

January to February 2012-03-22

29/02/2012

New VAT Notice 700/65

Subject: VAT/Business and staff entertainment

Source: HM Revenue & Customs

This notice cancels and replaces Notice 700/65 (November 2011). This notice has been rewritten to improve readability. The changes are made to ensure the technical content is up to date and relevant. It explains the treatment of VAT charged on business entertainment.

28/02/2012

Compliance survey on compulsory employee liability insurance

Subject: Employment/employee liability insurance

Source: Health and Safety Executive

The Health and Safety Executive (HSE) has commissioned a report by the Institute for Employment Studies: "An assessment of the level of compliance with the statutory duty to obtain insurance under the Employers' Liability (Compulsory Insurance) Act 1969".

According to the survey, 94.3 per cent of employers required to hold Employers' Liability (Compulsory Insurance) (ELCI) stated that they had it. A further 1.1 per cent of respondents did not know whether or not they held it. In total 4.6 per cent reported that they did not have an EL insurance policy. This equates to an estimated 164,103 employees working for organisations in Great Britain (GB) that should be, but are not, covered by an EL insurance policy.

Self-reported compliance was lower amongst the very smallest employers – 6.5 per cent of those with just 2 to 4 employees did not hold an EL insurance policy; this was 1.1 per cent amongst those with 5 to 9 employees (5.3 per cent amongst micro employers overall) and 0.4 per cent amongst those with 10 to 49 employees. Medium-sized firms (50 to 249 employees) and large firms (250+ employees) had zero non-compliance.

28/02/2012

Understanding small businesses' experience of the tax system

Subject: Government SME policy. Tax

This research was commissioned by the HM Revenue & Customs (HMRC) on behalf of the Office of Tax Simplification. The report may be seen at:

<http://www.hmrc.gov.uk/research/report159.pdf>

This research focussed on the smallest end of the business population (those with fewer than ten employees and turnover under £1 million), and those who try to deal with most of their tax matters without outside assistance. The main findings included:

a) Understanding the context for small business customers

The research indicated that people start up their business for a number of reasons:

- * 32 per cent started up to be independent and in control rather than working for someone else
- * 23 per cent started up to find work when unemployed or made redundant
- * 18 per cent started up to be able to fit work flexibly around other commitments
- * 12 per cent started up to make money out of what was previously a hobby or area of interest.

The small businesses sampled are a diverse group with multiple roles and commitments; 32 per cent of those with small businesses are also employed, 28 per cent of those with small businesses are also looking after their home/a family. 7 per cent are retired. Support and empathy from HMRC around more complex personal circumstances would be welcomed.

b) Difficulties with tax

Many people find tax mostly straightforward (50 per cent of sole traders find self assessment easy to deal with) and in the qualitative research people consistently said that it is better than it used to be. However, tax is perceived to be relatively difficult compared to the many other obligations small businesses have. The main difficulty when starting up was finding enough customers/work to keep the business going (36 per cent agreed) and second to that, 23 per cent found filling in the first tax return difficult. This is high in comparison to opening a bank account (2 per cent found it difficult) and complying with other legal requirements (10 per cent found it difficult).

Motivations for incorporation vary - to reduce liability, increase credibility, requirement for certain clients/contracts, professional advice to do so, or as some people said because 'it's the norm'. But people may not be aware of the consequences and become incorporated without being fully informed of what it means for them. The result is that some then want to unincorporate. 14 per cent of incorporated businesses surveyed said that they would prefer to operate as unincorporated.

Even amongst the most 'sorted' (who do not find tax difficult), there is an underlying fear of getting things wrong, 49 per cent of small businesses worry that they may have made a mistake with their tax form even though they keep good records and are careful filling it in, and 38 per cent are worried about being investigated and fined for mistakes they may have.

c) Experience of getting started

The business start-up phase is especially daunting and people can feel isolated. There is a desire for 'hand holding' and guidance at the start of the new business journey in particular, to ensure small businesses know what to do to fulfil their requirements to be compliant and how to get it right.

When starting out, people seek information and advice from a wide range of sources. HMRC's website and written guidance is the most commonly used source of advice.

Tax is an area of difficulty for around a third at the start - 26 per cent agreed that knowing how to go about record keeping was difficult when starting out, and 35 per cent agreed that filling in their first tax return was difficult (vs. 27 per cent who agreed it was easy).

d) Use of advisors

Tax advisors were used by 42 per cent of the sample. The most common reason for using an advisor is the belief that tax is too complicated to do alone.

e) Record keeping

There is a lack of certainty around record keeping and management of accounts, which leads to anxiety. 26 per cent of small businesses aged one-five years found it difficult to know how to go about record keeping when they started out and 24 per cent of small businesses say that they find it difficult knowing what receipts and records they need to keep as proof in case they are subject to an enquiry.

f) Expenses and other tax rules

Lack of certainty around what expenses can and can't be claimed is a big concern; 49 per cent of small businesses say that they find it difficult knowing what is allowed as a claimable expense. Businesses feel that they do not get guidance that reassures them that they are getting expenses right. When asked what HMRC could do better 44 per cent of small businesses said that they would find simpler ways to calculate expenses very helpful (eg, rules of thumb or fixed rates for different types of business).

Claimable expenses is the most common difficulty people experience in dealing with tax, even among established businesses. When asked how they would treat certain expenses in a number of different scenarios, a significant number gave the wrong answer or didn't know. For example, when asked what they would do if they bought something like office furniture or a computer for use in the business, 42 per cent said they would deduct the total cost of the item as a business expense, which is incorrect. Only 27 per cent chose the correct option, to claim capital allowances or the annual investment allowance. 5 per cent said they would claim nothing and 10 per cent said they didn't know what to do.

A small minority showed clear awareness of accrual accounting, but this may be in part due to the cash nature of many small businesses. When asked which sales or income they included in their accounts or tax return for the year, only 25 per cent gave the correct answer - sales invoiced in the year, whether or not they had been paid for. 47 per cent included only money received in the year, whether or not they had issued invoices, effectively using the 'cash' basis. Only 3 per cent said they did not know the correct answer.

The awareness of generally accepted accounting principles ('GAAP') is even lower on the question of which expenses can be claimed in the business accounts, with only 8 per cent of small businesses giving the correct answer - 'bills received even if not paid in the year'. 56 per cent of small businesses were claiming expenses on a 'cash' basis, answering 'expenses I have paid for in the year'. Again, only 3 per cent said they did not know the correct treatment.

g) Difficulties with specific types of tax

The majority find tax straightforward. However some do have difficulties and some types of tax are more difficult than others. A particular problem area is completing the form P11D (employees' expenses payments and benefits), with 28 per cent of those who deal with it finding it difficult. The majority of businesses spend at least some time each month dealing with tax and the majority feel that the amount of time that they spend on tax is reasonable, although less so for VAT and PAYE.

People would welcome less change overall with 29 per cent of small businesses saying that they find it difficult keeping up with the changes in the tax rules that affect them. Greater personalisation of updates could help to save customers time trawling through things that are not relevant.

h) Cashflow

Managing cashflow in preparation for tax payment can also be a struggle for some: 22 per cent of small businesses say that they find it difficult knowing how much they will need to pay in their next tax bill, and almost half say they don't usually put money aside in order to be ready to pay their tax bill (for example, in a separate bank account). There is very low awareness (20 per cent) of HMRC's Budget Payment Plan. 20 per cent of those who are aware of the Plan use it.

i) Communications with HMRC

The experience of dealing with HMRC is often more positive than anticipated and customers often said they felt it has improved in recent years. Misconceptions about the experience of dealing with HMRC are common. In reality people often find HMRC to be more helpful and less 'scary' than they imagine.

ii) However, a significant minority do not believe that HMRC is really on their side: 11 per cent have experienced difficulties with the tone of communication from representatives of HMRC and 70 per cent of those do not believe HMRC has a genuine interest in helping them as a small business.

Small businesses rely on HMRC's website and written guidance as a key source of information and HMRC plays a key enabling role for small businesses. 23 per cent of people agree that they have experienced difficulties getting a definite answer to a question they have about tax. 30 per cent say they have difficulty making sense of the information given by HMRC.

j) Exploring interventions that could help small businesses

Of a range of new or enhanced intervention ideas that were asked about, improved contact with HMRC and the simplification of expenses were the most popular.

Popular suggested interventions are those which facilitate better contact with HMRC included:

- * small businesses want HMRC to be more accessible and easy to contact
- * rapid email responses (within a set time frame) are favoured by most
- * a dedicated small business phone line with specialist expertise and understanding was also a very popular idea, as was improvements to the HMRC website.
- * A more empathetic and flexible approach from HMRC would also be welcome.

27/02/2012

Kara Goldsmith v Robert Bradley Patchcott

Neutral Citation Number: [2012] CA Civ 183 Case No: B3/2011/1725

Subject: Law Lawmakers and Lawyers. Riding stables

Source: Court of Appeal

Original case report provided by BAILII is acknowledged with thanks. Contains public sector information licensed under the Open Government Licence v1.0:

<http://www.nationalarchives.gov.uk/doc/open-government-licence>

Note: Legaleze prepared and is solely responsible for the following commentary

Legaleze comment: this Court of Appeal judgment concerned liability for injury caused by a horse. However, the main reason for its inclusion in Legaleze News is the comment made by Lord Justice Jackson about the drafting of the Animals Act 1971:

“Section 2 (1) of the Animals Act imposes strict liability for damage caused by animals of a dangerous species. Section 2 (2) deals with domesticated animals, such as dogs and horses. That section imposes strict liability on the keeper, but only if certain conditions are satisfied. The language of section 2 (2) is both oracular and opaque. Judges and jurists have spent the last forty years seeking to elucidate its meaning.”

These comments illustrate the role of the courts in interpreting legislation. But more importantly we think they show how the UK system of legislation still fails in some cases to produce clear and intelligible law, despite the efforts at reform. See our page on [Law lawmakers and lawyers]. This case serves also as a reminder to riding stables to review their insurance cover and consider requiring all riders to sign a disclaimer of liability for injury.

24/02/2012

Karen Murphy v Media Protection Services Ltd

Neutral Citation Number: [2012] EWHC 466 (Admin)

Subject: Intellectual property/copyright/Pub tv screening of live Premier League football

Source: High Court

Original case report provided by BAILII is acknowledged with thanks. Contains public sector information licensed under the Open Government Licence v1.0:

<http://www.nationalarchives.gov.uk/doc/open-government-licence>

Note: Legaleze prepared and is solely responsible for the following commentary

Following the ruling of the European Court [see Legaleze news item 4/10/2011], Karen Murphy has finally won her series of appeals against her conviction of copyright offences relating to tv screening of Premier League football in her public house.

The Premier League owns the intellectual property rights in relation to the screening of live Premier League football matches. It grants exclusive licences to licensees to screen live Premier League matches in the licensees' respective territories. In the United Kingdom and Ireland, the sole licensee was BSkyB. In Greece, the licensee is NOVA", a Greek television programme provider.

Both BSkyB and Nova use conditional access technology via satellite, which means that the viewer needs a decoder card to watch the live Premier League games. These cards are authorised for use in the territory of the relevant Premier League licensee. In the case of BSkyB, the territory is the UK and Ireland. In the case of NOVA, authority to use its cards is restricted to Greece.

Karen Murphy was the licensee of the Red White and Blue in Southsea in Hampshire. She arranged the screening in the pub of live Premier League matches. When these matches were transmitted and received, Ms Murphy did not have a subscription with BSkyB. She had cancelled that subscription on the grounds of expense on becoming the licensee of the Red White and Blue. She did have a satellite dish, a decoder box and a viewing card issued by NOVA. That card enabled Murphy to receive and view programmes originating from the NOVA satellite because the

“footprint” of the NOVA service extended to the UK. However the NOVA card was by its terms restricted to use in Greece.

Murphy was convicted by Portsmouth Magistrates of two offences under Section 297(1) of the Copyright Design and Patents Act 1988. Those convictions were to the effect that on 19 August 2006 and on 25 September 2006, she:

"Dishonestly received a programme included in a broadcasting service provided from a place in the United Kingdom with intent to avoid payment of any charge applicable to the reception of the programme."

Murphy's appeal against her convictions was dismissed by the Crown Court sitting at Portsmouth. However Murphy appealed raising certain legal questions for determination by the High Court. The relevant question in this case was:

"Does the requisite 'intent to avoid any charge applicable to the reception of the programme' within Section 297(1) apply to circumstances where the appellant paid a charge to AV Station, an entity selling NOVA decoders and cards in the United Kingdom, and then receives a programme from NOVA, a foreign broadcaster, but does not pay any other fee to any broadcaster -- in this case BSkyB -- as the domestic broadcaster in question?"

Other legal questions were decided against Murphy. The court's judgment on 21 December 2007 left any questions of European Union law to be considered separately if Murphy appellant so wished and she did in fact pursue the European law issues. On 16 July 2008, the High Court, decided to refer to the Court of Justice a number of questions of European law.

It should be noted that under EU legislation ("Conditional Access Directive"), EU member states are required to "prohibit on their territory ... the manufacture, import, distribution, sale, rental or possession for commercial purposes of illicit devices; the installation, maintenance or replacement for commercial purposes of an illicit device; the use of commercial communications to promote illicit devices".

It was agreed between the parties that for the purposes of the appeal, the court should proceed on the basis that the decoder card used by the appellant to receive the NOVA broadcast in question was not a pirate card in the sense of being a card which was manufactured and marketed without the authorisation of the NOVA card issuer. In other words, this was a genuine NOVA card, albeit that it was, according to the respondent, being used outside the area for which it was authorised, that is outside Greece.

The referred questions were answered by the Court of Justice in its judgment of 4 October 2011 in conjoined cases C403 of 2008 and C429 of 2008 [see Legaleze news item 4/10/2012]. For present purposes, the most important of the court's answers to the referred questions are as follows:

"1. Illicit device within the meaning of Article 2E of Directive 98/84/EC of the European Parliament, and of the Council of 20 November 1998 on the legal protection of services based on or consisting of conditional access must be interpreted as not covering foreign decoding devices, devices which give access to the satellite broadcasting services of a broadcaster, or manufactured and marketed with that broadcaster's authorisation, but are used in disregard of its will outside the geographical area for which they have been issued.

"2. Foreign decoding devices procured or enabled by the provision of a false name and address, or foreign decoding devices which have been used in breach of a contractual limitation permitting their use only for private purposes.

"3. On a proper construction of Article 56 TFEU, that article precludes legislation of a member state which makes it unlawful to import into and sell and use in that state foreign decoding devices which give access to an encrypted satellite broadcasting service from another member state that includes subject matter protected by the legislation of that first state. This conclusion is affected neither by the fact that the foreign decoding device has been procured or enabled by the giving of a false identity and a false address with the intention of circumventing the territorial restriction in question, nor by the fact that it is used for commercial purposes although it was restricted to private use.

"4. The clauses of an exclusive licence agreement concluded between a holder of intellectual property rights and a broadcaster constitute a restriction on competition prohibited by Article 101 of the Treaty where they oblige the broadcaster not to supply decoding devices enabling access to that right holder's protected subject matter with a view to their use outside the territory covered by that license agreement."

The Court ruled that:

1. The appellant's NOVA viewing cards were not illicit devices within the meaning of article 2E of Directive 98/84/EC. Had they been such devices, they would have fallen within the scope of that Directive and different considerations would come into play

2. By virtue of Article 56 of the EU Treaty, which is directly effective as a matter of EU law, Section 297(1), under which the appellant was convicted, cannot be applied to the appellant's use of the cards in question.

3. The territorial restrictions imposed on the use of the appellant's NOVA viewing cards were unlawful under EU law.

10. Karen Murphy had paid for her card, she had not avoided any charge applicable to its use and had not acted dishonestly. It follows that she was wrongly convicted, her appeal will be allowed and the convictions quashed.

Legaleze comment: there are still practical difficulties for publicans seeking to use non-UK decoders to screen live sport, because the tv feed include copyright material such as logos and the Premier League anthem and other copyright material which can be protected without breaching EU law [see news item on the parallel case - 3/02/2012]. It may be that the card suppliers will develop technical means to avoid such problems.

24/02/2012

Updated guidance on Gift Aid declaration

Subject/Tax/Gift aid

Source: HM Revenue & Customs

HM Revenue & Customs (HMRC) Charities has updated the guidance on Gift Aid declarations and provided new model declarations. There is also a new checklist of the minimum information that must be included in a declaration, if a charity decides to create and use its own declaration form. Charities should ensure their Gift Aid declarations fulfil the requirements set out in the guidance, as HMRC are aware that many declarations in use are not in accordance with the legislation. The revised guidance makes clearer exactly what a declaration should include. If, after reading the

guidance, charities find their declarations need to change, they should make those changes as soon as possible.

While reviewing some of the guidance for charities, an error has been identified in the guidance on keeping records. The guidance stated that the four-year time limit for making claims also applied to the retention of records. This is incorrect - records need to be kept for at least six years.

The guidance is at:

http://www.hmrc.gov.uk/charities/gift_aid/declarations.htm

24/02/2012

Updated guidance on Gift Aid declaration and new model declarations

Subject: Tax/gift aid declarations

Source: HM Revenue & Customs

HM Revenue & Customs (HMRC) Charities has updated the guidance on Gift Aid declarations and provided new model declarations. There is also a new checklist of the minimum information that must be included in a declaration, if a charity decides to create and use its own declaration form. Charities should ensure their Gift Aid declarations fulfil the requirements set out in the guidance, as HMRC are aware that many declarations in use are not in accordance with the legislation. The revised guidance makes clearer exactly what a declaration should include. If, after reading the guidance, charities find their declarations need to change, they should make those changes as soon as possible.

While reviewing some of the guidance for charities, an error has been identified in the guidance on keeping records. The guidance stated that the four-year time limit for making claims also applied to the retention of records. This is incorrect - records need to be kept for at least six years.

HMRC apologise for this error and realise that charities may have relied on this guidance, and may have already destroyed some records over four years old.

If records for this period have been destroyed based on previous guidance, HMRC will not penalise charities for not having the full six years' worth of records, if they ask to see them. For those charities that have kept records for between four and six years, these records do now need to be retained for the full six-year retention period.

Revised Gift Aid declarations guidance:

http://www.hmrc.gov.uk/charities/gift_aid/index.htm

24/02/2012

HMRC increases household expenses allowance

Subject: Tax/employment/expenses

Source: HM Revenue & Customs ("HMRC")

From 6 April 2012 HMRC has increased the guideline rate which employers can use to reimburse employees for additional household expenses incurred because they have to work from home. For 2012-13 the guideline rate will be £4.00 per week. See:

<http://www.hmrc.gov.uk/payee/exb/a-z/h/homeworking.htm>

22/02/2012

Updated guidance on vehicle lifts

Subject: Health and safety/motor vehicle repair

Source: Health and Safety Executive

Health and Safety Executive (HSE) has revised some of its guidance in two publications following legal advice from our solicitors. The changes occur in paragraphs 202 and 203 of Health and safety in motor vehicle repair and associated industries (HSG261) and on page 4 of Working safely under motor vehicles being repaired (INDG434). This advice is specific to vehicle lifts commonly used in motor vehicle repair and associated industries, and the requirements for their periodic thorough examination by a competent person.

21/02/2012

Electric van grant

Subject: Finance and funding

Source: Department for Transport

The government has announced the first vans eligible for the new Plug-in Car Van Grant. Van buyers will be able to receive 20% - up to £8,000 - off the cost of a plug-in van of one of 7 qualifying models.

The Transport Minister said that it has been estimated that a small electric van will typically cost £100 less in fuel for every thousand miles driven compared to a diesel equivalent; the way that vans are used and driven make them ideally suited to the switch to electric as they often have a predictable route and distance to travel each day; they make frequent stops; and many of them return to an overnight base where they can be easily recharged.

The models are:

- * Azure Dynamics – Transit Connect Electric
- * Daimler Mercedes-Benz – Vito E-Cell
- * Faam – ECOMILE
- * Faam – JOLLY 2000
- * Mia-electric – Mia U
- * Renault – Kangoo ZE variants VAN ZE, Van Maxi ZE, and Van Maxi Crew ZE
- * Smith Electric – Smith Edison variants SE2 and SE3

Further details about the Plug-in car grants can be found here:

<http://www.dft.gov.uk/topics/sustainable/olev/plug-in-car-grant/>

20/02/2012

Torfaen County Borough Council v Douglas Willis Limited

[2012] EWHC 296. Case No: CO/10802/2011

Subject: Food regulation/selling food after "use by" date

Source: High Court

Original case report provided by BAILII is acknowledged with thanks. Contains public sector information licensed under the Open Government Licence v1.0:

<http://www.nationalarchives.gov.uk/doc/open-government-licence>

Note: Legaleze prepared and is solely responsible for the following commentary

This case concerns the interpretation of regulation 44(1) of the Food Labelling Regulations 1996, SI No 1499 of 1996, ("the 1996 Regulations"). Regulation 44(1)(d) states that any person who "sells food after the date shown in a "use by" date relating to it" is guilty of an offence. "Sell" has an extended meaning under the regulations and it includes offer or expose for sale and have in possession for sale.

Douglas Willis Limited ("Willis"), is involved in the food processing business. Willis buys in meat and meat products then sells on products after processing, packaging and labelling. Torfaen County Borough Council Trading Standards ("Torfaen") charged Willis before the Gwent Justices with 74 charges under Regulation 44(1), later reduced to 31 charges.

Torfaen alleged that the food was being "sold" (within the meaning of the 1996 Regulations) at a time when the "use by" label attached to the food had expired.

Willis successfully argued there was no case to answer on the grounds that the food in question was frozen at the time of the alleged offences and therefore was not within the definition of "highly perishable" food which must have a "use by" label, leaving 31 to be dealt with. In effect, it did not matter that there had in fact been an expired "use by" label because the food was not required to have such a label. The justices The Gwent Justices accepted the argument and dismissed the remaining 31 charges.

Torfaen appealed to the High Court on the interpretation of the Justices. Among other points, they argued that the interpretation would allow the 1996 Regulations to be too easily circumvented because highly perishable food could be purchase with a "use by" date, then frozen then sold after expiry of the date without an offence being committed.

The High Court held that in order to obtain a conviction of an offence under Regulation 44(1)(d), the prosecution has to prove, to the criminal standard [i.e. beyond reasonable doubt] that:

- (1) at the point that the food was ready for delivery to the ultimate consumer or to a caterer, it was "highly perishable" and so needed then, and thereafter, to be labelled with a 'use by' date;
- (2) the defendant was, at the time of the alleged offence, selling the food, within the definition of "sell" in Regulation 2; and
- (3) at the time of the alleged offence, the date on the 'use by' label had passed.

The court added the important observation that the fact that food is, when being sold, labelled with a 'use by' date must be prima facie evidence that the food required to be so labelled in accordance with Regulations 2, 4 and 5. If food is so labelled when being sold, then there would be an evidential burden on the defendant to demonstrate that the label had not, in fact, been required.

Legaleze comment: this means that, technically, neither side “won” the appeal and the case will re-heard before a different panel of Justices. However, because the food was in fact labelled with an expired best before date, in order not to be found guilty of the offences it will be necessary for Willis to prove in the re-hearing that on a balance of probabilities the food was not within the “highly perishable” definition at the time it was “sold” i.e. when it was ready for delivery to the consumer.

17/02/2012

Government announces legal regulation of bailiffs

Subject: Licensed and regulated businesses. Law, Lawmakers and Lawyers

Source: Ministry of Justice

The Ministry of Justice has launched a consultation which sets out how ethical activity should be enshrined in law so bailiffs can continue to enforce the payment of debts and fines. The consultation will set out proposals which will seek to:

- * prohibit the use of force against a person with safeguards to protect children
- * clarify the complaints process available to the debtor
- * create minimum entry standards and certification process to ensure bailiffs are fit to operate
- * clarify when and how a bailiff can enter a property and under what circumstances reasonable force to enter premises will be available
- * make clear which items an enforcement agent may not take from someone’s home; and
- * make clear what fees bailiffs can charge for the range of debts that they collect for local government, courts and businesses.

The consultation paper is at:

<https://consult.justice.gov.uk/digital-communications/transforming-bailiff-action>

16/02/2012

New lenders join Enterprise Finance Guarantee scheme

Subject: Finance and funding

Source: Department for Business, Innovation and Skills

Four new lenders have been accredited to offer loans to small businesses under the Enterprise Finance Guarantee (EFG) scheme, the Government announced today.

The four new accredited lenders are:

- * Metro Bank
- * Hull Business Development Fund
- * Black Country Reinvestment Society
- * MSIF (providing finance to SMEs in Merseyside)

As announced in November, EFG is now available to businesses with up to £41m annual turnover and seeking up to £1m worth of loans, subject to eligibility. Further information and advice

15/02/2012

ASA Adjudication on Virgin Media Ltd

Subject: Selling and marketing/Marketing and advertising regulation

Source: Advertising Standards Authority

The Advertising Standards Authority (ASA) has partially upheld a complaint by British Sky Broadcasting (Sky TV) that Virgin Media press advertisements comparing its TiVo service to the Sky + HD box.

The ASA found there were breaches of CAP Code (Edition 12) rules 3.1 and 3.3 (Misleading advertising), 3.7 (Substantiation), 3.33 and 3.34 (Comparisons with identifiable competitors) and 3.47 (Endorsements and testimonials). The adjudication is at:

http://www.asa.org.uk/ASA-action/Adjudications/2012/2/Virgin-Media-Ltd/SHP_ADJ_167972.aspx

Legaleze comment: this ruling of the ASA provides an interesting illustration of how the ASA looks at complaints about comparative advertising. While Virgin Media successfully argued they could legitimately use quotations from a reviewer which were adverse to Sky TV, they should not imply that the Tivo service was pranked number 1 by "Stuff" magazine because this was not the case when considered over two issues of the magazine

14/02/2012

Meltwater Holding BV v The Newspaper Licensing Agency Limited

Copyright Tribunal CT114/09

Subject: Copyright/newspaper articles licensing

Source: Copyright Tribunal

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<http://www.nationalarchives.gov.uk/doc/open-government-licence>

Note: Legaleze prepared and is solely responsible for the following commentary

<http://www.ipa.gov.uk/ct11409-140212.pdf>

This case concerned the reference to the copyright Tribunal of the Newspaper Licensing Agency scheme for licensing use of copies of newspaper articles (print and web based). It followed the Court of Appeal decision in the case of The Newspaper Licensing Agency Ltd (NLA) and others v Meltwater Holding BV and others [2011] EWCA Civ 890 (see Legaleze news 27/07/2011).

The Tribunal made an interim decision determining the basis on which the royalties will NLA may charge Meltwater (and other media monitoring agencies) and its clients should be determined.

[The decision seems to represent a compromise between the positions argued by Meltwater and NLA].

14/02/2012

Towry EJ Ltd v Bennett & others [2012] EWHC 224 (QB)

Case No: HQ10XO1112

Subject: Employment/post-termination restrictions

Source: High Court

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<http://www.nationalarchives.gov.uk/doc/open-government-licence>

Note: Legaleze prepared and is solely responsible for the following summary.

This High Court case concerned the attempted enforcement by an employer of post-termination “non-solicitation” clauses, and breach of confidentiality and other claims, against former employees.

The seven individual Defendants were all employed by Edward Jones Limited, financial advisers to investors. The American parent company, Edward D Jones, decided to sell Edward Jones Ltd to Towry Law Finance Co. Ltd, one of the companies in the Towry Law Group. News of the acquisition was not greeted with universal enthusiasm. To many employees it came as a shock. Over the weeks that followed many of the financial advisers who were offered contracts by Towry, including the individual Defendants, either resigned or were dismissed for redundancy.

These Defendants joined the corporate Defendant, Raymond James Investment Services Ltd. Towry then received requests from a large number of clients, whose financial adviser had been one of the individual Defendants, to transfer their investments to Raymond James. Towry stated the requests had been like a “tidal wave”.

The non-solicitation clause in the individual Defendants’ contracts was as follows:

"16.3 You acknowledge that the obligations set out in this Agreement are reasonable and necessary in order to protect the Company's legitimate business interests.

16.4 You agree that for the period of 12 months after the termination of your employment under this Agreement, you will not directly or indirectly:-

16.4.1 solicit, canvas or endeavour to solicit or canvas in any capacity whatsoever, by post, phone, electronic communication, personal contact, or by any other means, any business, orders or custom which is in competition with any restricted Business from any Active Customer;

16.4.2 solicit, canvas or endeavour to solicit or canvas in any capacity whatsoever, by post, phone, electronic communication, personal contact, or by any other means, any business, orders or custom which is in competition with any Restricted Business from any Passive Customer;

16.4.3 induce or attempt to persuade any Employee to leave employment or engagement by the Company or any Group Company or offer employment or engagement to any Employee."

Towry made a claim for damages for breach of the non-solicitation clauses against the individual Defendants, and for breach of confidentiality and conspiracy against all the Defendants. The court dismissed the claim.

Legaleze comment: it is rare for such cases to go to full trial. The trial went on for more than a month and the costs must have been enormous. After a detailed analysis of the facts, the judge found that the individual Defendants had not broken the non-solicitation clauses, nor had any of the Defendants committed a breach of confidentiality or conspiracy.

Towry were convinced that they had ample evidence of acts of solicitation by the individual Defendants. However the judge found that Towry had not proved this. If the contracts had contained post-termination non-dealing or non-competition clauses, Towry might have succeeded in their claim. It must be remembered that post-termination clauses of this type may only be

upheld by the courts if they are justified in order to protect the employer's interests and are reasonable.

14/02/2012

Electricians' Tax Safe Plan campaign

Subject: Tax/Electricians

Source: HM Revenue & Customs ("HMRC")

HMRC have announced the Electricians' Tax Safe Plan (ETSP). The plan allows electricians to disclose voluntarily unpaid tax or undeclared income, in exchange for leniency in penalties and repayment terms, subject to conditions.

Notification of intention to take part in the campaign (done online, by phone or by post) must be given to HMRC by 15 May 2012. Then full disclosure and payment of tax owed must be made by 14 August 2012. See:

<http://www.hmrc.gov.uk/campaigns/etsp.htm#1>

14/02/2012

Free training launched to boost business mentors

Subject: Finance and funding. Government SME policy

Source: Better Business Finance

An online training tool has been launched to help get experienced business people mentoring small and medium sized enterprises (SMEs). The new training tool is part of the Get Mentoring scheme launched in November. The free tool is provided by the Small Firms Enterprise Development Initiative at: <http://www.getmentoring.org> is free to use.

10/02/2012

Better Business Finance start up top tips

Subject: Starting a business

Source: Better Business Finance

Better Business Finance (BBF) has announced providing "top tips" to help start-ups obtain finance. The new section of the BBF website has been designed specifically to help start-ups and provides a range of information including the top four questions likely to be asked by any lender, guidance on the sources of finance available and five top tips to help start-ups achieve lending application success.

The new start-up section of the BBF website is at: <http://www.betterbusinessfinance.co.uk/help-support/start-up-business-support>

The Better Business Finance campaign provides impartial information and support to business customers looking to raise finance. It is supported by the British Bankers' Association and the banks involved are Barclays, HSBC, RBS, Lloyds and Santander.

8/02/2012

Tax authority begins online advice seminars

Subject: Tax

Source: HM Revenue & Customs ("HMRC")

HMRC has begun a series of online presentations or webinars giving help on tax to businesses and the self-employed. The presentations last approximately 30 minutes. There are two types – live webinars on set dates, which allow a further 30 minutes for live Q&A; and pre-recorded webinars, available round the clock.

The webinars will cover many different topics, including:

- * Business expenses and capital allowances
- * First steps as an employer
- * The Construction Industry Scheme
- * Self Assessment online
- * Limited companies, an overview
- * How VAT works

Information and the webinar timetable is at:

<http://www.hmrc.gov.uk/press/online-advice.htm>

8/02/2012

HMRC extends its tax cheats campaigns

Subject: Tax

Source: HM Revenue & Customs (HMRC)

HMRC has announced a new campaign during the next year aimed at people who fail to make tax returns and who are liable to pay tax at the highest tax rates.

In two further campaigns, to be launched later in the year, the department will target tradespeople working in the home improvement market, and people who receive income from buying and selling goods direct to others, or are paid commission.

HMRC will use new technology to search the internet for information about specified, targeted people and businesses.

The new campaigns will focus on:

- * Missing returns: this will contribute to wider HMRC activity tackling failure to complete tax returns. It will initially focus on those who fail to complete tax returns and who are liable to pay tax at the highest rates.
- * Home improvement trades: this will build on campaigns aimed at plumbers and electricians, and will include several 100,000 tradespeople in construction and building work such as roofing, window fitting, bricklaying, carpentry and joinery.
- * Direct selling: this will target customers who ought to be paying tax on income they earn from buying and selling goods direct to others, or from the commission on these sales.

7/02/2012

New powers to tackle PAYE dodgers

Subject: Tax

Source: HM Revenue & Customs

From April 2012, HM Revenue & Customs (HMRC) will use powers to require employers to pay a security for payment of PAYE and NIC where there is "serious risk" of non-payment of the money they have deducted from wages and salaries in respect of PAYE or NICs.

HMRC says that the new power will be targeted at employers who deduct money from employees' pay packets, under the pretext of paying their employees' income tax and NICs, but have no intention of paying it to HMRC. This is an extension of a power that has already been successfully used for VAT, insurance premium tax and environmental taxes, and will not affect employers who have genuine payment difficulties.

The required security will usually be either a cash deposit from the business or director, or a bond from an approved financial institution that is payable on demand. HMRC will calculate the amount of the security on a case-by-case basis, depending on the amount of tax at risk, the employer's previous behaviour and other risks.

Businesses that fail to provide a security face a fine of up to £5,000.

More information on the new measure can be found at

www.hmrc.gov.uk/thelibrary/tax-payee/payee-securities.htm

Employers who have genuine problems paying their PAYE and NICs should contact HMRC as soon as possible.

7/02/2012

Apprenticeships - a gold standard option for ambitious young people

Subject: Employment/Apprenticeships

Source: Department for Business, Innovation and Skills

Apprenticeship week runs from 6 to 10 February. There are over 500 events across the country, taking place in schools, colleges and workplaces across England, at which young people and employers can find out more about local opportunities to benefit from an apprenticeship.

The Prime Minister announced a new round of Government funding to support thousands of apprenticeships up to degree equivalent, helping deliver the world class skills firms need to drive growth.

Businesses and training providers can bid for a share of £6m from the Higher Apprenticeship Fund, which will support the development of thousands of new Higher Apprenticeships in sectors including aerospace, energy and renewable technologies.

The Prime Minister also opened the bidding for the new Employer Ownership pilot, inviting employers in England to apply to access up to £250m of public investment and secure more control over how skills training is designed and delivered.

He also announced that from this week, small firms will be offered an incentive of £1,500 to hire their first young apprentices. This is expected to support up to 40,000 new apprenticeships over the next year.

A prospectus giving details of the Employer Ownership Pilot Investment Fund is now available for employers to download at www.ukces.org.uk/employerownership

For more information about the Higher Apprenticeship Fund, including information on how to apply for funding, visit:

<http://www.apprenticeships.org.uk/employers/the-basics/higher-apprenticeships.aspx>

Employers with up to 50 employees which do not currently hire apprentices will be encouraged to take on a young apprentice aged 16 to 24 with an incentive payment of up to £1,500. This will support up to 20,000 new apprenticeships in 2012/13. An initial payment will be made two months after the individual has started their apprenticeship; the balance will be paid after the apprenticeship has been completed and the trainee has progressed into sustainable employment

6/02/2012

Falls from height FAQs

Subject: Health and safety

Source: Health and Safety Executive

The Health and Safety Executive has published frequently questions and answers (FAQs) about work at height and the Work at Height Regulations 2005. Answers to the following questions are provided:

What do I need to do to comply with the Work at Height Regulations 2005?

Have ladders been banned?

What do the Regulations say about guard rails in respect to working platforms?

What height should guard rails be in non-construction activities?

What are working platforms?

What is meant by 'collective' and 'personal' fall prevention measures?

Do the Regulations still apply if I am working below 2 m in height?

Ladders and steps

Is a ladder right for the job?

How do I do a pre-use check?

Where can I find out more about ladders and stepladders?

What is the preferred method of climbing a ladder (eg by stiles or rungs)?

Mobile elevating work platforms (MEWPs)

What do I need to know about using MEWPs?

Scaffolding

What do I need to know about scaffolding?

Competence

Who is competent to work at height?

What do the Regulations say about competence?

The FAQs may be seen at:

<http://www.hse.gov.uk/falls/faq.htm#?eban=rss->

6/02/2012

Government and business press for prompt payment

Subject: Finance and funding. Government SME policy.

Source: Department for Business, Innovation and Skills

The Government and industry is calling on businesses and public organisations to pay suppliers on time and for small firms to pursue those who put them at risk by delaying. The Business Minister has announced a new working group of business representatives would examine issues behind late payment.

The Government's announcement also draws attention to a new guide on prompt payment published by the Association of Chartered Certified Accountants (ACCA) published.

The Government is encouraging SMEs to:

- * Proactively agree payment terms before delivering orders.
 - * Sign-up to the Government's Prompt Payment Code, run by the Institute for Credit Management (ICM) and representing an estimated 60% of supply chain value in the UK.
 - * Raise complaints over late payment from Code signatories and use legislation already in place to help companies pursue late payers.
 - * Use electronic invoicing where possible, automating process and adding instant transfer of the invoice and instant verification from the customer that the invoice has been received.
- "Get Paid!" is the ACCA's new guide for small businesses which contains tips and advice from both suppliers and customers. It contains advice for small businesses including invoicing and developing a well-defined credit policy.

The guide is available at:

http://www.accaglobal.com/content/accaglobal/gb/en/discover/news/2012/02/get-paid/_jcr_content/relateddocuments/parDocuments/download/file.res/GetPaid.pdf

Businesses can sign up to the Prompt Payment Code now at

<http://www.promptpaymentcode.org.uk/>

3/02/2012

Fresh approach to business records checks

Subject: Tax. Business records

Source: HM Revenue & Customs (HMRC)

HM Revenue & Customs (HMRC) has announced a fresh approach to its business records checks programme in 2012, following a review.

HMRC states that the review found clear evidence that it is effective in improving record-keeping practices in smaller businesses. However, it recommended that the checks are more targeted in future, linking to available education and support.

The pilot programme of business records checks (BRCs) began in April last year and involved checks by HMRC on the standard of small and medium-sized enterprises' statutory business records. Up until 4 January 2012, 2,437 business records checks had been carried out. These found that 28% of those businesses visited had some issue with their record keeping, and an additional 11% had issues serious enough to warrant a follow-up visit.

HMRC will now postpone making any new business records check appointments until the revamped approach outlined in the report is launched early in the 2012/13 financial year. This will allow further consultation with representative bodies on the implementation of the recommendations in the review and on some details of the new approach. In the interim, HMRC will only undertake visits already booked, as well as follow-up visits to businesses that have already been identified as having seriously inadequate statutory records.

The full findings of the HMRC review of its business records checks programme are published today on its website at <http://www.hmrc.gov.uk/businessrecordscheck/review.pdf>

03/02/2012

Football Association Premier League Ltd & others v AV Station plc and Secretary of State for Business, Innovation and Skills

[2012] EWHC 108 (Ch) Case No: HC06 CO4418, HC07 C00082, HC07 CO1749

Subject: Intellectual property/Copyright/Live TV football. Public houses

Source: High Court

Original case report provided by BAILII is acknowledged with thanks. Contains public sector information licensed under the Open Government Licence v1.0:

<http://www.nationalarchives.gov.uk/doc/open-government-licence>

Note: Legaleze prepared and is solely responsible for the following commentary

This judgment follows the ruling of the European Court of Justice ("ECJ") [see news item 4/10/2011] on the questions of EU law which the judge, Lord Justice Kitchin, previously referred questions relating to the FAPL's case to the ECJ.

The ECJ ruled that although live sporting events are not protected by copyright, broadcasts of such events and film, sound recordings, graphics, music and other features included within a broadcast are protected. Showing broadcasts via screens and loudspeakers in public houses amounted to "communicating" the copyrighted works to the public.

However, national law of EU member states may not prohibit the import of foreign decoders even if they were obtained by providing a false address or identity. In addition, broadcasters and other rights holders may not include clauses in licences for broadcasters which prevent them supplying decoders with a view to their use outside the licensed territory as that is contrary to EU competition law.

It fell to the High Court judge to apply the ECJ's ruling to the facts of the case. In summary, the judge held:

1. Section 20 of the Copyright, Designs and Patents Act 1988 as amended ("CDPA") prohibits the unauthorised "communication to the public" of copyrighted works in "a literary, dramatic, musical or artistic work, sound recording or film, or broadcast", for example by means of a broadcast of a

musical work shown in public.

2. A broadcast on a screen to customers in a public house was a communication to the public. It is also an infringement of the copyright in a literary, dramatic or musical work to show or play it in public, for example by broadcasting it without the consent of the owner of the copyright in the work.

3. Section 72 of the CDPA however provides that the showing or playing in public of a broadcast to an audience who have not paid for admission to the place where the broadcast is to be seen or heard does not infringe any copyright in the broadcast; any sound recording (except so far as it is an excepted sound recording) included in it; or any film included in it.

4. Public houses may therefore lawfully show customers the "raw" broadcasts under the terms of the CDPA but this did not extend to cover the showing or playing in public other copyrighted works including the Premier League anthem. The defence applied only to the sound recording of the anthem, not the anthem as a musical work in itself.

5. The judge accepted that he should draw up "declarations" of what the law was for clarity. Insofar as the Claimants in the cases had established breaches of copyright in the case of the Premier League anthem and other minor infringements, he ruled that the case should be referred to the Patents County Court to determine the minor damages for which the landlords might be liable.

6. Regarding the injunctions prohibiting future breaches which the Claimants sought, the judge indicated that he was minded to accept an undertaking to the court in lieu of an injunction" prohibiting future infringement by the parties if all sides could agree on the wording. The landlord defendants offered to undertake not to play the anthem out loud. QC offered to undertake to take appropriate steps to tell its customers not to allow the anthem to be played out loud.

Legaleze comment: although the final result of court hearing right up to the ECJ and back to the court is a victory for the public house landlords on the major point at issue, landlords and restaurateurs who wish to show broadcasts using foreign decoders will have some practical problems. This because the broadcasts contain features, such as graphics, opening video sequence and the Premier League anthem, which are still protected by copyright. Landlords will still have to obtain permission to broadcast those sequences, said the ruling, but not the match itself.

2/02/2012

RIDDOR guide published

Subject: Health and Safety

Source: Health and Safety Executive

The Health and Safety Executive (HSE) has published a new guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995.

This edition provides information about the updated Regulations, which will, subject to parliamentary approval, come into force from 6 April 2012.

As from this date, the period of incapacitation will increase from more than three days to more than seven days before the occupational accident or injury, which leads to the incapacitation of a worker, has to be reported.

Employers and those responsible for health and safety will also be required to send the report within 15 days of the accident.

Employers and others with responsibilities under RIDDOR must still keep a record of all over-three-day injuries - if the employer has to keep an accident book, this record will be enough. Records need to be kept for at least three years after an occupational accident or injury. It also includes information about new online reporting arrangements.

The new guidance, which will come into effect in April, may be downloaded from:

<http://www.hse.gov.uk/pubns/priced/l73.pdf>

2/02/2012

Football Dataco Ltd v Yahoo! UK Ltd ECJ Case C-604/10

Subject: Intellectual property/Database right/Football Leagues fixture lists.

Background

Database right is a special form of intellectual property based on EU law (Directive 96/9/EC). which has been transposed into UK law. The English and Scottish Football Leagues organise professional football matches in England and Scotland and produce fixtures lists. The Leagues claimed they owned database right in the fixture lists and demanded that the defendants pay a licence fee for permission to use the lists. The defendants argued that database right could not exist in the fixture lists as they were not sufficiently original. The lists had to meet detailed rules of the Leagues as to fixtures.

The English High Court held that database right did exist in the fixture lists. The judgment was appealed and the Court of Appeal referred certain questions of interpretation of the EU law to the European Court of Justice (ECJ). The ECJ ruled that the intellectual effort and skill of creating the data are not relevant in order to assess the eligibility of a database for protection by the database.

Legaleze comment: the ruling of the ECJ means that the case will go back to the Court of Appeal which will have to apply the ruling to the facts of the case. This is likely to result in a change to UK law.

1/02/2012

Pension automatic enrolment key regulations in place

Subject: Pensions

Source: Department for Work and Pensions

New regulations facilitate automatic enrolment for employers who do not calculate their pension contributions on qualifying earnings but nevertheless for most jobholders provide for contributions at or above the minimum required by law.

Guidance on certifying pension schemes has also been published. The guidance explains how employers can use certification as a means of ensuring that their money purchase scheme or money purchase element of their hybrid scheme can qualify to be used for automatic enrolment and related duties. It informs employers of the issues that they must consider in determining whether they can certify that their scheme(s) satisfies the relevant quality requirements, in respect of the relevant jobholders.

30/01/2012

Council receives £140,000 penalty for data protection breach

Subject: Data protection

Source: Information Commissioner's Office

The Information Commissioner's Office (ICO) has imposed a monetary penalty of £140,000 on Midlothian Council for disclosing sensitive personal data relating to children and their carers to the wrong recipients on five separate occasions. The penalty is the first that the ICO has served against an organisation in Scotland.

The five serious data breaches – all involving children's social service reports being sent to the wrong recipients - occurred between January and June 2011. One of them happened when papers relating to the status of a foster carer were sent to seven healthcare professionals, none of whom had any reason to see the information. In another case, minutes of a child protection conference were sent in error to the former address of a mother's partner, where they were opened and read by his ex-partner. The papers also contained personal data about the children's mother, who made a complaint to her social worker about this incident.

The first breach, which occurred in January 2011, did not come to light until March, when the Council began an investigation. Unfortunately, this did not prevent further similar incidents taking place in May and June.

Legaleze comment: this case underlines the fact that data protection laws apply not only to digital information but also to paper records if structured in a filing system relating living individuals.

26/01/2012

The Non-Domestic Rating (Small BusinessRate Relief) (England) Order 2012

Subject: Business real estate/Business

Source: legislation.gov.ukThis Order was made on 23rd January 2012.

Article 1 provides that this Order has effect for the purposes of determining eligibility for, and calculating the amount of, small business rate relief in respect of days falling on or after 1st April 2012.

Article 2 of this Order, together with section 43(4B) of the Local Government Finance Act 1988, ("the 1988 Act"), provides that the condition to be satisfied to obtain small business rate relief is that the hereditament must have a rateable value which is not more than £17,999 if situated outside Greater London and £24,999 if situated in Greater London.

Article 4 (in respect of the 2012/13 financial year) and article 3 (in respect of subsequent financial years) prescribe the amount of E under section 44(9)(a) of the 1988 Act, which determines the amount of relief to be given to a particular hereditament under the formula in section 43(4A)(a) of the 1988 Act. The effect of article 4 is to provide for a higher level of relief for the 2012/13 financial year.

25/01/2012

New timetable clarifies automatic enrolment starting dates

Subject: Pensions

Source: Department for Work and Pensions

A revised timetable for when employers of all sizes must start enrolling their staff in a workplace pension has been announced by the Government.

Large employers, those with 250 or more employees, will not face any change in the date they are due to start enrolling their staff.

The timetable for employers to begin enrolling their staff starts with the largest firms first, followed by medium, then small companies. Automatic enrolment will begin in October 2012. All existing firms will have enrolled their staff by April 2017, followed by all new employers by February 2018. The level of pension contributions will be phased in over time to help employers and individuals adjust. Full contributions will have to be paid from 1 October 2018.

Summary timetable:

50 to 249 members 1 April 2014 - 1 April 2015

30 to 49 members 1 August 2015 - 1 October 2015

Less than 30 members 1 January 2016 - 1 April 2017

Employers without PAYE schemes 1 April 2017

[Note: Employers are required to automatically enrol jobholders aged at least 22, under State Pension Age and earning more than £7,475 a year into a qualifying pension scheme. Minimum level contributions are at least the equivalent of 8% of qualifying earnings of which 3% must come from the employer. The remaining 5% is payable by the employee.]

25/01/2012

Plans for HGV road user charging scheme

Subject: Road transport

Source: Department for Transport

A new Heavy Goods Vehicle (HGV) road user scheme has been announced with the aim to create a fairer deal for UK hauliers.

Most EU states charge HGVs for using their roads e.g. a vehicle doing a two-day return trip from the UK to Belgium, Luxembourg or the Netherlands pays €16 in user charges. The Government points out that this means British vehicles have to pay to drive in Europe, while foreign ones do not pay in the UK.

The proposed scheme will levy a time-based charge of around up to £10 a day for HGVs of 12 tonnes or over using any road in the UK. The precise level of charges will depend on exchange rate and inflation at the time of implementation – likely to be 2015, subject to the legislative programme.

EU law prohibits any discrimination between UK-registered vehicles and vehicles from elsewhere in the EU so the charge would apply to all HGVs. The charging levels must comply with the Eurovignette Directive (Directive 1999/62/EC as amended by 2006/38/EC and 2011/76/EU) which sets out a framework of rules for tolls and charges, including maximum daily rates for the latter.

However, the Government proposes to compensate them for the charge probably by a reduction in Vehicle Excise Duty for UK-registered vehicles.

For 94% of UK-registered HGVs over 12 tonnes, hauliers would not pay any more than now. Four per cent would pay no more than £50 a year more and a further 2% would pay slightly over £50, but the maximum extra cost would be £79. Even these small increases could be avoided by most vehicles if they were replated to carry a slightly reduced weight.

Under the plans, UK hauliers would pay an annual (or six month) charge for each HGV at the same time and in the same transaction as they pay its Vehicle Excise Duty. Foreign hauliers could pay daily, weekly, monthly or annual charges.

The consultation will run until 18 April 2012 and can be found here:

<http://www.dft.gov.uk/consultations/dft-2012-03>

23/01/2012

Ban on Cosmetic surgery advertising

Subject: Selling and marketing/Advertising to consumers regulations

Source: Advertising Standards Authority

The Advertising Standards Authority (ASA) has reacted to the British Association of Aesthetic Plastic Surgeons (BAAPS) calling for a ban on the advertising of cosmetic surgery, following recent headlines and public health concerns about faulty breast implants.

The ASA states that while any ban would have to be passed by Government through legislation; the ASA is committed to ensuring that all ads for cosmetic procedures stick to the strict Advertising Codes which require ads to be prepared responsibly and avoid being misleading, harmful or offensive.

The ASA notes that advertising of cosmetic surgery has become increasingly commonplace over the last few years. As the procedure is legally available it is also legally allowed to be advertised, subject to strict rules.

The ASA states that it is its role to respond to concerns about ads and assess whether it needs to take any action. It points to the following recent ASA action in this area:

* MyCityDeal Ltd t/a Groupon UK – ASA considered an e-mail offering discounted cosmetic surgery pressured consumers into making a decision to (to all intents and purposes) purchase cosmetic surgery was irresponsible.

* Spire Healthcare Ltd - A poster ad for breast enhancement surgery was likely to be seen as trivialising breast enhancement surgery and appeared in a medium likely to be seen by children.

* My Aesthetics Ltd t/a Mybreast - A magazine ad, for My Breast promoting the surgery as "safe", was irresponsible and misleading.

* Harley Medical Group Ltd - A poster ad, for cosmetic surgery promoting a surgical operation as "EASY" was irresponsible and misleading.

23/01/2012

Business in You campaign launched

Subject: Government SME policy

Source: Department for Business, Innovation and Skills

The Prime Minister today launched the “Business in You” campaign aimed at inspiring people to start or grow their own businesses and helping small businesses and entrepreneurs understand the information and help available from the Government and private sector.

The campaign features a new [“Business in you”]

<http://businessinyou.bis.gov.uk>

This portal aims to bring together the resources available to business owners and entrepreneurs to help them start or grow their business as well as inspire them with stories of how other people have achieved success.

Also announced is the “Enterprise Calendar” hosted on the [StartUp Britain] site:

<http://www.startupbritain.org>

The Enterprise Calendar is an interactive calendar of enterprise events such as courses, talks and other events of interest to owners and managers of SMEs on a variety of subjects including marketing, online selling, tax for employers, first aid etc.

The Government has also announced plans to make empty and under-used Government office space available to small businesses. There are currently over 300 buildings in the central government estate with space in England. The Government, working in co-operation with landlords, will offer as much of this space as possible to small businesses, giving them space to grow at a low cost. The Government will invite incubation organisations, who help new and existing small businesses prosper, to manage and allocate these spaces. These organisations will also provide the businesses with access to support and business advice.

3/01/2012

Happy International Year of Co-operatives

Subject: Business organisations/Co-operatives

Source: The International Co-operative Alliance

The International Co-operative Alliance has launched a website for 2012 - the United Nations International Year of Co-operatives. Among other news, there is a link to the new film about the Rochdale Pioneers. See:

<http://www.2012.coop/en/media/news/january-edigest-happy-international-year-co-operatives>