



Retailing in the age of Coronavirus III

By Staci Riordan and David Kaufman

The coronavirus (COVID-19) outbreak is putting unprecedented strain on global retailers. Below, we discuss some of the issues from our retail clients this week.

Essential?

As shelter-in-place orders move across the country, retailers are facing difficult choices and challenges. State and local governments continue to close “non-essential” businesses, including many retailers. Unfortunately, there is not a single standard for what is an essential business. National Retail Federation CEO Matthew Shay wrote to President Trump last week, “there remains a need for clear national guidance to resolve questions caused by a number of conflicting state and local orders that are triggering consumer, worker[,] and business confusion, leading to cascading negative impacts on communities across the country.” Retailers continue to play a key role in the supply chain—keeping the population fed, clothed, safely working from home, and other essential activities. However, some retailers are receiving pressure from employees, consumers, and communities (especially online) for remaining open—both for their stores and their distribution centers—during the crisis. Amazon even temporarily stopped taking and shipping orders for “non-essential” products to alleviate some of the pressure in its distribution chain.

Empty shelves

Those stores that are remaining open are still seeing gaps in the supply chains. While hand sanitizers and toilet paper are still notoriously unavailable even as the long lines at grocery stores are receding, there are still empty shelves at many stores of key products. The challenge retailers are facing is the long supply cycle of many products and the precision that we have developed to keep supplies in balance under normal conditions. As we have discussed previously, the outbreak has created labor risk for all aspects of the chain, with employers wondering if illness, caregiver needs, or childcare will impact their workers. A brand’s ability to deliver may come down to the location of their warehouses or distribution centers, and that particular geography’s emergency orders, if any.

Seasonal planning

As the virus outbreak disrupts our daily lives, it has also thrown a massive wrench in the typical seasonal planning that retailers engage in throughout the year. We are approaching Easter,

Mother's Day (U.S.), and graduation as well as the spring/summer fashion season. However, many retailers with shuttered stores and broken supply chains are wondering how best to address this current new normal. Many are turning to online and preorders, but there are questions if certain springtime events—like high school proms—will actually occur. Retailers are dealing with a triple-whammy of un-predictable demand, shaky supply, and constricted consumer finances. This might lead to massive discounting to move product that was in stock at the time of closures, or product that comes in “after its season.” And, many brands have already canceled such orders (even those slated to come in through summer), causing losses throughout the supply chain.

Government stimulus and relief

Retailers are looking closely at the various government stimulus and relief programs being offered by federal, state, local, and industry groups. While many programs in the past were focused at relatively small businesses, the federal programs, at least, provide assistance to companies with up to 500 employees and could have \$10 million in funding. This is drawing the attention of many retailers as the programs focus on “paycheck protection” and offer loan forgiveness.

Retailers helping out

Finally, we are seeing some retailers retooling their factories to support the strained health infrastructure. As stories circulated of front-line health care workers using bandanas or reusing masks when treating coronavirus patients, apparel retailers are now producing personal protective equipment (PPE) for hospitals, health care workers, and first responders. PPEs include masks, gowns, and scrubs. Some retail organizations, like the Council of Fashion Designers of America CFDA, have started a relief fund to help those within its community make ends meet.

More to come

The above are just some of the issues facing retail clients as a result of the COVID-19 outbreak. Our Nixon Peabody team will continue to provide updates on other issues facing global retailers and solutions to assist them in navigating through these turbulent times.

For more information on the content of this alert, please contact our [Coronavirus Response team](#), your Nixon Peabody attorney, or:

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