

## **IMPACTS OF COVID 19 ON THE ECONOMY AND BUSINESSES-LEGAL ISSUES**

### **Introduction:**

Human capital is undoubtedly a major component of every company and indeed every economy. No matter how technologically advanced a Country or business is, certain businesses still require the physical presence of employees to perform certain functions and failure to get such manpower whose inputs is required without a doubt, speaks negatively to the bottom line of the organization.

It is in this sense that the impacts of the novel COVID-19 pandemic all over the world and its deleterious effects on economies and businesses, will be assessed in the course of this article.

Already, there have been various projections on the likely economic impacts of the virus on economies and businesses and most of these prognosis, have been anything but good. Nigeria is projected to soon enter into an economic crunch similar to what happened more than 32 years ago in 1987. In America, jobless claims at the last count has topped over 16 Million and still counting while it is projected that most small businesses will close shop.

In Nigeria also, although no accurate data is available, it is safe to assume that many organizations are currently taking business decisions of how to deal with the inimical impacts of this virus and that a number of redundancies to be declared post-COVID-19 are being worked out as we speak, resulting directly from the forced closure of businesses as a result of the pandemic.

This Article aims to highlight some of the impacts of the virus and to examine the legal implications that they throw up.

1. **Increase in unemployment:** In order to limit the spread of the Coronavirus, the World Health Organisation (WHO) has advocated for social distancing, as a result, many Countries have had to close down companies as well as businesses. Businesses permitted to run with strict measures put in place are only those regarded as "essential services". Essential services according to Wikipedia has been explained to mean a class of occupations that have been legislated by the Government to have special restrictions in regard to labour actions such as not being allowed to legally strike. Some of these services include: hospitals, electricity services, water supply services, police and armed forces, fire-fighting services, public and private services, provision of food, air traffic control.

Companies that do not fall under the above categories have had to close operations ; majority of these companies in their various business plans and strategy documents could hardly have predicted an emergency such as this and so, this has caught most businesses and Governments napping.

From hospitality to travel, entertainment etc, the impacts of the COVID-19 is being felt in all the nooks and crannies of businesses and Governments worldwide. Projections have shown that

a number of airlines will either seek mergers/business combinations after this pandemic is over or go under completely as a result of their inability to absorb the effects of the shock of the business shutdown which has taken a toll on their cash flow and hence, their obligations and various commitments to financiers, suppliers etc that are critical to the running of their businesses business. Most hotels even at a peak period of the Easter celebrations have had to shut down their operations as a result of the fact that they were achieving below 30 per cent room occupancy even though the cost of running a 100 per cent occupancy and a 30 per cent occupancy, is basically the same, so it makes sense to shut down. What this means is that the business cannot generate income for as long as it remains shut and the question then is how does the business fulfil its obligations under the applicable labour laws to provide work and to pay its employees a wage? It is therefore not difficult to see that many organizations would have to resort to laying off staff in order to be able to stay afloat.

There are legal issues arising from such actions taken to keep businesses afloat, major amongst which is the issue of compensations for redundancy and expected claims for unlawful termination of employment. In Nigeria, employment matters are reserved for the exclusive jurisdiction of the National Industrial Court established under the Constitution. It is a sentiment very strong amongst employers, that the National Industrial Court has a bias for employees. Thus, it will be interesting to see how the Court deals with some of the fallouts of the inevitable actions which a number of corporates will have to take when the dust of the COVID -19 pandemic, has settled.

A key factor which will come for consideration and have an overarching effect on the decisions of the Courts, will be the issues of whether the COVID-19 pandemic qualifies as an occasion of a force majeure of frustration of contracts of employment to excuse the employer from the obligation to provide work and pay a wage as a result of the contract of employment. It is recommended that the Courts should take judicial notice of the global economic impacts of the COVID-19 in its decisions over the course of the period when the effects of this pandemic, stays with us.

## **2. Inability to Meet Contractual Obligations in Commerce:**

The objectives of every business is to make profit. For a company or business to be able to achieve this, it must keep its business running.

The movement of goods and services via exports and imports services has become one of the major sources of revenue for companies and countries.

It is however a notorious fact that international trade is almost at a zero rate at this time as a result of Countries having shut their airspaces and in effect, restricting the inward and outward movement of goods and services between Countries. As a result of such actions taken by National and Regional/State Governments, contracts entered into prior to the outbreak of the COVID-19 and are now due for performance, face very serious prospects of being breached as a result of the inability of the obligor to perform the obligations imposed on him by the contract as a result of (for example) non availability of crew to ferry cargo to a consignee of goods already purchased and fully paid for.

It also remains to be seen how possible claims of a force majeure or frustration, may come in to alleviate what will otherwise be very colossal legal liabilities that may have the effect of further running businesses aground.

While the position of the law is clear that a contract which is discharged on the ground of frustration is brought to an end automatically by operation of law irrespective of the wishes of the parties<sup>1</sup>, yet it must be realised that the issue of a frustration of contract or failure to perform for any reason, is no exactly good news for trade and commerce in that it has the potential to have a negative effect on at least one of the parties to a contract and there are financial implications, wherever the pendulum swings.

### **3. High Crime rate:**

In order to make a living, a greater number of Nigerians are either self-employed or undertake menial jobs for their daily survival. As a direct result of the Covid-19 pandemic which resulted in the lockdown of the Country almost at a National level, most individuals who hitherto survived on their daily incomes, have been left without any means of livelihood for the better part of three weeks. This has resulted in spiralling crime rates with reports of burglaries and petty theft being on the increase accompanied by other social ills such as prostitution/exchange of sex for money, increase in internet fraud, extortions etc.

This has serious sociological effects on the overall well-being of the society ranging from pressure on the security apparatus of the Country and congestion of correctional facilities which it is agreed, are already overcrowded about three times beyond the projected capacities for which the various facilities were designed, very many years ago. The same also has grave implications for the legal system and justice delivery as the potential for criminal cases filed against people arrested for one infraction or the other at this time to further congest the already over-burdened dockets of the Courts, is very present. Already, all Courts in the land have been forced to shut down until further notice and there is currently no machinery in place for remote hearings by our Courts, meaning that all cases affected by the forced closure of the Courts, will further congest the dockets and contribute further to slow resolution of disputes, especially the commercial disputes which are critical to reflating the economy at a very critical time such as this.

In developed countries, the index of crimes have been reported to have drastically reduced perhaps as a result of the effective Governmental palliatives/unemployment claims put in place which unfortunately, are lacking here, so it remains to be seen how the Government deals with the effects of this virus on our social structure and the social contract which the Government has to protect lives and properties of citizens and to maintain law and order.

### **Conclusion**

The lifeblood of any economy is small businesses as the complement they give to larger companies and conglomerates, cannot be overemphasised.

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<sup>1</sup> A.G Cross Rivers State v. A. G Federation and anor (2012) 16 NWLR (pt. 1327) page 425 @ 480 F



Nigeria over the years has been plagued by unemployment with unemployment rates at different times being projected to be as high as 40% conservatively.

The effects of the COVID-19 on this critical component of the Nigerian economy is therefore very huge and it remains to be seen what incentives the Government will put in place to ensure these small and medium enterprises, are supported to stay afloat. There is a projection to the effect that most small businesses of less than five years old, face the prospects of extinction as a result of this pandemic; it is incumbent on the Government to see to it that this projection does not hold true.

In the United States as well as several developed countries, relief packages have been passed by congress to sustain employees who have been laid off as well as to sustain businesses and keep them afloat to the intent that employees earlier laid off, can be reabsorbed at a later date.

For a person to be eligible for these reliefs, certain conditions were put in place to with that:

- a. The worker was laid off due to the present pandemic
- b. The worker quit as a result of Covid19
- c. Self-employed workers unable to work due to COVID- 19
- d. The death of breadwinners as a result of COVID- 19

It is suggested that the time for Government at all levels to begin to plan for another pandemic and its deleterious effects on the economy and other sectors of the economy is now. Legislation should be put in place now to ensure that the Government does not begin to play catch up when the reality of another medical emergency on the scale of or greater than COVID-19, hits us.

Corporates as well as small businesses should take the necessary lessons from this outbreak and consider business interruption insurances which should come in handy to mitigate some of the negative effects of this sort of emergency and this is also a clarion call on insurers to develop appropriate products to cater for this sort of emergency in the future.

The impacts of COVID-19 is perhaps the greatest existential threat ever faced by mankind and the effects will be felt and talked about, many decades after the pandemic is over.

It is hoped that all and sundry, from Governments, to conglomerates to small business and to law enforcement authorities including the judiciary, will brace up and begin to put machinery which will make us better prepared for any possible medical or other emergency in the future, in place.

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