

# Baker McKenzie.

The Reopening Playbook

## Rethinking Strategic Supply Chain | Legal Considerations and Guidance for Global Business Teams



**Peter George**  
Baker McKenzie  
Partner | Chicago



**Christina Conlin**  
Baker McKenzie  
Partner | Chicago



**Michael Hatfield**  
Formerly Chief Counsel,  
Global Business Services |  
Mondelēz International



**Andrew Warmus |  
Moderator**  
Baker McKenzie  
Partner | Chicago

# Keys to Pandemic-Responsiveness in Supply Chains

The global pandemic has had a profound impact on supply chains. Supply chain resilience holds the key to recovery and applying the lessons learned from the pandemic is the key to making supply chains resilient.

- **Rethink each aspect of the supply chain lifecycle to identify pandemic-related risks and opportunities to mitigate the risks**
- **Balance drive for cost reductions with considerations for value creation, compliance and management of uncertainty**
- **Identify and analyze jurisdiction-specific opportunities such as tax optimization, government support, termination flexibility, and supply chain security**



# Architecting a Pandemic-Ready Supply Chain

Rethinking Each Aspect of the Supplier Management Lifecycle to be Pandemic Ready

## Management Lifecycle Stage

## Key Pandemic-Responsive Considerations

Supplier Identification



Evaluate Pandemic-Related Risk Profile of Sourcing Need

Supplier Qualification



Recognizing Pandemic Readiness and Adaptability

Supplier Review and Selection



Pandemic Informed Risk-Adjusted Contract Drafting

Supplier Onboarding



Creating a Culture of Preparedness

Supplier Performance Management



Agile Performance Management

Supplier Risk Management



Evaluate Financial, Geographic, and Demand Risks

Supplier Relationship Management



Planning for Disruptions through Collaboration and Oversight

Supplier Off-Boarding



Managing Flexibility in Timing of Reverse Transition Services

# Supplier Identification

## Evaluate Pandemic-Related Risk Profile of Sourcing Need



Multi-sourcing to manage pandemic risks geographically



Local / regional / international diversification



Revised risk assessments based on:

- Pandemic risks
- Import / export restrictions
- Product specific regulations
- Immigration restrictions



Revised risk assessments for essential businesses (e.g., does the government where Supplier sits view it as an essential or non-essential business?)

# Supplier Qualification

## Recognizing Pandemic Readiness and Adaptability



### KYS – Know Your Supplier

- Work from home policy and procedures
  - IT security assessments for at-home workers
  - Trade secret protections
  - Impact on SLAs (e.g., where bandwidth and network coverage is less robust than in a service center)
- Virtual/remote site monitoring and visits
- Collective risk assessment (reliance on third parties or self-assessments where onsite vetting not possible)
- Policies and procedures in the event a significant portion of workforce is impacted by pandemic-related infection

# Supplier Qualification

## Recognizing Pandemic Readiness and Adaptability



Financial due diligence – impact of pandemic on viability of supply chain partners.



Operational due diligence (with respect to workforce management, e.g., social distancing, potential of daily temperature checks for workers prior to shift start, required PPE, documenting positive antibody tests within workforce)



Sustainability



Employment (assessment of back to work plans)



Industry self-regulation or other agreements responsive to pandemic-related matters (e.g., appropriate pandemic hygiene standards)

# Supplier Review and Selection

## Pandemic Informed Risk-Adjusted Contract Drafting



- RFP preparation / alternatives
- Proposal reviews where travel is restricted
- Virtual negotiations
- Tax planning and optimization
- Contract terms
  - Flexibility to
    - Re-source
    - Reduce spend
    - Increase demand
    - Secure scarce inputs
- Representations and warranties (e.g., regarding prior pandemic-related infections in the workplace (akin to reps/warranties around prior data breaches))
- Termination and planning in the event of insolvency

# Supplier Review and Selection

## Pandemic Informed Risk-Adjusted Contract Drafting



- Business continuity provisions
- Adverse economic impact provisions
- Additional insurance coverages (and potential of pandemic-related exclusions)
- Force Majeure
- Scarcity provisions (e.g., covenants around allocation of scarce resources in event of pandemic)
- Audit rights
- Import/Export
- Governing law (including evaluation and analysis of impact on contractual provisions)
- Dispute resolution



# Supplier Onboarding

Creating a Culture of Preparedness



## Pandemic response training

- Alignment
- Readiness
- Testing
- Execution



## Corporate social responsibility

- Health and safety
- Workplace protections
- Sustainability
- Diversity & inclusion



## Remote onboarding

- Information security
- Reporting
- Interface solutions

# Supplier Performance Management

## Agile Performance Management



### Virtual audit rights

- Access
- Remote support
- Third party verification



### Digital performance review

- SLA dashboards
- Reporting



### Virtual inspections



### Virtual training



### Virtual quality audits

- Travel restrictions
- Remote monitoring
- IoT

# Supplier Risk Management

Evaluate Financial, Geographic, and Demand Risks



## Predictive analytics

- Data collection
- Machine learning
- Remote maintenance and support
- Pandemic risk-rating adjustments



## Demand management

- Multi-supplier supply chain
- Geographic diversification

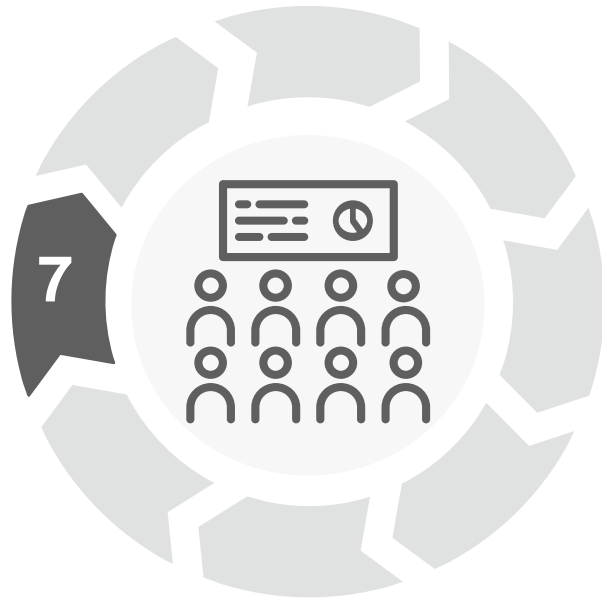


## Financial management

- Supplier solvency assessments
- A/R exposure

# Supplier Relationship Management

## Planning for Disruptions in Collaboration and Oversight



### Governance

- Virtual meetings
- Remote communications



### Remote dispute resolution procedures

- Online escalation process
- Arbitration (virtual)
- Mediation (virtual)
- Litigation (virtual)



### Supplier / customer insolvency

- Planning
- Risk mitigation
- Step-In rights
- Escrow

# Supplier Off-Boarding

## Managing Flexibility in Timing of Reverse Transition Services



### Termination rights

- Just cause
- Dealer protections
- Termination indemnities



### Termination assistance

- Knowledge transfer
- Access to inputs
- Solicitation / non-competes



### Transition (where onsite transition may not be permitted)

- Remote monitoring
- Data protection/security risks



**[Peter George](#)**

Baker McKenzie

Partner | Chicago

[Peter.George@bakermckenzie.com](mailto:Peter.George@bakermckenzie.com)

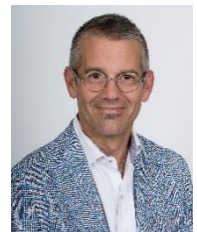


**[Christina Conlin](#)**

Baker McKenzie

Partner | Chicago

[christina.conlin@bakermckenzie.com](mailto:christina.conlin@bakermckenzie.com)



**[Michael Hatfield](#)**

Formerly Chief Counsel, Global Business  
Services | Mondelēz International



**[Andrew Warmus](#)**

Baker McKenzie

Partner | Chicago

[Andrew.Warmus@bakermckenzie.com](mailto:Andrew.Warmus@bakermckenzie.com)

# Thank You