With the continuing spread of the Coronavirus Disease 2019 (“COVID-19” or “coronavirus”), retailers are sure to face a number of issues that they can and should prepare for. The primary issues facing retailers will likely be supply chain issues, covered here (The Impact of Coronavirus on Supply Chain), and employment issues, covered here (What Employers Need to Know to Prepare for Coronavirus). This post addresses issues involving delivery of orders that may also arise as a result of the spread of coronavirus.

**Delivery Delays.** The Federal Trade Commission (“FTC”) and other government entities impose rules regarding what a retailer must offer if the delivery of an item has been delayed. In general, consumers have a right to cancel an order if delivery has been delayed. Retailers will need to remain compliant with these laws even if supply chain interruptions cause the delivery of large quantities of orders to be delayed. Relatedly, retailers should be careful not to make statements guaranteeing delivery of an item or availability of an item if supply chain concerns prevent them...
from fulfilling those promises. Retailers may consider modifying any such promises until supply chain issues are resolved.

**Delivery Costs.** Retailers must also be careful not to violate FTC or similar regulations regarding the advertisement of delivery costs. The spread of coronavirus may drive delivery costs up. Retailers must remain compliant with laws and regulations that prevent them from hiding increased delivery costs in the sale price of items.

**Curbside Delivery.** Many retailers have already started curbside delivery, where customers place an order online or through a mobile app, and then pick up their order in the parking lot of the store. With the spread of coronavirus, more retailers may seek to set up similar programs. These programs often employ text message alerts, which, if not done properly, can result in substantial liability under the Telephone Consumer Protection Act (the “TCPA”). Retailers should be sure to set these programs up properly, with proper consent procedures, terms and conditions, privacy policies, and more.

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