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## Laws and Regulations and Supply Chain Adaptability During the Pandemic

The COVID-19 pandemic which gripped the world since the early months of 2020 has impacted supply chains globally. Due to government-imposed lockdowns and more stringent entry and exit requirements imposed on persons and cargo, corporations as well as ordinary consumers have felt disruption at many levels. Raw materials have become scarce, factories closed, transportation restricted and workers less mobile.

In order to address these challenges, companies have had to adopt more quickly. Among changes which have been accelerated is digitization, essential in order to keep up with increased volume and frequency of electronic transactions. In most jurisdictions, data privacy laws have been in place for several years, requiring covered companies to appoint data privacy officers, adopt data privacy policies and implement security measures to ensure that personal data is protected adequately. In the Philippines, the Data Privacy Act was enacted in 2012, giving companies a substantial period of time to adopt practices and systems to ensure that data processing and collection comply with the law.

In 2000, the Philippine legislature passed the Electronic Commerce Act, which was essential to support electronic commerce during the pandemic. This law facilitated domestic and international dealings and transactions and storage of information through electronic or other medium by recognising the

authenticity and reliability of electronic documents. Except in cases where law or regulation requires the presentation of wet signatures or in cases where documents must be executed under oath, electronic signatures have become acceptable and pervasive.

There is no doubt that human resources play a significant role in the supply chain. For example, businesses engaged in last mile delivery rely heavily on manpower. Thus, during the pandemic government agencies issued labour and employment related regulations to address the usual pressures and challenges faced by employees and employers alike. In the Philippines, the Department of Labor and Employment issued regulations imposing an obligation on employers to provide a safe environment for the employees. Employers were under obligation to shoulder the cost of COVID-19 screening tests. Vaccination drives have been key to opening up the economy. In order to encourage vaccinations, regulators have adopted a policy of passing on the cost of COVID-19 testing or screening to employees who refuse vaccination, despite eligibility. Still, there is a lack of regulations which would compel an employee to undergo vaccination.

As part of the process of addressing supply chain restrictions, scarcity of supply and closure of retail establishments, e-commerce has grown exponentially in the last two years. This growth has been supported



by companies providing last mile delivery services. In the Philippines, this business is a regulated business, requiring special licenses from government. In addition, the last mile delivery service falls under what Philippine law defines as a public service. As such, the business is subject to nationality restrictions. Therefore, only Philippine Nationals are eligible to hold the license. Under Philippine law, Philippine Nationals are Filipino citizens or corporations at least 60 per cent of whose voting shares and total outstanding capital stock are held by Filipinos. However, proposed amendments to decades old Public Service Act may liberalize this industry.

From a regulatory perspective, it would appear that companies and entire economies have had the agility to adopt during the pandemic because key enabling legislation or regulations have been in place, even pre-pandemic. However, there are areas that may benefit from regulatory oversight. For instance, further development of cutting-edge technology, such as artificial intelligence, behoves regulators to craft related laws and regulations. Earlier this year, the Philippines' Department of Trade and Industry launched what it calls the national AOI roadmap. Through the roadmap, the Philippine government aims to accelerate the development of AI and its applications in logistics and transportation as well as in e-commerce and retail business.

## About the Author



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With a mastery of the law combined with an appreciation for novel yet practical solutions, Franchette has navigated cross-border and domestic mergers and acquisitions amidst multi-faceted regulatory issues. Franchette's well-rounded proficiency in commercial law enables her to guide clients in foreign direct investments market entry or expansion, finance and project development, the rapidly growing fields of competition and data protection laws, and government contracts in innumerable industries, such as telecommunications, financial services, real estate, power/energy, mining, and manufacturing. She has also successfully acted as lead counsel for borrowers in syndicated loan agreements and project financing, and for underwriters in initial public offerings in various global exchanges.

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