



EARLY
MORNING
MEDIA

Global Legal News

*A monthly media round-up of news, views
and comment pertaining to global law*

Monday 25th March 2019

NORTH AMERICA

Uber reaches \$20m settlement with drivers

Uber has agreed to pay \$20m to thousands of its drivers in California and Massachusetts who sought to be reclassified as employees. The proposed settlement is substantively less than a previous \$100m settlement reached in the same case. Uber, like other gig companies, robustly resists attempts to turn its independent contractors into employees, saying this would be inimical to workforce flexibility. Critics contend that such companies are seeking to avoid the expense of paying minimum wage, overtime, expense reimbursement, unemployment insurance, and other benefits.

Bloomberg NBC News San Francisco Chronicle

Half of insider-trading defendants net less than \$60k

Half of all inside traders targeted by authorities made less than \$59,000, while nearly 40% were friends and relatives of company employees who were close to market-moving information, according to a new paper from St. John's University School of Law in New York. Nevertheless, the average haul for insider-trading defendants was still almost \$1m in the 465 cases examined from 2011 to 2015. Michael Perino, author of the study, said the findings raise questions about whether authorities, including the Securities and Exchange Commission, have become too cautious in the wake of court setbacks to pursue the most challenging cases.

Wall Street Journal

How Tesla sought to destroy a whistleblower

A former security manager at Tesla's Nevada Gigafactory has told Bloomberg's *Businessweek* magazine that the auto company engaged in a smear campaign against whistleblower Martin Tripp. Sean Gouthro, who filed a whistleblower report with the Securities and Exchange Commission on January 24th, claimed Elon Musk personally hired Tesla investigators to hack into the employee's phone, monitor his messages, and even mislead police about a potential mass shooting, all in response to whistleblowing.

Bloomberg Businessweek Financial Times

Madoff trustee wins appeal on foreign transfers

Irving Picard, the trustee liquidating Bernard Madoff's Investment Securities business, has been given the go-ahead by a U.S. federal appeals court to recoup stolen money that passed between foreign banks and other firms, in a ruling that broadens the international reach of U.S. bankruptcy laws. The ruling covers \$4bn in foreign transfers, according to a

spokeswoman for Mr. Picard. Although the assets aren't guaranteed to come back to the bankruptcy estate, Mr. Picard can continue suing for their return. Mr. Picard's attorney Seanna R. Brown said the Second Circuit had "closed a loophole that threatened the trustee's ability to recover funds stolen in New York and subsequently transferred overseas."

Wall Street Journal Reuters

Ethical concerns raised over legal tech venture capitalists

Bloomberg's *Big Law Business* discusses the potential ethical pitfalls of the growing number of venture capitalist firms investing directly in legal tech start-ups. Legal ethics experts have raised concerns that investors could potentially create a conflict of interest and advice to clients could be tainted. According to figures from the Legal Tech Sector Landscape Report by Tracxn Technologies, investments in legal tech jumped from \$233m in 2017 to \$1.7bn in 2018, and the number of legal tech companies has grown from 50 to about 1,500 in the last five years.

Big Law Business

Blockchain and the law

Bruce A. Langer, a litigation partner at McLaughlin & Stern, suggests that blockchain has the potential to truly revolutionise the drafting and performance of contracts, but requires "a database of all general and particularised terms of a draft agreement with conditions and the requirements of the parties." However, he adds that other aspects of legal practice are not yet ready to function on a blockchain, such as litigation, and that issues concerning confidentiality and privilege will hamper a blockchain litigation ledger.

New York Law Journal

Criminal organizations are in the hunt for top talent

Forbes contributor Lee Mathews says criminal organizations are prepared to pay handsomely for top tech talent. He notes a report from digital risk protection service Digital Shadows that highlights a "help wanted" ad posted on dark web hacking forums promises seven-figure annual compensation.

Forbes

EUROPE

No-deal would see EU lawyers lose right to exemption

The Solicitors Regulation Authority (SRA) says that a no-deal Brexit would see an end to exemptions to the transfer examination that lets lawyers from the EU practise in England and Wales, defining them as registered European lawyers (RELs). The almost 700 EU lawyers practising in England and Wales already will be allowed to continue under the terms of the REL agreement until 2020, when they will have to decide whether to qualify as English and Welsh solicitors or join the registered foreign lawyer scheme, under which they will be prohibited from conducting certain functions. Paul Philip, the SRA's chief executive, said: "Whatever the outcome of the negotiations, it is important that we are prepared to make sure the transition to any new arrangements takes place as seamlessly as possible."

The Times

Scandal-hit Nordic banks are 'close to panic'

The head of Finland's Financial Supervisory Authority (FSA) has stressed the risks inherent in Nordic banks' response to the money laundering scandal that has engulfed the region's lenders. "This money laundering discussion is very close to panic, and that is very dangerous," said FSA director general Anneli Tuominen, adding "It would be the worst possible end result of this discussion if banks would suddenly start to withdraw money from certain markets." Meanwhile, the *FT*'s Richard Milne says the Nordic 'dirty money' scandal involving Danske Bank, Nordea and Swedbank "demonstrates how these supposedly whiter-than-white countries are an essential part of the alleged corruption."

Is the UK failing in the fight against money laundering?

Lawyers say government claims that the UK is cracking down on financial crime do not correspond with prosecution statistics, following revelations that not a single prosecution has been brought under new money-laundering regulations. Ruth Paley at law firm Eversheds, who uncovered the figures, says most white-collar crime specialists believe the UK is failing to bring money launderers and their facilitators to book. Others, however, says the situation is more nuanced and it is only a matter of time before prosecutions are brought. Meanwhile, the *FT* reports that a Lords committee says financial crime such as fraud and money laundering should be subject to the tougher laws that apply to bribery.

The Times Financial Times The Times

Only one fraud in 50 leads to prosecution

Research by BDO indicates that fraudsters stole at least £750m from businesses in Britain last year but only one fraud in 50 leads to a prosecution. Kaley Crossthwaite, the firm's head of fraud, said the 525 reported fraud cases last year were "the tip of the iceberg," adding: "Given the amount of frauds we see out there, the amount of prosecutions at a corporate and individual level is tiny." BDO's survey only includes frauds of above £50,000 and the firm estimates that the true cost of fraud for UK companies could be up to £37.5bn a year, with many high-value complex fraud cases dealt with outside the judicial system so companies can avoid reputational damage.

The Times

Clarification of NDAs doesn't go far enough, says minister

Maria Miller, the chair of the UK's work and equalities select committee, claims that victims of sexual discrimination at work who are forced to sign gagging orders will not be protected under new plans announced by the government. She warned that actions proposed by ministers were at risk of "not going far enough" if they "simply reiterate the existing law" and failed to tackle non-disclosure agreements (NDAs) being used to cover up discrimination. The UK government has launched a consultation intended to "clarify the law" around NDAs, which was prompted after an investigation by *The Daily Telegraph* disclosed how Sir Philip Green used NDAs to silence and pay off at least five members of staff at his Arcadia Group who accused him of sexual harassment, racism and bullying.

The Daily Telegraph The Times Daily Mail The Sun Financial Times

Law firms eye gig economy to go flexible

Top tier 'Magic Circle' law firms in the UK are taking inspiration from the gig economy employment model by creating networks of self-employed lawyers to deliver services on a flexible basis. Linklaters is exploring the launch of such a scheme, Clifford Chance has announced a program, and Allen & Overy opened its flexible service, known as Peerpoint, in London in 2013. Tony Williams of legal consultants Jomati said the model "gives firms a little bit more wiggle room in an uncertain market," adding "You don't have to have all the headcount to meet budget but you have very good quality people able to pick up the slack if necessary."

City AM

Bavarian court upholds headscarf ban for judges

Bavaria's constitutional court has confirmed the legitimacy of a state ban on judges and prosecutors wearing headscarves. The state court rejected an appeal by an Islamic religious community to overturn such a ban, saying justices were required to be neutral in questions of religion and ideology. *Deutsche Welle* notes that the court said the presence of crosses in courtrooms was a different matter.

Deutsche Welle

Employee campaign platforms need long-term credibility

The Times' Katherine Griffiths considers the popularity of campaign websites that help staff group together to petition employers over harassment or other workplace issues. One UK platform called Organise put together a petition calling for Ted Baker to investigate its chief executive over misconduct allegations – a move that led to his resignation. But Griffiths wonders if the lack of accountability means such platforms can be a force for ill as well as good.

The Times

Iceland: 'A Land Shaped By Women'

Forbes contributor Alana Glass reviews the documentary film “A Land Shaped By Women” in which first-time director Anne-Flore Marxer highlights Iceland’s progressive social policies and interviews gender equality advocates including Katrin Oddsdottir, a human rights attorney who took part in writing Iceland’s new constitution.

Forbes

French court clerks to use IBM blockchain platform for corporate registry

French commercial court clerks will use a blockchain-based platform to record changes in companies’ legal status within the country. The blockchain network was jointly developed by IBM and the National Council of Clerks (NCC) and will reportedly be deployed in 2019.

Coin Telegraph

EU tries to take political heat out of ‘rule of law’ clashes

Europe ministers from Germany and Belgium are set to propose the creation of an expert-led “peer review of the rule of law,” with EU governments set to broadly support the move.

Financial Times

LATIN AMERICA

Vale employees and contractors are arrested again

A Brazilian court has ordered the re-arrest of Vale employees and contractors who assessed the stability of the dam in Brumadinho, Minas Gerais, that burst in January and killed at least 300 people. They were released by an appeals court order on February 5th after their initial detainment. More than 100 people are still unaccounted for following the breach of the Feijao dam, which was used to collect mining waste. Leaked documents from an official investigation suggest that Vale sacked an auditor that had refused to sign off the dam as safe. Vale replaced the auditor with TÜV SÜD, a German certification company, according to a document summarizing the early findings of a task force investigating the failed dam.

Reuters Wall Street Journal New York Times

AFRICA

Mozambique files case against Credit Suisse

The government of Mozambique has filed a case in the High Court in London against Credit Suisse over what has become known as the “tuna bond” scandal. Credit Suisse was one of the lenders that helped to arrange \$2bn (£1.5bn) of government-backed loans that pushed Mozambique into a debt crisis. Also named in the filing are three former Credit Suisse bankers, who have already been indicted in the US.

BBC News Financial Times

Kagiso named hackathon winner

Online mediation platform Kagiso has won the South African leg of Global Legal Hackathon 2019 (GLH2019), which was run by the Hague Institute for Innovation of Law (HiIL) and Baker McKenzie. Kagiso uses machine learning to match cases with professional mediators

who have the most relevant skillsets to be effective – such as subject matter experience or knowledge of local languages – and stores records using blockchain technology.

Disrupt Africa

MIDDLE EAST

Former Barclays exec 'felt sick' over 2008 Qatar deal

A London court has heard that former Barclays banker Richard Boath told in-house lawyers that he "felt sick" when it emerged the bank could be challenged by criminal authorities over side-deals with Qatar during a 2008 emergency fundraising. Mr Boath, former Barclays CEO John Varley, and former senior colleagues Roger Jenkins and Tom Kalaris are charged with conspiracy to commit fraud by false representation over how they secured a \$14bn capital raising as the bank sought to avoid a UK state bailout amid the financial crisis.

Reuters The Times

Labour court helps Saudi salary settlement case

A labour court in Saudi Arabia has helped the reconciliation of 250 Saudi employees and their employer in a settlement dispute. The employees had not been paid their monthly salaries, holiday allowances, and other benefits. The court in Dammam subpoenaed the employer and agreement was reached. The courts have only recently been established and have the power to levy fines against companies that delay payment of salaries.

Saudi Gazette

No summer holidays for Abu Dhabi judiciary

The Abu Dhabi Judicial Department has said there will be no holidays for judicial officials this summer and work will continue throughout the year following customer surveys that indicated a need for judicial staff to be available throughout the summer vacation. Abdullah Saif Zahran, director of the strategic planning division of the Abu Dhabi Judicial Department, said summer holidays had led to "a significant decline in the rate of completion of court cases because of the decrease in the number of judges and other administrative staff, which has been affecting the legal services."

Khaleej Times

Egypt lifts ban on ride-hailing services

Egypt's top administrative court has lifted a ban on operations by Uber and Careem. Permits for the ride-hailing firms were rescinded in March 2018 after 42 taxi drivers filed a lawsuit claiming the apps were illegally using private cars as taxis and were registered as a call centre and an internet company, respectively. Both companies filed appeals and secured a ruling allowing them to operate, pending a verdict by a higher court. The latest decision is final and cannot be appealed.

Reuters

ASIA-PACIFIC

Jaguar wins legal battle over Chinese copycat

Jaguar Land Rover (JLR) has been successful in a court battle against Chinese car manufacturer Jiangling Motor Corporation, with the British firm saying its rival had "directly copied" elements of Evoque model for its Landwind X7. Beijing's Chaoyang district court ordered the Chinese firm to stop selling the vehicle and pay JLR compensation. Keith Benjamin, JLR's global head of legal, said: "This ruling is a clear sign of the law being implemented appropriately to protect consumers and uphold their rights so that they are not confused or misled, whilst protecting business investment in design and innovation."

Caixin Daily South China Morning Post The Daily Telegraph Financial Times

Xavier: IPBA is refreshing its image

Asian Legal Business speaks to Francis Xavier SC, regional head of dispute resolution at Rajah & Tann and president-elect of the Inter-Pacific Bar Association (IPBA) which will hold its 29th Annual Meeting and Conference in Singapore from April 25th-27th. The IPBA is intended to provide a platform for lawyers around the world to “work together to analyse to solve to tackle to grow in terms of their approaches to common legal problems,” he explains, adding: “The one thing that we’re just in the process of, which I’m spearheading together with the help of the current president, is refreshing our image.” He says that it is important to recognise how the legal landscape has changed since the organisation was formed in the 1990s.

Asian Legal Business

Huawei planning legal action over US product bans

Chinese telecoms giant Huawei plans to take legal action against the US government for banning federal agencies from using its products. The US Department of Justice has so far levelled 23 criminal charges against Huawei, including accusations of corporate espionage and breaking sanctions.

New York Times

UK told to return Chagos Islands

The International Court of Justice (ICJ) has ruled that the UK should give up its control of the Chagos Islands and hand them back to Mauritius “as rapidly as possible.” ICJ president Abdulqawi Ahmed Yusuf said the detachment of the Chagos archipelago from Mauritius in 1965 was illegal and the UK’s continued administration “constitutes a wrongful act.”

The Guardian The Times The Daily Telegraph

Philippines to charge Sanofi employees over dengue drug

The Philippines government is to charge six Sanofi employees over 10 deaths that prosecutors claim are linked to the French pharmaceutical firm’s dengue vaccine. Health officials are also to be charged.

Financial Times

GLOBAL

European countries are top for women’s legal rights

The latest edition of the World Bank’s Women, Business and the Law index, which examines legal rights across the world’s labour markets, ranks Denmark, Sweden, Belgium, France, Latvia and Luxembourg in the top cohort. “Six economies - Belgium, Denmark, France, Latvia, Luxembourg and Sweden - score 100 in the Women, Business and the Law index, meaning they give women and men equal legal rights in the measured areas. A decade ago none of these economies scored 100, indicating they all reformed over the past ten years,” the report said. Austria, Canada, Estonia, Finland, Greece, Ireland, Portugal, Spain and the UK followed the top six with scores of 97.5, ahead of Australia, Iceland and Serbia, with scores of 96.88. Germany scored 91.88, and the US registered 83.75. Saudi Arabia came in last on a score of 25.63, and the bottom five was rounded out by the UAE and Sudan (both 29.38), Iran (31.25), and Qatar (32.5).

Copenhagen Post Reuters Voice of America

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