



VIRTUAL ROUND TABLE SERIES | 2021

Establishing growth: Why business development will be tied to the success of the Covid-19 vaccine rollout

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FOREWORD BY EDITOR, ANDREW CHILVERS

Universal Panacea: How will business be tied to the success of the Covid-19 vaccine?

As the vaccine for Covid-19 started to roll out across the world by June 2021, professional advisors and their clients were becoming cautiously optimistic that business would start to recover – in certain sectors at least.

By mid-June, upwards of 2.7 billion vaccine doses had been administered globally, which worked out at about 35 doses for every 100 people. But the distribution of the vaccination programme around the world was heavily skewed in favour of richer countries, where people were vaccinated 30 times faster than in poorer nations.

To return the world to some form of pre-pandemic normality, it's estimated that in the US alone up to 75%-85% of Americans would need to be vaccinated. With just over 1 million jabs being administered per day in the US, it would take to the end of the year to vaccinate that many people. Moreover, despite new vaccines appearing in different jurisdictions by June, many experts admitted it would be another 12 months at least before there would be a high level of immunity across the world. This would continue to have a significant impact on people doing business across borders in particular.

Nevertheless, for professional services advisors and their clients in these jurisdictions, the benefits of the vaccine were quickly starting to show as coronavirus cases and death rates dropped sharply. The long hoped-for economic upturn would possibly be just around the corner as the World Bank predicted significant growth for many advanced economies during the next 12 months.

And this economic boost off the back of the vaccine rollout couldn't be more timely.

During the past 18 months, across North America, Europe and Asia, governments have been bailing out businesses and injecting huge aid programmes into their economies. The aim was to stave off an avalanche of insolvencies forecast in all jurisdictions.

For many advisors this state aid would only delay the inevitable and in June insolvencies were still down year on year almost everywhere. In the UK, total company insolvencies for the first quarter of 2021 dropped by 22% compared to the final quarter of 2020 and were down a huge 38% compared to the same quarter in 2020.

In other jurisdictions it was a similar story where the number of insolvencies had consistently dropped as a result of government aid initiatives. While many predict the avalanche of insolvencies will happen in 2022, advisors are also seeing a huge drop in cross-border M&A deals as a result of the pandemic. They admit this will not pick up anytime soon.

Elsewhere, on a more positive note, many businesses have been quick to adapt to the new circumstances and those that had invested in technology pre-pandemic found themselves outstripping their competitors.

As the pandemic rolled out across the world, many firms in all sectors had to adopt new technology models for their business operations, which included the use of mobile meeting apps, file sharing and using online apps and channels for sales, service delivery and marketing. What would probably have taken years to implement in most sectors (including the legal sector) suddenly appeared overnight.

Businesses shifted to remote working and virtual meetings and up to 25% of workforces in advanced economies were predicted to be working remotely without losing any effectiveness. Forward thinking businesses also started using hybrid working models and companies staggered employees who attended the office, reducing office space and urban travel

As employment went remote, so did consumerism, including shopping and entertainment. In the US new online grocery shoppers accounted for up to 50% of online consumers, many of them older people who had made the transition to digital technologies. Meanwhile, big out-of-town shopping malls were predicted to be a thing of the past, certainly for the foreseeable future, as young and old alike shopped and even browsed online.

Going forward, as the vaccine rollout progresses and the pandemic recedes, these new operating models – along with changes in consumer behaviour – will continue as businesses take advantage of the new technology-focused environment.

Many business leaders and professional advisors now believe that despite the vaccine, many companies will continue along this new digital economy. Those worst-hit sectors such as hospitality, tourism and travel will possibly need years to recover – indeed, they may never recover to pre-pandemic levels.

In this virtual series on business and the Covid-19 vaccine, IR Global members discuss why the pandemic has changed everything – and how the vaccine is helping to shape the future of work. As one member said: "At the moment all queries are dominated by the Covid question. What you can do, what you can't do, what you're restricted from doing, how you adapt your business and even how you deal with your employees?"



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View from IR



ENGLAND

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Our Virtual Series publications bring together a number of the network's members to discuss a different practice area-related topic. The participants share their expertise and offer a unique perspective from the jurisdiction they operate in.

This initiative highlights the emphasis we place on collaboration within the IR Global community and the need for effective knowledge sharing.

Each discussion features just one representative per jurisdiction, with the subject matter chosen by the steering committee of the relevant working group. The goal is to provide insight into challenges and opportunities identified by specialist practitioners.

We firmly believe the power of a global network comes from sharing ideas and expertise, enabling our members to better serve their clients' international needs.

Featured Members



TURKS & CAICOS ISLANDS

Claire McAvinchey

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Claire McAvinchey is an Irish qualified solicitor and the legal practice manager of Graham Thompson, TCI.

Her practice has involved a number of high-profile commercial disputes in the corporate, real estate, regulatory, banking, employment and tourism & hospitality sectors. She has also a wealth of experience in in both contentious and non-contentious Property and Finance matters. Her litigation support extends to enforcement of security and possession actions, corporate matters including insolvency, liquidations, receiverships, corporate formation and reorganisation, and insurance. Her practice in the Finance sector involves working closely with leading financial institutions in secured and unsecured lending transactions.

Claire will soon head the firm's Corporate Services division in TCI which will provide a full range of professional services to our corporate clientele.



US – CALIFORNIA

Rebecca Torrey

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Rebecca represents companies in litigation in federal and state courts nationwide. She is an across-the-board employment lawyer with significant trial experience representing management in bet-the-company cases involving wage and hour and fair credit class actions, trade secret, wrongful termination, discrimination and fair pay claims.

Rebecca provides strategic advice to companies aimed towards aligning personnel practices with an employer's culture, values and priorities and minimizing legal risk. She is committed to developing a client's understanding of the law to improve human resources practices and guide business forward. A frequent speaker and writer on key developments and cutting-edge legal issues, Rebecca is known for pragmatic, out-of-the-box solutions that support strategic growth.

Rebecca's clients include healthcare companies, professional services firms, entertainment, digital media and technology innovators, manufacturers and recyclers, and tax-exempt organizations, operating both domestically and internationally.



FRANCE

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Admitted to the Bar in 1997 and founder of Galion, Lionel Paraire has a DESS de Droit des Affaires and a Magistère-DJCE (Masters in Business and Tax Law) from the University of Montpellier. He worked for six years with Cabinet Jeantet Associés, then worked at the firm Baker & McKenzie, and then Mayer Brown where he became Of-Counsel.

Lionel has been Senior lecturer at the University of Paris XII in Labour Law and European Labour Law. He is a member of Avosial, EELA (European Employment Lawyers Association), ANDJCE (Association Nationale des Diplômés Juriste Conseil d'Entreprise) and IBA (International Bar Association). He is also Senior lecturer at the University of Montpellier I (DJCE).

He has developed an acknowledged expertise in the area of individual employment relations and (high risk) litigation and dispute resolution. He regularly assists companies with restructuring and the labour and employment law aspects of corporate transactions.



POLAND

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Dr Robert Lewandowski who leads DLP studied mathematics and German philology at the University of Warsaw and law at the University of Mainz, Germany, and later joined the list of German lawyers at the Frankfurt Bar Association in Germany and the list of legal advisers at the District Chamber of Legal Advisers in Warsaw.

For over 20 years Robert has specialized in corporate law, with a focus on private Mergers & Acquisitions, cross-border work, general corporate advise and litigation.



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Adriana Posada-Velásquez is a Colombian Lawyer (1991), with a specialisation in Contractual Law and Business Juridical Relations (1999), Diploma in International and American Law (2003) and an MBA (2010). She is Partner, Founder and Director of A&C Legal with considerable experience in Corporate Law, Commercial Law, M&As and finance matters, with an emphasis on the pharmaceutical industry.

Her broad knowledge of her clients, their industry and operations, as well as her solid strategies and structured plans, allows her to provide legal support for her clients' projects and successfully direct M&A and reorganisation processes.



SOUTH KOREA

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Mark is a Consultant to Ahnse law offices. He is an English solicitor currently non-practising. He began his career in the City of London with Abrahams Dresden Solicitors becoming a partner there before moving to rhw Solicitors. He has lived and worked in Asia since 2007 spending time in Indonesia before moving to South Korea.

Mark has been with Ahnse since 2013. He works with the firm's foreign clients – inbound and outbound. He works with a team of South Korean lawyers to provide advice on a broad range of issues. In his free time, Mark enjoys ultra-endurance sports, literature and history.

SESSION ONE

How extensive is the vaccine roll out in your jurisdiction? How quickly will advisors and their clients need to understand the key questions involved with the vaccine as a workplace panacea?

Rebecca Torrey – US, California: The vaccine rollout is extensive here. Across the US and in California anyone over the age of 12 can get vaccinated, and there are vaccines available. They initially were distributed through government centres, then through large pharmacies and now almost every pharmacy in the country has access to vaccines. The full vaccination rate is somewhere over 50% in the US, but with a lot of regional differences.

California's vaccination rate is high and has a similar attitude to vaccination as many of the countries in the EU. Other parts of the US have relatively low rates of vaccination, with the lowest numbers being in the southeast, probably cultural and political reasons are behind those low vaccination rates. The vaccines are expected to be approved for ages two to 11 by September 2021.

People are anticipating that schools will be back in person in the fall. Many colleges and universities in California require vaccines for matriculation and have rolled out large vaccination programmes for students who were on campus during the last few months of the school year.

What is most striking in the US is that there are a wide variety of incentives to encourage people to be vaccinated. For example, in California there has been a lottery for people who have received more than one vaccine with 10 awards of \$1.5 million dollars being given out to the lucky winners. For people who haven't been vaccinated yet, even if they don't qualify for the lottery they can receive a \$50.00 dollar grocery card if they get vaccinated. This is an amazing incentive.

Regarding issues in the workplace, the most common question I get at the moment is whether employers can require vaccinations of their employees. There's been some guidance that has come out on a national level. And the answer is that with respect to discrimination laws employers can require vaccination of employees, but they need to accommodate people who raise objections based on religion, disability, or medical reasons.

Claire McAvinchey – Turks & Caicos Islands: Our vaccine rollout has been extensive, in large part due to the allocation of vaccines we received from the NHS in the UK. We were lucky that we got a large batch of vaccines. Originally, there was a rollout on the basis of need and vulnerability, but it became apparent that there was a real social reluctance to take the vaccination for various cultural, religious, traditional grounds that were probably not foreseen at the time.

What has happened is that anybody who is willing and able to take the vaccine has had it available to them since early February. In terms of anyone who wants to be vaccinated, they have been vaccinated at this point. What's happened is that the government has had to be a bit creative as to how they are going to roll it out to the general population. They haven't come up with the lottery system yet as Rebecca has described in California, which I think might actually be a good one.

The Turks & Caicos is an economy that's almost wholly reliant on the tourism sector. They have introduced regulations that will allow increased capacity in bars and restaurants based on the vaccination levels of on-duty staff. So, for example, in bars and restaurants normally the regulations impose a restriction to 30% of their capacity, but if you can show that all of the on-duty staff, 100% of them, have been vaccinated, then that capacity is increased to 60%. It gives the employers the added reasons to require an employee to be vaccinated. The failure to avail of the vaccine has a direct effect on the business's profitability.

We face the same enquiries as Rebecca all the time from employers: whether they can make or force an employee to be vaccinated and our advice is similar to what Rebecca has outlined. It's a "yes" but subject to not being discriminatory. And employers must take each individual's circumstances into account.

Robert Lewandowski – Poland: As with many other European countries, Poland is still far less protected compared to our American and British counterparts. The number of individuals vaccinated is now about 30% of the population. That's people who have had the first jab. The government is going to speed this process up to about 60% of the population who will be vaccinated by the end of July.

But we recently heard about this new variant of Covid-19 that may come to Poland in the next couple of weeks, so we will possibly see an increase soon. At the moment people think the government is doing the job well and we're going to vaccinate as many as people as possible.

Are people permitted to know who's had the vaccine? Is there a privacy issue around that? Across the country people are still required to wear masks inside buildings; in shops, cinemas, office and other places. In public places, in parks or in the streets you are not obliged to do it. But it is generally accepted you should wear face masks and obey the rules on health and safety. As with Rebecca and Claire, in Poland there are strict privacy rules regarding people in the workplace and what you can and cannot do regarding their data. Poland is governed by the GDPR and also strict employment laws. All of these ensure the privacy of the individual at work and at home.

Mark Benton – South Korea: I look at this from two perspectives. I'm British and I have lived in Korea for 14 years. I'm looking at how the pandemic has affected Korea and also how it's affected the UK and other jurisdictions as well.

Covid came to Korea in January 2020. It was exactly the same day as it hit the US. The U.K. was a little bit later, from my recollection, and the initial spread was attributed to a church in the city of Daegu. The Korean government was prepared perhaps unlike the UK, for example. They were very quick to respond in terms of their public health measures. Social distancing came in very quickly. There was contact tracing. Every day we'd receive



Rebecca Torrey pictured at the IR 'On the Road' conference in Miami, 2020

several text messages on our telephone telling us that a case of Covid had been identified in say a local convenience store and if we'd been in that store or close to that area, then you were advised to get a Covid test. They implemented that almost immediately. Also, a mandatory mask policy. Everybody was required to wear masks in public from day one. It was comprehensive and pretty immediate.

The effect was that the spread of Covid was very much controlled. There have only been about 150,000 cases so far in Korea, and it's got a population of 50 million, and only 2,000 deaths. Significantly, there has been no lockdown.

In terms of being able to come into the country and leaving it, you still can. But there are strict quarantine measures, and it also impinges on other countries who may or may not have the ability to fly to Korea. Travel has been decimated across the world but there's not been anything like that in Korea. People have been able to travel to the extent that they are able to do so.

The fact that Covid has been relatively controlled in Korea has meant that the working conditions have been relatively less affected than other jurisdictions. Korea is an export economy; it depends on other jurisdictions for selling their goods and purchasing components etc. But generally, it's been less affected than other jurisdictions.

Lionel Paraire – France: As mentioned by the WHO, “the development and rapid deployment of vaccines against Covid-19 represents a fundamental step towards ending the pandemic, protecting health systems and helping to restore global economies”.

As of June 29th, 2021 more than 50% of people in France had received a first shot of the vaccine and more than 30% both shots. Since May 31, anyone over 18 years old could be vaccinated in France, and young people from 12 to 18 years old were accepted for vaccination from June 15.

The vaccination strategy put in place in France should help people to meet three public health objectives:

- Reduce mortality and severe forms of the disease,
- Protect caregivers and the health care system,
- Ensuring vaccine and immunization safety.

It is based on three principles:

- Not mandatory,
- Free of any charge,
- Highly secured.

As it is not mandatory, vaccines cannot be considered as a workplace panacea. The French government still insists on the shielding measures that must be applied everywhere, including in the workplace: keep a two-metre distance between you and others, air rooms as often as possible, wear a mask and restrict social contacts.

Adriana Posada Velásquez – Colombia: The Colombian Government established the National Vaccination Plan through Decree 109 of 2021 (the "Plan"), by which the vaccination process started on February 17, prioritizing the vaccination in five stages to reach at least 70% of the national population.

The Plan defined that the activities of import and application of vaccines would be initially centralized in the Ministry of Health, which should apply the vaccines for free, without the capacity of commercializing them, and who could determine the moment in which private legal entities would be able to import and apply the vaccines.

From June 17, 8.6% of the Colombian population had been vaccinated, and 19.3% of the population had been given at least one dose. The Government expects that in 2021 35% of the Colombian population will be vaccinated.

Once the population with the highest risk had been covered and considering the progress in the application of vaccines, on June 22 the Government issued Resolution 840 of 2021, under which it allows entities governed by private law to import and purchase vaccines. The resolution establishes another series of conditions that must be considered. The private vaccination process is already being carried out directly by some companies or through business associations.

Thus, it is imminent that advisors and clients are already asking themselves key questions regarding vaccination and its impact in the workplace. This will help them to decide if they will implement vaccination plans for their workers and contractors and to understand what they should be considering for this in accordance with the conditions established in the aforementioned resolution, bearing in mind the implications of the applicable liability regime.

SESSION TWO

How will the vaccine roll out in different jurisdictions impact cross-border businesses? What will professional advisors need to ensure best practice and governance are carried out?

RT – California: The vaccine rollout will have a tremendous impact on business. I read an article published by the Wharton Business School, University of Pennsylvania, predicting that with respect to a study of the United States, the vaccination rollout will be a huge boost for the economy. The study ran an analysis in terms of the number of vaccines given each day and how, if they could be increased, it would cause a massive impact on economic development.

The International Chamber of Commerce did a study on the impact of a slow rollout of vaccines around the world in terms of permanent wealth loss in a variety of different jurisdictions. Its conclusion was that even if European and North American countries have a successful rollout, the failure to have access to vaccines in many other countries, either because of wealth or because they lack an adequate source of vaccines, will result in a long-term downturn across the economies of the world.

With each of the variants that arrive there is another setback, even to the countries that have ample supplies available to them. It is constantly a question about whether the new variants respond to the vaccine or causes further curtailing of business activity. The only way to slow down the development of these different variants around the world is to get everybody vaccinated or get everybody access to vaccinations, which is quite a project on a worldwide basis.

Covid seems to be one of those problems that has so many different angles that as advisers working with businesses, there are new question coming up requiring attention from a legal point of view – and also from a practical point of view to help businesses get back on their feet.

CM – Turks & Caicos Islands: The vaccine roll out in other jurisdictions has a massive impact on our economy. The more you see, for example in the United States, the vaccine roll-out spread across the country, you can see that people are more willing to travel, so airlines are more willing to put on flights. And we're so dependent on that.

It's same with the UK when it eventually opens a travel corridor. Also, Canada. They're all linked to how the vaccine roll-out is going on in those jurisdictions. That has a direct impact on our own economy. How do you ensure best practice here? We still have the mask mandate here, but we can see even internally that that policy is being changed and shifted depending on the vaccination rates within the country.

I'm sure that will that be the case if the people who are travelling here are vaccinated; different models will apply. For example, we are an archipelago of a number of different islands with varying populations. Providenciales is the main centre of the population here, but we've got smaller islands that are also inhabited.

It's recognising that once this vaccine has been rolled out and we have a certain percentage of our population vaccinated – aiming at 70% – that's when restrictions on business and people's

individual freedoms will be lifted. Salt Cay, one of the Islands that makes up the Turks and Caicos Islands is now completely free of all restrictions for its residents and any vaccinated visitors, as it reached 95% vaccination rate. If other countries' vaccination rates are high, then business and people will come here and free up the economy.

It's affected us as professional advisors in terms of the job and the workload. There was a period when our queries were dominated by the Covid question. What you can do, what you can't do, what we're restricted from doing, what we can do to adapt our businesses. How do we deal with employees? There's a lot of employment law work. Cruises haven't arrived in these islands since March and that's a massive restriction with a severe economic impact on those cruise reliant businesses, particularly in Grand Turk.

RL – Poland: I would say vaccine deployment is very important to boost the economy. Also, to avoid bankruptcy cases because if the situation remains the same, companies will be forced to file for bankruptcy with the disruption to business. In Poland there has been massive state aid for businesses and that has had a big impact on domestic and cross-border business deals.

We've lost a lot of cases. Many projects have been put on hold. Before the crisis we had about 10 or 15 cross-border projects, but after the outbreak of the pandemic they started to pull out from Poland. This was also a huge loss to our business as well. We're now working to get this business and all these clients back on track, but it is still very difficult because clients are very hesitant and wary about going ahead with any new projects in Poland. Also, the situation on other European countries is very different regarding the vaccination rollout. This is having a huge impact on cross border projects.

MB – South Korea: One of the reasons I wanted to describe how Covid had affected Korea and its public health responses is that this has also had an impact on the vaccine rollout. As Korea has been relatively unaffected in terms of Covid, there's been a certain amount of vaccine reticence. The rollout of the vaccine has also been very slow and that will probably have broader implications for business.

There are a number of reasons for all this. There's vaccine nationalism. One or two stories about the AstraZeneca vaccine meant that many Koreans are reluctant to take the vaccine and they want to produce their own vaccine rather than importing it.

I think the Korean government initially took the view that the vaccine had been produced very quickly and they wanted to see how it was rolled out and how it affected other populations. They were also generally late to the market in terms of purchasing it. The net effect of this is that only 27% of the population have had their first dose of the vaccine. That's actually a small percentage compared to other countries.

As I said earlier, Korea is an export economy and depends on its ability to sell its goods in third party countries, while buying components from other countries. That's been affected by Covid and shipping across the world. Airfreight has become incredibly expensive. I guess with the roll out of the vaccine, when we get herd immunity, it will become easier to do cross-border business, but there'll be an inertia. It will take business time to recover to its pre pandemic levels.

Regarding best practice, everything's done by the telephone, email and Zoom, but it's put companies off doing M&As, for example. I know a number of UK companies that would like to come to the Korean market, but have taken the position that during the pandemic the circumstances for doing so are less propitious. And they're just waiting for the pandemic to be over.

LP – France: Figures shared by the WHO show that most European countries are in the same situation regarding the vaccine roll-out. They also show that only 10% of the global population has been vaccinated so far.

This means that travel will only be possible again in certain countries and most will still have restrictions in place. This will have a negative impact cross-border business.

Regarding Europe, the EU Digital Covid Certificate is aimed at facilitating a safe, free movement of citizens in the EU during the pandemic. The certificate will be introduced in EU Member States. Some of them can start issuing and using it already and it will become available across the EU from July 1, 2021. An EU Digital Covid Certificate is digital proof that a person has either been vaccinated against the virus, received a negative test result or recovered from Covid-19.

It is digital and/or paper format with QR code, free of charge, in all national languages and in English, safe and secure and valid in all EU countries.

APV – Colombia: The Colombian government declared a health emergency due to the spread of Covid-19 on March 12, 2020, which was extended until August 31, 2021. During this time, the Government has issued different decrees and resolutions establishing isolation measures and biosafety protocols that must be complied with by the country's population. This generally includes some exceptions, not allowing public or private events that involve crowds, or face-to-face activities in nightclubs and dance venues, or consumption of alcohol in public spaces and commercial establishments.

Likewise, the prioritization of work from home was established when the presence of officials was not required in the workplace. The borders were closed, except for some activities, with Panama, Peru, Ecuador and Brazil, which were reopened on May 19 and Venezuela, which was reopened on June 1.

After rolling out the vaccination process, the Government established through Resolution 777 of June 2, 2021 the criteria for the economic reopening of public and private events – including concerts, sporting events, dance venues, congresses and business fairs.

Likewise, it indicated that the return to work, contractual and educational activities may be initiated in person by people who received the complete jab scheme. However, those people who decided to not get vaccinated have to be included in the return-to-work strategies. The Resolution also adopted the Biosafety Protocol for the development of economic, social and State activities.

These measures are national in scope, affecting cross-border companies. Professional advisors must advise their clients regarding employees and contractors who are not immunized to implement measures for a return to face-to-face activities in a safer way for the entire staff. Along with this are the modifications or updates to the Biosafety Protocols that all companies in Colombia should have implemented. In addition, we have to look at the measures taken by neighbouring countries regarding the implementation of similar protocols in their own countries.



Lionel Paraire pictured at the IR 'On the Road' conference in Tokyo, 2019



IR Global members pictured at the Dealmakers Conference in Rome, 2019

SESSION THREE

Which business sectors will be most affected by the vaccine roll out and why? Will employers be allowed to have access to this sensitive information and how will that have an impact on employment law

RT – California: The businesses that have been affected by the vaccine the most are those that require an indoor business model. Businesses that weren't affected much include construction, farming, and companies with delivery services, by way of example. I expect that businesses that were impacted significantly but could bounce back pretty quickly as it becomes safe to lift restrictions are certain retail-related businesses and the services industry.

However, a good number of businesses have decided that a retail model no longer is a good model to continue. It isn't limited to smaller business, but also includes the chain stores that historically have big retail locations. Many people may have permanently changed their methods of purchasing in favor of the delivery of products to their homes or businesses. But far and away the biggest sector impacted has been hospitality, including travel, hotels, resorts, vacation-related entities, even companies that set up trips for people.

In the United States, the issue of privacy law is pretty clear; we don't have strong privacy protections here compared to other countries. California has some privacy protections that are similar to the EU, except the law has not taken effect in every segment, for example among employers. It will be a couple of years before that law is fully in effect. The bottom line is that employers can require proof of vaccination, vaccination cards or a vaccination test results. But if the employer requires vaccination or they view documentation of vaccination or even ask about it, that information is considered medical information and it has to be kept confidential on a need-to-know basis.

CM – Turks & Caicos Islands: The privacy question is an interesting one. When the vaccine was first rolled out, I wanted to tell the world I'd been vaccinated, showing off my card. You just assume that everybody thinks the same way. But, actually, that's not the case.

You learn very quickly, especially regarding client meetings. We have very few in-house meetings at the moment, but some clients do come in. Almost immediately the first question is, have you been vaccinated? It changes the dynamic in the meeting room. It's a difficult one to navigate from an employment law perspective, particularly as the Turks & Caicos Islands is very litigious in that area; employees bring claims all the time. It's always about managing employees effectively and minimising those employment law issues.

To explain, we have a system where you can bring a complaint in respect of any aspect of your employment to the Employment Services Department here.

It can become very contentious very quickly. On the one hand we can cite the laws, the regulations and the employment law concepts on privacy and other issues, but on the other there can be a lot of misinformation and it can be difficult to navigate that at times.

We have a similar provision here in our Constitution as you would have in the European Convention on Human Rights, which does protect your right to privacy but it's not an unqualified right.

Our courts would apply those principles in the same way as the European Court would. We've had cause recently to examine the case heard in the European Court of Human Rights which considered whether public health laws in the Czech Republic which require all residents to undergo a set of routine vaccinations amounted to a violation of the individual's right to privacy. The European Court found that the Czech authorities did not exceed their margin of appreciation and the measures were necessary. Those same considerations would be applied here: once there is a legitimate public health concern and a legitimate objective that you're trying to protect, then the privacy laws are subject to that and the interference with those rights can be justified.

The overriding economy in the TCI is tourism and most businesses are very much people focussed. It's about trips, travel, restaurants, small boat operators, physical face-to-face interaction, which is the only way that that tourism model is can work, really. You can't have a virtual boat tour... all of this would be taken into consideration when determining whether an interference with the right to privacy is justifiable or not.

RL – Poland: The pandemic will have an impact on the retail industry because we can see this shift to online shopping. After restrictions have lifted shopping centres will still remain empty. It will be very difficult to bring people back to out-of-town shopping centres in particular.

This has coincided with the shutting down of many related businesses across the supply chain because of this change of shopping habit. The courts have also changed during the pandemic and we no longer attend them in person. Everything is via Zoom, Teams and the like. Nobody is allowed to enter the courts and this is a huge change in Poland. It's actually a real nightmare for us, having to do almost all our work virtually.

Tourism has probably suffered the most. While the border is closed, the queuing in airports is very time consuming. Most people are no longer going abroad but visiting Polish resorts on the Baltic coast or in the mountains. In that respect it's very similar to the UK. People are staying at home and taking a holiday in Poland, but then everything becomes very crowded and very expensive.

Regarding working conditions, there's a lot of home working right now, similar to everywhere else. This has also exposed a lot of businesses to cyber-attacks. Also, with government aid to businesses there's an issue around how and when you can dismiss employees – it's all very difficult to navigate around. I know that a lot of businesses are really finding things tough at the moment.



Mark Benton pictured at the IR 'On the Road' conference in Tokyo, 2019

MB – South Korea: Like I said, Korea as an export economy depends on its ability to sell and buy components. It's the big companies such as Samsung, LG, Hyundai, etc, that have also been hit hard, but they have the cash reserves to absorb that hit.

Another facet to Korea's economic response is that it has a debt to GDP ratio of 40%, which is pretty low compared to other economies. Consequently, the government has cash to put into the economy. It's been able to cut interest rates and it's provided cash subsidies for SMEs to provide liquidity.

In fact, the government has put in so much cash during the past 18 months that it's expected the debt to GDP ratio to go up to 60% within the next five years. But in terms of companies that have been hard hit by the pandemic, you're talking mainly about SMEs. That's the mom-and-pop shops, the agricultural sector, restaurants, bars, travel industry etc. Those have just been decimated. But again, Korea has the financial ability to be able to provide support, assistance and liquidity to the market. The government announced recently that they're going to allow gatherings of up to eight people and they're going to allow bars and restaurants to stay open till midnight.

Overall, we expect some companies to do very well from the pandemic; others will simply not survive.

Regarding privacy issues, Korea has very employee friendly labour laws. It's very difficult to fire employees. If you make it a requirement for somebody to have a vaccine as a precondition to work, I don't think that would be perceived favourably in the Korean courts. The issue has not been specifically addressed yet, but it's a tricky area.

Privacy laws do already exist; it's the Personal Information Protection Act. They have a very strict approach to privacy in Korea and private personal information is very strictly guarded. But if a company wants to transfer data to another jurisdiction, all they have to do is to get the consent of the customer, which is actually the opposite of GDPR. In the EU GDPR wants to control that data once it's left the jurisdiction, the Koreans take the view that once it's left the jurisdiction, they effectively have no control over it.

LP – France: With or without vaccination, working post-Covid should be different. Employers and employees have experienced telework, which should change how work is carried out. Even if socialisation is still necessary to belong to a community, the pandemic will have a long-term implication on business.

Paris is a good example. According to a study requested by Mastercard, Paris is the second most visited city in the world after Bangkok and before London. Leisure tourism will probably come back to the same level as before the pandemic, but business tourism will be affected by the change. Before the pandemic, Paris was the world champion in organising professional congresses and meetings (1200 a year). Even if most of these congresses still exist, many participants will attend online without buying flight tickets, taxis, hotel rooms, restaurants, or luxury goods, which will have a serious impact on the finances of the whole Paris area.

Regarding privacy and sensitive data, under GDPR data concerning health is defined as personal data related to the physical or mental health of a natural person, including the provision of health care services. Data about health is consequently a special category data (Article 9 (1), GDPR).

In France, employees and employers are encouraged to get vaccinated as part of the vaccination strategy defined by health authorities. Vaccination is based on volunteering and medical confidentiality. As a consequence, an employer cannot ask if an employee is vaccinated, cannot demand to see the vaccination certificate, cannot ask why an employee is not vaccinated or does not want to be vaccinated and cannot make vaccination a requirement for employment.

APV – Colombia: Although the pandemic brought an unprecedented contraction of the Colombian economy, with a drop in GDP of 6.8% in 2020, some sectors found business opportunities such as the pharmaceutical sector with research and development of vaccines, supplies and medical services required for patient care as well as other sectors involved with funeral services, digital connectivity and the use of new technologies for work from home, electronic commerce, home delivery services, among others.

There are other businesses that are here to stay, such as e-commerce, digital connectivity and new technologies, which will not be significantly affected by the deployment of the vaccine, given that they have been growing for several years, even before the pandemic, by reason of the globalization and new economic models.

Likewise, the Biosafety Protocol approved by the Colombian Government in Resolution 777 of June 2, 2021 applicable to companies for the return of activities, establishes the use of alcohol and disinfectant elements, use of face masks and social distancing measures. Therefore, the supplies related to these activities will continue to be required in the medium term until there is certain evidence of a decrease in infections.

The sectors that may be more affected are those that are (i) directly related to health services for the treatment of Covid – 19, and (ii) confinement and social distancing, such as delivery of goods and services at home, residential public services, entertainment activities with distancing, or group entertainment activities via digital connectivity. However, it is still early to conclude that the vaccines that currently exist in the world are the solution to the pandemic, considering the new variants of Covid-19 that is emerging every day. Thus, in my opinion this sort of business will continue being relevant for a long time.

Regarding privacy laws, it is important to note that a patient's clinical history is to be treated in a confidential manner and that it can only be known by third parties with prior authorization from the patient or in the cases provided in the law.

Although the application of vaccines by private parties established in Resolution 840 of 2021 for their workers and contractors requires guaranteeing the prior and individual completion of the informed consent defined by the Ministry of Health, this in no way implies that the employer may have access to confidential information of the worker.

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Establishing growth: Why business development will be tied to the success of the Covid-19 vaccine rollout

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