

King & Spalding: transatlantic business crime and investigations

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King & Spalding's Special Matters and Government Investigations team shares its views on developments in transatlantic business crime and investigations.

UK and US enforcement and investigation trends in the wake of COVID-19

Introduction

Early in the pandemic, this column addressed the impact of COVID-19 on financial crime compliance and government enforcement in the UK and US, and predicted potential areas of focus for COVID-related investigations and enforcement actions. Now, over a year into the pandemic, we examine where UK and US authorities are directing their enforcement attention.

UK

The economic fallout in the UK caused by the COVID-19 pandemic has seen an increase in fraud and corruption cases as is typical in times of economic turmoil. Indeed, the National Crime Agency (NCA) warned that those involved in serious and organised crime will seek to exploit the pandemic and find new ways to defraud citizens. Notwithstanding delays and a growing backlog of cases as a result of reduced court facilities, UK enforcement agencies have taken action to respond (albeit still at a much slower pace as compared with the US). The Serious Fraud Office (SFO) has not announced any change in its attitude towards investigations or prosecutions since its May 2020 COVID-19 update, and there has not yet been a significant increase in SFO activity. Although the Financial Conduct Authority (FCA) has released several statements on coronavirus-related risks to reassure investors that the UK is a safe place to conduct business, overall FCA activity is also yet to resume pre-COVID levels.

Coronavirus relief fraud (furlough fraud)

The size and speed at which the government's economic stimulus packages were rolled out as a result of the pandemic created opportunities for fraud and financial crime. In April 2020 the Chief Executive of Her Majesty's

Revenue and Customs (HMRC), Jim Harra, noted, "We are going to be paying out a vast sum of money in a rapid period of time. Any scheme like this is a target for organised crime". This prediction has indeed been borne out with the SFO reporting a surge in fraud concerning government procurement and programmes aimed at helping struggling businesses.

The largest of the government's COVID-19 support schemes is the Coronavirus Job Retention Scheme, known as the furlough scheme. As of May 2021, approximately £64 billion had been claimed under the furlough scheme, allowing over 11 million jobs to be furloughed. HMRC have estimated that up to £3.5 billion may have been claimed fraudulently or in error and they are currently reviewing 27,000 "high risk" cases where abuse or fraud is suspected. HMRC reported last year that its fraud hotline had received over 1,900 reports of fraudulent furlough claims and the first arrest relating to furlough fraud came in July 2020. Two further arrests were made in September 2020.

On 22 July 2020, the Finance Act 2020 entered into force, which gave companies an amnesty until 20 October 2020 to notify HMRC of any potential wrongdoing in respect of furlough claims. In doing so, companies could absolve themselves of specified criminal liability and related sanctions. As at the start of June 2021, HMRC had received just under 30,000 reports of possible furlough fraud and launched over 7,000 investigations, some of which are criminal. Now that the amnesty period has concluded, it is anticipated that further arrests and prosecutions for furlough fraud are likely.

The Finance Act 2020 also provides that HMRC can clawback amounts wrongly claimed by retrospectively taxing them as income tax or corporation tax at a rate of 100% and this applies even where genuine errors have been made. This legislation also enables HMRC to impose a penalty in cases of "deliberate and concealed" wrongdoing, again at a rate of 100%.

Other government schemes include the bounce back loan scheme and the COVID corporate financing facility. In January 2021, three men were arrested following an ongoing investigation by the NCA into fraudulent bounce back loan claims totalling an estimated £6 million and those proceedings are ongoing.

As of March 2021, HMRC had also launched over 5,000 investigations concerning the self-employment programme and the “eat out to help out” scheme. It is anticipated that there will be further arrests concerning these and other government support schemes in the coming years. Evidence of the growing concern can be found in the Chancellor of the Exchequer’s recent budget, which announced that £100 million would be allocated to a new Taxpayer Protection Taskforce to “crack-down on COVID fraudsters who have exploited UK Government support schemes”.

Market manipulation and abuse

At the start of the pandemic and in response to the number of employees suddenly working remotely, the FCA recommended firms review how to supervise staff who had access to inside information. In October 2020, the Director of Market Oversight at the FCA, Julia Hoggett, gave a statement reminding firms that working from home does not diminish responsibility for managing market abuse risks and made it clear that firms must ensure they have robust and proportionate systems to identify, monitor and escalate market abuse issues as they arise.

In particular, Hoggett noted that the pandemic has made identifying what amounts to inside information more difficult, because information which previously did not need to be disclosed may now be disclosable. For instance, information that a business was to shut or re-open its entire operations; similarly, knowledge of the use of a furlough or other government support scheme may now be disclosable under Article 17(4) of MAR. This may also impact on obligations to give timely and accurate disclosure of price sensitive information to the market.

Hoggett also made it clear that the FCA will be actively investigating and potentially prosecuting individuals involved in market abuse. In September 2020 the FCA issued a Final Notice to the former CEO of Worldspreads Group plc, censuring him for market manipulation, banning him from working in financial markets and fining him approximately £650,000. Although the conduct in issue did not relate to the pandemic, lockdown and remote work have made it more difficult for firms to supervise employees and manage market abuse risks. As described above, the FCA has stated that working from home is not a justification for firms failing to meet those responsibilities. According to the FCA’s annual report, the

regulator is currently responding to 88 insider dealings and 29 market manipulation cases, suggesting that enforcement actions are actively being pursued.

On 28 January 2021, the FCA announced that finance businesses need to ensure all employees working from home record all communications if they relate to regulated activities and are on business devices. This is expected to put additional pressure on firms as a result of the difficulty in restricting or monitoring the use of certain messaging apps which allow messages or entire chats to be deleted.

Healthcare-related cybercrime

Cybercrime has been rife in the healthcare sector as a result of the pandemic, and the National Cyber Security Centre (NCSC) has reported thousands of attacks, including some considered more serious which relate to vaccine research at a state level.

At the start of the pandemic, British intelligence services took steps to strengthen “weak points” in the National Health Service (NHS) systems to secure them from attacks by foreign actors. In July 2020, officials revealed that Russian hacking group “Cozy Bear” had targeted vaccine development information.

Of all the major incidents detected by NCSC from January to September 2020, 27% related to COVID-19. The majority of incidents related to healthcare concerns of everyday internet users, including offers of testing kits, key worker badges (allowing individuals to access supermarkets and discounts) and PPE.

Cartels and antitrust

In March 2020, the UK government announced limited measures to relax competition rules, to avoid a shortage in crucial supplies during the pandemic and on 28 March 2020, the Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020 (*SI 2020/369*) came into force.

In response to concerns regarding potential abuse, the Competition and Markets Authority (CMA) has issued guidance warning that this is not a “free pass” for companies to engage in harmful anti-competitive conduct. The CMA has also established a taskforce aimed at scrutinising unfair or excessive pricing by businesses and has launched several investigations arising from the pandemic.

In June 2020, the CMA investigated possible excessive pricing of hand sanitisers by four pharmacies (although ultimately concluded there had been no infringement of competition law). It is understood that the CMA has now asked the government to enact emergency legislation allowing them to fine companies for excessive pricing, without the need for court proceedings.

In December 2020, the CMA also launched an investigation into the airline industry concerning possible breaches of consumer rights relating to flight refunds. It is anticipated the results of that investigation will be forthcoming later in 2021.

Counterfeiting

At the outset of the pandemic the Organisation for Economic Co-operation and Development highlighted the increased risk and dangers surrounding the production of counterfeit pharmaceutical products in the wake of the pandemic. Subsequently, both the World Health Organisation and Interpol have reported an increase in counterfeit medical products related to COVID-19, and in the UK there have been seizures and arrests in that regard.

In June 2020, London Trading Standards (LTS) reported it had stopped 6.5 million sub-standard face masks and 8,000 counterfeit hand sanitisers at London Heathrow. It transpired that 2.25 million of those face masks did not comply with UK legal safety standards. LTS is also increasingly concerned about counterfeit or unsafe UK-made products after it emerged that a number of UK made hand sanitisers contained Triclosan, a banned substance.

In July 2020, a man was given a ten-month suspended sentence having pleaded guilty to selling fake COVID-19 treatment kits. His arrest in March 2020 was made following information provided by US Customs and Border Protection Agency in Los Angeles. The kits were found to contain hydrogen peroxide concentration and potassium thiocyanate which can be extremely harmful.

In January 2021, the CPS announced they had arrested and charged a man with five offences in connection with the fake administration of the COVID-19 vaccine. It is anticipated that prosecutions for these types of offences, including counterfeit products and certificates (such as false negative COVID-19 tests) will increase in 2021 and beyond.

US

Over a year into the COVID-19 pandemic, the US Department of Justice (DOJ) and other US law enforcement authorities have upheld the commitment they made in March 2020 to prosecute wrongdoers seeking to take advantage of the pandemic. The 1 July 2020 edition of this column detailed the DOJ's enforcement priorities related to the COVID-19 crisis and measures implemented to address them. More than a year later, US law enforcement authorities have made good on this commitment: they have investigated and prosecuted a wide variety of cases involving crimes related to COVID-19, ranging from fraud on the government connected to various relief programmes,

to healthcare fraud, to securities fraud, illegal hoarding and price gouging, counterfeiting, and other types of criminal activity. According to Attorney General Merrick Garland, the DOJ's work "sends a clear and unmistakable message to those who would exploit a national emergency to steal taxpayer-funded resources from vulnerable individuals and small businesses."

The DOJ is putting its money where its mouth is; the agency requested an extra \$40 million for its 2022 budget to support its efforts to prosecute COVID-19-related fraud in what Garland describes as a "target-rich environment." Particular focuses will include fraud concerning the Paycheck Protection Program and healthcare fraud.

COVID-relief fraud and CARES ACT-related fraud

Perhaps the most active area of coronavirus-related enforcement involves fraud connected to the Paycheck Protection Program (PPP) under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). On 29 March 2020, Congress enacted the CARES Act in order to provide emergency financial assistance to Americans suffering the economic effects of the pandemic. The CARES Act included the authorisation of \$349 billion in forgivable loans to small businesses through the PPP. In April 2020, Congress authorised over \$300 billion in additional PPP funding. The PPP loan's interest and principal are forgiven if the businesses receiving such loans spend the proceeds on payroll costs, interest on mortgages, rent, and utilities within a set period. The DOJ has publicly disclosed prosecutions of at least 16 individuals who took advantage of this programme by fraudulently applying for such loans. These frauds entailed making false statements on applications about, for example, the legitimacy of applicant companies, the date of incorporation of these companies, the number of employees on applicant companies' payroll; further, fake tax documents, payroll records, bank records, and other supporting documents accompanied these applications. Through March 2021, the DOJ charged 474 people for filing over \$569 million in allegedly fraudulent claims under COVID-19 relief programmes, and over 120 individuals for defrauding the PPP programme, specifically. Illustrative cases include:

- On 29 March 2021, Hassan Kanyike of California pleaded guilty to fraudulently obtaining \$1.8 million in COVID-19 relief. Kanyike submitted six fraudulent PPP loan applications and two fraudulent EIDL applications, purportedly to pay the salaries of employees whom he claimed worked for two of his businesses. Kanyike used a substantial portion of the proceeds for his own personal benefit and transferred \$762,000 of the loan proceeds to Uganda, his country of citizenship, in violation of the terms of the PPP and EIDL programme.

- On 24 March 2021, Dinesh Sah of Texas pleaded guilty to applying for 15 PPP loans across multiple companies, seeking \$24.8 million and ultimately securing \$17.3 million. In his applications, Sah falsely claimed that his businesses had numerous employees and hundreds of dollars in payroll expenses. Sah used the proceeds primarily for personal expenses, spending them on multiple homes and luxury cars, including a 2020 Bentley convertible, and sending millions of dollars in international transfers.
- On 15 January 2021, the DOJ charged Samuel Yates of Texas with two counts of wire fraud after he allegedly filed fraudulent bank loan applications seeking more than \$5 million dollars under the CARES Act. For each application, Yates obtained a list of names from a random name generator found on the internet, and then proceeded to claim that those were the names of his employees.
- On 7 December 2020, Benjamin Hayford of Arkansas was sentenced to 24 months in prison followed by five years of supervised release for fraudulently seeking more than \$8 million in forgivable loans under the CARES Act. Hayford pled guilty in August to supporting his loan applications with fraudulent payroll documentation that showed expenses that were, in fact, nonexistent, and making false representations to a financial institution concerning the date that a Limited Liability Partnership for which he had applied for relief had been established.
- On 18 November 2020, the DOJ charged four individuals in California for allegedly using fake or stolen identities to submit fraudulent Economic Injury Disaster Loan (EIDL) and PPP applications for over \$5.6 million in CARES Act relief. The defendants also submitted fraudulent loan applications in their own names but using fake or fictitious businesses. The defendants supported their applications with fake identifications, tax documents, and payroll records. According to the indictment, the defendants utilised the fraudulently obtained loan proceeds as down payments on two residential properties purchased for \$1,000,000 and \$3.25 million. On 12 March 2021, the DOJ charged four additional individuals for their alleged participation in this scheme.
- On 17 November 2020, the DOJ charged seven individuals in Texas and Illinois for submitting over 80 fraudulent PPP applications worth over \$16 million, by falsifying the number of employees and the average monthly payroll expenses of the applicant businesses. To support the fraudulent loan applications, the defendants submitted falsified bank records and federal tax forms. The defendants also submitted loan applications on behalf of third parties in exchange for large kickbacks. The defendants allegedly laundered the proceeds by writing checks from companies that had received PPP loans to fake employees, and then

cashing these checks at a cash checking company owned by one of the defendants. The defendants then spent the laundered funds on luxury items, such as Porsche and Lamborghini automobiles.

Securities fraud

Securities fraud is another active area of coronavirus-related enforcement. Several cases involve wrongdoers making false claims that a company made positive developments in COVID-19 treatments or cures, in order to raise stock prices and sell them for a profit in violation of Securities and Exchange Commission (SEC) Rule 10b-5, which prohibits any fraudulent act or omission in connection with the purchase or sale of any security. Other notable cases are those involving misleading statements in issuers' Form 8-K filings in violation of SEC Rules 12b-20 and 13a-11. Illustrative cases include:

- In its 14 October 2020 SEC filing, Vaxart, a California biotech company, disclosed it was under investigation by federal prosecutors and the SEC for allegedly exaggerating its involvement in the US government's Operation Warp Speed programme for developing COVID-19 vaccines and treatments. In June, Vaxart had issued a press release claiming that the company had been selected for the programme's funding, which caused the company's stock to skyrocket from \$3 to \$17 per share. As a result, hedge fund Armistice Capital, which partly controlled Vaxart, sold shares for a profit of more than \$200 million. However, US Department of Health and Human Services (DHHS) later revealed that it had never negotiated any such agreement with Vaxart, and instead, the company's limited involvement in the programme included only preliminary studies on primates.
- On 25 September 2020, the SEC charged Mark Schena, the President and Chief Science Officer of Arrayit Corporation, with making false and misleading statements regarding Arrayit's development of a COVID-19 blood test. Specifically, in March 2020 Schena told investors that Arrayit had developed a COVID-19 blood test, when in fact the company had not yet ordered the necessary materials to make the test. Subsequently, Schena told investors that Arrayit had submitted the test for emergency approval when the company had not actually done so. These false statements led to an increase in price and trading volume of Arrayit's shares. In a related case, on 9 June 2020, the SEC charged Jason Nielsen, a California-based penny stock trader, for conducting a fraudulent "pump-and-dump" scheme in Arrayit's stock. Nielsen attempted to drive up the price for Arrayit's stock by making numerous false assertions on an online investment forum that the company had developed an approved COVID-19 blood test. Nielsen also created the false impression that the stock was in high demand by placing and subsequently cancelling

several large orders to purchase shares. As a result of his fraud, Nielsen made a profit of approximately \$137,000 in six weeks.

- On 4 December 4, 2020, the SEC settled charges against The Cheesecake Factory Incorporated for making misleading disclosures regarding the impact of the pandemic on its business operations and financial condition in its Form 8-K filing. In particular, the company attached press releases painting a positive picture of its financial condition to Form 8-K disclosures in March and April 2020. In reality, The Cheesecake Factory was suffering significant cash losses and was unable to pay its rent. Under the terms of the settlement, The Cheesecake Factory agreed to pay a \$125,000 penalty and to cease-and-desist making further misleading disclosures. This case was the first brought by the SEC against a company for misleading investors about the financial impact of the pandemic on its business.

Healthcare fraud

Another active area of coronavirus-related enforcement is in healthcare fraud: namely Medicare fraud. Medicare fraud usually involves either medical providers billing Medicare for unnecessary or unperformed procedures, or patients providing their Medicare number in exchange for kickbacks. The pandemic has presumably dramatically increased the number of claims submitted to Medicare, creating an opportunity for fraudsters to take advantage of an overwhelmed system. Illustrative cases include:

- On 21 December 2020, the DOJ charged Peter Khaim and Arkadiy Khaimov of New York for posing as pharmacy owners and using COVID-19 "emergency override" billing codes to submit fraudulent Medicare claims. By using the billing codes, the defendants ordered Targretin Gel 1%, a cancer medication that has an average wholesale price of approximately \$34,000 per 60-gram tube. However, the medication was never purchased by the pharmacies, prescribed by physicians, nor dispensed to patients, and the defendants used doctors' names on prescriptions without their permission. In order to conceal the proceeds of their fraudulent activity, the defendants engaged in a complex money laundering conspiracy in which they created sham pharmacy wholesale companies.

Antitrust and hoarding and price gouging

US authorities have also actively brought enforcement actions pursuant to antitrust law. On 18 March 2020, then-President Donald Trump issued an executive order invoking the Defense Production Act, making it illegal to acquire medical supplies and devices designated by the Secretary of Health and Human Services (HHS) as scarce in order to hoard them or sell them for excessive prices.

On 24 March 2020, then-Attorney General William Barr announced the creation of the DOJ's task force to address coronavirus-related market manipulation, hoarding, and price gouging. The task force co-ordinates with the Department of Health and Human Services to conduct nationwide investigation and prosecution of these illicit activities. Illustrative cases include:

- On 27 January 2021, the DOJ charged Kenneth Ritchey of Mississippi with hoarding designated scarce materials and conspiracy to hoard scarce materials, among other charges. Ritchey sold N-95 masks to the Veterans Administration and other health care providers for as much as \$25.00 per mask.
- On 24 April 2020, the DOJ charged Amardeep Singh with violating the Defense Production Act by hoarding PPE and price gouging the customers of his retail store in Long Island, New York. Singh set aside a section of his sneaker and apparel store for so-called "COVID-19 essentials," which he then sold to the public at inflated prices. For example, Singh sold face masks at a price markup of approximately 1,328 percent.

On the same day as AG Barr's announcement of the task force, the Federal Trade Commission (FTC) and the DOJ's Antitrust Division issued a joint statement detailing an expedited antitrust review procedure for COVID-19 related public health projects. Under this procedure, businesses seeking to collaborate in order to promote public health during the crisis may submit requests to the agencies, who will then determine the legality of the proposed conduct under antitrust laws. The joint statement also provided guidance for businesses wishing to take advantage of this procedure. One such venture is the proposed efforts by Baxalta US Inc, Emergent BioSolutions Inc, Grifols Therapeutics, and CSL Plasma Inc to assist the Biomedical Advanced Research and Development Authority (BARDA) in designing quality standards for collecting COVID-19 convalescent plasma. The DOJ announced on 12 January 2021 that it has no intention to challenge the venture as anti-competitive. This favourable business review letter was the sixth of its kind since the DOJ and FTC announced the expedited procedure. This kind of proactive engagement with the regulator using established processes appears to have paid positive dividends in this example, especially in a climate where the agencies also emphasised that they will not hesitate to hold accountable those who try to use the pandemic to engage in antitrust violations, and that the DOJ will criminally prosecute conduct such as price-fixing, bid-rigging, or market allocation.

Counterfeiting and FDCA violations

The DOJ has also actively pursued cases that involve counterfeiting essential supplies and violating the

Federal Food, Drug, and Cosmetic Act (FDCA). The FDCA prohibits, among other things, the selling of devices such as respirators and hand sanitisers that are misbranded or misleading. During the COVID-19 pandemic, wrongdoers have sold products advertised to possess qualities that they do not have, and items that fraudulently bear the trademark and brands of reputable companies. While some companies have pursued civil actions against counterfeiters, the DOJ has also actively investigated and prosecuted such misconduct as well. Illustrative cases include:

- On 17 June 2020, the DOJ charged Crawford Technology Group Co. Ltd. (Crawford) for violating the FDCA by allegedly manufacturing and selling 140,400 misbranded KN95 filtering masks for import into the United States. The packaging for these respirators and the respirators themselves falsely indicated that the products were 95% efficient at filtering harmful airborne particles. They also falsely claimed to be compliant with European Union and Chinese standards that require at least 94% or 95% filtering efficiency, respectively. In truth, the average filtering efficiency for Crawford's respirators was only 22.33 percent.
- On 5 June 2020, the DOJ charged King Year Packaging Co. Ltd (King Year) on three counts of violating the FDCA for allegedly importing 495,200 misbranded and substandard respirators that falsely purported to meet the N95 standard. King Year also stamped the NIOSH and FDA logos on the packaging for these respirators, when in fact they were neither NIOSH-approved nor FDA-authorized.

Conclusion

There are broad similarities in the schemes the UK and US are employing to prosecute COVID-related business crimes. Both countries are investigating fraud against the government, securities fraud and market manipulation, healthcare fraud, antitrust violations, and counterfeiting. However, key distinctions between the jurisdictions and their business crime enforcement regimes mean that in practice their COVID-related enforcement efforts have proceeded at different paces and with different focuses.

An overarching difference is the pace at which COVID-related prosecutions are progressing. For example, within the area of fraud on the government, the DOJ has commenced prosecutions of over 400 defendants already, while in the UK arrests and prosecutions have been less frequent to date. Similarly, there have been several securities fraud investigations in the US, while in the UK, although the FCA has indicated growing concern regarding market manipulation stemming from the pandemic, there have been no publicly disclosed

prosecutions. This disparity may simply be due to resourcing issues and/or the fact that business crime is a more mature area of enforcement in the US as compared to the UK, and therefore the DOJ are better positioned to react quickly in bringing prosecutions against those taking advantage of government relief programmes.

There are also substantive differences in the types of fraud the UK and US are focused on within these broad areas. Notably, the UK and US diverge in the nature of the healthcare-related fraud they prosecute. This distinction is due to the difference in the two nations' healthcare systems: in the UK, the government-funded NHS provides free healthcare to all legal UK residents (with private healthcare options also being available), whereas in the US healthcare providers are primarily private businesses and there is a combination of private and public health insurance providers. As a result, the greatest threats of fraud on the NHS lie in cybersecurity and cartel behavior by pharmaceutical companies. By contrast, in the US, fraudulent billing of government-funded insurers Medicare and Medicaid is much more common, and is therefore a well-developed area of government enforcement. Within the realm of antitrust enforcement, while enforcement priorities related to coronavirus are broadly similar in both countries, the UK's investigation into whether airlines breached consumer rights may be reflective of the more robust consumer protection laws in the UK as compared to the US.

In both countries, there has to date been more enforcement against individuals as opposed to companies for COVID-related crime. To some extent, this focus on individuals is no doubt due to the fact that cases against individuals can be investigated and pursued more quickly than more complex cases against corporates. It is also possible that companies large enough to have sophisticated compliance departments were highly attuned to compliance issues stemming from the pandemic from the outset, and therefore less prone to run afoul of them. Finally, in the UK specifically, prosecutions of individuals are far more common in general; corporate prosecutions are inherently difficult to mount due to the identification principle.

While we all hope that the COVID-19 pandemic will wane in the coming months, it is clear that investigations into fraudulent conduct related to the virus and its effects on our society will be a feature of business crime enforcement for years to come. DOJ's request of \$40 million to fight COVID-19-related fraud in 2022 is evidence of its continued commitment to these investigations. We expect to see more UK prosecutions as the SFO, FCA, and other authorities ramp up their activity levels. We also anticipate more corporate investigations once enforcement authorities have the time to conduct

more complex investigations. Finally, while fraud on the government related to relief schemes, healthcare fraud, and hoarding and price-gouging practices will all eventually die out or return to normal levels once we have beaten the pandemic, securities fraud, market manipulation, and counterfeiting offences related to coronavirus may persist long after. There is a growing consensus that COVID-19 is here to stay, and will need to be controlled via regular vaccinations; it therefore is likely that we will see more investigations like the one into

Vaxart. With respect to counterfeiting investigations, it is likely that in addition the ongoing efforts to prosecute those selling counterfeit goods like hand sanitiser, authorities on both sides of the Atlantic will begin looking at counterfeit negative test certificates and records of vaccinations as international travel requirements become more reliant on these types of documents. While the peak of the pandemic may be behind us, the peak of related prosecutions is yet to come, and may eventually plateau rather than flattening altogether.

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