Transformation in Retail for the Holidays

Adapting to Consumer Expectations and Legal Shifts in a Changing Landscape

Retail and Fashion
Holiday Guide 2024

Hogan Lovells

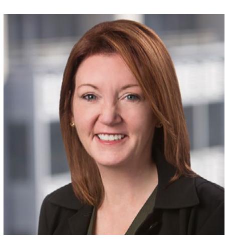
Contents

Whether you're decking the halls of a luxury boutique or managing a global e-commerce empire, this guide will help you navigate the holiday season and bring confidence into 2025.

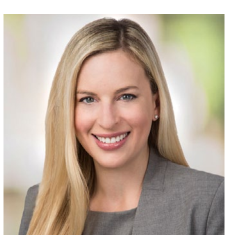
Introduction

As the festive season heralds lights on storefronts and fills shopping carts around the world, the retail and luxury sectors find themselves navigating unprecedented change. Consumer expectations among various demographics are shifting faster than ever, and the legal and regulatory landscape in countries that are key to the supply and sales chain for luxury goods is evolving just as rapidly. To thrive in this dynamic environment, businesses must balance innovation with compliance—meeting the market demands of the moment while preparing for what's ahead.

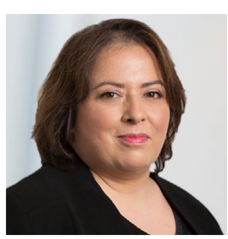
This global guide brings together insights on the current and future of retail from industry leaders across the globe. From the bustling holiday markets of Europe to the fast-paced online storefronts in North America and Asia, we explore how retailers can tackle the challenges of this holiday season and gear up for success in 2025. Inside, you'll find guidance on incorporating AI into retail operations while mitigating risk, complying with KYBC obligations under the Digital Services Act, and leveraging agreements to optimize supply chains. We also delve into legal implications for Chinese Daigou, PFAS regulations, and sustainability mandates in the EU, such as extended producer liability laws. The guide offers actionable strategies for addressing everything from regulatory requirements and sustainability initiatives to supply chain complexities and evolving consumer demands.



Kelly Tubman Hardy
Partner, Washington D.C.



Meryl Bernstein
Partner, New York



Sahira Khwaja
Partner, London

AI and Retail: Revolutionizing Your Shopping Experience This Holiday Season

This holiday season, Artificial Intelligence (AI) isn't just a tool for buyers; it's poised to become the "secret Santa" every shopper has dreamed of, transforming the shopping experience into something truly extraordinary.

The retail industry is beginning to unlock the full potential of AI, recognizing its significant benefits for businesses. AI is driving innovation across every facet of the supply chain—from creating personalized, seamless shopping journeys to elevating customer experiences to entirely new levels. By leveraging AI technologies, retailers are redefining how they connect with consumers, streamlining everything from demand forecasting to product promotion and enhancing the impact of every customer interaction.

In the past, tools for personalizing shopping experiences were limited to basic recommendations based on purchase history or search patterns. Today, AI goes far beyond that, crafting deeply personalized shopping journeys by analyzing customers' lifestyles, moods, preferences, and even body types. Once fully implemented, AI makes finding the perfect gift easier—and more enjoyable—than ever.

AI-powered chatbots and virtual assistants are also transforming customer service, offering 24/7 support. These tools efficiently handle inquiries, track orders, and assist with returns, enhancing responsiveness and driving customer satisfaction.

Beyond improving the customer-facing experience, AI is streamlining back-end operations. By analyzing shopping behavior, consumer sentiment, social media activity, global events, and more, AI can accurately forecast trends, enabling fashion brands and retailers to make smarter, proactive decisions.

Brick-and-mortar stores are benefiting, too. Technologies like computer vision are enabling consumers to receive personalized advice from style consultants and experiment with clothing combinations using 360-degree configurators capable of assembling millions of outfit options.

Retailers should keep in mind that the use of AI brings new legal challenges. They are responsible for chatbot-generated responses and any algorithms that result in discrimination. Additionally, retailers should be aware of the challenges involved in protecting AI-generated content and meeting AI-related disclosure obligations.

As retailers prepare for the holiday season, the integration of AI promises to bring unparalleled convenience, joy, and magic to the shopping experience. From helping shoppers find the perfect gift to enabling retailers to manage operations with greater efficiency, AI is making sure the spirit of the season shines brighter than ever.

Luigi Mansani
Partner, Milan

Maria Luigia Franceschelli
Counsel, Milan

Laura Trevisanello
Associate, Milan

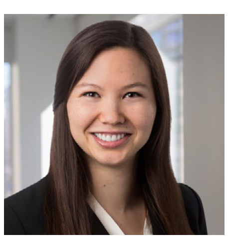
US Creates Challenges for Data Supply Chains

As retailers navigate the logistical challenges of fulfilling orders and seek to leverage global support for analytics, marketing, and other data initiatives, they should consider new challenges impacting global data flows.

In early 2024, the White House issued an Executive Order instructing certain federal agencies to take action to restrict certain foreign access to Americans' government-related data and bulk sensitive personal data, signaling an intensifying focus on data transfers that may pose national security concerns. And following instructions set forth in the Executive Order, in October of 2024, the US Department of Justice issued a notice of proposed rulemaking setting forth proposed restrictions on data transactions that may provide China, Cuba, Russia, North Korea, Iran, Venezuela, or certain natural persons or legal entities subject to their jurisdiction or control with covered data.

The framework, which may become final as early as January 2025, would impact a large range of data transactions involving demographic data, device identifiers, government identifiers, financial account information, advertising IDs, account credentials, IP addresses, biometrics, and precise geolocation data, along with certain other sensitive data. Some transactions would generally be prohibited—such as data brokerage transactions (i.e., sales or licenses of data to parties that did not collect the data directly from individuals). And some transactions—such as employment agreements, vendor agreements, and investment arrangements—may be restricted, requiring the implementation of security requirements set forth in a proposal from the Cybersecurity and Infrastructure Security Agency.

W. James Denvil
Partner, Washington D.C.



Alyssa Golay
Senior Associate, Washington D.C.

In the New Year, retailers may need to assess:

- whether their data transfers may be prohibited or restricted;
- how to implement required security controls; and
- how to manage the complex contractual and reporting obligations set forth in the framework.

Jingle Bells, KYBC Tells: Ensuring Gifts Are the Only Surprises This Year—Not Their Sellers

As the holiday season approaches, it's time to unwrap a gift that keeps on giving to all you cozy armchair shoppers and brand owners alike: the Know Your Business Customer (KYBC) obligations under Article 30 of the Digital Services Act (DSA). Just as Santa double-checks his list to keep track of all the good boys and girls, since February, online marketplaces have been required to ensure that traders on their platforms are well-behaved and traceable.

Not everyone is made for the bustling malls and crowded shopping streets in December. Many prefer the warmth of a roaring fire and a mug of hot chocolate while shopping for loved ones. Sleigh bells ring, and e-commerce sings! Online shopping is not only convenient but also increasingly safe in the EU, thanks to the DSA, the Omnibus Directive, and new product safety regulations like the General Product Safety Regulation.

However, without proper enforcement, many of these safeguards can become little more than empty promises—something brand owners know all too well. While the EU has long required online sellers to provide basic information like names and contact details, not every seller has been playing by the rules. This year, the European Union has ensured that marketplace providers step in to check the list twice.

With the DSA now fully in force, online marketplaces must make their best effort to verify sellers using public databases and supporting documentation. Before a seller can use the platform, they must provide:

- Contact and trade registry details,
- Payment account information, and
- A self-declaration of compliance with applicable EU and Member State laws.

But making it onto Santa's nice list takes some effort—and so does compliance. Marketplace providers are now navigating a maze of inconsistent public databases and documents across the EU to meet these requirements. The goal? Ensuring that the only surprises this holiday season are under your tree—not in your online shopping cart.

Wishing you a merry and bright holiday season filled with joy, laughter, and safe online shopping!

Anthonia Ghalamkarizadeh
Partner, Hamburg

Marvin Jaeschke
Associate, Hamburg

EU Takes on Fast Fashion: A Bold Step Towards Sustainable Style

Fast fashion's days are numbered as the EU tackles its environmental and social costs. Each year, 5 million tons of clothing – 12 kilograms per person – are discarded in the EU, with less than 1% recycled. As the third-largest consumer of water and land, the fashion industry is a critical environmental challenge. In parallel, approximately 27.6 million people work in forced labour conditions worldwide.

Greener fashion

The EU **strategy for sustainable and circular textiles** envisions a future by 2030 where our wardrobes are not just stylish but also sustainable, ethical, repairable, and eco-friendly. Through a legislative package[1] that recently came into force, the EU outlines bold measures to reshape the industry:

- Mandatory eco-design standards for longer-lasting, repairable textiles with minimum recycled content.
- A Digital Product Passport to provide consumers with clear environmental data about products.
- Ban on destruction of unsold or returned textiles to combat overproduction.
- Curb microplastic pollution from synthetic fabrics.
- Stricter rules against greenwashing to ensure accurate environmental claims.
- Extended Producer Responsibility rules ('EPR') for textiles across all of the EU to incentivise sustainable product design and waste reduction.
- Limits on textile waste export, prioritizing global sustainability.
- Support for circular models, including repair and reuse sectors.

Fairer fashion

Tackling another scourge of fast fashion, a new EU Directive[2] requires businesses to address human rights abuses in their supply chains, including child labor, ahead of the upcoming ban on products made with forced labor in the EU market.[3]

Alexandra Bray
Senior Associate, Brussels

1 This includes notably: the Regulation 2024/1781 of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products (ESPR); the Regulation 2024/1157 of 11 April 2024 on waste shipments; the Directive (EU) 2024/825, of 28 February 2024 for empowering consumers in the green transition; the European Parliament legislative resolution of 12 March 2024 on the proposal for a Green Claim Directive, awaiting Council first reading position (COM(2023)0166 – C9-0116/202 – 2023/0085 (COD)).

2 Directive 2024/1760 of 13 June 2024 on Corporate Sustainability Due Diligence.

3 On 6 November 2024, the Council adopted the EU Commission's proposed regulation of 14 September 2022.

By rewriting the rules of fashion, the EU is blending style with sustainability, ethics, and accountability.

Fast fashion’s time is up.

Extended Producer Responsibility: Staying Off California's Naughty List

Opening presents is, of course, one of the most fun parts of the holidays, but what happens to all the packaging that is quickly opened and cast aside? Businesses should ask themselves this question now to avoid receiving future lumps of coal courtesy of California's landmark extended producer responsibility (EPR) law for packaging, Senate Bill 54 (SB 54).

Traditional EPR laws shift the responsibility and costs of processing, recycling, and disposing of specific single-use packaging from municipalities to producers—e.g., thermostat and prescription drug disposal programs. Four states – Colorado, Maine, Minnesota, and Oregon – are implementing traditional EPR regimes for single-use packaging. What makes California's SB 54 unique, however, is that uses EPR to accomplish California's broader environmental policy goals, including:

- **Plastic source reduction**
  By 2032, plastic material sold, offered for sale, or distributed into California must be reduced by 25%.
- **Recycling rates**
  SB 54 creates mandatory aggregate recycling rates for plastic covered materials in California: 30% by 2028, 40% by 2030, and 65% by 2032.
- **Recyclable & compostable packaging**
  By 2032, all "covered material" must either be "recyclable" (meaning it is in fact recycled at a rate of at least 60% in 60% of California counties) or "compostable."

Compliance with SB 54 will be overseen by the Producer Responsibility Organization (PRO), which all "producers" are required to join and fund. The PRO has the authority to impose "eco-modulation fees" on producers in order to achieve SB 54's mandates by making certain materials more expensive. In addition, the state has the authority to impose civil penalties up to $50,000 per day for violations.

The State has accepted two rounds of public comments on SB54's complex implementing regulations and has until January 1, 2025 to issue final regulations. Given the amount of lead time necessary to change packaging—and assess whether packaging is recyclable, compostable, or perhaps exempt—the best time to start preparing for SB 54 was yesterday, and the second-best time is now (or, perhaps, immediately after a restful holiday break). Happy Holidays!

Trent Norris
Partner, San Francisco

David Barnes
Senior Associate, San Francisco

Unpacking New EU Packaging Requirements

It's that time of year again! Time to find the perfect gifts for our nearest and dearest and get those grocery shopping lists done for the family gatherings. Have you noticed how almost all of these products arrive at our homes packaged? Whether it's the shipping box for our online order, the packaging of the new toy or the net in which the sweet-smelling mandarins are wrapped, packaging is everywhere! With the upcoming new Packaging and Packaging Waste Regulation (PPWR), the EU will introduce far-reaching new requirements for all packaging placed on the EU market.

Year after year, the packaging our products come in adds up to a lot of waste. The EU has launched the PPWR with the goal of reducing this waste and the impact it has on the environment. The PPWR will harmonize and tighten already existing packaging regulation in the EU. It brings a broad variety of measures to increase the efficiency of packaging recycling and to avoid unnecessary packaging.

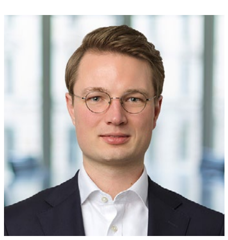
The PPWR will apply to all packaging placed on the EU market. So, companies along the supply chain will have to take a look at which requirements they need to meet in the future. This may entail the need to adapt existing packaging and look for new packaging solutions.

To give you an idea, here are some examples:

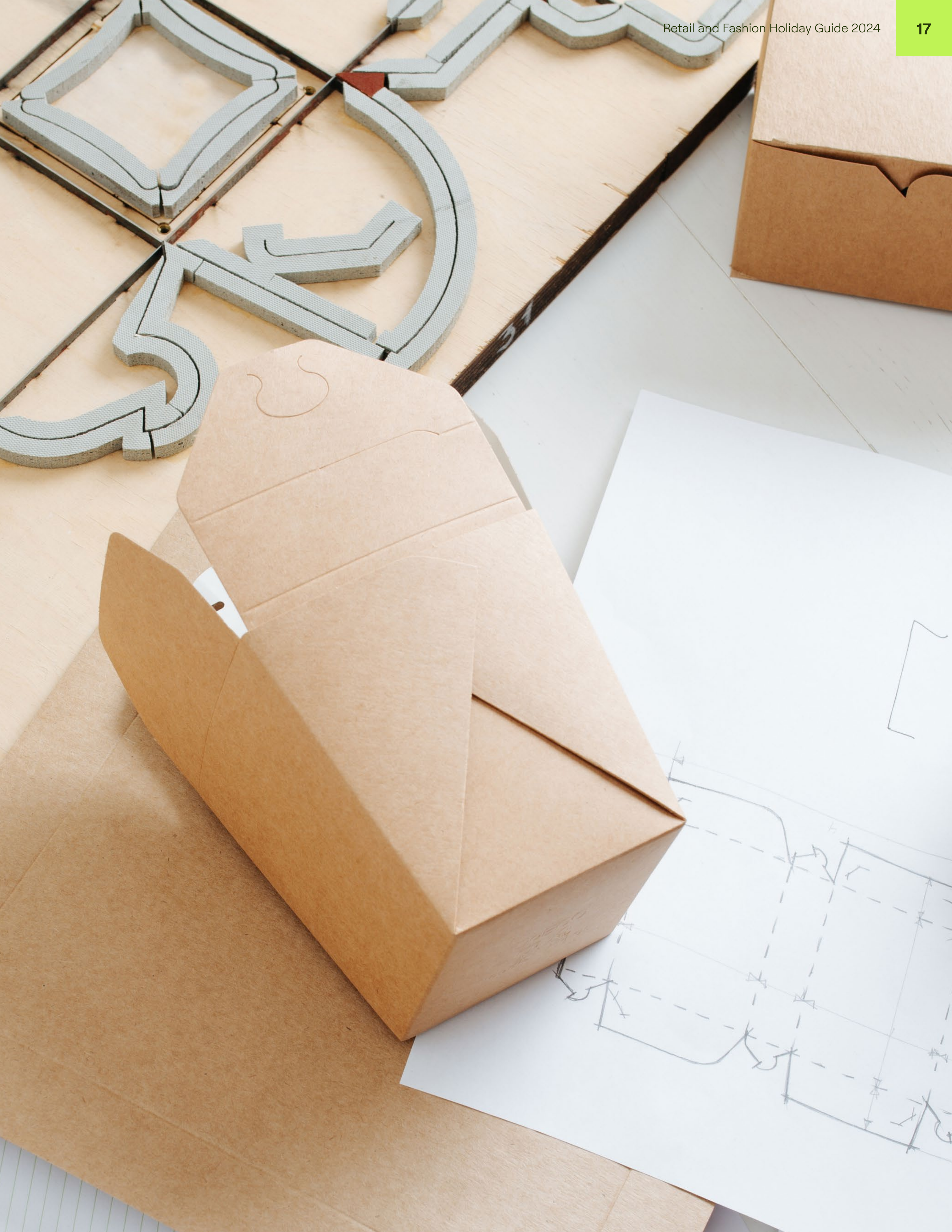
- Fresh mandarins will no longer be allowed to be sold in plastic nets;
- The plastic packaging for any new toy must be designed for optimal recyclability and contain at least 35% recycled material;
- The packaging in which the gift ordered online is delivered must not exceed 50% empty space; and
- Both the shipping packaging and the packaging of the gift must contain information that helps consumers sort them correctly.

The PPWR obligations will be introduced gradually. For example, the labelling requirements are expected to apply beginning 2028, while the recycling requirements, the obligations to reduce packaging and the bans on certain types of packaging only apply beginning 2030. We are happy to assist you in unpacking the new requirements and their impact on your company.

Christiane Alpers
Partner, Hamburg



Hanns-Thilo von Spankeren
Associate, Hamburg




0

AI(I) I Want for Christmas is an AI Toaster!

This holiday season, the shelves are brimming with products promising to revolutionize our lives. A toaster with AI? Surely, it must read your mind and deliver the perfect golden slice! But not every product labeled "AI" lives up to the hype.

The term "AI washing" describes the practice of exaggerating or misrepresenting a product as artificially intelligent to spark consumer interest. A gadget that automates a task might be marketed as "AI-driven," creating inflated expectations of groundbreaking innovation. While this may grab attention, it risks crossing the line into misleading advertisement.

Under European Union (un-) fair competition laws and national (e.g. German) implementations, businesses are prohibited from advertising products in misleading terms. Claims like "revolutionized by AI" can mislead consumers and expose companies to reputational harm and legal consequences when the reality doesn't match the promise. After all, no one wants their AI toaster to become the gift of disappointment this holiday season.

So, what should companies that are selling technological products do?

- **Use accurate terminology**
  Clearly differentiate between AI, automation, and other technologies. Don't label automation as "AI" unless it genuinely involves machine learning or decision-making capabilities.
- **Avoid overpromising**
  Be transparent about what the product can – and cannot – do.
- **Test consumer messaging**
  Evaluate whether an average consumer could reasonably misinterpret your claims and adjust language accordingly.

Florian Unseld
Partner, Munich

Theresa Hager
Associate, Munich

Is it Really 'Green'?

Following a deep dive into the UK fashion industry launched by the Competition and Markets Authority (CMA) in 2022, in September 2024 the CMA issued a new practical compliance guide aimed at fashion retailers (as well as other businesses in the supply chain), based on the CMA's Green Claims Code (the "Fashion Industry Guidance"). The Fashion Industry Guidance is intended to tackle misleading environmental claims across the fashion industry, where claims of sustainability have grown in recent times, and help fashion retailers comply with consumer law.

Consumers are becoming ever more conscious of the impact they are leaving on the environment and are opting to make more environmentally sustainable choices. As this means consumers are more likely to be influenced by businesses' environmental claims when making purchasing decisions, it is increasingly important for fashion retailers to make sure that any environmental claims made are accurate, clear and substantiated to ensure compliance with the law.

The Fashion Industry Guidance applies to all claims made regarding a product, service, brand, or business, advertised in store or online, and includes the following non-exhaustive guiding principles:

- Give **clear, accurate, and complete** information about a product's green credentials and avoid the use of unclear terms;
- **Don't hide important information** (i.e., make sure that important information is displayed prominently and close to the claim and that consumers do not have to take further action, such as following a hyperlink or scanning a QR code, to access important information);
- Don't use **imagery and icons** in a way that could be misleading, e.g., if they give a **misleading impression** of a product's environmental impact;
- Ensure **environmental comparisons are clear and compare like for like**;
- Make sure the **criteria** used to decide which items are included in green collections **are clearly set out and detail any minimum requirements** – and that products are not labelled as part of a sustainable range unless they meet these criteria;
- Be **clear and specific when using filters or other navigational tools** to search for green products and ensure that only products that meet the characteristics of the filters or tools are included in search results;
- Avoid using unclear terms like **'green'**, **'sustainable'** or **'eco-friendly'** unless the product as a whole has a positive impact on the environment (or not a negative one, at least);
- Be clear if the claim is based **on only specific parts of a product's life cycle**;
- Describe **fabrics clearly and precisely** (e.g., don't say that a product is 'organic' if it contains fibers that are not organic – if a product is only partially made of organic fibers, the percentage should be specified).

Non-compliance can lead to enforcement action by the CMA, which may impose penalties including fines of up to 10% of global annual revenue or even bring criminal proceedings for severe breaches. With these potential penalties, fashion companies are strongly urged to carry out due diligence on suppliers and put in place processes to ensure any environmental claims are sufficiently substantiated. In a highly competitive market, the Fashion Industry Guidance aims to foster genuine sustainability, prompting brands to embrace responsible practices rather than rely on vague green promises.

Manisha Patel
Senior Associate, Birmingham

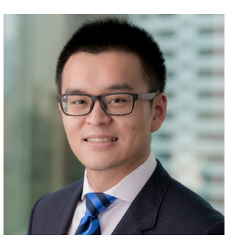
Micaela Bostrom
Associate, London

The Parallel Import ("Daigou") Market in Greater China region

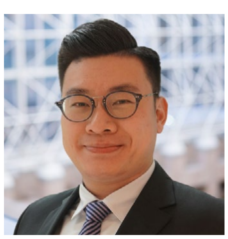
The uprise of price-savvy consumers, owing to recent economic slowdown, has cultivated a breeding ground for parallel import activities whereby sellers capitalize on significant global price discrepancies of luxury goods. The phenomenon is most prevalent in the Greater China region given its status as the world's most expensive market for luxury goods – "Daigou", which are personal shoppers who source and import luxury goods from overseas and resell them in Greater China, in particular, Mainland China, have resurfaced in the post-pandemic era and are steadily on the rise. As of 2023, the Chinese Daigou market had an estimated worth of USD 81 billion. More recently, Chinese Daigou sales have risen by 23% despite a 5% decline in luxury sales from January to June 2024.

For niche brands without brick-and-mortar stores or a robust online presence in China, Daigou may be beneficial as it could serve as a channel to reach domestic Chinese buyers who might not otherwise be able to purchase from them. However, the same cannot be said for the more established players in the market which prioritize maintaining a premium and exclusive brand image over solely chasing sales figures. For most luxury brands, Daigou poses various concerns. With Daigou agents reselling items at much lower prices (equating to up to 50% discount against recommended retail price in China) and making special-edition items that are restricted geographically or limited in production numbers more readily available, brands often find their pricing strategies and efforts to create an allure of exclusivity undermined. Furthermore, the discreet nature of Daigou sales means counterfeit products may flourish undetected.

Luxury brands can address these risks by reviewing their retail partnerships. For example, brands can negotiate with wholesalers to implement quota systems, provide audited sales report to prevent bulk purchase, or include provisions for buying back surplus goods to prevent leakage of goods into unauthorized markets. By adopting the right approach, luxury brands can better navigate the complexities of cross-border luxury market and reduce the negative impact of parallel import or Daigou activities.



Tommy Liu
Partner, Hong Kong



Kenneth Cheung
Associate, Hong Kong

PFAS Bans in Retail and Fashion: Preparing for New Compliance Challenges in 2025

In just the last few years, several states have restricted or banned per- and polyfluoroalkyl substances (PFAS) in all sorts of consumer products, ranging from clothing to cookware to food packaging. As we enter holiday season, fashion retail and luxury brands should gear up for some of these laws that will take effect in the new year.

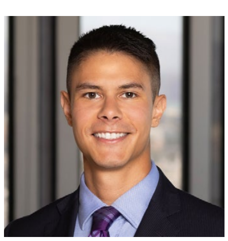
PFAS are a class of synthetic chemicals that have been used for decades in clothing and other textiles for their ability to repel water and provide thermal stability, among other fabric properties. Three state laws have provisions that are effective on January 1, 2025. New York's SB 1322 will prohibit the sale within the state of any new apparel containing intentionally added PFAS. Colorado's SB 81 upcoming requirement is more limited, banning the sale or distribution within the state of only outdoor apparel (used for severe wet conditions) containing intentionally added PFAS, unless the product's label discloses that it is made with PFAS. The most sweeping is California's AB 1817, which will prohibit the manufacture, distribution, or sale within the state of any apparel and other textile articles containing intentionally added PFAS or levels of total organic fluorine exceeding a threshold of 100 ppm (which drops to 50 ppm on January 1, 2027).

Manufacturers, distributors, and retailers of apparel should act now to ensure their products are compliant and to consider additional requirements of these and other laws on PFAS in apparel items. Some steps include:

- Reviewing supply chains and product specifications;
- Obtaining certificates of compliance from suppliers; and
- Potentially testing clothing articles or materials for PFAS.

Looking ahead to 2026 and beyond, several other states are poised to roll out similar bans, including Maine, Vermont, and Connecticut.

Trent Norris
Partner, San Francisco



Alexander Tablan
Associate, San Francisco

Returned Merchandise and Related Legal Issues

While the holidays are a time for joyful gift-giving, they also bring often bothersome return-making. In 2023, a staggering $743 billion in merchandise was returned, with the average retailer incurring $145 million in merchandise returns for every $1 billion in sales.[4] If managed inefficiently, merchandise returns can turn even the most experienced retailers into Scrooges. A few preventative measures, however, can ensure that retailers are equipped to both fill stockings *and* fulfill return requests without any holiday heartburn.

From a supply chain perspective, retailers may consider either internally developing or licensing from third parties inventory management and/or supply chain optimization technology to streamline the returns process. Retailers may also benefit from using AI tools to predict holiday demand, which can help avoid having excess return inventory in the new year.

To stem the tide of seasonal returns, retailers may also provide limited return windows and/or exclude certain categories of merchandise from being returnable. However, retailers should ensure that their return policies (a) are clearly and conspicuously presented at or prior to the point of purchase, (b) put consumers on notice of any conditions/limitations applicable to returns, and (c) are consistent with consumer protection and other relevant laws in their jurisdiction.

Finally, retailers should seek to retain flexibility in their upstream agreements with raw material suppliers and service providers (such as contract manufacturers and packagers) such that they can, for example, cancel or postpone purchase orders so as to be able to reduce future order quantities to account for excess inventory in the form of returned merchandise.

By taking these steps, retailers can fulfill shoppers' wish lists without sacrificing their bottom lines in the new year.

Meryl Bernstein
Partner, New York

MK Barker
Associate, Northern Virginia

4 2023 Consumer Returns in the Retail Industry, National Retail Federation (Dec. 22, 2023), https://nrf.com/research/2023-consumer-returns-retail-industry.

What Santa Needs to Know About Online Shopping for Christmas Presents in the EU

Even Santa has embraced the modern world, doing much of his Christmas shopping online. It's a win-win: online shopping makes Santa's holiday prep much more relaxed.

But even Santa can get frustrated when faced with non-transparent pricing, dubious discounts, urgency tactics, and misleading special offers. He knows that pricing, discounts, and promotions must comply with specific EU consumer protection laws. If they don't, Santa might turn to EU regulators or consumer protection organizations, which now have powerful tools to enforce these laws—including new class-action options and the ability to impose hefty fines.

To keep Santa happy, what should EU companies selling online do?

Provide clear pricing information:

- Always display the total price, including VAT and any additional components.
- Clearly indicate if extra costs—such as freight, delivery, or shipping—will apply.

Follow the rules for strike-through pricing:

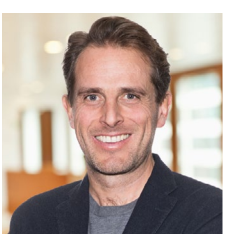
- When advertising discounts with a strike-through price, ensure the original price shown was the lowest price offered in the 30 days prior to the discount.

Use countdowns responsibly:

- If using a countdown timer, it should last only a few hours, the offer must truly be limited in time, and the same price shouldn't be offered once the countdown expires.

Be honest with "last chance" claims:

- Advertise a "last chance" offer only if there is enough stock to fulfill the demand for at least a few days, and ensure no restocking will occur soon after.
- By following these guidelines, EU companies can avoid running afoul of consumer protection laws—and ensure that Santa's online shopping experience remains as magical as ever.



Florian Unseld
Partner, Munich

Theresa Hager
Associate, Munich


UNDERGROUND

Fast Fashion Copycats in the UK: When Copyright Fails You, What Else Is There?

Black Friday, Cyber Monday and the January sales are all friends of the fast fashion industry: consumers are whipped into a frenzy, seeking the cheapest way to get their hands on the latest must-have item.

Fast fashion companies are primed to provide: they have agile supply chains, quick-response production lines and fast distribution networks. More aggravating for fashion brands, these businesses do not spend much time or money designing their own products. Instead, they often copy those of others, undercutting the original designers and diverting sales away from them. Fashion designers in the UK have long grappled with the lacuna in protection afforded to them in intellectual property, in particular copyright. Unfortunately, two very recent decisions in the UK (one relating to copyright in the design of reflective clothing and the other to copyright in the arguably iconic WaterRower design) have made it harder for designers to rely on copyright in items of fashion, especially where those designs do not fit within one of the UK's closed categories for protection.

So what can brands do to arm themselves against fast fashion copycats? The answer, in our view, lies in registered design protection and non-traditional trademarks (including for shapes, patterns and positions). The former is quick, cheap and easy to obtain. The latter are powerful tools against copycats – they last for a long time and are not subject to any novelty requirements. Whilst traditionally brands have struggled to get these forms of mark onto the UK register, there has been a shift towards acceptance in recent times. Brands should take note and consider their fast fashion enforcement strategies in light of it.

Emily Sharkey
Counsel, London

Alicante
Amsterdam
Baltimore
Beijing
Berlin
Birmingham
Boston
Brussels
Budapest*
Colorado Springs
Denver
Dubai
Dublin
Dusseldorf
Frankfurt
Hamburg
Hanoi
Ho Chi Minh City
Hong Kong
Houston
Jakarta*
Johannesburg
London
Los Angeles
Louisville
Luxembourg
Madrid
Mexico City
Miami
Milan
Minneapolis
Monterrey
Munich
New York
Northern Virginia
Paris
Philadelphia
Riyadh
Rome
San Francisco
São Paulo
Shanghai
Shanghai FTZ*
Silicon Valley
Singapore
Sydney
Tokyo
Warsaw
Washington, D.C.

*Our associated offices

www.hoganlovells.com