

# Product & Consumer Protection Annual Review 2020

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# Introduction

Welcome to Mason Hayes & Curran LLP's Product & Consumer Protection Annual Review 2020.

2020 has seen continued growth in the consumer products industry, with a concerted effort by legislators and regulators alike to maintain and expand oversight. We review key developments in 2020 and look ahead to future reform.

In particular, the EU product and consumer protection law landscape continues to evolve in what is now a highly regulated sector. Significantly, the European Commission, in its 2020 working programme, announced that it would revise the General Product Safety Directive (GPSD), by either amending the existing directive or adopting a new regulation in the second quarter of 2021. This review forms part of the Commission's regulatory, fitness and performance programme (REFIT).

With regard to Brexit, we examine some of the key issues faced by product manufacturers with the end of the transition period having now passed on 1 January 2021.

Undaunted by the COVID-19 crisis, the EU progressed its reform of the EU Digital Single Market. A key pillar of this initiative concerns changes to the current consumer law regime. These new rules will come into effect on a staggered basis over the next 18 months or so and will have a significant impact on how digital health companies engage with EU consumers.

In this Review, we will also deep dive into key issues such as:

- The New Consumer Agenda
- The Digital Content Directive
- Civil liability for A.I. and what this means for products
- Collective Redress, and
- New Measures Under the Ecodesign Directive

It is important that those in the product and consumer sectors familiarise themselves with the upcoming and recent legislation to ensure compliance.

We understand the impact for businesses where there is a failure to comply with legislation, both from a legal and reputational perspective.

Our experienced team is dedicated to providing pragmatic and clear advice while robustly defending our clients' interests. We devise practical, commercially-focused solutions to help businesses adapt to the ever-changing consumer and product regulatory landscape.

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# The New Consumer Agenda



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The European Commission (the Commission) launched its 'New Consumer Agenda' on 13 November 2020 (the Agenda), to further empower European consumers in the green economy and the digital transformation of the single market. This is an ambitious action plan to reform consumer law, which covers the five-year period 2021 – 2025, and addresses five priority areas:

1. Green Transition
2. Digital Transformation
3. Effective Enforcement and Redress
4. Protecting Vulnerable Consumer Groups
5. Consumer Protection in the Global Context

The Agenda was drawn up against the backdrop of the ongoing COVID-19 pandemic. The pandemic presented challenges for governments across the EU. Simultaneously, it has presented regulators with an opportunity to tackle scams, sharp practices and misleading claims on an urgent basis, and to adapt consumer enforcement to our increasingly online consumption patterns.

The Commission will address three particular issues that it sees as concerns following the pandemic:

- Defending consumer rights in the travel sector
- Examining long term implications on consumption patterns
- Tackling scams and unfair marketing practices

The Commission has prioritised the protection of passenger rights through giving consumers rights to full refunds for trips which are later cancelled in the EU passenger Rights, Regulations and Package Travel Directive. While the Commission does not have the power to impose fines for breaches of consumer law, it will work in tandem with national authorities such as the Competition and Consumer Protection Commission (CCPC) in Ireland to enforce actions on scams and unfair marketing practices.

## The green transition

The public consultation identified product durability as a main concern of European consumers. Consumers are willing to pay more for products which will last longer, and when information on durability reaches consumers, sales of that product can almost triple according to Commission findings.

As a result, the Commission aims to better inform consumers on the environmental sustainability of products, including their reparability and durability.

We can expect early action on this front, with the Commission planning a new regulation or directive in 2021 to empower consumers for the green transition. This is intended to give them better protection against practices such as greenwashing and early obsolescence, and a requirement for green claims to be substantiated based on the Environmental Footprint methods.

The Commission sees it as a priority to give consumers an effective right to repair. It proposes as part of the review of the Sales of Goods Directive, recently amended by Directive 2019/771, in 2022 / 2023 to examine whether it can further promote repair over replacement and bring in sector specific repair initiatives.

With a nod to the important Circular Economy Action Plan, the Commission outlines several innovative proposals to encourage consumers to adopt more sustainable consumption behaviours. These include the sharing economy, new business models of goods-as-a-service, repairs provided through community and social economy organisations actions, e.g. repair cafés and encouraging second-hand markets. Sustainability and countering obsolescence are also the drivers for the review of the Ecodesign Directives, extending to new categories of product and delivering on circularity. This review of the Ecodesign Directives is addressed in further detail elsewhere in this issue of the Annual Review.

## The digital transformation

The share of online shopping in the EU has almost doubled in the last decade, a trend that we can expect to continue. Novel technologies present challenges for online selling. The Commission will consider whether new legislation is needed to tackle unfair commercial practices online which distort consumer decision making. These would be in addition to the recently adopted laws in the Digital Content Directive and the Omnibus Consumer Directive, indicating how trends in the digital economy are outpacing consumer protection.

The Commission will also update its guidance on the Unfair Commercial Practices Directive and the Consumer Rights Directive.

The Commission is already working on a revision of the General Product Safety Directive, anticipated for 2021, which will tackle challenges posed by connected products, cyber security risks, AI driven products, and direct purchases from non-EU suppliers. There will also be a proposal for a new horizontal act setting requirements for artificial intelligence following its White Paper on AI.

A separate action item is a review of the Consumer Credit Directive, the Payment Account Directive and the Distance Marketing of Financial Services Directive to improve consumer protection in the context of the digitalisation of retail financial services.

The Digital Services Act will establish governance rules for the digital economy as the Commission moves to secure the increasing digital nature of the Single Market, and the Digital Markets Act will address the “gatekeeper” power of certain digital platforms.

## Effective enforcement

Collective Redress, the enhanced national enforcement powers in the Omnibus Directive, coordinated EU wide enforcement priorities, and an expanded toolbox for regulators are all featured in the Commission’s “effective enforcement” plans. The Omnibus Directive gives national regulators power to impose turnover-based, GDPR-style fines for widespread breaches of consumer law, effective from May 2022. The Commission will support Member States in the implementation of the Omnibus Directive and in bringing effective enforcement actions, and will coordinate the efforts of national consumer regulators through the mechanisms of the Consumer Protection Cooperation (CPC) Regulation.

The Consumer Protection Cooperation (CPC) network, which consists of all of the authorities responsible for enforcing consumer protection law in the Member States, proved to be effective in tackling covid-related scams and practices across the EU.

A similar enforcement campaign will apply for greenwashing claims, online influencing techniques, illegal price personalisation practices and other EU wide enforcement priorities, to be identified by CPC network members biennially.

As e-commerce websites have high levels of non-compliance, the Commission proposes to develop new investigation and enforcement tools, using advanced IT solutions, AI, data mining techniques and web crawlers. The CPC Regulation will be assessed by 2023 as part of the Agenda to ensure authorities have sufficient powers to enforce consumer protections.

## Consumer Vulnerability

The Commission notes that particular consumer groups need specific safeguards, such as children, the elderly, those with disabilities, and financially indebted consumers. Supporting these consumer groups, for example tackling aggressive online commercial practices targeted at children, and offering debt counselling, are action items in the Agenda. There will be a revision of the General Product Safety Directive and new Safety Requirements for standards on childcare products. There will be measures to improve the availability of debt relief services and general support for advice to customers, including those in remote areas.

On the global stage, regulatory support will be offered to EU partner countries and an action plan will be established with China to enhance co-operation on product safety for products sold online.

## What's next?

The changes in EU consumer protection law are coming thick and fast. There are already significant changes adopted in the past two to three years that will be effective between 2020 and 2023, from the Digital Content Directive, the Omnibus Directive, the CPC Regulation and the Collective Redress Directive. The Agenda flags further wide-ranging reforms in consumer protections in the EU in the next 5 years. The Commission's action list shows that we can expect new or revised laws on many consumer issues, particularly in the green and digital transformation areas and online enforcement.



# The P2B Regulation



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## Introduction

The Online Platform Regulation 2019/1150 (the P2B Regulation) came into effect on 12 July 2020 and applies in a business-to-business context of online platforms and search engines. However, despite its B2B application, this is considered a consumer protection measure. This is because its objective is to benefit consumers that access and buy from traders on these platforms, as well as using consumer protection concepts found in unfair contract term laws to protect business users of the platforms.

The broad definition given to platforms, or 'online intermediation services', means that many e-commerce market places, auction websites, app stores, and social media sites are within the scope of the P2B Regulation.

## Obligations to inform

The P2B Regulation imposes a set of obligations on online platforms in dealing with business users of the platform. They must be transparent about:

- How they rank goods and services on the platform
- How the ranking parameters work on the site, and
- Whether traders can improve their ranking through direct or indirect payments

There is a ban on certain unfair practices, such as making changes to terms and conditions without good reason or notice. Where a platform decides to suspend or terminate an account, it must provide the business user with a statement of reasons within the timeframe specified. Any changes or updates to the platform's terms and conditions must be in clear language and communicated to business users in a durable medium such as email or any other means that enables business users to keep such notifications for future reference. The platform is also required to publish information on its internal complaint handling process and to display details of at least two independent mediators. The platform must also be willing to engage in mediation in the event of a dispute with a business user.

The P2B Regulation will apply to those entities that have their place of establishment or residence within the EU and, through their platform, offer goods or services to customers that are located within the EU. It does not apply where sellers are not established in the EU or where the platform is used to offer goods exclusively to customers located outside of the EU, or to persons who are not consumers.

In Ireland, the Competition and Consumer Protection Commission is the designated authority for the purposes of the Regulation and its offences as set out in the Irish instrument, S.I. No. 256/2020. These Regulations also set out fines of up to €5,000 and / or a prison term not exceeding 12 months.

## New guidance on transparency in ranking

The Commission has recently (December 2020) published guidance on ranking transparency. Ranking has a significant impact on consumer choice and consequently, the commercial success of a product. The technical details of how the ranking system works may be protected by the Trade Secrets Directive (2016/943). Business users are unlikely to know what factors are deciding their performance.

The Commission says providers should give meaningful explanations of their ranking mechanism, in particular, the main parameters used. For intermediation services, the information has to form part of their terms and conditions. The explanation of the parameters should be drafted in plain and intelligible language. The Commission highlights the 'best practice' of explaining the thought process behind their chosen parameters and the relative importance of each. Where paid ranking is possible, providers must set out a description of that service and the effects of remuneration on ranking. It is worth noting that indirect remuneration is possible, for example where a business user takes on extra obligations which improves their ranking.

The Guidelines highlight that there may be cases where several separate explanations may be required. For example, several explanations may be required where parameters vary when services are offered through different devices, when the service is operated across different territories and domains, or when there is a syndication or sub-syndication of search results.

Providers should consider what impact filtering options may have for business users, as a customer who filters their search results may alter how important certain parameters are for that specific ranking.

Providers should also be careful to note that business users may think that certain factors are relevant for ranking, when in fact they are not considered. The descriptions of parameters should be sufficiently clear so that users can understand that other factors are not taken into account. Providers should bear in mind that they are not required to disclose the detailed functioning of their ranking mechanisms.

## Looking ahead

Online intermediation services should ensure their terms and conditions are compliant in terms of transparency and substance, and conduct regular reviews thereafter. Annual reports of how the platform's internal complaints mechanism is working must be published.

Intermediation services and online search engines should give careful consideration to the transparency requirements in the P2B Regulation. The Commission's recent guidance further highlights the importance of transparency in this regulation.

Further changes for platform providers, small and large, are imminent as part of the proposed Digital Services Act which is addressed in further detail elsewhere in this issue of the Annual Review.



# Product Trends In 2020



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## Going online

As more and more consumers move online, legislative reform aimed at regulating online retail and digital services at European level has continued apace. Of note, the Consumer Protection Cooperation Regulation (EU) 2017/2394 came into effect on 17 January 2020 and provides for enhanced coordination between Member States in the effective policing of cross-border infringements. This move is expected to enable tighter regulation of online retailers. The Online Platform Regulation 2019/1150 (the P2B Regulation) also came into effect on 12 July 2020 and will apply in a business-to-business context relating to online platforms and traders. On 15 December 2020, the European Commission also revealed the details of the Digital Services Act and the Digital Markets Act. These are ambitious pieces of legislation that would introduce various measures aimed at online “gatekeepers” including rules relating to how digital content and goods sold online are advertised and ranked using search engines.

## AI and machine learning

Products that rely on or are influenced by AI and machine learning continue to form an ever larger part of our everyday lives. As a result, the debate as to how to effectively regulate these powerful technologies continues to build towards concrete draft legislation. Most recently, the European Parliament adopted a report in October 2020 setting out MEP recommendations to the European Commission on how AI should be regulated in the area of civil liability.

## Health and wellness

The COVID-19 pandemic has only added to the continuing growth in popularity of consumer products aimed at supporting general health and an active lifestyle. This has led to an increased focus on the accuracy of marketing claims associated with these types of products and a related focus on the distinction between consumer wellness products and medical devices. Digital health solutions from telemedicine to connected medical devices to health apps incorporating predictive analytics and other sophisticated algorithms have also continued to grow in popularity and are becoming an ever more visible feature of everyday life for patients and health-conscious consumers alike. This year will also see the coming into force of the Medical Device Regulation (EU) 2017/745 which is a significant milestone for developers of digital health solutions and other medical device manufacturers.

## Staying safe – PPE and biocides

With a number of companies pivoting into the area of PPE and hand sanitisers, most notably in the case of distillers and other alcoholic drinks manufacturers, the need to ensure compliance with complex EU laws regulating the sale and distribution of biocides (the Biocides Regulation) and other chemicals (REACH) as well as national implementing legislation has become a larger part of the consumer products landscape. At the same time, use of PPE in the medical context, and as a consumer product, have also become the subject of much closer attention than was previously the case.

# Ecodesign Regulations & Sustainability



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Environmental objectives are driving changes in EU product regulation. The Ecodesign rules will undergo two big changes in 2021.

- Firstly, updated EU-wide rules for improving the environmental performance of certain electrical products apply from 21 March 2021
- Secondly, there will likely be a widening of the Ecodesign Directive's scope to cover additional categories of product such as consumer electronics, ICT and textiles. This is part of EU's sustainable product initiative, and the Circular Economy Action Plan published in March 2020

## Updated Ecodesign Regulations 2019

The updated Regulations will apply from March 2021 and focus on the repair and recycling of common household products by professional repairers. They will require that spare parts be made available for a specified number of years and provide maintenance information for consumers. Directive 2009/125/EC (Ecodesign Directive) is the legal framework through which ten separate implementing regulations (the 2019 Regulations) were adopted in 2019.

### Washing machines, dryers, and dishwasher:

Washing machines and dryers (Regulation 2019/2023) and dishwashers (Regulation 2019/2022) must include instructions for customers to perform maintenance operations. These must provide information on how to access professional repair and the implications of self-repair for the safety or the consumer and for the guarantee. There is a minimum 10-year durability guarantee for washing machines sold.

**Refrigerators:** (Regulation 2019/2019) As regards spare parts, manufacturers, importers and authorised representatives must:

- Make available to professional repairers thermostats, temperature sensors, printed circuit boards and light sources, for at least 7 years after placing the last unit of the model on the market
- Make available to professional repairers and consumers door handles, door hinges, trays and baskets, for a minimum of seven years and door gaskets for minimum of 10 years

Spare parts must be replaceable with the use of commonly available tools and without permanent damage to the appliance.

The Regulation also stipulates that access to repair and maintenance information must be provided to professional repairers in certain circumstances as well as further information requirements for instruction manuals to be accessed by installers and consumers.

**Electronic displays:** (Regulation 2019/2021) This defines electronic displays broadly, encompassing televisions and monitors. It excludes laptops, tablets and all in one computer desktops as these items fall under the computers regulation (617/2013). It provides for similar spare parts provisions as the Refrigerator Regulation such that manufacturers, importers and authorised representatives must:

- Make internal power supplies, connectors to external equipment, capacitors, batteries and DVD / Blue-Ray modules available to professional repairers for at least seven years
- Make external power supplies and remote controls available to professional repairers and consumers for a minimum of seven years after placing last unit of model on the market, and
- Make software and firmware updates available to third parties dealing with a professional repair and reuse of electronic displays (including third party maintenance actors, brokers and spare parts providers) for a minimum of eight years, free of charge or at a fair, transparent and non-discriminatory cost

## New energy efficiency labels

Alongside the revised Ecodesign Regulations, there are new energy efficiency labels applying from 1 March 2021. 5 categories of household products (dishwashers; washing machines, washer-driers; refrigerators, and lamps) and electronic displays will have to display the new energy label, which will have a QR code allowing consumers easy access to environmental information on the products.

## Sustainable Products Initiative and Ecodesign

The Circular Economy Action Plan has a large focus on sustainable products. The Sustainable Products Initiative will widen the Ecodesign Directive beyond energy-related products so as to make the Ecodesign rules apply to the broadest possible range of products. The objective is to make products sold in the EU more durable, reusable, repairable, recyclable, and energy-efficient.

Top of the list of products to be included in the extended Ecodesign rules are:

- Electronics and ICT, including mobile phones, tablets and laptops
- Textiles
- Furniture

The Ecodesign Directive allows a targeted product by product approach and will be a key component of the Sustainable Products Initiative. We expect to see draft laws published in mid- 2021, with a timeframe of 2 years for compliance from when the law is adopted. Manufacturers of electronics and ICT should keep a careful watch on the Ecodesign proposals.

## Comment

The European Green Deal is a priority for the current EU Commission, and that flows down to the Circular Economy Action Plan, the Sustainable Products Initiative, and into product level rules.

The 2019 Regulations will start the move towards greater circulation of the 10 affected product groups, although there have been criticisms that limiting spare parts, maintenance opportunities and information to professional repairers only do not give consumers a sufficiently strong “right to repair”. The Sustainable Products Initiative has ambitious objectives, and the potential to impose significant changes on manufacturers and suppliers of all electronics and other products in the EU within the next three to four years.

# Top 5 EU & Irish Guidance Documents



1

CCPC Guide to Identifying and Avoiding the Use of Unfair Terms in Consumer Contracts (June 2020)

2

EU Commission Guide, Questions and Answers – Establishing a Fair, Trusted and Innovation Driven Ecosystem in the Online Platform Economy (July 2020)

3

European Commission Communication, New Consumer Agenda: Strengthening Consumer Resilience for Sustainable Recovery (November 2020)

4

European Parliament resolutions on the regulation of artificial intelligence (October 2020)

- Framework of Ethical Aspects of Artificial Intelligence, Robotics and related Technologies
  - Civil Liability Regime for Artificial Intelligence
- Intellectual Property Rights for the Development of Artificial Intelligence Technologies

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European Commission, Digital Services Act – Questions and Answers (December 2020)

# Overview of Key Product & Consumer Law Legislation



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We are currently in the middle of one of the most active legislative periods for the EU in recent memory for product and consumer law regulations. Despite the challenges presented by COVID-19 and Brexit during 2020, the momentum for the key reforms in this area has largely continued. We outline some of the most significant changes in this area.

## New Deal for Consumers

The “New Deal for Consumers” was an EU legislative programme launched by the European Commission in 2018 with a view to strengthening consumer rights. This programme has culminated in two EU Directives on:

- Better Enforcement and Modernisation of EU consumer protection rules, and
- Representative actions for the protection of the collective interests of consumers

Some of the key effects of this legislative package are to:

- Strengthen consumer rights online
- Give consumers the tools to enforce their rights and get compensation

- Clarify that national authorities can address misleading commercial practice of dual quality consumer products, and
- Introduce effective penalties for violations of EU consumer law

The Enforcement and Modernisation Directive 2019/2161, or Omnibus Directive, will make substantive amendments to four existing pieces of consumer protection legislation:

- The Unfair Commercial Practices Directive (2005/29/EC)
- The Consumer Rights Directive (2011/83/EU)
- The Unfair Contract Terms Directive (93/13/EEC), and
- The Price Indications Directive (1998/6/EU)

The main focus of the changes is to improve transparency and outcomes for consumers as they buy goods and services online. Different protections will apply depending on whether the consumer purchases from a seller who is operating as a trader or a private seller. The Omnibus Directive also seeks to identify and regulate fake customer reviews and hidden paid-for advertising.

The most significant feature of the Omnibus Directive is the increased enforcement for breaches of consumer law. The Omnibus Directive seeks to impose fines of not less than 4% of the trader's annual turnover, or at least €2 million when information on turnover cannot be obtained.

The criteria for determining the appropriate level of fines is similar to that under the GDPR and focuses on:

- The nature, gravity, scale and duration of the infringement
- Whether there has been any action to mitigate damage
- Any financial gains or losses by the seller from infringements of consumer law, and
- Whether the trader has any previous allegations made against them

The Directives are due to be applied from 1 January 2022 and EU Member States will have a two-year period to transpose the requirements into national law. The deadline for the publication of national measures is 28 November 2021. The provisions will apply in each member state from 22 May 2022.

## The Goods Package

The "Goods Package" will make it easier to sell a product in another EU Member State. It will strengthen the controls by national authorities to ensure that products are safe and comply with EU rules. The Goods Package is comprised of the following regulations:

### Regulation on the Mutual Recognition of Goods (EU) 2019/515

This Regulation is applicable since 19 April 2020.

The objective of this Regulation is to improve the application of the principle of mutual recognition. It will therefore ensure that goods lawfully marketed in one EU Member State can be sold in any other EU Member State, as long as they are safe and respect the public interest.

### Regulation on Market Surveillance and Compliance of Products (EU) 2019/1020

One of the core obligations of this new Compliance and Enforcement Regulation is that a product may be placed on the EU market only if there is an economic operator established in the EU who has certain responsibilities under the Regulation.

The implications for non-EU based sellers are two-fold:

- For non-EU based sellers, the full rigours of EU Product Safety rules will apply, and
- For non-EU based sellers who operate as a platform or online interface, there will be obligations to respond to market surveillance authorities' requests to remove content on the platform

The Compliance and Enforcement Regulation is applicable from 16 July 2021 for the most part, with Articles 29, 30, 31, 32, 33 and 36, establishing the Union Product Compliance Network, to take effect from 1 January 2021.

## The Consumer Protection Cooperation Regulation

The Consumer Protection Cooperation Regulation (EU) 2017/2394 came into effect in January 2020. The Regulation aims to provide more stringent policing of cross-border infringements by national consumer protection authorities tasked with ensuring compliance with consumer protection law. The enhanced enforcement powers of the consumer authorities will lead to a coordinated approach across the European Union, which may impact the way in which online traders respond to consumer law infringements.

Some of the key elements are:

- Traders can be required to provide the consumer authorities with access to documents, supply information and have the consumer authorities carry out on-site inspections
- The consumer authorities will have a new investigatory power to purchase goods or services as a test purchase under the guise of a mystery shopper

## The Single-Use Plastics Directive

The Single-Use Plastics Directive (EU) 2019/904 bans certain single-use plastic products as well as imposing measures to reduce consumption, extend producer responsibility and design requirements for beverage containers. EU Member States must bring laws, regulations, and administrative provisions necessary to comply with this Directive into force by 3 July 2021. This timeframe may be extended to 3 July 2024 for the adoption of measures for certain single-use beverage containers that have caps and lids made of plastic, that they may only be placed on the market in certain circumstances.

## The Accessibility Directive

The Accessibility Requirements for Products and Services Directive (EU) 2019/882 introduces accessibility requirements for specific products and services such as phones, computers, payment terminals, banking services and e-commerce services. The key requirements include:

Consumer products must be capable of being operated by persons with disabilities and have packaging, installation instructions and other product information that is accessible:

- Manufacturers of products must demonstrate compliance with the applicable accessibility requirements by drawing up an EU declaration of conformity and affixing a CE mark
- Websites and apps must be easily operable and understandable for persons with disabilities and include accessibility information made available by more than one sensory channel

EU Member States must bring laws, regulations, and administrative provisions necessary to comply with this Directive into force by 28 June 2025.

## Digital Content Directive

This Directive will update consumer law for the sale of digital services and digital content.

It will apply to the provision of digital content by a trader for which the consumer pays a price, which could be in the form of providing personal data where it goes beyond the amount of personal data necessary to provide the services.

The concept of digital content captures games, e-books, software applications and films, and digital services which includes streaming and social media services. Goods with digital elements such as smart fridges and electronic scales will not be within the scope of the Digital Content Directive, and will instead be within the scope of the new Sale of Goods Directive.

Some other notable exclusions include translation services, healthcare (but not healthcare apps) and gambling.

The digital content/service being provided must comply with both subjective criteria and objective criteria. Any failure to supply updates (including security updates) for goods with digital elements will be considered to be a lack of conformity of goods. Defective or incomplete updates are also considered a lack of conformity of the goods and updates should be provided for the period of time the consumer may reasonably expect, given the type and purpose of the goods and the nature of the contract.

The Directive is due to come into effect from 1 January 2022.

## Sale of Goods Directive

The Sale of Goods Directive (EU) 2019/771 will operate in parallel with the Digital Content Directive, to ensure that there is no gap in consumer law protection where a product has digital elements. The Sale of Goods Directive applies to all contracts for the sale of goods apart from those that fall within the scope of the Digital Content Directive.

As with the Digital Content Directive, the Sale of Goods Directive sets out both subjective and objective criteria for conformity, which must be complied with.

A key feature of the Directive are the remedies available to the consumer. In the event of a lack of conformity, consumers are entitled to a repair, replacement, price reduction or even termination of the contract in certain circumstances.

The consumer also has a two-year guarantee to remedy any defects in goods which are discovered after delivery, though Member States are free to introduce longer liability periods, or indeed shorter periods in the case of second-hand goods.

The deadline for Member States to implement this Directive is 1 July 2021, and the rules will apply to all relevant contracts from 1 January 2022.

- The **EU Directive on Representative Actions (EU) 2020/1828** was published on 4 December 2020. This will harmonise the regime for collective actions to be brought on behalf of EU consumers
- On 15 December 2020, the European Commission published the draft text of the **Digital Services Act**, which is expected to significantly change the online commerce regulatory regime

## Further Developments

Added to the above, the following further developments are also explored in further detail elsewhere in this edition of the Review:

- In October 2019, the European Commission adopted new regulations to amend the **Ecodesign Directive (2009/125/EC)** for energy-related products such as refrigerators, washing machines, dishwashers and televisions
- The **Online Platform Regulation (EU) 2019/1150** came into effect on 12 July 2020 and applies in a business-to-business context relating to online platforms and traders. However, this Regulation aims to protect traders that sell online to consumers
- The European Commission is in the process of revising the **General Product Safety Directive (2001/95/EC)**, with the revised version expected to be published in 2021





# Brexit Round Up: Key Issues for Product Manufacturers



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With the end of the Brexit transition period, manufacturers should be aware of regulatory changes that affect the supply of products to the EU, Great Britain (GB), and Northern Ireland (NI) markets. This article looks at some of the main areas of change that manufacturers should be aware of when labelling and supplying their products and when managing their supply chains now that the UK is no longer in the EU.

## CE Mark

Products will continue to need a CE mark in order to be placed on the EU market. The UK Government has stated that certain consumer goods placed on the GB market can continue to be CE marked up until 31 December 2021 on the basis that UK and EU essential requirements and technical standards for these products remain the same. At the time of writing, the UK Government has indicated that there are no immediate plans to diverge from EU requirements or standards. This means that certain consumer goods placed on the GB market can, subject to EU and UK regulations remaining aligned, carry either the CE mark or UKCA mark up until 31 December 2021. Although from 1 January 2022, they must use the UKCA mark if they are to remain on the GB market.

## UKCA Mark

The new UKCA mark will not be recognised on the EU or NI markets. Consumer products intended for placement on the GB market will be required to affix the UKCA marking immediately from 1 January 2021 if all of the following apply:

- The product is covered by legislation which requires the UKCA marking
- The product requires a mandatory third-party conformity assessment, and
- The conformity assessment has been carried out by a UK conformity assessment body

This rule does not apply to existing stock that was fully manufactured and ready to be placed on the GB market before that date however. These goods can continue to be placed on the GB market using the CE mark until 31 December 2021. From 1 January 2022, the UKCA mark must be used.

## UKNI Mark

CE marked goods can continue to be placed on the NI market. However, manufacturers placing products on the NI market will be required to affix the CE mark along with the UKNI mark in cases where mandatory third-party conformity assessment is to be carried out by a UK body. For products being placed on the Northern Irish market, the UKNI mark cannot be used on its own. It can only be used alongside the CE mark. The combined CE and UKNI marking will not be recognised in the EU.

## Notified Bodies

UK-based Notified Bodies have now lost their status as EU Notified Bodies and can no longer perform conformity assessment tasks to enable products to acquire valid certification for placement on the EU market. From 1 January 2021 manufacturers must ensure that any mandatory third-party conformity assessments undertaken with a view to affixing a CE mark are carried out by a Notified Body based in an EU Member State.

## UK Approved Body

The UK Market Conformity Assessment Bodies (UKMCAB) database will replace the EU's New Approach Notified and Designated Organisations (NANDO) database. Most conformity assessment bodies based in the UK will automatically have their status converted under the new UK framework. These new UK "Approved Bodies" will be the only entities entitled to conduct a conformity assessment for placing of a product on the GB market using the UKCA mark.

## Northern Ireland

In Northern Ireland, EU conformity markings continue to be used to show that goods meet EU rules after 1 January 2021. For most manufactured goods, this is the CE marking. Manufacturers based in Northern Ireland that currently mark their goods using self-declaration, or where mandatory third-party conformity assessment is carried out by an EU-recognised notified body, therefore do not need to make any changes.

If a UK body is used to carry out mandatory third-party conformity assessment, then a UKNI marking needs to be applied to the product. The UKNI marking can never be applied on its own and must always be accompanied by an EU conformity marking, such as the CE marking. Goods with both the CE and UKNI marking cannot be placed on the market in the EU.

The UKCA marking cannot be used for goods placed on the Northern Ireland market. However, the UK government has guaranteed unfettered access for Northern Irish businesses to the whole of the UK market, without the need for additional approvals before placing goods on the market in the rest of the UK. Manufacturers in Northern Ireland will therefore be able to place qualifying Northern Irish goods on the market in GB based on the conformity markings used in NI.

## Importers, Distributors and Suppliers

Manufacturers should be aware of the possibility of economic operators in their supply chain becoming importers if they are the first one bringing goods from outside the UK and placing them on the market in GB.

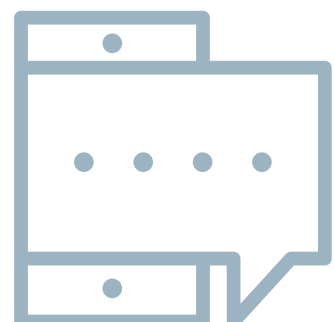
If an economic operator becomes an importer into the UK, they have increased obligations after 1 January 2021 and need to ensure the following:

- That goods are labelled with their company's details, including the company's name and a contact address. Until 31 December 2022 these details may be provided on accompanying documentation rather than on the good itself. After 31 December 2022, these details must be affixed to the product or, in circumstances where the legislation currently allows, on the packaging or an accompanying document
- That the correct conformity assessment procedures have been carried out and that goods have the correct conformity markings
- That the manufacturer has drawn up the correct technical documentation and complied with their labelling requirements
- That they maintain a copy of the declaration of conformity for a period of 10 years
- That the goods conform with the relevant essential requirements

Importers must comply with the above requirements immediately for goods placed on the GB market from 1 January 2021, for both CE and UKCA marked goods.

## Conclusion

The transition period has ended, although a number of grace periods remain for compliance with certain obligations. Manufacturers and economic operators in supply chains should now be aware of their obligations under the new regime following the UK's exit from the EU. They should keep the above requirements and deadlines in mind when supplying into EU, GB and NI markets.



# At a Glance: The EU-UK Trade & Cooperation Agreement



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The EU and UK announced the conclusion of the EU-UK Trade and Cooperation Agreement (TCA) in late December 2020. Although it is a complex international trade agreement comprising over 1,250 pages, there are some key features that businesses should be aware of:

## Conformity Assessments and Standards

Although the TCA does incorporate WTO rules on technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPS) which provide for principles such as non-discrimination, harmonization, transparency and proportionality in the formulation and implementation of standards, the UK and the EU are ultimately free to determine their own regulatory regimes going forward. The TCA does however contain certain provisions allowing for self-declaration of conformity for low-risk products. Apart from some specific product categories such as medicines, motor vehicles, organic products, chemicals and wine, there is no general mutual recognition of conformity standards and all other products will have to satisfy separate EU and UK conformity assessment processes in order to be legally placed on either market. At the moment these standards are very closely aligned, however, possible regulatory divergence now needs to be monitored on an ongoing basis.

## Supply Chains

Beyond mutual recognition of Authorised Economic Operator (AEO) status and agreement on the ongoing facilitation of roll-on/roll-off traffic, there is now a need for export and import declarations. There is also a need for the completion of various security and safety declarations.

Businesses must be familiar with these new requirements and be ready to begin using relevant IT systems. Although more relevant to agri-food products, increased border checks are also expected to become a feature of cross-border movements from now on.

## Tariffs, Quotas and Rules of Origin

There are no import tariffs or other customs duties or quotas on imports of EU-origin goods into the UK or of UK-origin goods into the EU. To benefit from these provisions however, a product must be deemed to originate in the UK or EU according to a complex set of rules of origin contained in the TCA. Bilateral cumulation, for example where materials from the EU which are incorporated into a UK product are deemed to be UK-origin materials and vice versa, is provided for. However, further cross-cumulation, for example where materials from third countries being incorporated into EU/UK products as EU/UK origin, is not. This may mean that some products assembled in the UK or EU using materials sourced from elsewhere may ultimately fail to qualify under the no-tariff provisions without changes to sourcing of components and processing arrangements.

## Northern Ireland

The TCA will not govern trade in goods between the EU and Northern Ireland. There will be facilitations for goods moving between Great Britain and Northern Ireland, however trade in goods between the EU and Northern Ireland will continue to be governed by the Northern Ireland Protocol to the Withdrawal Agreement.

# Collective Redress: EU Directive on Representative Actions



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EU Directive 2020/1828 on representative actions for the protection of the collective interests of consumers (the Directive) was published in the Official Journal on 4 December 2020. An important element of the 2018 New Deal for Consumers, it introduces a right of collective redress, or a form of “class action” across the EU for breaches of a wide range of consumer laws. Once it is transposed into national laws, the Directive will harmonise the regime for collective actions to be brought on behalf of EU consumers. This aims to balance the availability of collective redress mechanisms across Member States whilst providing safeguards to discourage unfounded claims being brought against traders. The EU has been quick to distinguish this form of redress from the type of class actions that commonly exist in the US. To this end, the criteria required to bring a redress action are relatively strict.

## Qualified entities

The Directive will require each EU Member State to designate at least one “qualified entity” to bring actions on behalf of consumers and a list of qualified entities will be maintained by the European Commission.

Qualified entities such as consumer organisations will be empowered to bring collective action cases on behalf of consumers for breaches of a wide range of EU Directives and Regulations.

Member States will have a high level of discretion in selecting the criteria that qualified entities must meet for the purpose of bringing domestic representative actions. In order to bring a cross-border representative action, the qualified entity will have to meet certain criteria:

- Be a non-profit organisation in the area of consumer protection
- Be independent, and
- Have a legitimate interest in ensuring the provisions of the Directive are complied with

## The Irish position

At present, there is no mechanism under Irish law for collective redress or class actions to be brought on behalf of consumers. Member States have limited ability under EU law to seek collective injunctions under the Injunctions Directive 2009/22/EC, which will be repealed. The Directive will require Ireland to introduce at least one representative action procedure for injunction and redress actions which can be brought by qualified entities.

The Competition and Consumer Protection Commission is likely to be a qualified entity in Ireland.

## Consumer and product claims

Collective redress applies for claims arising under any of the 66 European directives and regulations specified in Annex I to the Directive. The net is cast wide, including legislation such as:

- Unfair Terms in Consumer Contracts Directive
- Unfair Commercial Practices Directive
- The Digital Content Directive
- The Sale of Goods Directive
- General Product Safety Directive
- The Directive on liability for defective products
- The General Data Protection Regulation (GDPR)
- Medical Devices Regulations

Claims may also arise under EU laws on consumer credit, UCITS, air and rail passenger rights, insurance (Solvency II) and the European Electronic Communications Code.

Current opportunities for consumers to bring proceedings against a manufacturer of goods or a digital services provider are limited. They are also expensive, time-consuming and compensation may not be large enough to justify bringing an individual legal action. However, once Member States are required to apply the measures of the Directive, this is likely to increase the enforcement of consumer rights across the EU. For example, if a wearable product has safety issues under the General Product Safety Directive (GPSD) and a large number of consumers complain to a qualified entity, it will be able to bring a collective action against the manufacturer for alleged infringements. In some instances, qualified entities will be able to bring a joint representative action along with consumer protection groups and NGOs from other Member States if there is an EU-wide issue.

## Injunctions and consumer redress

Qualified entities will be able to apply for injunctive relief and other redress. Injunctions granted to benefit consumers could be preventative or prohibitive in nature. In addition, qualified entities may seek redress on behalf of consumers in the form of compensation, repair, replacement, price reduction, contract termination or reimbursement. The redress awarded could vary among consumers in the group or could be the same for all consumers involved in the action. Member States will be able to decide on an opt-in or opt-out mechanism in relation to domestic actions. This means that consumers will need to actively opt-in to being represented or express their will not to be represented by a qualified entity. For cross-border actions, only the opt-in basis should be used. Where a consumer is habitually resident in another Member State, they will have to opt-in to the action being brought in Ireland in order to be bound by the decision made.

## Safeguards

- **Losers pays principle:** The costs of the proceedings should be borne by the unsuccessful party. This is intended to safeguard manufacturers from unfounded or abusive actions as the Directive may have a serious impact on the number of actions taken for issues with a product's durability and sustainability. Individual participating consumers will not be required to pay legal costs, except in exceptional circumstances
- **Dismissal of manifestly unfounded cases:** Courts will also be willing to dismiss manifestly unfounded cases at the earliest possible stage of the proceedings
- **Potential for settlement:** There is also the possibility that a claim can be settled. However, such a settlement requires the approval of the court

- **Third party funding:** A qualified entity will be required to publicly disclose information about its sources of funding for the representative actions it brings. At present, third party funding in Ireland is prohibited
- **Multiple claims by individual consumers:** Member States will be required to lay down rules preventing consumers from bringing an individual action or being involved in another collective action against the same trader for the same infringement. Furthermore, Member States must ensure that consumers do not receive compensation more than once for the same cause of action against the same trader

## The way forward

Member States are required to adopt implementing measures by 25 December 2022 and the measures will apply from 25 June 2023. While it remains to be seen how it will be implemented under Irish law, businesses should begin to look at and prepare for the Directive because of the possibility of a considerable increase in litigation. The introduction of cross-border collective actions will be a particular concern for businesses with a presence in multiple Member States.



# Proposed Digital Services Act: A Changing Liability Regime for Service Providers



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## Introduction

The European Commission published the draft text of the Digital Services Act (DSA) in December 2020. It is intended to reflect the significantly changed landscape since the E-Commerce Directive 2000/31/EC (E-Commerce Directive) was enacted 20 years ago. The DSA will be implemented as an EU Regulation and will largely uphold the current liability regime under the E-Commerce Directive. Like many other key legislative reforms in the Digital Single Economy, the DSA will apply where recipients of services are based in the EU, regardless of the service provider's place of establishment.

It contains new obligations in relation to digital services that connect consumers to goods, services and content as well as new procedures for faster removal of illegal content and measures for protecting users' fundamental rights online.

## Specific measures for intermediary services

There are provisions set out for intermediary service providers of:

- A mere conduit service
- A caching service, or
- A hosting service in order to avoid liability for illegal content where certain specified conditions are met

Providers of intermediary services based outside of the EU will be required to designate a single point of contact to communicate with Member State authorities. There will also be reporting obligations for removing and disabling information which is illegal or contrary to providers' terms and conditions as well as mechanisms to allow third parties to notify of the presence of illegal content.



## Additional provisions for providers of hosting services

Content moderation also comes in for focus. Notice and action mechanisms and a statement of reasons will need to be issued to recipients where a service provider removes or disables access to items.

## Additional provisions which apply to all online platforms

There is a carve-out exception for micro or small enterprises that employ fewer than 50 persons and whose annual turnover does not exceed €10 million.

All other online platforms will be required to have an internal complaint-handling system to make decisions about illegal content or information violating the provider's terms and conditions. In the event of a dispute, online platforms are required to engage in and inform complainants of the possibility of using an out-of-court settlement process. This will involve independent bodies in the relevant Member State reviewing the decisions of online platforms to take down content. Trusted flaggers, which are expert entities in reporting illegal content, may submit notices of illegal content as part of a notice and action procedure and the platform must process and decide upon it with priority and without delay. In order to be awarded trusted flagger status by the Digital Services Coordinator of a Member State, the applicant will need to meet the following conditions:

- It has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content
- It represents collective interests and is independent from any online platform, and
- It carries out its activities for the purposes of submitting notices in a timely, diligent and objective manner

The Digital Services Coordinator will revoke the status of the trusted flagger if it determines, following an investigation, that the entity no longer meets the criteria set out above.

Specific 'know your business customer' obligations will apply to online platforms regarding the traders on their platform. The aim is to ensure a safe, transparent and trustworthy environment for consumers and to discourage traders who sell unsafe or counterfeit goods. Traders will be required to submit proof of identification and self-certify to only offer products and services that comply with applicable EU laws. Online platforms will be required to keep information about the traders to help trace sellers of illegal goods or services.

Online platforms will also have to make reasonable efforts to assess the reliability of certain traceability information:

- Appoint a single point of contact in the EU
- Appoint a legal representative in the EU
- Include information on any restrictions on use of the services in terms and conditions, and
- Submit at least once a year a detailed report on content moderation

In addition, the DSA also requires online advertising transparency. Online platforms must give users immediate information on the sources of the advertisements they see online, including information on why an individual has been targeted with a specific advertisement. The liability safe harbour provisions are expressly excluded for online platforms where illegal content is presented in a way that creates the impression that such content is provided by the platform itself or under its control.

Online platforms are required to notify an enforcement authority on suspicion that serious criminal activity involving a threat to the life or safety of persons has taken place, is taking place, or is likely to take place.

## Very large online platforms

Very large online platforms, which are those which reach 45 million users or more, will be required to:

- Carry out risk assessments on the use and functioning of their services, and
- Put mitigating measures in place to protect users from illegal content, goods and services

When these platforms recommend content, users will be able to modify the criteria used and choose not to receive personalised recommendations.

Very large platforms will need to make information publicly available on:

- The content of the advertisement
- The natural or legal person on whose behalf the advertisement is displayed, and
- The period during which the advertisement was displayed and this information must be retained for a year after the advertisement was last displayed on the platform

## What happens next?

The Proposed text for the DSA is still at draft stage and has yet to be discussed with the European Parliament and the European Council. While the key protections afforded by the e-commerce directive are maintained, many organisations will no doubt be concerned around the increased reporting obligations which the DSA may introduce and this will likely receive significant discussion at EU Parliament level.



# Artificial Intelligence: A Threat to Product Safety?



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Emerging digital technologies challenge the existing product safety legislative framework. This is due to the complex characteristics of artificial intelligence (AI) which are not explicitly dealt with under legislation and which raise new challenges for product safety. The legal regime has a lot of catching up to do in the realm of AI regulation but there have been some recent interesting developments at an EU level, which will be examined in this article. These developments are hoped to better address the risks associated with AI and new technologies.

## Are existing Directives still fit for purpose?

The General Product Safety Directive (GPSD) was adopted in 2001, and it forms the basis of product safety obligations in the EU for general consumer products. It requires producers to ensure that only safe products are supplied to consumers, and that consumers are adequately informed of any risks posed by products. There have been plans to revise the GPSD to enable it to better regulate emerging technologies with increased debate being focused on how new technologies interact with product safety, in particular the use of connected devices and AI.

In its 2020 working programme, the European Commission announced that in the second quarter of 2021 it would revise the GPSD as part of its regulatory fitness and performance programme (REFIT). On 23 June 2020, the Commission published a combined evaluation roadmap on the revision of the GPSD. The Commission has indicated it is planning to either amend the existing Directive or adopt a new Regulation in the second quarter of 2021.

The Product Liability Directive (PLD) was adopted on 25 July 1985 and it sets a minimum level of protection for consumers and those affected by products put on the market in the European Union. The PLD operates alongside the national product safety and liability laws of the Member States. In May 2018 the Commission published its fifth Report on the PLD (the PLD Report). The PLD Report, among other things, concluded that the PLD continues to be a useful tool and offers the EU clear added value. It noted, however, that the economy and its technologies have evolved since the PLD was adopted in 1985, and that some of the concepts that were clear-cut in 1985, such as “product”, “producer”, “defect” and “damage”, may need re-assessment in the light of these changes.

Both of these initiatives to revise two of the main directives which ensure product safety in the EU highlight the rapidly changing product safety landscape due to the increased use of AI and emerging technologies in products.

## White paper on AI – change is afoot

One of the main pushes for change came from the Commission in February 2020 when it published a white paper titled “On Artificial Intelligence – A European approach to excellence and trust” and a report on the safety and liability implications for AI, the Internet of Things and robotics (the Reports). The Reports recommend:

- Including software within the scope of product regulation as currently the regime only takes into account the risks stemming from software integrated in a product at the time it goes to market
- Identifying certain AI systems as **high-risk** and making such systems subject to a more stringent regulatory framework, such as systems which use biometric identification and other “intrusive surveillance technologies”
- **Apportioning responsibility** to address risk in AI systems to the actors best placed to address such risks, such as including developers, distributors, service providers and even users
- Revisiting the concept of **putting into circulation** in the PLD to take into account how AI systems may change over time
- Requiring developers to disclose the design parameters of algorithms and metadata of datasets in the event of accidents. This would improve the transparency of algorithms and make it easier for users to trace the decisions made about them by AI systems
- The definition of **product** being updated, since there is a growing interaction between physical products and digital services

- The definition of **producer** should be clarified in order to determine who should be the producer in the case of an update, upgrade or modification. For example, there was a call by CLEPA to have those who make modifications to the product be considered producers

The Reports marked a significant commitment of the Commission to ensure an adequate regulatory framework for AI. The sum effect of all of the developments at an EU level culminated in a legislative proposal from the European Parliament which proposed a civil liability regime for AI.

## A civil liability regime for AI?

The European Parliament adopted a legislative proposal for a regime of civil liability for AI on 20 October 2020 (the Proposal). The Proposal contains the draft text of a stand-alone regulation which would govern liability issues for AI. Most of the White Paper suggestions have been adopted by the European Parliament through the Proposal.

According to the Proposal, operators of “high-risk” AI-systems would be subject to strict liability for any damage that results in harm to life, health, damage to property or harm that results in economic loss. What “strict liability” means in practice is that operators of high-risk AI-systems will be liable for any harm caused by an autonomous activity, device or process driven by their AI system, even if they did not act negligently. The Proposal considers that in situations where there is more than one operator, all operators should be jointly and severally liable, while having the right to recourse proportionately against each other.

Perhaps the most significant aspect of the Proposal is the compensation and limitation periods proposed. A cap of €2 million is proposed in case of death or harm to physical health resulting from an operation of a high-risk AI-system and a limitation period of 30 years for harm to life, health, and /or physical integrity. This limitation period is significantly more than what is provided for in the PLD.

# Webinars & Recent Publications

## Webinars

- Commercial Contracts – What's Market? (July 2020)
- The EU Regulation of Wearables – A Changing Landscape (July 2020)
- Regulatory Investigations & Prosecutions Update (June 2020)
- AI Regulation: The EU Approach (June 2020)
- Getting Ireland Back to Work: Employment Law and Health & Safety Issues (May 2020)
- Selling Online – Consumer Protection Overhaul (May 2020)
- Getting Ireland Back to Work – GDPR Issues (May 2020)
- Commercial Contracts During COVID-19: Onboarding, Managing and Exiting (April 2020)

## Publications

- EU Regulations Proposals for AI (Podcast) (November 2020)
- Acknowledging AI as an Inventor of IP – A Slippery Slope to Giving AI the Same Rights as Humans? (November 2020)
- Draft Proposal for the Regulation of Ethical AI (November 2020)
- IP in Irish Whiskey: EU Urged to Chase Fake Whiskey Sales in Russia (October 2020)
- AI Overview (October 2020)

- Product Regulatory Update: Post Market Surveillance Obligations Under the MDR (September 2020)
- Manufacturers of Class I Medical Devices: Making the Most of MDR's Transitional Provisions (September 2020)
- The Hidden Benefits of Corporate Simplification (July 2020)
- On Your Bike: Pedalling Your Way to Copyright Protection (June 2020)
- In Focus – Artificial Intelligence Update (June 2020)
- Article 120 of the Medical Devices Regulation – When is a Change Significant? (June 2020)
- Products Update: EU Adopts New Regulation to Strengthen Market Surveillance (June 2020)
- Protecting Your IP on the Shop Floor: Kiko and Apple Set the Trend (June 2020)
- Public, Regulatory & Investigations Update: Not So Generic Challenges to Marketing Authorisations of Generic Products (May 2020)
- Manufacturing Medical Devices and PPE for COVID-19 – 5 Key Considerations (April 2020)
- Product Regulation: Cleaning House – Ireland Bans Microbeads in Certain Products (March 2020)
- Product Liability Update: Liability for Digital Technologies and Artificial Intelligence (February 2020)
- Manufacturers and Developers – Are You Regulation-Ready for 2020? (January 2020)
- Product Liability and Safety in Ireland: Overview – Thomson Reuters, 2019
- Getting the Deal Through: Product Liability in Ireland 2019

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## What others say about us

### Our Consumer Law Team



*"Exceptionally professional, responsive and knowledgeable."*

Legal 500, 2020

### Our Products Team



*Team possesses "a competitive edge in terms of sector and practice area expertise."*

Legal 500, 2020

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