negotiations as the proposals progress through the EU co-legislative process before the European Parliament and Council.

To find out more, access our [insight](#) or contact [Francesco Liberatore](#) or [Christina Economides](#).

Sustainability Outlook European Union: Key Developments in EU Sustainability Law and Policy

Our European Public Policy team is pleased to share with you our monthly newsletter, which looks at key developments in EU sustainability law and policy. This month's edition includes the following summaries:

- European Commission starts discussion of an "ecosystem" for energy-intensive industries.
- European Commission adopts its Work Programme for 2022.
- European Commission publishes a roadmap on bioplastics.
- European Parliament adopts a resolution on methane emissions.
- European Commission consults on the revision of EU rules on air quality.
- EU adopts revised rules on access to justice in environmental matters.
- European Commission starts the revision of rules on cosmetics.
- European Commission starts the revision of rules on detergents.

- Outgoing Executive Director of the ECHA shares his views on chemicals regulation.
- European Commission prepares the second High Level Roundtable on the Chemicals Strategy for Sustainability.
- European countries call for consumer protection and circularity of textiles.
- European Parliament votes against the extension of pesticides approvals.
- EU agencies launch parallel consultations on the initial scientific evaluations of glyphosate.
- ECHA provides a guideline on the reduction of animal testing.
- EU court dismisses an appeal against phthalates authorization.
- EU court decides against suspending rules on the marking of single-use plastic (SUP) beverage cups.
- EU Blockchain Observatory and Forum publishes a report on energy use of cryptocurrencies.
- France proposes to reinforce environmental regulation of digital technologies.
- Dutch government consults on the draft regulation on SUPs.
- France plans to regulate consumer information on environmental characteristics.
- Italian government wants to postpone the plastic tax.

To find out more, access our [newsletter](#), or contact [Ken Huestebeck](#) or [Anita Lloyd](#).

The Proposed New EU Regulatory Regime for Artificial Intelligence (AI)

In April 2021, the EC proposed a suite of new legislative and non-legislative proposals related to artificial intelligence: in a proposed Regulation laying down rules on Artificial Intelligence ("Artificial Intelligence Act – AIA"), the EC attempts the first-ever comprehensive legal framework for this highly debated and fast-developing family of technologies. As summarized below, and as set forth in more detail in our [recent article](#), we identify key policy considerations and proposed new restrictions, risk-classifications and related obligations for AI providers and users stemming from this landmark proposal.

To find out more, read our [blog post](#) or contact [Wolfgang Maschek](#), [Rosa Barcelo](#), [Matthew Kirk](#), [Georg Serentschy](#) or [Christina Economides](#).



Practical Considerations for Prize Draws – New Guidance Issued by the ASA

Prize draws and promotions are a popular choice for brands to engage with its consumers, particularly through online social media platforms.

As [discussed](#) in a previous blog post, the UK's Advertising Standards Authority (ASA) has emphasized that prize draws must comply with provisions of its CAP Code. Failing which one risks being in breach of the rules, which can ultimately lead to criminal prosecution for failure to comply with consumer protection, gambling and advertising laws. Following an increase in consumer complaints that some prize draws are not being administered in accordance with the relevant rules, together with its influencer monitoring work, the ASA has recently released a dedicated [resources and guidance](#) page, which aims to help influencers and brands get their prize promotions right.

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

The Rise of “Voice Cloning” Provides More Evidence of the Need for Urgent Legal Reform in the UK

Earlier this year, we published our blog on the topic of “Deepfakes”; in which we argued that the rise of this technology necessitates urgent legal reform. Without the courts developing English law in a way that they are usually unwilling to do, the current position is that it is not well-suited to deal with the problems that deepfakes pose. Perhaps surprisingly, there are no laws specifically regulating the use of this technology. Since self-regulation has proven to be insufficient, parliamentary legislation is therefore required.

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

UK Regulators Show Unjustified Green Claims in Advertising the Red Light

“Green”, “organic”, “eco-friendly”, “recyclable”, “natural”. These are just a few “green claims” that consumers are increasingly used to seeing on the products and services they buy. However, how accurate are these claims and are organizations using them correctly?

UK regulator, the Competition and Markets Authority (CMA), has now published the [Green Claims Code](#) to help businesses understand their obligations under consumer protection law. It contains key principles, which require that all green claims must be truthful, accurate, clear, unambiguous and substantiated. Further, the CMA prohibits claims that omit or hide important information, and requires advertisers to consider the whole life cycle of their products and services when making environmental claims.

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





US

Server Test Showdown? The Conflicting Rulings Over Whether Embedding a Social Media Post Violates the Copyright Act

Last year, we [commented](#) on a ruling in the Southern District of New York, *Sinclair v. Ziff Davis*, 18-CV-790 (KMW), that refused to dismiss claims against a media company for embedding an Instagram post into one of its articles online. This ruling and others in federal trial courts in the Second Circuit conflict with the Ninth Circuit's [ruling](#) in *Perfect 10, Inc. v. Amazon.com, Inc.*, which held that embedding images could not violate a copyright holder's exclusive display right. A recent California District Court ruling affirmed that *Perfect 10's* ruling applied to the embedding of images from social media onto third-party websites. This [new post](#) explains the conflict that now exists in these Circuits.

For further information, please contact [Corrine Irish](#).

OECD Statement on Pillars One and Two Leaves Many Questions Unanswered

The OECD/G20 Inclusive Framework on BEPS moved its global tax policy process another step forward on October 8, 2021, when the group issued a revised statement outlining the Pillar One and Pillar Two plans that have been in development for almost three years. The statement has two parts. The first part is a five-page summary that is identical to the group's statement of July 1, 2021, save for a handful of changes. The second part is a three-page discussion of the group's vision for the implementation of the new tax rules once they have been finally determined.

To find out more, access the [article](#), which was first published in *Bloomberg Tax* on October 13, 2021, or contact [Jeff VanderWolk](#).

OFAC Releases Sanctions Compliance Guidance for the Virtual Currency Industry

The Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury recently published sanctions compliance [guidance](#) for the virtual currency industry (the Guidance). The move was long anticipated, given the rapid industry growth and limited regulator guidance in this space. The Guidance provides an overview of OFAC sanctions requirements and procedures, including licensing and enforcement processes, and highlights sanctions compliance best practices tailored for the virtual currency industry, which includes technology companies, exchangers, administrators, miners, wallet providers and users.

To find out more, access our [blog post](#) or contact [Elizabeth Weil Shaw](#).

Federal Circuit Allows Service by Alternative Means Under Rule 4(f)(3) in Patent Cases

Serving a district court complaint for patent infringement on a foreign defendant usually requires compliance with the Hague Convention on Service. A recent Federal Circuit decision, however, endorses alternative options under Federal Rule 4(f)(3) that could significantly simplify the process for plaintiffs and make it more difficult for foreign defendants to avoid service and delay participation in patent litigation in the US.

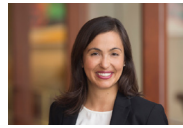
To find out more, access our [blog post](#) or contact [Adam Hess](#) or [Eleanor Hagan](#).



Key Contacts



Carlton Daniel
Partner, London
T +44 20 7655 1026
E carlton.daniel@squirepb.com



Marisol C. Mork
Partner, Los Angeles
T +1 213 689 5137
E marisol.mork@squirepb.com

Asia Pacific



Nicholas Hiu Fung Chan
Partner, Hong Kong
T +852 2103 0388
E nick.chan@squirepb.com



Scott A. Warren
Partner, Tokyo
T +81 3 5774 1800
E scott.warren@squirepb.com



Nicola Martin
Partner, Sydney
T +61 2 8248 7836
E nicola.martin@squirepb.com



Ju (Lindsay) Zhu
Partner, Shanghai
T +86 21 6103 6303
E lindsay.zhu@squirepb.com

Europe



Francesco Liberatore
Partner, Brussels
T +322 627 11 11
E francesco.liberatore@squirepb.com



Catherine Muyt
Partner, Paris
T +33 1 5383 1167
E catherine.muyt@squirepb.com



Dr. Sandra Müller
Partner, Frankfurt
T +49 69 1739 2429
E sandra.mueller@squirepb.com



Jens F. Petry
Partner, Frankfurt
T +49 69 1739 2441
E jens.petry@squirepb.com

United Kingdom



Timothy Jarvis
Partner, Leeds
T +44 113 284 7214
E timothy.jarvis@squirepb.com



Francesca Fellowes
Director, Leeds
T +44 113 284 7459
E francesca.fellowes@squirepb.com



Simon Jones
Partner, Birmingham
T +44 121 222 3412
E simon.jones@squirepb.com



Ailin O'Flaherty
Associate, London
T +44 207 655 1772
E ailin.oflaherty@squirepb.com



Mathew Lewis
Partner, Leeds
T +44 113 284 7525
E matthew.lewis@squirepb.com

United States



Alan L. Friel
Partner, Los Angeles
T +1 213 689 6518
E alan.friel@squirepb.com



Todd A. Ostomel
Partner, Palo Alto
T +1 650 843 3251
E todd.ostomel@squirepb.com



Colin R. Jennings
Partner, Cleveland
T +1 216 479 8420
E colin.jennings@squirepb.com



Kyle R. Fath
Of Counsel, New York
E kyle.fath@squirepb.com