

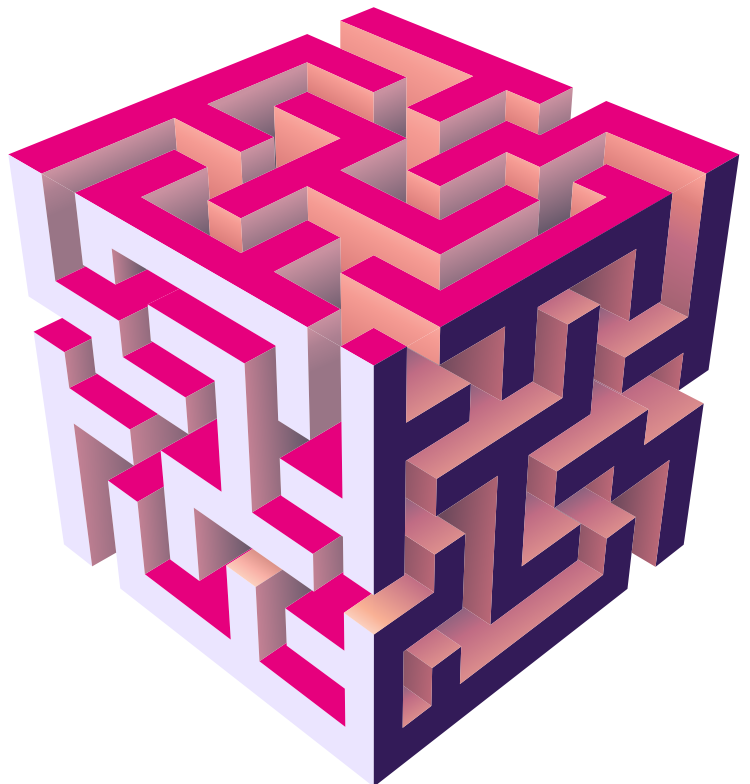
# Regulatory update

July 2023

Welcome to the latest edition of the Regulatory update, which pulls together recent developments from across the UK's regulators – to help you navigate the regulatory maze.

In this summer edition we take a look at the new developments in AI regulation, countdown to the Consumer Duty implementation, the Digital Markets, Competition and Consumers Bill, the UK's new fraud strategy and we share the latest edition of our Product law bulletin & so much more!

Please do not hesitate to contact me, or your normal RPC contact, if you would like to discuss any of the topics highlighted or have any suggestions for areas you would like to see in future updates.



Gavin Reese  
Partner, Head of Regulatory

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## Professional services

Robert Morris, Graham Reid and Davina Given

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### New developments in AI may put law firms at greater risk of phishing fraud

As the computing power of Artificial Intelligence continues to grow exponentially, RPC considers how generative technology may expand the reach of traditional phishing frauds aimed at law firms. As GPT-4, the successor of OpenAI's much-hyped Chat GPT, is released, reports are emerging of scammers using generative AI to clone voices to perpetrate frauds. Law firms will endeavour to

move with the times, and we are now all aware of red flags such as emails coming from unexpected email accounts and statements of urgency. However, with new voice simulating technologies, fraudsters may be able to undermine these routine checks.

Click [here](#) to read more.

## Financial services

Jonathan Cary and Matthew Griffith

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### FCA secures £47m of redress from lenders for borrowers in difficulty

Working with almost 100 lenders, the Financial Conduct Authority (FCA) has secured £47m of redress from 17 firms for over 195,000 borrowers experiencing financial difficulty. As part of this exercise, the FCA has identified several issues including not enough tailored support, not providing adequate and responsive debt advice and failing to respond to vulnerable customers and has given the lenders feedback on areas of improvement.

In this regard, the FCA is also proposing to make permanent the requirements implemented during the pandemic for lenders to provide support to borrowers.

Click [here](#) to read more.

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### FCA pushes young people to have long-term goals when investing

Recent research from the FCA has found that young investors implement long-term goals more in their dating lives compared to their investment plans, with 31% investing to earn more money compared to a savings account while 48% said they would invest the time into dating with the goal to find a life partner. The

research also found that young investors are 18% more likely to let social media influence their investment decisions compared to their dating decisions.

Click [here](#) to read more.

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### Response to the government's proposed amendments to the CCP run-off regime

On 26 May 2023, the FCA, the Prudential Regulation Authority (PRA) and the Bank of England published a response to the government's proposal to amend the CCP run-off regime in the Financial Services and Markets Bill. The three regulators have expressed support towards the amendments tabled in January 2023 and are continuing

to work on their duties. They also highlight that, in the case of a gap between the 1st of July and Royal Assent, they will take a proportionate and risk-based approach.

Click [here](#) to read more.

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### Governor of the Bank of England publishes annual report to Parliament

Andrew Bailey, Governor of the Bank of England, published his Annual report to the Treasury Committee. In this report, he repeated the Bank of England's message that further interest

rate increases would be required if evidence of more persistent inflation pressures appeared.

Click [here](#) to read more.

## Financial services

Jonathan Cary and Matthew Griffith

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### UK Financial Conduct Authority Publishes Final Rules on Cryptoasset Financial Promotions

The Financial Conduct Authority (FCA) released its [final Policy Statement](#) outlining the specific guidelines for the UK's regulatory framework governing financial promotions including cryptoassets. The [Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023](#) (FP (Amendment) Order), which would bring the promotion of some cryptoasset activities under the UK's financial promotions system, was published on 7 June 2023, and the Policy Statement is the result of that publication. The FCA's regulations will take effect on 8 October 2023, which is also the day when cryptocurrency assets are included in the financial promotions framework under the FP (Amendment) Order.

The FCA has issued a separate [consultation paper](#) on potential rules for entities marketing cryptoassets to UK consumers. The guideline outlines how the FCA will approach, and firms should comply with, the need that cryptoasset financial marketing be fair, clear, and not misleading. The FCA intends to publish final guidance in Autumn 2023, depending on the answers it receives. The FCA has also released a [research report](#) on trends in UK adults' cryptoasset holdings and consumer behaviour.

Click [here](#) to read more.

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### Fighting authorised push payment fraud: a new reimbursement requirement

A Payment Systems Regulator (PSR) policy paper confirms its new requirements for banks and payment companies that will ensure that more people will get their money back if they are victims of authorised push payment (APP) fraud and that more action will be taken to prevent these frauds from occurring in the first place. This "significant new level of protection is a world first in the fight

against APP fraud," according to the PSR. When the Financial Services and Markets Bill 2022–23 receives Royal Assent in 2023, it will be able to enforce its rules on payment companies.

Click [here](#) to read more.

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### Next steps to help UK open banking grow set out by Joint Regulatory Oversight Committee

A [letter](#) from the Joint Regulatory Oversight Committee (JROC) outlines a work plan to implement recommendations for the next phase of open banking in the UK. To assist with this work, the JROC has established two new working groups on variable recurring payments and future open banking entities, with terms of reference published for each. Open Banking Ltd will lead and coordinate

workstreams on four major themes: increasing availability and performance, lowering financial crime risks, generating recommendations for dispute resolution processes, and improving information flows to third-party providers and end users.

Click [here](#) to read more.

## Financial services

Jonathan Cary and Matthew Griffith

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### FCA fines ED&F Man Capital Markets Ltd £17.2m for cum-ex failures

The Financial Conduct Authority (FCA) has fined ED&F Man Capital Markets Ltd (MCM) £17,219,300 for serious failings in its oversight of cum-ex trading. These failings allowed MCM to collect fees for trading strategies designed to enable its clients to illegitimately reclaim tax from the Danish authorities.

The FCA fined MCM for violating Principles 2 and 3 of the FCA's Principles for Business. The FCA notes that this is their fourth case involving cum-ex trading and the biggest fine "so far." It also notes

that many other investigations against UK brokers for similar failings are still active. MCM qualified for a 30% discount under the FCA's Settlement Discount Scheme since it did not contest the FCA's findings and agreed to settle. The fine comprises £5.06 million in income forfeited by MCM as a result of their cum-ex trading violations.

Click [here](#) to read more.

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### Therese Chambers outlines the FCA's enforcement strategy and recent developments

Therese Chambers, the FCA's Joint Executive Director Of Enforcement And Market Oversight, delivered a speech at the City & Financial FCA Investigations and Enforcement Summit in which she discussed the FCA's future enforcement strategy and recent FCA interventions. Chambers asked Woodford Equity Income Fund creditors to embrace the proposed redress agreement in her remarks.

The key takeaway is that firms and individuals must do the right thing, they must do so sooner rather than later and do so in the right way and not impede the right outcome.

Click [here](#) to read more.

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### Countdown to the Consumer Duty

With less than three months to go until the Consumer Duty Implementation, Sheldon Mills, Executive Director, Consumers and Competition at the FCA, delivered a speech on the Duty. For the insurance market, it's worth noting that the regulatory change will impact commercial lines of business for SMEs as well as consumers. He stressed that the Duty does not have a

retrospective effect and does not apply to past actions by firms. It will apply to existing products and services on a forward-looking basis. For new and existing products or services that are open to sale or renewal, the Duty will come into force on 31 July 2023. For closed products or services, the Duty will apply from 31 July 2024.

Click [here](#) to read more.

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### Financial Services and Markets Bill receives Royal Assent

On 29 June 2023, the Financial Services and Markets (FSM) Bill received Royal Assent. The Financial Services and Markets Act 2023 is central to delivering the Government's vision to grow the economy and create an open, sustainable, and technologically advanced financial services sector. It seizes the opportunities of Brexit by tailoring financial services regulation to fit UK markets. The Act bolsters the competitiveness of the UK as a global

financial centre and delivers better outcomes for consumers and businesses. It contains new powers – available due to Brexit – that will set the path for reforms to Solvency II, which will unlock around £100 billion for productive investment and help cultivate innovation and grow the economy.

For more details on the bill click [here](#).

## Health, safety & environmental

Gavin Reese

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### Bed manufacturer facing £80,000 fine after worker is severely injured

John Cotton Group Limited was fined £80,000 after facing legal action in December 2020 following an incident that left a worker with three amputated fingers. The worker's severe injury happened as he tried to resolve a fault with a machine, which he tried to power down but kept moving, leading his hand to get in contact with dangerous part of the machine.

The Health and Safety Executive (HSE) found that there were inadequate procedures to prevent access to dangerous parts of the machine, as well as no methods to power it down safely in case of interventions from employees. The HSE also found that the company did not provide training and supervision of employees when dealing with issues with the machinery.

Click [here](#) to read more.

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### Building Safety Act 2022

SOCOTEC has answered a few questions in relation to the new Building Safety Act (BSA 2022). The Act was introduced following the Grenfell fire and Edinburgh school closure in 2017 in order to provide more safety and rights to building occupants. The BSA is expected to become law in 2024 and registration of high-risk buildings - classified as buildings higher than 7 stories or 18 metres high incorporating at least two residential units, units, a care home or hospital - will be mandatory.

Failure to register high-risk building will result in a criminal offence subject to up to two years of imprisonment and a fine. Occupied building must be registered by 30 September 2023 and after that all building classified as high-risk will need to be registered on completion.

Click [here](#) to read more.

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### Plastic manufacturer fined after outbreak of Legionnaires's disease

Riaar Plastics Limited was investigated and fined by the HSE for not managing the risk of Legionella and leading to five members of the public being infected with the disease, with one person needing to be put on a ventilator in intensive care. The company's water-cooling towers in West Bromwich were being kept in poor

condition, which allowed the bacteria to grow in the tower and pipes, exposing employees and the public to the risk of the disease. The fine amounts to £50,000, in addition to £11,000 to pay in costs.

Click [here](#) to read more.

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### Trial to allow drones to spray pesticides

The HSE has greenlit a trial to use drones to spray pesticides on plants and weeds growing around railway infrastructure in the UK, including railway bridges, tunnel portals and viaducts. Regulators believe that the technology could have positive impacts on the

environment while also reducing the risk of injuries to workers who usually carry out these tasks overnight and at height.

Click [here](#) to read more.

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### Fire risk for forklift trucks powered by liquefied petroleum gas

The HSE issued a Safety Notice on 23 May after a number of fires originating from liquefied petroleum gas (LPG) powered forklift trucks and similar vehicles. Operators are required to review their working practices in relation to the vehicles and ensure that those who operate the vehicles are informed and trained according to

the risks. The notice also alerts operator not to park the vehicles in the vicinity of flammable materials.

Click [here](#) to read more.



## Health, safety & environmental

Gavin Reese

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### Guidance on development biodiversity net gain

On 2 May 2023, the Department for Environment, Food & Rural Affairs published guidance for developers on what they can count towards their biodiversity net gain (BNG). This includes creating or

enhancing habitat as part of the development, and providing off-site mitigation and compensation for protected sites and species.

Click [here](#) to read more.

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### The Terrorism (Protection of Premises) Draft Bill

On 2 May 2023 the Home Office published The Terrorism (Protection of Premises) Draft Bill, which seeks to ensure public spaces and venues are prepared to protect the public from terrorist attacks. The bill comes as a result of campaigning from Figen Murray, whose son Martyn was killed in the Manchester arena attack. 'Martyn's Law' will require venues to consider terrorism threats and to implement appropriate measure to deter and mitigate attacks.

The law also envisions enhanced security systems and staff training, as well as an evaluation template for standard tier sites (sites with a maximum capacity of 100 to 799) to complete in order to prepare their responses to terrorist attacks. The law will also seek to introduce new security requirements for certain public venues and locations.

Click [here](#) to read more.

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### Campaign for workers' lung health

The HSE is launching inspections at construction sites to take place in May, June and July to reduce and educate on respiratory risks deriving from dust exposure. The inspections will ensure workers know how to plan their work aware of the risks and are adopting the right controls to reduce exposure. The initiative is being supported by the HSE's Dust Kills campaign, which

provides free guidance on how to reduce and prevent dust exposure and related risks. The inspections and campaign are deemed necessary by the HSE after thousands of workers in the construction industry are diagnosed with irreversible lung disease brought on by dust exposure.

Click [here](#) to read more.

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### Call for Evidence: Plastic food contact materials containing bamboo and similar plant-based material as additives

Businesses are being urged not to sell plastic containers or utensils made from bamboo or other plant-based materials, as the Food Standards Agency (FSA) begins a call for evidence on their safety. The FSA and Food Standards Scotland (FSS) are looking for evidence about the safety and stability of plastic food contact materials and products made from bamboo or other plant-based materials.

The Committee on Toxicity (COT) conducted a review of bamboo-containing plastic composites. However, due to a lack of relevant data, they have been unable to conduct a full risk assessment. This

request for evidence wants any data or information that can help to inform the long-term safety of plastic composites incorporating bamboo and comparable plant-based components. This evidence will also help to inform the assessment criteria for future regulated product applications involving botanicals in plastic food contact materials that will be placed on the market in Great Britain (GB). The deadline to submit any data is 12 December 2023

Click [here](#) to read more.

## Tax

Adam Craggs

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### When is a ‘tunnel’ not a tunnel, for capital allowances purposes?

In *HMRC v SSE Generation Ltd* [2023] UKSC 17, the Supreme Court rejected HMRC’s appeal of the Court of Appeal’s ruling that expenses for various buildings included in a hydroelectric power generation scheme qualified as plant and machinery for the purposes of capital allowances.

In relation to capital allowances claimed for corporation tax purposes by an energy company for expenditure on items of plant

incurred in the construction of a hydro-electric power scheme, the court determined the ordinary meaning of the words “tunnel” and “aqueduct” within the meaning of the Capital Allowances Act 2001 s.22 List B Item 1.

Click [here](#) to read more.

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### Technical tax proposals

As part of ongoing plans to modernise the tax system, the government announced a series of technical tax proposals on 27 April 2023. These include:

- extension of the Help to Save consultation until April 2025, with a consultation on the scheme design to seek for improvements
- call for evidence on HMRC’s data and information powers and how they can be improved to deliver better services and improve compliance
- discussion document on new legislative approaches that HMRC could take in relation to pilot testing (sandbox) models
- consultation on how to improve custom treatments of parcels and post exports
- consultation on potential amendment of tax rules for Decentralised Finance lending and staking in response to their previous call for evidence
- response to the data gaps consultation with proposals on how HMCR can improve data collection and usage
- consultation on how the framework for Stamp Taxes on Shares can be improved
- consultation on the introduction of the Reserved Investor Fund (RIF)

- consultation on simplifying legislation on Diverted Profits tax (DPT), on transfer pricing and on permanent establishments
- update of the Terminal Markets Order (TMO) legislation
- several actions to deal with non-compliance and tax avoidance
- requirement for repayment agents to register with HMRC from 2 May 2023
- consultation on proposed reforms to the Construction Industry Scheme (CIS), including options to strengthen the test for Gross Payment Status and simplifications to reduce administrative burdens
- consultation on measures to strengthen compliance in the charity sector
- consultation on the effectiveness of Employee Ownership Trust tax regime
- technical consultation on changes to the legislation in regards to off-payroll working to avoid over-collection of tax

Click [here](#) to read more.

## Competition law

Melanie Musgrave

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### The Digital Markets, Competition and Consumers Bill

The long-anticipated Digital Markets, Competition and Consumers Bill (the **DMCC Bill**) began its parliamentary journey following its introduction on 25 April 2023. Described as a “flagship bill” by the CEO of the Competition and Markets Authority (the **CMA**), the DMCC Bill not only introduces major landscape reforms to the UK’s consumer protection regime and significant enhancements to the CMA’s competition law powers, it also heralds a new regime for digital markets. The DMCC Bill has the potential to be a “watershed moment” in how UK digital markets are regulated.

The CMA had established the Digital Markets Unit (the **DMU**) in shadow form. The DMCC Bill brings the DMU one step closer to gaining its statutory powers to designate tech firms as having Strategic Market Status (**SMS**) and, inter alia, to have the tools to set tailored codes of conduct for these firms and to be able to impose pro-competition interventions. The purpose of the new regime is

to regulate “the largest and most powerful digital firms to ensure effective competition that benefits everyone” and “to address the far reaching market power of a small number of tech firms”.

Under the DMCC Bill, the CMA will also be able to directly enforce consumer protection law, determining whether there have been any breaches and to impose fines for non-compliance. The Bill also makes wide-ranging enhancements to the CMA’s competition powers and changes to the UK merger regime.

Please see links below for more detailed articles.

[Digital Markets](#)

[Consumer](#)

[Competition](#)

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### UK/EU Merger Decision Divergence

Post Brexit, the one-stop principle of the EU Merger Regulation and the European Commission’s jurisdiction no longer applies in relation to the UK. Consequently, there have been an increasing number of mergers which have been subject to parallel reviews by both the European Commission and the CMA (as well as other relevant regulators across the world). Inevitably, there has sometimes been divergence between the regulators in terms of whether a transaction warrants an in-depth review, the theories of harm, appropriate remedies and whether the transaction should be permitted.

This divergence has recently come into the spotlight once again following the CMA’s [decision](#) of 26 April 2023 to block Microsoft’s proposed \$68.7 billion deal to acquire Activision Blizzard, one of

the most popular video games publishers in the world, due to concerns of a substantial lessening of competition (**SLC**) in cloud gaming services in the UK (including reduced innovation and less choice for gamers). The CMA concluded that the remedies offered by Microsoft did not resolve its SLC concerns. Several weeks later, the European Commission concluded its own in-depth merger investigation and [approved](#) the acquisition, subject to ten-year licensing commitments. The transaction is also facing objections from the US authorities.

The CMA’s decision is being appealed by Microsoft before the Competition Appeal Tribunal (the **CAT**) and the main hearing is listed for the end of July.

# Competition law

Melanie Musgrave

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## UK Market Investigations

The delay to the DMCC Bill has had other consequences in connection with one of the CMA's market studies and proposed market investigation reference (**MIR**).

On 15 June 2021, the CMA [launched](#) a market study in relation to the supply of mobile ecosystems in the UK under its Enterprise Act powers. On 14 December 2021 (within the statutory six-month period), the CMA [issued](#) a decision not to make an MIR and also an Interim Market Study Report. The CMA provisionally found that Apple and Google had been able to leverage their market power to create largely self-contained ecosystems and that users were potentially losing out as a result. However, in anticipation of the DMCC Bill and the likely SMS designation of Apple and Google, the CMA's view was that their market power in relation to their ecosystem activities would be best dealt with by the DMU.

On 10 June 2022, the CMA published its Final Market Study Report and consulted on launching an MIR (the DMCC having been delayed). On 22 November 2022, the CMA decided to make an MIR and this decision was appealed by Apple on the grounds that it was ultra vires.

The CAT upheld Apple's appeal and quashed the CMA's decision to launch an MIR. The CAT concluded that the MIR was not a free-standing decision and separate from the market study which had been conducted. Consequently, the CMA was subject to the statutory deadlines of the Enterprise Act. Having issued the December 2021 decision not to make an MIR, it could not then consult on and launch an MIR in 2022.

The CMA sought permission from the CAT to appeal the CAT's judgment and this was refused. However, its subsequent request for permission to appeal from the Court of Appeal has been granted. The appeal will not be heard before October. In the meantime, the CAT's order suspending the CMA's eighteen-month period for preparing and publishing its market investigation report remains in place and the CMA will not progress its market investigation.

## Cyber security

Richard Breavington

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### Cyber\_Bytes – Issue 53

In the latest edition of Cyber\_Bytes (our regular round-up of key developments in cyber, tech and evolving risks) we cover the following:

- New fixed recoverable costs for professional negligence claims
- Big names caught up in big cyber attack
- Cyber-attack costs conveyancers £7m
- AI and “Friday Afternoon Frauds” on Law firms
- The “Unicorn Kingdom’s” AI White Paper

- Joint blog post by the NCSC and ICO on transparency around cyber attacks
- The need for cybersecurity - National Cyber Security Centre (NCSC) and BT’s campaign
- Global ransomware payments double in one year

Click [here](#) to read more.

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### UK’s new fraud strategy

On 3 May 2023 the UK Government published a Fraud Strategy aiming to cut fraud by 10% on 2019 levels by December 2024. As part of the strategy, a new national fraud squad will be established, with 400 new posts. The strategy also focuses on blocking scam mass text messages and fake websites while ensuring that victims

of fraud will be able to get their money back. In addition, the strategy will require the tech sector to implement extra protection for customers, with penalties for non-compliance.

Click [here](#) to read more.

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### Importance of transparency when dealing with cyber attacks

The National Cyber Security Centre (NCSC) and Information Commissioner’s Office (ICO) have published a vlog highlighting the importance of being transparent in relation to cyber attacks for several reasons, including: 1) reporting cyber attacks reduces the possibility of more attacks in the future; 2) assurance that the NCSC maintains the attack’s information confidential; 3) paying ransoms will likely result in more attacks and does not guarantee recovery of the data; 4) offline backups do not prevent attackers

from threatening organisations with their data as they could still leak it if the ransom is not paid; 5) it is a requirement to report that data has been compromised even if it does appear that it has been stolen; 6) it is important that organisations do not avoid reporting data breaches in fear of fines as regulators do not take a blanket approach.

Click [here](#) to read more.

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### Joint advisory on Russian malware

The Cybersecurity & Infrastructure Security Agency (CISA) has published an advisory on a Russian malware tool called “Snake”, which is being used to conduct cyber espionage and collect intelligence on sensitive targets. The system is considered the most sophisticated tool designed by the country’s Federal Security Service (FSB) and uses encryption for his communication protocols in order to deter detection and collection.

The advisory informs that the Snake infrastructure has been identified in over 50 countries so far across the globe. Including North America, Europe and Asia. Agents have already reportedly used Snake to gather information and documents from a victim in a NATO country and against several industries within the United States.

Click [here](#) to read more.

## AI regulation

Helen Armstrong

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### UK's latest position on AI Regulation

The [UK's White Paper on AI](#) released in March 2023 sets out the government's aim to get the "UK on course to be the best place in the world to build, test and use AI technology." This goal is to be achieved through a flexible, context-specific approach to innovation, rather than imposing new legislation or creating a new regulator. Instead, each sector regulator will be responsible for addressing the risks posed by AI in their specific sector. It is envisaged that this will be achieved by implementing 5 key principles:

- Safety, security and robustness
- Appropriate transparency and explainability
- Fairness
- Accountability and governance
- Contestability and redress

The Information Commissioner's Office (ICO) issued a [Response](#) to the White Paper in April 2023, welcoming the White Paper's suggestion of bringing together regulators to create a sandbox of ideas across sectors. The Competitions & Markets Authority (CMA) has also [responded](#), encouraging the government to make use of existing regulatory initiatives such as the Digital Regulation Cooperation Forum (DRCF).

The landscape is, however, constantly changing and the government has recently commented that more guardrails for AI are required. Legislative measures have not been ruled out completely, although nothing as wide-ranging as the EU AI Act is currently being suggested.

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### Generative AI and intellectual property rights – the UK government's position

At the end of June 2023, the UK Intellectual Property office (IPO) started to develop the promised voluntary code of practice that will provide guidance to support AI firms in accessing copyright protected works as an input to their models. The IPO's working group is currently focussing on identifying creator concerns about the use by AI systems of their copyright works, databases and performances and also any barriers to AI systems and users to accessing these works. The code of practice is due to be published by the summer. This follows the IPO signalling its intention in June 2022 to introduce a new and wide copyright and database exception that would allow text and data mining (TDM) for any purpose including commercial use (which was subsequently withdrawn) and Sir Patrick Vallance's Pro-Innovation Regulation of Technologies Review (PIRT) published alongside the Budget in March 2023.

The PIRT suggested TDM should be permitted for any purpose to include the use of publicly available content protected by intellectual property as an input to TDM (including databases). In its response and in support of the PIRT recommendations, the government proposed that the IPO produce the code of practice discussed above that will provide guidance to support AI firms in accessing copyright protected works as an input to their models, while ensuring there are protections (e.g. labelling) on generated output. An AI business that commits to the code of practice will be offered a reasonable licence by the rights holder. If the code of practice is not adopted or if agreement is not reached, targeted legislation may follow.

Click [here](#) to read more.

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### UK to host first global summit on Artificial Intelligence

The Government has announced that the UK will host the first major global summit on Artificial Intelligence (AI) safety. The summit, which will take place in the UK this autumn, will talk about ways to reduce the risks of AI, including those posed by frontier systems, through globally coordinated action. According to a press release from the Prime Minister's office, it would also give

nations a forum to collaborate on further creating a common strategy to manage these risks. The meeting will bring together important nations, top tech firms, and researchers to decide on safety measures to assess and monitor the biggest risks from AI.

Click [here](#) to read more.

## Advertising

Oliver Bray

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### ASA to provide education for influencers on promoting financial products

The Advertising Standards Authority (ASA) has partnered with the Financial Conduct Authority (FCA) and a former Love Island contestant to provide education to influencers in relation to the promotion of financial products, the so called ‘finfluencing’. The

bodies will engage with influencers and their agents to ensure they know what financial products they are promoting and to encourage them to conduct checks before accepting deals and endorsements.

Click [here](#) to read more.

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### Gambling regulation reform

The government has published a white paper to set out its intention to reform gambling regulations in order to ensure they can tackle the changes brought on by technology and digital changes that have happened since the Gambling Act 2005 was passed. The measures outlined in the white paper include changes

to game design rules, stricter controls on advertising, increased awareness of gambling risks, and more support and funding for the Gambling Commission to oversee online and offline gambling.

Click [here](#) to read more.

## Sanctions

Robert Waterson

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### New Legal Services General Licence

The Office of Financial Sanctions Implementation (OFSI) has published a replacement for the Legal Services General Licence that expired on 28 April 2023, following stakeholder feedback. The new licence will last 6 months, until 28 October 2023. The new General Licence includes changes from the previous one, including a reset on legal fees and expenses caps and changes to the definition of legal services, whereby legal fees and expenses for defamation and

malicious falsehood cases are not allowed to be paid under the terms of the new licence.

In addition, users of the new General Licence must provide a report to OFSI within 7 days while records must be kept for 6 years.

Click [here](#) to read more.

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### Licence to receive funds for pre-existing obligations

OFSI has issued a General Licence to allow UK person to receive due payments from Russian and Belarusians Designated Persons (DPs) where the contracts were agreed before the designation. The maximum value permitted under the terms of the licence is £200,000 including VAT. Payments can only be received after the licence is granted.

Under the terms of the licence, while it is considered that DP can include entities owned by a DP, it is responsibility of the users to establish ownership and seek independent legal advice on the matter. In addition, no other UK person can use the licence to receive payments under the same contractual obligations. The licence will last 6 months and expire on 21 November 2023.

Click [here](#) to read more.

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### Blog on trust services sanctions published by OFSI

The trust services sanctions, which took effect on 16 December 2022, were discussed in a blog post by the Office of Financial Sanctions Implementation (OFSI). The Russia (Sanctions) (EU Exit) Regulations 2019, SI 2019/855 place restrictions on the access of designated individuals and those linked to Russia to the UK's trust services (Regulation 18C). The blog tries to further explain certain issues raised by inquiries the OFSI has received, but it should be noted that some of the inquiries are case-specific. The blog post covers a number of areas:

- when trust services sanctions apply
- where trust services sanctions apply
- the key exceptions permitting the provision of trust services and
- OFSI's enforcement powers.

Click [here](#) to read more.



## Product regulation

Gavin Reese & Dorothy Flower

### Product law bulletin – May 2023

RPC have published the latest edition of our product law bulletin, this month we focus on:

- product safety following the adoption of the General Product Safety Regulation (EU) and the UK Government’s Round Table on online marketplaces

- European Council adopts general approach for proposed EU Artificial Intelligence Act
- Ford launches history making “hands-off, eyes on” car
- Allergen update: more calls for stronger reporting and guidance
- General Product Safety Regulations

Click [here](#) to read more.

### The CTSI’s Vegan and Plant-based Food report calls for a legal definition for vegan food products

The Chartered Trading Standards Institute (CTSI) has published a new report which examines the current landscape of vegan foods and warns of the dangers posed, in particular, to those with allergies by the absence of a legal definition for vegan foods.

The report entitled “Vegan and Plant-based food” claims that there has been a marked rise in the popularity of vegan, vegetarian and plant-based diets and that food manufacturers and retailers will need to meet the heightened demand for plant-based food products in the coming years.

However, the CTSI raises concerns about the lack of a legal definition to govern the ingredients that vegan or plant-based foods can contain and how this has caused confusion for both businesses and consumers. For example, some businesses may

refrain from declaring their product to be vegan despite the product containing no animal-derived ingredients. Alternatively, some businesses may advertise products as plant-based when they actually contain traces of animal-derived ingredients. The CTSI suggests that vegans and those who suffer from allergies are vulnerable to being misled, pointing to the tragic death of Celia Marsh, who died as a result of anaphylaxis after eating a wrap labelled as vegan, as an example.

In its recommendations, the report calls for legal definitions and thresholds for what constitutes “vegan” food and for new guidance for businesses to protect vegans and individuals living with food allergies.

Click [here](#) to read more.

### Online marketplaces under the radar in consumer and supply chain evidence sessions

The All-Party Parliamentary Group on Consumer Protection and the Chartered Trading Standards Institute commenced a series of evidence sessions in May 2023 to understand the challenges facing UK supply chains and impacting consumers in relation to online marketplaces. Some of the UK’s leading consumer protection bodies and business groups will provide evidence, including Which? Electrical Safety First, The British Toy and Hobby Association, National Trading Standards and the Office for Product Safety and Standards. Their concerns highlight the gaps in the current regulatory landscape for the sale of products via online marketplaces. This creates significant challenges for enforcement authorities and consumers where products sold via an online marketplace cause damage or injury. Questions the sessions seek to answer include:

- What are the current risks to consumers (including who is most at risk and what types of products are being sold on online marketplaces)?
- What issues are there across the supply chain and how can stakeholders help to reduce non-compliant goods entering the UK market?
- What are the roles and responsibilities of different actors in the UK supply chain – including ports and borders, wholesalers, retailers and consumers?
- What needs to happen on a legislative or regulatory level to tackle the current issues and what innovations are proposed?

Click [here](#) to read more.

## Data protection

Jon Bartley

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### ICO publishes new guide on responding to subject access requests (SARS)

The Information Commissioner's Office (ICO) has issued new guidance on responding to Subject Access Requests (SARs) for businesses and employers. Failure to comply with SARs is a violation of the law. Organisations that fail to react to SARs promptly or at all may face fines or punishment. From April 2022

to March 2023, the Information Commissioner's Office received 15,848 complaints about Subject Access.

The new guidance in Q&A format on responding to SARs requests can be found [here](#).

Click [here](#) to read more.

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### Planned reviews and repeals of EU legislation scaled back

The government has pulled back its intentions to abolish or replace over 4,000 retained EU regulations by the end of the year. Instead of examining and repealing all EU legislation by the end of 2023, the government will now outline 600 laws to be removed by December, leaving the remaining 3,000 in place for the time being.

In a [written ministerial statement](#), the government announces an amendment to the [Retained EU Law \(Revocation and Reform\) Bill 2022–2033](#), which will replace the bill's present sunset clause

with a list of the REULs that the government plans to revoke under the bill at the end of 2023. The Financial Services and Markets Bill and the Procurement Bill will revoke another 500 REUL, bringing the total number of REUL that will be repealed to almost 600. The announcement coincides with the release of the policy paper, "[Smarter Regulation to Grow the Economy](#)," outlining enhancements to the Better Regulation Framework.

Click [here](#) to read more.

## White collar crime

Sam Tate and Davina Given

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### Identification principle for economic crime offences

The identification principle is a new proposed amendment for the Economic Crime and Corporate Transparency Bill ('the bill')

It is intended to make a significant change to the present position by expanding the scope to include senior managers, not just directors. When deciding whether these individuals' conduct should be attributed to the corporate, their roles and managerial influence will be taken into consideration, not just their job title. The proposed test will include an assessment as to whether the individual plays a significant role in decision-making for the whole or a substantial part of the business.

This would have a significant impact on large organisations with complex management structures as it appears that individual actors no longer need to have oversight of the entire organisation for their actions to be attributable to the company. The SFO has previously struggled to prosecute large corporates due to the high bar imposed by the existing "directing mind and will" test. The new test should significantly strengthen the SFO's arsenal in the pursuit of corporate economic crime.

Click [here](#) to read more.

# Key contacts

For further information on any regulatory matter, please contact our team below:

## Health, safety and environmental



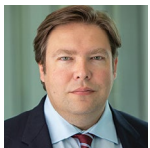
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## Product liability and compliance



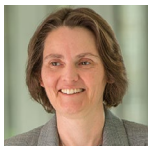
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## Insurance and financial services



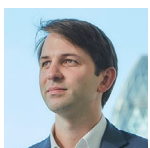
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## Digital and media



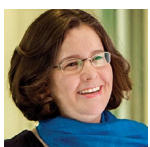
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## White collar crime and investigations

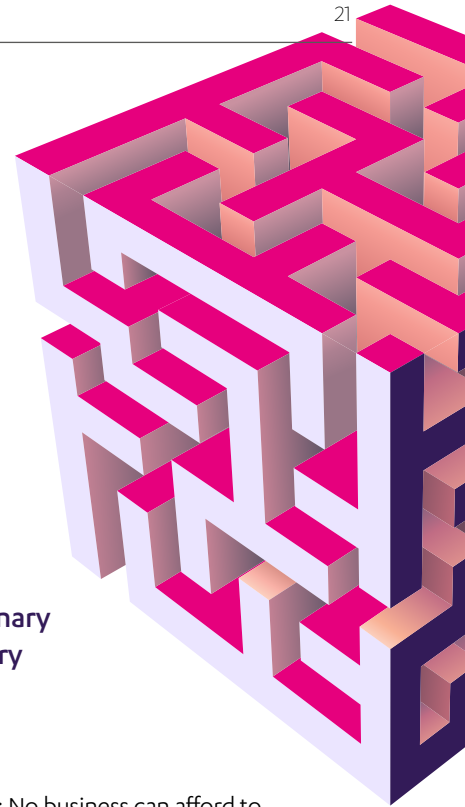


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# Navigating the maze

From the world’s largest financial, corporate and professional services firms, to highly successful entrepreneurs and individuals, many turn to our specialist Regulatory team to navigate the maze. They do this because they know we don’t sit on the fence, we work with our clients to ask the tough questions and challenge conventions; ensuring they continue to thrive in a rapidly evolving regulatory world.

From helping to implement robust compliance strategies to conducting investigations and defending against enforcement proceedings, our multidisciplinary team can be relied on to add value, provide ideas and deliver a complete regulatory service whatever challenges you face, now and in the future.



- **White collar crime and investigations:** The burden of facing a regulatory or criminal investigation can be significant. We defend clients under investigation for regulatory breaches, corruption including; breaches of financial sanctions, false accounting, insider dealing and market misconduct.
- **Anti-bribery and corruption:** Our team works closely with clients to implement robust, cost effective anti-bribery programmes in line with international standards, and to manage risks and responses when things go wrong.
- **Anti-money laundering:** AML continues to be one of the most significant regulatory risks to firms. We help clients from implementing effective AML processes and controls to defending clients under investigation of breaches.
- **Data protection:** Protecting the data you hold has never before been so essential to your business. We regularly advise on data regulations, including GDPR, relating to subject access requests, data handling, sharing and processing, breaches, and training strategies.
- **Product liability and compliance:** Our Products team have the expertise you needed if you are faced with product recall or class actions.
- **Health, safety and environmental:** our expert team can support you whether you are shoring up your health, safety and environmental protocols, or facing an investigation in respect of an incident.
- **Tax investigations and dispute resolution:** Our dedicated tax dispute lawyers provide a comprehensive service covering pre-emptive advice on a wide range of risk issues, tax investigations and litigation before the tax tribunals and higher courts.
- **Insurance and financial services:** Our specialist lawyers advise on regulation, business and financial crime and compliance, including both contentious and non-contentious matters to ensure our clients avoid the pitfalls.
- **Competition and anti-trust:** No business can afford to ignore competition law. We help clients through all issues including; compliance, investigations, merger control, cartels and litigation.
- **Dawn raids:** A dawn raid situation can be extremely stressful – and if you get it wrong, the repercussions can be severe. Our experienced team can provide an immediate response to help you on the ground, as well as in the all-important preparation for the possibility of a dawn raid.
- **Professional practices:** Our team combines sector knowledge with regulatory expertise to provide comprehensive support and advice for professional services firms, covering all aspects of their regulated business.
- **Advertising and marketing:** Some of the world’s largest corporates rely on us to keep their brand communications above board, from advertising standards to consumer regulation we help clients to simplify the complex.



RPC is a modern, progressive and commercially focused City law firm. We have 114 partners and over 900 employees based in London, Hong Kong, Singapore and Bristol. We put our clients and our people at the heart of what we do.

[rpc.co.uk](http://rpc.co.uk)