

Helping Businesses with the fallout from COVID-19



Lianne Craig and Gonzalo Antón Tascón from Hausfeld London, chat to the Spanish Chamber of Commerce (SCoC) upon joining as corporate members. Hausfeld is a specialist law firm with offices on both sides of the Atlantic. Lianne is partner and head of the commercial disputes team and Gonzalo is an associate at the same firm. We talk about developments in Spain but also about the Commitment they made to assist businesses adversely impacted by COVID-19.

SCoC: Welcome to you both. Perhaps not many of our members may know you are active in Spain.

Lianne: You are correct in that we don't have an office in Spain, but we have worked with Spanish clients on many cases for the past ten years, often in collaboration with other Spanish law firms. For example, we helped Spanish clients with pursuing their claims in relation to interchange fees on both cross-border and domestic card transactions in 18 European countries as part of the infamous Interchange Fees litigation. Currently, we are acting in claims brought in England for a number of Spanish businesses including a tech start up in a high value dispute against a global travel business. We are also assisting Spanish dairy farmers impacted by the Milk Cartel.

Gonzalo: Thanks to the Damages Directive in 2014, it has become much easier for businesses to claim for losses suffered as the result of anti-competitive behaviour. If the European Commission or a National Regulator issues fines against businesses for their participation in price fixing cartels or for abuse of their dominant position, it is possible for those affected by that behaviour to claim compensation. Corporates do not always have the time to monitor these decisions and investigations. We can help with that, and we pursue these claims on behalf of our clients usually in such a way that means that we remove all the upfront cost and risk.

SCoC: And you have a Spanish team in London?

Lianne: Yes, very much so. We have a growing team of Spanish speakers. I have lived and worked in Madrid and have worked for many Spanish clients over my 20-year career. Gonzalo recently joined us as a Spanish qualified associate and we are supported by Spanish speaking interns. The team continues to grow.



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SCoC: Would you agree that COVID-19 still seems to be the topic that plays most on people’s mind?

Lianne: Indeed. As the pandemic fall out continues in both the UK and Spain, and other countries globally, the impact on businesses grows - as does the severity. We have already noticed a number of disputes arising out of COVID-19. The most obvious ones are breaches of contract arising out of business interruption, event or order cancellation, supply chain issues, non-performance or partial performance or disrupted performance. We see contractual arguments relating to force majeure, frustration and material adverse change clauses. Not to mention insurance disputes. Depending on the circumstances, parties may have claims for losses suffered as a result of any of the above.

SCoC: Could you name an example?

Gonzalo: Force majeure arguments are a good example. To avoid complying with contractual obligations, some parties may seek to rely on force majeure arguments, with COVID-19 being an unforeseeable event. In those circumstances, the impacted party may well have claims against its counterparty for wrongfully seeking to rely on force majeure and may be able to recover its losses from the counterparty. Remember how the prices of hand sanitiser increased, especially at the beginning of the crisis? If a dominant player in the market uses the COVID-19 situation to unreasonably increase its prices, such potentially unlawful abuse of its position may have an adverse effect on a business operating in that sector and/or reliant on its products.

SCoC: When we spoke first, you mentioned the Hausfeld COVID-19 Commitment? What does this entail?

Gonzalo: A big part of what we do - and which is not always known as people see us as commercial lawyers - is our pro-bono work or how we use flexible fee structures. Improving access to justice for individuals and businesses lies at the heart of what we do. The impact of the pandemic will be felt for a long time after the health threat has passed. We wanted to acknowledge that COVID-19 will have a devastating impact and that the road to recovery for many businesses will be long.

Lianne: Hausfeld London will commit up to £1 million of lawyer time to enable businesses impacted by COVID-19 to investigate claims they may have arising as a result of the ensuing business disruption. This is what we call the Commitment. Offering up lawyer time and expertise is the firm's way to play its part in that recovery. The investigation will be done on a non-recourse basis, i.e. the claimant will not have to pay for that time spent. We were looking for a practical and thoughtful way of helping affected businesses. Something that is of real benefit to them in these challenging times.

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SCoC: What do you mean by 'impacted by COVID-19'?

Gonzalo: As explained in some of the examples we discussed, businesses may have incurred losses as a consequence of the actions of a contractual counterparty that may have failed to comply with contractual obligations in the wake of the COVID-19 pandemic. The aim of the Commitment is to assist claimants in that situation.

SCoC: Do you need to be an existing Hausfeld client?

Gonzalo: No, any business could be eligible – but it is limited to businesses only and the contracts need to be subject to English law.

SCoC: I believe there is a cap on the investment sum per claim?

Lianne: Yes, we have set a maximum time we invest per claim at £50,000. The cap has been set because we believe that this offers sufficient time for us to provide clients with a preliminary assessment; and we want to make sure that a significant number of businesses will be able to make use of the £1 million Hausfeld COVID-19 Commitment.

SCoC: What if the fees surpass £50,000?

Gonzalo: The Commitment is for the investigation costs. The investigation will always be completed within that cap. In order to pursue the claim, we will then discuss with the client how it wants to take the dispute forward. It is ultimately their decision and in almost all circumstances, those investigation costs will not need to be repaid.

SCoC: So I think I may have a claim. What do I do?

Lianne: Any of your members could contact myself or Gonzalo. You can contact us through the specific Commitment telephone number + 44 20 7936 0949 - or you can email us on covid19commitment@hausfeld.com. We will be able to gauge the level of investigation time needed and will discuss this upfront. We will consider each claim in its own right. Some claims may be smaller and therefore investigation costs will lie well within the cap. Some may be swiftly resolved even.

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