

LEGAL AND PRIVACY

US government stimulus to help lockdown-affected brands and retailers has contradictory provisions

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Rania V. Sedhom, managing partner at Sedhom Law Group. Image courtesy of Sedhom Law Group

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It is unclear when COVID-19 truly made its presence known. However, most businesses were closed in major luxury markets by mid-March.

Luxury brands and retailers had no choice but to make decisions that immediately affected their employees, customers and supply chain.

Chain reaction

Most of the luxury brands with whom I work furloughed 50 percent of their employees and moved operations to online only.

Seemingly a good plan, it became shaky as time progressed because uncertainty about the virus increased.

Companies asked themselves:

- Is it safe to have employees working in the warehouse, preparing shipments?
- Does it make sense to slash prices by 30 percent or more?
- How do we preserve brand loyalty while conducting sales marketing during the pandemic?
- Are our employees better off working part-time or being laid off?
- How long can we sustain our business with a broken supply chain?

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, enacted by the Federal Government, is meant to address unemployment and cash flow.

However, several gaps appear in the law, and luxury brands need to make careful decisions.

It is impossible to discuss all aspects of this 880-page law in a short article, but a few sections may be of interest to

the luxury market, particularly as they relate to their sales departments.

Interestingly, the two provisions highlighted below are, in my opinion, not complementary. Rather, they are diametrically opposed in their effect.

Paycheck Protection

Small employers with less than 500 employees can apply for a loan that covers, amongst other things, salaries, paid sick leave, group healthcare benefits, employer pension contributions, and commissions, up to \$100,000 per person.

Federal taxes on those wages as well as wages for individuals residing outside of the United States are excluded. If at least 75 percent of the loan is used for payroll costs for the eight weeks immediately after funding, the loan will be forgiven.

If not, employers will have 24 months to repay the loan at an interest rate of 1 percent.

Luxury brands and retailers who can rehire employees previously laid off will not be penalized if they rehire employees and/or eliminate the reduction in salaries by June 30, 2020.

Luxury brands should ask themselves the following: (1) Do I agree to pay employees, particularly salespersons, to stay home for eight weeks (presuming businesses will continue to be closed through June 30, 2020) and (2) If I keep individuals on payroll because I received a paycheck protection loan, do I agree to pay for up to 12 weeks of paid sick leave if the employee becomes ill with COVID-19 while they are home?

With one hand, the U.S. federal government is sanctioning loans to preserve jobs and, with the other hand, it is offering enhanced unemployment benefits that may pay benefits that are greater than earnings to some employees.

Expanded unemployment benefits

Under the CARES Act, unemployment benefits are available for those impacted by COVID-19 retroactively to Jan. 27, 2020 and ending on or before Dec. 31, 2020. Benefits will continue for up to 39 weeks.

Individuals will receive the State statutory unemployment benefits (\$504 per week in New York) plus \$600 each week for up to four months (that is \$1,102 per week in New York).

After four months, benefits drop to the state statutory amounts.

Unemployment benefits of \$1,102 per week are the equivalent of a \$57,304 annual salary, presuming the enhanced benefits continue for a year.

Even with enhanced benefits for up to four months, it is likely more profitable for several individuals to stay home, at least until those benefits expire.

Paycheck Protection and Enhanced Unemployment Benefits seem to work in direct opposition and will test the philosophy and ideology of luxury businesses and employees alike.

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