



# COMMERCIAL BULLETIN

Your guide to the latest legal updates  
from the team at Radius Law.

SEPTEMBER 2025

# Nº 91

## CORPORATE & COMMERCIAL

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### Shareholder rule abolished

**A new Court ruling has abolished the Shareholder Rule<sup>1</sup>**, which had allowed shareholders access to company legal advice except for documents prepared for litigation with shareholders. Now, unless the company has already shared advice with shareholders before a dispute, shareholders cannot access privileged legal communications during litigation. This change aligns shareholders with other litigants regarding disclosure rights, ensuring that **legal professional privilege for companies is preserved except in specific, established exceptions**.

### The new duty to prevent fraud is live.

The new duty to prevent fraud is live. Since 1 September 2025, under the Economic Crime and Corporate Transparency Act (ECCTA), **large organisations can be held criminally liable for fraud by employees or agents** if it benefits the company—even if committed abroad. Businesses should review and document robust anti-fraud procedures, as the law's broad scope covers activities like mis-selling and greenwashing. Multinational firms face particular challenges due to the ECCTA's extraterritorial reach, requiring alignment across diverse legal systems. Early self-reporting is encouraged, and enforcement may increase, so organisations must treat compliance as a priority to manage legal and reputational risks.

## CONSUMER

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### Pricing

In our [May Bulletin](#), we reported on the changes to consumer laws that were implemented in April this year under the Digital Markets Competition and Consumers Act ('DMCCA'), including on drip pricing.

As a reminder, drip pricing is the practice of adding hidden fees to the advertised price of a product or service as the consumer progresses through the transaction. Under the new law, in any advertisement, traders **must provide the total price, including unavoidable fees and taxes, or how the total price will be calculated if it cannot be easily calculated in advance**.

The Competition and Markets Authority ('CMA') received lots of feedback on its initial guidance and has therefore, in July, issued further [draft guidance for consultation](#).


Meanwhile, the Advertising Standards Agency ('ASA') recently ruled on a misleading price claim by Wowcher. The ASA found Wowcher's savings claim was not genuine; **they failed to show that the reference price was the product's usual selling price**. The ASA's ruling took into account the [Chartered Trading Standards Institute guidance for traders on pricing practices](#).



## ENVIRONMENTAL

### ICJ's Landmark Climate Opinion

The International Court of Justice (ICJ) issued a major advisory opinion in July 2025, expanding states' obligations under international law to address climate change. While non-binding, the opinion is likely to influence domestic litigation and regulation, with possible compensation claims for climate-related harm. **The ICJ confirmed that states must act with due diligence to prevent significant harm, including from private sector activity such as fossil fuel production and exploration.** It highlighted links between climate action and human rights, and noted that states may face consequences like cessation of harmful activities or reparations. For businesses, this means increased expectations for due diligence, disclosure, and transition planning, especially in emissions-intensive sectors.



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Press Release  
Unofficial

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*Obligations of States in respect of Climate Change*

**The Court gives its Advisory Opinion and responds to the questions posed by the General Assembly**

THE HAGUE, 23 July 2025. The International Court of Justice has today given its Advisory Opinion on the *Obligations of States in respect of Climate Change*.

It is recalled that, on 29 March 2023, the General Assembly of the United Nations adopted resolution 77/276 in which, referring to Article 65 of the Statute of the Court, it requested the International Court of Justice to give an advisory opinion on the following questions:

(a) What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for States and for present and future generations?

(b) What are the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to:

(i) States, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change?

(ii) Peoples and individuals of the present and future generations affected by the adverse effects of climate change?"

The request for an advisory opinion was transmitted to the Court by the Secretary-General of the United Nations by a letter dated 12 April 2023. During the written phase of the proceedings, 91 written statements and 62 written comments were filed in the Registry by States and international organizations. The Court held public hearings in the proceedings from 2 to 13 December 2024, during which 96 States and 11 international organizations presented oral statements. This is the highest level of participation in a proceeding in both the history of this Court and that of its predecessor, the Permanent Court of International Justice. The Court adopted today's Advisory Opinion unanimously — only the fifth time in its nearly eighty-year history that it has done so. To date, the Court has issued 29 advisory opinions.

## COMPETITION

### New guidance for business collaborations

The Competition and Markets Authority (CMA) has released [updated guidance](#) on business collaboration under competition law. **This guidance clarifies how joint activities like research, development, or purchasing may be allowed, provided they support innovation or efficiency and do not distort competition.** The CMA highlights that while business collaborations can raise concerns, some are permitted if they meet conditions set out in section 9 of the Competition Act 1998 or relevant block exemptions. Ultimately, the CMA recognises the positive potential of collaboration, provided it does not restrict market competition.

## DATA SECURITY

### ICO Fines 23andMe £2.3 Million for Data Breach

The [ICO has fined 23andMe £2.31 million](#) after a 2023 credential-stuffing attack exposed data from 14,601 user accounts, affecting around 10 million people. Attackers accessed names, locations, photos, ethnicity, and genetic information, exploiting weak authentication and security practices. The ICO found 23andMe:

- missed warning signs;
- delayed their breach response;
- failed to notify authorities promptly; and

- basic safeguards like mandatory multi-factor authentication and robust breach management were lacking, despite the sensitivity of the data.

Post-breach, 23andMe updated its security, but too late to affect the outcome. The ICO’s decision underscores the need for strong controls, rapid incident response, and vigilance—especially when handling sensitive personal and genetic data.

## The EU Data Act: a new era for connected products.

The EU Data Act (EDA) introduces significant obligations for connected products that are made available in the EU, with key requirements starting from 12 September 2025. From this date, users—including both consumers and businesses—can request access to their product data in a machine-readable format, and data holders must provide it promptly, potentially in real-time. **By 2026, product design must allow direct user access to data, where technically feasible.** The [EU has produced some FAQs](#) which helpfully confirm that there is flexibility around the direct access requirement. In addition, Data holders must give users clear, pre-contract information about data collection, storage, sharing, and user rights. Standard model contractual terms (MCTs) have been drafted to guide compliant agreements.

## The new Data (Use and Access) Act 2025

In our July briefing, we reported on the new Data (Use and Access) Act 2025 (‘DUA’) and flagged the key changes.

Since then, the Information Commissioner (ICO) has launched two new consultations and draft guidance on some of the changes.

Firstly, on the new [data protection complaint requirement](#). In summary, **Organisations must provide clear complaint procedures, acknowledge complaints within 30 days, investigate promptly, and update complainants with outcomes.** After handling a complaint, organisations should review their process to improve future responses.

The second [consultation concerns a new ‘recognised legitimate interest’](#) basis. Unlike the previous ‘legitimate interests’ basis, this new approach relies on pre-approved purposes set out in Annex 1 of the UK GDPR, so there’s no need for a balancing test against individual rights. These purposes include public task disclosures, national security, emergencies, crime prevention, and safeguarding. Organisations must still ensure necessity and comply with data protection law.



### AUTOMOTIVE FINANCE & REGULATED SALES 101

Ideal for: Retail management, Compliance officers & Legal professionals

7<sup>th</sup> October, 2025

9:30 – 13:00

[LEARN MORE](#)

## EMPLOYMENT

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### LEGISLATION AND CALL FOR EVIDENCE

#### Government makes further changes to the Employment Rights Bill

The Government has agreed further changes to the Employment Rights Bill, including:

- The new right to bereavement leave will extend to pregnancy loss.
- Clauses in a settlement agreement preventing someone from making allegations about discrimination or harassment, or the way an employer has responded to discrimination or harassment, will be void.
- Under the new fire and re-hire rules, only dismissals to achieve a change in pay, pension, hours or time off, or to introduce a unilateral variation clause about any of those matters, will be automatically unfair.

#### Government launches a call for evidence on use of unpaid internships

The Government has launched<sup>2</sup> a call for evidence on the use of unpaid internships, further to concerns regarding their misuse. It closes on 9 October 2025.

### RECENT CASES

#### Substitution clause in drivers' contracts was not genuine

The Employment Appeal Tribunal (EAT) has confirmed that drivers engaged by BCA Logistics Ltd (BCAL) on self-employed contracts to undertake vehicle collection, inspection, delivery and transport services for its customers, are workers<sup>3</sup> because:

- BCAL instructed drivers as to how, when, and where to perform their work to meet the requirements of BCAL's customers.
- Drivers undertook 4-day training on being a driver and inspection of vehicles
- BCAL are responsible for trade plates and insurance

Further, the substitute clause was not genuine because:

- No substitute had been used in 25 years
- Drivers were unable to provide the required training to a substitute
- There would be difficulties securing insurance and trade plates for a substitute
- BCAL was unlikely to risk handing over its customers' high value cars to a substitute with whom it had no contract, relationship or contact.

#### Employment Tribunal can hear discrimination claims brought by a former LLP member against LLP members domiciled in Sweden

The EAT has confirmed<sup>4</sup> that the Employment Tribunal (ET) had international jurisdiction to hear discrimination claims brought by a former LLP member under the Equality Act 2010 against individual LLP members domiciled in Sweden .

The EAT agreed with the ET that *the definition of "employer" should retain a degree of elasticity*. It was arguable

that the LLP members were agents or employees of the LLP, and ***it was desirable for certainty and to avoid multiple proceedings that the claimant did not have to sue the members separately in Sweden.***

Does a clinical diagnosis of ASD or ADHD mean a job applicant is disabled under the Equality Act 2010?

Mr Stedman had a clinical diagnosis of autism spectrum disorder and attention deficit hyperactivity disorder. He applied for a role but was unsuccessful and claimed disability discrimination .

The ET concluded Mr Stedman<sup>5</sup> was not disabled. On appeal, the EAT held that:

- Unless there is a good reason to doubt a clinical diagnosis, the Tribunal must consider that diagnosis as proof of a condition and evidence of its impact.
- The Tribunal must still examine the basis for the diagnosis and assess how it affects the employee’s ability to carry out daily activities.
- The ET wrongly focused on what Mr Stedman could do instead of what he couldn’t do or could only do with difficulty.

The case was remitted to a different tribunal to decide whether Mr Stedman is disabled.

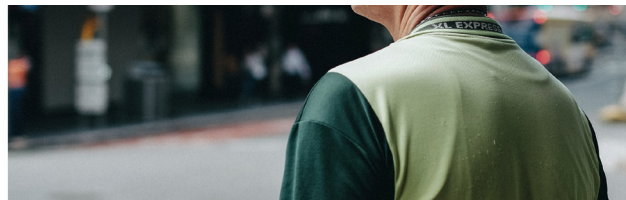
**Employer ordered to pay over £1.2m to disabled employee who was not informed of changes to her role**

In this case<sup>6</sup>, a disabled employee who was absent from work having chemotherapy, was awarded over £1.2m in compensation after she discovered via LinkedIn that a colleague had been given her job.


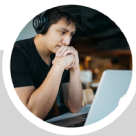

After a series of appeals, it was ***held that giving her role to a colleague and undertaking a restructure during the employee’s absence, and misleading the employee regarding her role amounted to disability discrimination and a breach of the implied term of trust and confidence.***

## Did you know...

If your customer is insolvent, you may need to continue supplying it.



## How can Radius help?

			FIXED FEE <b>£4,950</b> +VAT
Review and revision of sales contract terms with protective provisions*	CIGA video team training.	Best practice contract management guide.	

\*Contract review for one contract only, the review is for CIGA protection and not a general review of all provisions.

[LEARN MORE](#)

## Cases, laws, decisions referred to in this Bulletin

1	<a href="#">Jardine Strategic Ltd v Oasis Investments II Master Fund Ltd &amp; Ors No 1 (Bermuda) [2025] UKPC 33</a>
2	'Make Work Pay: Call for evidence on unpaid internships'
3	BCA Logistics Ltd v Parker and others [2025] EAT 94
4	Prahl, Hofvenstam & Ågeback v Lapinski [2025] EAT 77
5	<a href="#">Stedman -v- Haven Leisure Ltd [2025] EAT 82</a>
6	<a href="#">Ms A Wainwright v Cennox Plc [2023] EAT 101</a>



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